NEGATIVE: Used Car Safety Recall Repair Act

By “Coach Vance” Trefethen

Affirmative plan has Congress pass a bill currently pending that would ban the sale of used cars by dealers if the car has any defects that are under a manufacturer's recall notice and have not been repaired.

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Negative: Used Car Safety Recall Repair Act

INHERENCY

1. Simple consumer awareness solves

Any consumer can easily find out whether their car has a recall

Consumer Reports 2015. (non-profit consumer rights advocacy group) 24 Feb 2015 "The truth about car recalls" 24 Feb 2015 <https://www.consumerreports.org/cro/magazine/2015/04/the-truth-about-car-recalls/index.htm>

It’s easy to find out whether your car has an unresolved recall repair. With your vehicle identification number (VIN) in hand, go to your automaker’s website or to NHTSA’s site, at safercar.gov; punch in the number; and see whether recall work is pending. (You can find the 17-digit VIN on the car, its registration paperwork, or your insurance card.) Or call any franchised dealer for your brand.

2. Disclosure solves

Federal Trade Commission requires disclosure

Diana Hembree 2017 (journalist) " Is Your Used Vehicle A Timebomb? Loophole Lets Auto Dealers Sell Millions of Recalled Cars As 'Safe'" 27 March 2017 FORBES magazine <https://www.forbes.com/sites/dianahembree/2017/03/27/is-your-used-vehicle-a-timebomb-loophole-lets-auto-dealers-sell-millions-of-recalled-cars-as-safe/#531ed3352202>

The fight intensified this February, when six consumer groups [sued the Federal Trade Commission](http://www.autosafety.org/auto-safety-consumer-organizations-sue-federal-trade-commission/) (FTC) over a consent order involving General Motors and two of the country’s largest auto dealers. The FTC had issued complaints against the three for failing to disclose that their used cars were recalled for safety problems that were never fixed. In its December 2016 consent order, the FTC allowed the companies to continue selling used cars that were recalled and never repaired as “safe” or “certified” – as long as they disclosed that the recall repairs had not been made.

CarMax has full disclosure to customers

Reuters news service 2016 (journalist Alexandria Sage) 7 Feb 2016 " Recalled cars create a costly problem for U.S. auto dealers" <https://www.reuters.com/article/us-autos-dealers/recalled-cars-create-a-costly-problem-for-u-s-auto-dealers-idUSKCN0VG0QV>

CarMax says it is transparent about recalls on its used cars, including a link on each car’s listing on the website to search for open recalls. Carmakers do not allow CarMax to perform recall repairs, so customers are “best positioned” to get repairs at franchised dealers after purchase, the company says.

3. Second owner can get it fixed

There's nothing stopping the buyer of the used car from getting it fixed – the dealer will do it for free, no matter who owns the car

Tara Baukus Mello 2015 (30 years experience as automotive industry journalist) BANKRATE, an independent, advertising-supported publisher and comparison service.  ) 10 Apr 2015 " Free recall fix for car’s second owner?" <https://www.bankrate.com/auto/free-recall-fix-for-cars-second-owner/>

I bought my car a long time ago from the original owner. I just found out that it has a recall. I know it’s going to be an expensive fix, especially since I have to go to a dealer, which charges more than my regular mechanic. Do I need to pay for it myself since I bought the car from a private party? — Ronnie  
Dear Ronnie,  
No, recall repairs are always covered by the car’s manufacturer at no charge, regardless of whether or not you bought the vehicle new. This is because recalls are considered safety issues that can affect the performance of the car and potentially cause an accident or injury to its occupants. Automakers are required to issue recalls and perform free repairs for cars that are 10 years old or newer, although they often extend recalls to older cars as well, since there are so many older cars still on the road.

HARMS / SIGNIFICANCE

1. No safety crisis

Most recalls are for minor issues and don't threaten safety

Kathleen Burke 2015 (journalist) MARKET WATCH 25 Oct 2015 You’re your car recalled? What NOT to do" <https://www.marketwatch.com/story/was-your-car-recalled-how-to-avoid-the-recall-headache-2015-09-11>

While most recalls are for relatively minor malfunctions and the car can continue to safely operate, some can be dangerous enough that drivers are told to immediately stop driving the vehicle until it is repaired. And if dealerships aren't yet equipped to handle the repair, drivers could be out of a car for months. This was the situation with the GM ignition switch recall last year in which more than 2.6 million vehicles were recalled for a faulty ignition switch that could slip into the “off” position, locking the steering wheel and disabling air bags. Many dealerships weren't prepared to handle the repairs, and, DeLorenzo says, drivers were told by GM not to put heavy or clunky items on their key rings as an interim solution.

