



July 19, 2021

Senator Susan Moran, Chairwoman

Representative Tackey Chan, Chairman

Members of the Joint Committee on Consumer Protection and Professional Licensure

RE: – In opposition to SB 183/HB 407, *An Act further regulating business practices between motor vehicle dealers, manufacturers, and distributors*

On behalf of MASSPIRG, Consumers for Auto Reliability (CARS) and The Safety Institute, we urge you to oppose SB 183/HB 407, *An Act further regulating business practices between motor vehicle dealers, manufacturers, and distributors* which would roll back important consumer protections under existing state laws, and **open the flood gates to the sale of unsafe and dangerous unrepaired recalled cars on our roadways.**

We submitting as part of our testimony, a joint letter signed by 13 consumer organizations and leaders in opposition to these bills, that were submitted to this Committee in 2019 as part of the hearing on these bills. The facts remain the same.

Simply put, SB 183 and HB 407 would drastically weaken our existing auto sales laws in Massachusetts. Our laws currently mandate that car dealers affirmatively warrant that used cars they sell to consumers are "safe to operate on the roads." It also makes dealers liable for failing to comply with the common law duty of care, and for engaging in acts that are unfair and deceptive, or negligent, or that result in wrongful death. **This bill will, for the first time, affirmatively allow for car dealers to sell used cars with unrepaired safety recall defects in Massachusetts.**

These bills shift legal liability onto victims of unsafe vehicles, and gives auto dealers a new, unprecedented "safe harbor" for knowingly and deliberately selling vehicles with lethal safety defects, if they merely "disclose" that a vehicle has an unrepaired safety recall. As car dealers themselves have stated publicly, they seek enactment of laws such as this in order to evade legal liability when such sales result in fatalities or injuries.

Last session, the Committee on Consumer Protection released an amended version of these bills, filed by Senator Pacheco which eliminated the provision allowing for the sale of recalled cars. That bill is also currently being heard today, SB 239. While we do not have a position on SB 239, we whole heartedly support the changes that protected consumers by eliminating the provision that allowed for the sale of recalled cars. We are thankful for the leadership of Senator Pacheco, Senator Feeney, Chairman Chan and the members of the Committee in their work to amend the bill to prevent unsafe, recalled cars from being sold to consumers before they are repaired.

We hope you will not support SB 183/HB 407, *An Act further regulating business practices between motor vehicle dealers, manufacturers, and distributors.*

Sincerely,
Deirdre Cummings, Legislative Director, MASSPIRG
Sean Kane, President, Board of Directors, The Safety Institute
Rosemary Shahan, President, Consumers for Auto Reliability and Safety

Please see testimony below from 2019. Also note the bill numbers in 2019 were SB 179/ HB 262.



September 30, 2019

Senator Paul Feeney, Chairman
Representative Tackey Chan, Chairman
Senator James Welch, Vice Chairman
Representative Jay Livingstone, Vice-Chairwoman
Members of the Joint Committee on Consumer Protection and Professional Licensure

RE: – In opposition to SB 179/HB 262, *An Act further regulating business practices between motor vehicle dealers, manufacturers, and distributors*

On behalf of each of our organizations, which together represent millions of consumers in Massachusetts and across the country, we write to urge you to oppose SB 179/ HB 262. The bill, backed by auto dealers, threatens public safety. Specifically, the bill would roll back important consumer protections under existing state laws, and **open the flood gates to the sale of unsafe and dangerous unrepaired recalled cars on our roadways.**

SB 179/ HB 262, *An Act further regulating business practices between motor vehicle dealers, manufacturers, and distributors*, would drastically weaken our existing auto sales laws in Massachusetts. Our laws currently mandate that car dealers affirmatively warrant that used cars they sell to consumers are "safe to operate on the roads." It also makes dealers liable for failing to comply with the common law duty of care, and for engaging in acts that are unfair

and deceptive, or negligent, or that result in wrongful death. **This bill will, for the first time, affirmatively allow for car dealers to sell used cars with unrepaired safety recall defects in Massachusetts.**

There is no other recalled product that can be sold legally to consumers by either a corporation or an individual. To the contrary, the Consumer Product Safety Act prohibits the sale, distribution, or importation of consumer products such as toys, computers, heaters, toasters, table saws, lawn mowers, or other household products that have been recalled. The public has a reasonable expectation that used vehicles they purchase or lease from a licensed auto dealership are also free from unrepaired safety recall defects and are entitled to that protection.

Cars under open safety recalls have had deadly consequences. A General Motors recall for a defective ignition switch has been linked to at least [124 deaths](#). Recalls as a result of the defective Takata airbag inflators like the one in the Honda Fit have been linked to at least [23 deaths and over 230 injuries](#), including blindness.

SB 179/HB 262 shifts legal liability onto victims of unsafe vehicles, and gives auto dealers a new, unprecedented "safe harbor" for knowingly and deliberately selling vehicles with lethal safety defects, if they merely "disclose" that a vehicle has an unrepaired safety recall. As car dealers themselves have stated publicly, they seek enactment of laws such as this in order to evade legal liability when such sales result in fatalities or injuries.

This measure poses a serious threat to the safety of used car buyers, their families, other passengers, and others who share the roads, including bicyclists and pedestrians, and will result in increased deaths and injuries due to motor vehicle safety defects.

It is similar to other special-interest measures dealers have sought to get enacted in other states including California, New Jersey, Virginia, New York, Oregon, Pennsylvania, Tennessee, and Maryland. The bills were either defeated or amended to remove the harmful provisions in all the states except for Pennsylvania and Tennessee. The car dealers' strategy to undermine state consumer protection laws was recently exposed in a USA Today/Public Integrity report, [The Multi State Push to Let Dealers Get Away With Selling You a Defective Car](#). Because SB 179 / HB 262 would make our law weaker than the laws in other states, **it would make Massachusetts a dumping ground for unsafe recalled cars.**

By opening the floodgates for car dealers to sell used vehicles with unrepaired safety recall defects, and undermining existing state law protections, this bill would allow auto dealers to pick and choose who gets cars with lethal safety defects -- discriminating on the basis of race, gender, religion, legal status, or other perceived vulnerabilities, and targeting certain individuals.

Polling by Public Policy Polling has repeatedly shown, in state after state, including Massachusetts that likely voters overwhelmingly oppose allowing dealers to sell unrepaired recalled cars, **with or without "disclosure,"** with over 88% opposing such legislation.

If this bill passed, dealers would be allowed to sell vehicles with defects like the exploding Takata airbags, where there are severe shortages of repair parts, and the dealers are well aware there is no way car buyers can get the recall repairs performed, for months after purchase.

In sum, we strongly urge that this dangerous, profoundly anti-consumer, anti-safety special interest bill be defeated. Thank you for your consideration of our views.

Sincerely,

Deirdre Cummings, Legislative Director
MASSPIRG

John W. Van Alst,
The National Consumer Law Center,
on behalf of its low-income clients

Sean Kane, President, Board of Directors
The Safety Institute

Edgar Dworsky, Founder & Editor
Consumer World

Edna Pruce, President
Massachusetts Senior Action Council

Kathy Jo Cook, President
Massachusetts Academy of Trial Attorneys

Lew Finfer, Co-Director
Massachusetts Communities Action Network

Massachusetts Consumers Coalition

Zac Bears, Executive Director
PHENOM (Public Higher Education Network of
Massachusetts)

Kathleen C. Engel, Research Professor
Suffolk University Law School

Jennifer Jonassaint, Program Manager / Special Projects
Homeowner's Rehab Inc.

Rosemary Shahan, President
Consumers for Auto Reliability and Safety

Debra Fastino
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