

## **Memorandum of Support for A. 5194/S.6059-A** ***Legislation to require motor vehicle dealers to search for recalls*** ***and make repairs prior to selling a used motor vehicle***

**Consumer Reports strongly supports Assembly bill A.5194 and Senate bill S.6059-A, which would require car dealers to determine whether there are any open manufacturer recalls for a used motor vehicle prior to offering it for sale. If the car dealer finds open recalls for the vehicle, the dealer will arrange to make repairs pursuant to the manufacturer's or National Highway Traffic Safety Administration's recall, to satisfy the recall before the car is offered for sale.**

Consumers should be able to trust that used vehicles for sale by auto dealers are safe, and that any safety defects have been fixed. This critically important bill will help protect consumers against dangerous, defective used cars, by ensuring that repairs for any used vehicle with an open safety recall are made **before** the car is offered for sale.

Automobile safety recall notices are issued when a manufacturer or the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) determines that a motor vehicle, equipment, car seat, or tire creates an unreasonable safety risk or fails to meet federal safety standards. Manufacturers are required to fix the problem by repairing or replacing a vehicle at no cost to the consumer, or in rare instances, by offering a refund or repurchasing the vehicle. Safety recalls may involve defective airbags that fail to open in a collision or explode with excessive force, shooting shrapnel into occupants; bad brakes; seat belts that fail to stay fastened in a crash; wheels that fall off; loss of steering control; and accelerator pedals that stick. Vehicle safety defects can have fatal consequences, and they must be taken seriously by consumers and dealers alike.

The risks for consumers of exposure to automobile safety defects are particularly high at present, because of the large number and scope of safety recalls in recent years. According to NHTSA, since 1997 over 680 million vehicles have been subject to a safety recall. Recalls involving Takata airbags alone -- including planned recalls yet to be formally announced -- include approximately 50 million affected airbags in an estimated 37 million vehicles. As of May 2019, more than 16 million of the affected airbags still need to be replaced.<sup>1</sup>

Federal law currently prohibits automobile dealers from selling new vehicles that are subject to a safety recall until they are repaired. In addition, in 2015, Congress largely prohibited rental cars with an open recall from being rented to consumers. While New York state law currently strongly discourages the sale of used cars with known safety defects, it does not directly require used car dealers to make repairs for vehicles with recalls, prior to sale, as A.5194 and S.6059-A would do.

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<sup>1</sup> National Highway Traffic Safety Administration, *Takata Recall Spotlight*, online at: <https://www.nhtsa.gov/equipment/takata-recall-spotlight> (see final chart)

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According to industry sources, approximately 70 percent of automobile sales in the U.S. involve used vehicles. Approximately 40 million used cars are sold nationally every year – about 2.35 times the number of new cars.<sup>2</sup> A.5194 and S.6059-A will have a major impact by making used car purchases subject to the same standard of safety protection for recalls that is provided for new cars and rental cars.

The bill will help ensure used car dealers follow a routine and consistent process to assure that all open recalls have been addressed, prior to sale.

New York has a long history of protecting consumers against unfair sales practices and dangerous products. We strongly urge you to vote YES to approve A.5194 and S.6059-A to protect consumers against hazardous safety recall defects in used cars.

Sincerely,



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<sup>2</sup> Richter, W. *What's Going On In the Used Vehicle Market?*, Wolf Street, 5/8/18, available at: <https://wolfstreet.com/2018/05/08/whats-going-on-in-the-used-vehicle-market/>