Recall fatigue: There are so many recalls going on, that it's really hard to know which ones are real safety issues

Consumer Reports 2015. (non-profit consumer rights advocacy group) 24 Feb 2015 "The truth about car recalls" 24 Feb 2015 <https://www.consumerreports.org/cro/magazine/2015/04/the-truth-about-car-recalls/index.htm>

One reason consumers don’t respond to recall notices promptly could be that there are so many, an unintended consequence of stepped-up enforcement and automakers’ increased accountability. It’s also a function of their new willingness to address problems in older vehicles, a situation that should calm down in time. In the interim, however, more recalls means more chances for consumers to ignore them, which is happening with rising frequency. “It’s becoming increasingly difficult to get customers to come in to get the recalls done,” said John Mendel, executive vice president of American Honda. “There is definitely recall fatigue.” Mendel suggests that NHTSA should create different categories of recalls, where truly dangerous defects would be distinguished from problems that could wait until a car owner’s next scheduled service.

2. No consumer problem

Used car with a recall? No crisis: Just negotiate with the seller. You can get a good car and save money

Keith Griffin 2018. (has been an automotive journalist and new car reviewer for more than 13 years. His experience as a journalist dates back 35 years. He is currently immediate president of the New England Motor Press Association) " Buying a Used Car With a Recall Notice" <https://www.thoughtco.com/buying-a-used-car-with-a-recall-notice-3308033>

If the owner won't complete the recall work before purchase, you have two options. Walk away from the deal or figure out what your time is worth. Estimate it is going to take at least four hours of your time to get the car in for the recall service. What is four hours of your time worth? Ask for $100 to $200 off to get the work done, assuming there is a dealer that can fix it within 25 miles. As always, before you buy any used car, have it inspected by an independent mechanic. Buy no used car that an owner will not let you inspect. My tips on [inspecting a used car](https://www.thoughtco.com/how-to-test-drive-a-used-car-3308575) will get you started but my advice should never be intended to totally supplant what a trained mechanic would say after inspecting a used car. Go ahead and buy a used car with a recall notice. It's not automatically going to be a lemon. Plus, with a little savvy negotiation, you can save yourself some money.

3. Tiny percent

Only 3% of used cars sold annually have recalls

Keith Griffin 2018. (has been an automotive journalist and new car reviewer for more than 13 years. His experience as a journalist dates back 35 years. He is currently immediate president of the New England Motor Press Association) " Buying a Used Car With a Recall Notice" <https://www.thoughtco.com/buying-a-used-car-with-a-recall-notice-3308033>

Startling news from CarFax, who reports that "At least 1.4 million used cars that were recalled but not repaired were for sale in 2009." That is approximately 3% of used cars sold annually. It seems important to offer advice on buying a used car with a recall notice in light of that statistic.

4. Harms don't justify the plan

Average repair time is 60 days and most recalls don't require grounding the vehicle that long

Kelsey Mays 2016 (journalist) 14 Nov 2016 " Why Can Dealers Sell Used Cars With Unfixed Recalls?" <https://www.cars.com/articles/why-can-dealers-sell-used-cars-with-unfixed-recalls-1420692279841/>

Bills to prohibit the sale of used cars with open recalls for which the manufacturer has sent out an alert "are overly broad because the majority of vehicle recalls do not require the drastic step of grounding the vehicle," the National Automobile Dealers Association [wrote in September](https://www.nada.org/CustomTemplates/GeneralPage.aspx?id=21474836504). "Dealerships cannot repair vehicles until the manufacturers provide the required remedy and parts. From 2010 to 2014, the delay for replacement parts under recall was an average of 60 days."

5. Safer than ever

Increased number of recalls doesn’t mean cars are more dangerous. In fact, cars today are safer than ever

Peter Gareffa 2017 (auto industry journalist) EDMUNDS "Why are so many cars being recalled?" 25 Aug 2017 <https://www.edmunds.com/car-safety/why-are-so-many-cars-being-recalled.html>

The increasing use of common parts and suppliers across multiple model lines, and even by multiple automakers, has made it possible for a substantial number of vehicles to be affected when a faulty component or software problem forces a recall. Add to that stepped-up oversight of automakers by NHTSA and the Department of Justice, as well as media pressure and a greater degree of self-reporting than ever before, and it becomes easy to see why recalls have reached record highs. Safety specialists, automakers and regulators alike insist that although the number and volume of recalls have reached record levels, there is no indication that cars are less safe than in the past. In fact, with required equipment such as antilock brakes, electronic stability control and multiple airbags, vehicles are safer than ever. And the growing availability of even more sophisticated features — such as automatic braking, adaptive cruise control and lane keeping assist — promises to make them even safer.

Car reliability today is better than ever, and many recalls are not for emergency situations. There's more recalls because more old reliable cars are still running

Peter Gareffa 2017 (auto industry journalist) EDMUNDS "Why are so many cars being recalled?" 25 Aug 2017 <https://www.edmunds.com/car-safety/why-are-so-many-cars-being-recalled.html>

Carmakers are generally more sensitive to public opinion these days and more willing to order a recall without being required by NHTSA to do so. They acknowledge, though, that NHTSA has gotten a bit tougher on them recently. Car companies also have seen that prompt recalls can save money, because assembly line errors can be corrected or faulty parts fixed before being installed in vehicles and affecting an even larger number of customers. Automakers also seem to be ordering recalls lately for issues that in the past would have been handled in a more low-key manner, such as through technical service bulletins. These bulletins are notices to dealership service departments to check for and fix a particular problem when a customer brings a vehicle in for a regular service or repair. Automakers also point out that general improvements in vehicle reliability have extended the life of most cars and added to the numbers when recalls are ordered, especially since the majority of recalls involve older models. The average age of passenger vehicles on U.S. roads has reached a record-setting 11.6 years, greatly increasing the potential number of cars that could be subject to a recall.

