

**Consumer Federation of America
Consumers for Auto Reliability and Safety
National Consumers League
National Association of Consumer Advocates
Virginia Citizens Consumer Council
Trauma Foundation
U.S. PIRG**

February 9, 2016

Honorable Senators and Delegates
Virginia General Assembly
State Capitol
Richmond, VA

**Re: Re: SB 709 and HB 1232 – Car Dealer Immunity for selling unsafe recalled cars:
OPPOSITION**

Dear Senators and Delegates:

On behalf of the above-listed organizations, we write to inform you of our opposition to SB 709 and HB 1232, which are backed by the Virginia New Car Dealers Association. These bills would protect unscrupulous car dealers, not consumers. These measures would, for the first time ever, make it legal in Virginia for car dealers to sell defective, unsafe, recalled used cars to consumers, if the dealers merely “disclose” the existence of an unrepaired safety recall to used car buyers.

These bills jeopardize the safety of all Virginians – not only used car buyers, but also their passengers and everyone who shares the roads, including other motorists, bicyclists, and pedestrians. According to the National Highway Traffic Safety Administration, “Motor vehicle crashes impose a staggering human and economic toll in the United States. The price tag for crashes comes at a heavy burden for Americans at \$871 billion in economic loss and societal harm.”¹ Virginia can ill afford to add to those enormous costs with this ill-advised legislation.

The bills would allow dealers to get away with selling unsafe recalled used cars regardless how they advertise the condition of the vehicles they offer for sale, what warranties they may provide, or what claims or representations they make to induce car buyers to buy from them – basically condoning currently illegal practices such as “bait and switch,” false and deceptive advertising, violation of express or implied warranties, and fraud.

Academic studies have found that disclosures become virtually meaningless in the context of such transactions, particularly given the time spent prior to the disclosure and the complexity of the

¹“The heavy toll of crashes in the U.S.” U.S. Department of Transportation. Posted at:
<https://www.transportation.gov/fastlane/heavy-toll-motor-vehicle-crashes>

transaction. It is also difficult, or impossible, for consumers to prove that no disclosure was provided, or they were given verbal assurances the car was perfectly safe – particularly if they were killed as a result.

SB 709 and HB 1232 would be far worse than existing law in Virginia, which prohibits dealers from violating existing laws against engaging in unfair and deceptive practices, committing fraud, bait-and-switch, false advertising, or violating express or implied warranties; or if someone is injured or killed as a result of the dealer's malfeasance, laws against reckless endangerment, negligence, or wrongful death.

These bills threaten to give Virginia the worst law in the country, and make Virginia a dumping ground for ticking time-bomb cars with lethal safety defects.

One of the worst impacts of these bills would be that they would place the lives of used car buyers and their passengers, families, and others who share the roads at risk of serious injury or death, pending the recall repairs. For millions of vehicles currently under a safety recall, such as Hondas, Fords, and other brands with defective Takata air bags that explode and spew shrapnel at drivers and passengers, not enough repair parts are available, and they are not expected to become available for many months. Meanwhile, the bill would allow dealers to sell those unsafe used cars to consumers, knowing full well that the cars could not possibly be made safe to drive.

There is no assurance that the defect will not occur before the repairs can be performed. In some tragic cases, consumers have been injured or killed by an unsafe car within days or even hours after the dealer put the keys into their hands.

In sum, we strongly urge the Legislature to reject these unprecedented anti-consumer, anti-safety measures. Thank you for your consideration of our views.

Sincerely,

Jack Gillis
Director of Public Affairs
Consumer Federation of America

Rosemary Shahan
President
Consumers for Auto Reliability and Safety

Sally Greenberg
Executive Director
National Consumers League

Ira Rheingold
Executive Director
National Association of Consumer Advocates

Irene Leech
President
Virginia Citizens Consumer Council

Andrew McGuire
Executive Director
Trauma Foundation

Ed Mierzwinski
Consumer Program Director
U.S. PIRG