



## Consumers for Auto Reliability and Safety

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### **Congress Nears Passage of Rental Car Safety Act in Highway Bill Safety advocates seek to close dangerous loaner car loophole**

After over 5 years of battles, the U.S. Congress is nearing passage of the Raechel and Jacqueline Houck Rental Car Safety Act in the federal Highway Bill that is expected to be voted upon this week. The Act would prohibit nearly all rental car companies, including many car dealers, from renting, loaning, or selling recalled vehicles until the safety defects have been repaired. Existing federal law prohibits dealers from selling recalled new vehicles, but there is no similar law regarding rentals.

Passage would be a major new expansion of NHTSA's authority over safety recalls. For the first time, the agency would be able to police used vehicles provided by rental car companies, including car dealers, as rentals or loaners – but thanks to a last-minute loophole added at the behest of auto dealers, the Act would apply only if the company rents or loans a fleet of 35 or more vehicles, on average – excluding many auto dealers.

“I'm thrilled that we're finally close to passage of the Rental Car Safety Act named for my beautiful, treasured daughters, Raechel and Jacqueline. But I'm worried about the loaner car loophole for car dealers and remain committed to closing that dangerous safety gap,” said Cally Houck, Mother of Raechel and Jacqueline Houck, who were ages 24 and 20 when they were killed by a recalled rental car.

The leading champions for passage of the Act are Senators Schumer, Boxer, McCaskill, Nelson, and Blumenthal, and Representatives Capps, Schakowsky, Butterfield, and Jones. The Senate measure was also co-sponsored by Senators Casey, Feinstein, Gillibrand, and Markey. The Obama Administration has also been strongly supportive of passage.

Thanks to this provision, the National Highway Traffic Safety Administration will be able to police rental car companies and dealers who have fleets of 35 or more rentals or loaner vehicles, and fine them if they violate the law – preventing tragedies like the crash that killed Raechel and Jackie. Currently, it is a violation of state laws for rental car companies or dealers to engage in such practices, but generally those laws are not enforceable by individual consumers or their survivors unless they have suffered damages, such as property damage, personal injury, or death. NHTSA will be able to act without having to wait for a crash to occur.

The Senate and House both rejected attempts by the auto manufacturers and car dealers to kill the bill, or to allow rentals and loaners of recalled vehicles with “disclosure,” which would merely shift

liability onto the victims of unsafe vehicles. The rental car industry, including Enterprise, Hertz, Avis, Dollar-thrifty, Alamo, National, and the American Car Rental Association, as well as many smaller rental car companies, helped persuade lawmakers to vote for the bill. The lone exception was the owner of Rent-a-Wreck, Jack Fitzgerald, a car dealer, who actively opposed the bill and lobbied against its passage.

US Rep. Roger Williams (R-Texas), a car dealer, introduced a special-interest amendment to exempt car dealers from the bill, and to allow them to rent or loan unrepaired recalled vehicles regardless how unsafe they are, or how many people they have maimed or killed, without having to worry about NHTSA enforcement. U.S. Rep. Lois Capps (D-CA), and Rep. Jan Schakowsky (D-IL) argued against the dealer loophole on the House Floor, pointing out that the amendment would mean that consumers who take a recalled car to a dealer for repairs could be loaned another recalled car with the exact same defect. Despite polling showing that the public overwhelmingly opposes this loophole, the Williams amendment passed near midnight, with few Representatives left on the House floor to cast votes, by a voice vote, with some voting “No.”

While Rep. Williams claimed that the loaner loophole would apply only to minor problems that do not affect safety, it would actually apply to ALL safety recalls, including defects such as catching on fire, brake failures, loss of steering, stalling in traffic, wheels that fall off, axles that break, child safety seat anchors that fail, seat belts that break apart in a crash, and air bags that spew shrapnel that blinds people and slices into their necks, causing them to bleed to death.

Rep. Williams also claimed that no dealer would loan or sell an unsafe vehicle. However, many news reports have exposed cases where dealers have handed customers the keys to vehicles with potentially lethal safety defects, causing crashes and even catching a home on fire. In one tragic crash, four family members were killed by an unsafe Lexus loaner car. In Texas, Carlos Solis was killed by a recalled used car with an exploding Takata air bag when a dealer failed to get the car repaired prior to sale. CarMax, the largest retailer of used cars in the nation, openly admits that it sells large numbers of unsafe recalled vehicles without bothering to get the free safety recall repairs done first.

According to the National Highway Traffic Safety Administration, “All safety recalls resulting from defects present an unreasonable risk to safety and we believe it is inappropriate to suggest that some defects are not risky enough to require repair. For the safety of the motoring public, all recalled vehicles should be fixed promptly.”<sup>1</sup>

Recently, the Campaign Legal Center urged the House Ethics Committee and the Office of Congressional Ethics (OCE) to review Texas Republican Rep. Roger Williams' conduct in authoring a special-interest amendment that would benefit his own business, as a car dealer.

The Act will improve both rental car and used car safety, by reducing the numbers of recalled rental and used cars that re-enter the used car market. However, Congress failed to close the used car safety gap, due to heavy opposition from the National Automobile Dealers Association.

To its credit, AutoNation has publicly announced that they guarantee a recall-free vehicle, including used cars. They have also announced that they will not penalize consumers who trade in a vehicle with an open recall by dinging them over the price.

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<sup>1</sup> Official statement issued by the National Highway Traffic Safety Administration, April 4, 2011