SOLVENCY

1. 80% of cars exempt from AFF plan

80% of used cars are sold by private individuals, not dealers

NEW YORK TIMES 1997 (journalist Sarah Jay) 22 June 1997 "Here's My Car. Please Sell It and Send Me a Check " <http://www.nytimes.com/1997/06/22/business/here-s-my-car-please-sell-it-and-send-me-a-check.html>

And many dealers have not recognized the untapped market for consignment sales, said Ron Chenier, president and founder of a consignment consulting firm in Cornwall, Ontario. Because almost 80 percent of used-car transactions are between individuals, he said, it makes sense for dealers to look to them to bolster business.

2. More study needed

National Highway Traffic Safety Administration needs to do more study before it could figure out how to do AFF plan

Kelsey Mays 2016 (journalist) 14 Nov 2016 " Why Can Dealers Sell Used Cars With Unfixed Recalls?" <https://www.cars.com/articles/why-can-dealers-sell-used-cars-with-unfixed-recalls-1420692279841/>

[National Highway Traffic Safety Administration](http://www.nhtsa.gov/) officials say they want every car with an unfixed safety recall to be repaired before sale, lease or rental. The agency has requested the ability to ban the sale of used cars with unfixed recalls, but it has not received that authority. Joseph Colella, a safety advocate who heads up Traffic Safety Projects, said he's "very interested" in closing the loophole but thinks it will be difficult. "NHTSA would have difficulty closing the loophole, whether mandated by Congress or not," Colella said in an email. The agency would need to get a cost-benefit analysis through various review agencies, including the government's budget office, before any final rule takes effect.

DISADVANTAGES

1. Fewer cars fixed

Link & Impact: Ban on commercial sales could lead to more private sales, leading to fewer cars getting repaired

J.D. Power & Associates 2015. (independent automotive research organization) A study commissioned by National Automobile Dealers Association, " An Economic Assessment of Trade-In Value Reduction Caused by Preventing Auto Dealers from Selling Passenger Vehicles with any Open Recall" 16 Nov 2015 <https://www.nada.org/WorkArea/DownloadAsset.aspx?id=21474842901>

Lastly, the Legislation may increase or decrease recall completion rates and thus impact overall vehicle safety. It may increase this rate by forcing all dealers to repair vehicles prior to selling them. It may also decrease the rate by deterring dealers from acquiring certain vehicles, thereby incenting consumers to sell them to other private parties who are less likely to get them remedied. This analysis is concerned with the first of these potential impacts – the potential reduction in the value of these vehicles – and does not attempt to quantify or describe the other potential impacts, including the impact to repair completion rates, service revenue, customer experience, or overall vehicle safety.

Link & Impact: Consumers lose $1,210 on every trade-in leading to fewer recalled vehicles getting repaired

Jared Allen 2017 (spokesman for the National Automobile Dealers Association) quoted by journalist Nick Zulovich in AUTO REMARKETING, 1 Aug 2017 " NADA & NIADA object again to bill aimed to stop retail of recalled units" <http://www.autoremarketing.com/retail/nada-niada-object-again-bill-aimed-stop-retail-recalled-units>

“We’re not in favor of anything that would create a trade-in tax because it’s unfair to ask consumers to pay for a manufacturer’s mistake,” Allen went on to say. “Additionally, imposing a $1,210 trade-in tax could lead to fewer, not more, recalled vehicles getting repaired, and we don’t believe a reduction in the recall completion rate is a good policy outcome for consumers or anyone else.”

Impact: Turn the impacts of the AFF case – safety gets worse not better.

2. Economic harm to consumers

Diminishes value of trade-in vehicles by $1,210 and can even force dealers not to take trade-in vehicles at all

Shaun Petersen 2017 (NIADA senior vice president of legal and government affairs) quoted by journalist Nick Zulovich in AUTO REMARKETING, 1 Aug 2017 " NADA & NIADA object again to bill aimed to stop retail of recalled units" <http://www.autoremarketing.com/retail/nada-niada-object-again-bill-aimed-stop-retail-recalled-units>

“This legislation treats all recalls the same — whether safety related or not — and does nothing to manufacture the parts necessary to repair recalled vehicles or entice owners to take a recalled vehicle to a franchise dealership for repair,” Petersen continued. “But most important, it harms consumers by diminishing the trade-in value of their recalled vehicles by an average of $1,210 — and often upward of $5,000 — and would likely force dealerships to not take those vehicles in trade at all.

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