

**Testimony of Commissioner Julie Menin  
New York City Department of Consumer Affairs  
Before the  
New York City Council Committee on Consumer Affairs**

**Oversight Hearing on  
Used Car Sales in New York City:  
Ensuring Consumer Protections and Safety in the Sale of Used Vehicles  
Recalled by the Manufacturer**

**And on  
Introduction 178 (Price Displays for Used Cars) and  
Introduction 518 (Prohibiting secondhand automobile dealers from failing to repair automobiles  
that have been recalled by the automobiles' manufacturers)**

October 28, 2014

Good afternoon Chairman Espinal and members of the Consumer Affairs Committee. I am Julie Menin, Commissioner of the Department of Consumer Affairs (DCA), and I am joined by several colleagues from the agency: Marla Tepper, General Counsel, Alba Pico, First Deputy Commissioner, Amit Bagga, Deputy Commissioner of External Affairs, Connie Ress, Associate Commissioner of Communications Marketing, and Douglas James, Senior Advisor.

I greatly appreciate the opportunity to speak with you about the two bills before the committee today - Intro. No. 178 and Intro. No. 518 - as well as many important issues related to the marketing and sales practices of secondhand auto dealers in New York City. It is the mission of DCA to empower and protect consumers as well as to educate and engage businesses to ensure a fair and vibrant marketplace. To that end, the agency licenses, regulates, and educates approximately 80,000 businesses across 55 industries in New York City in addition to engaging in wide-ranging enforcement of the City's consumer protection law.

We applaud the Committee for its attention to important issues related to secondhand auto dealers. In particular, I would like to recognize the leadership of Council Members Williams and Richards for introducing the bills we are discussing today. Both of these bills will enhance DCA's ability to protect consumers from improper practices in the used car marketplace. I will provide specific comments on each of these bills after I describe the agency's current work regarding this industry.

**Overview of DCA's licensing and enforcement of used car dealers**

DCA currently licenses 869 secondhand auto dealers across the five boroughs. The agency's oversight of used car dealers recognizes that purchasing a used car can often be the largest single purchase an individual or a family makes in a year or even over the course of several years. This is especially true for

lower-income New Yorkers, who often benefit from access to a car, but can also be subject to crushing debts by owning one.

In 2013 and 2014 to date, DCA has received nearly 500 complaints about secondhand auto dealerships and has secured more than \$1.1 million in relief and restitution for consumers. Because many consumers do not file complaints with the agency even when they have been deceived, DCA engages in two types of proactive enforcement: patrol-based inspections that address basic consumer and community based protections in addition to aggressive case-based enforcement directed to ensuring that consumers wronged by car dealers get back the money they are due and that dealers do not continue to engage in illegal and deceptive conduct.

#### Patrol-based inspections

DCA's inspectors conduct field inspections of secondhand auto dealers in all boroughs to ensure, among other things, that businesses appropriately display their license information, conspicuously post important signage about consumers' rights, keep required books and records, and provide bills of sale that contain legally-mandated information, such as a notice certifying that a purchased vehicle is in safe condition. DCA has also conducted sweeps of secondhand auto dealers in the past to ensure that they are selling cars that they have advertised. In a proactive effort to ensure that dealers are aware of how to comply with the law, DCA has now for the first time posted 41 of its most commonly-used inspector checklists online in several languages. Any business owner can access these checklists to see exactly what an inspector will be looking for. To date in calendar year 2014, DCA has conducted 615 inspections of secondhand auto dealers and issued 338 violations to dealers. These inspections help to ensure consumers are provided with key disclosures about the vehicles they purchase and the legal protections to which they are entitled and help inform larger cases brought by the agency.

#### Unlicensed activity

DCA is also continuing to deliver on Mayor de Blasio's mandate to support and empower law-abiding businesses by conducting enforcement of unlicensed secondhand auto dealers. In 2013, DCA issued 47 violations for unlicensed secondhand auto sale activity and the agency has issued 20 so far this year. The agency is currently working with the industry to address the illegal practice known as "curbstoning," which is the sale of used cars from the curb rather than from licensed secondhand auto dealer. "Curbstoners" disrupt the used car sales market by taking away business from legitimately licensed used car dealerships without the costs associated with licensing and maintaining property where their cars are displayed and often sell cars to consumers that are not roadworthy.

#### Aggressive investigations and prosecutions

Through its current licensing and regulatory authority, DCA's legal team aggressively pursues used car dealers engaged in deceptive and illegal marketing and sales practices. The agency's recent action against Planet Automotive, a secondhand auto dealer in Long Island City, Queens, exemplifies DCA's uncompromising approach against deceptive and predatory practices. DCA charged Planet Automotive

with using deceptive advertising to lure consumers and pressuring those consumers into agreeing to thousands of dollars in unwanted add-ons, such as extended warranties and theft protection, and then compelling those consumers to obtain financing through the dealership. Earlier this year, DCA issued charges against another group of dealerships engaged in fraudulent and deceptive conduct, including false advertising, forcing consumers to purchase add-ons, inducing consumers to sign blank documents, forging documents, and, disturbingly, communicating with a consumer in his or her native language and then having the consumer sign documents written in English with substantially different terms. In this and other secondhand dealer cases, the agency is focused on obtaining restitution for aggrieved consumers and ensuring that the dealership implements policies and procedures that will bring the dealership into compliance. Through these cases, the agency is sending a strong message to the industry that these types of abusive, illegal practices will not be tolerated.

DCA is the first and to our knowledge the only municipal agency in the country actively working to address a key loophole in federal law, which prohibits the sale of new vehicles with recalled parts but fails to ban the sale of used vehicles with such parts. Under New York State's Vehicle and Traffic Law, a vehicle must pass an 18-point inspection and be considered roadworthy in order to be sold. As the State is not currently inspecting secondhand vehicles for recalled parts, DCA is utilizing its authority to enforce New York City's Licensing and Consumer Protection Laws to investigate the extent to which secondhand auto dealers are selling cars that are the subject of safety recalls. The primary goal of these inspections is to make certain that no New York City dealer sells secondhand recalled cars until they are fixed. As the members of the Committee are aware, more cars have been recalled in 2014 than any other year on record. According to the National Highway Traffic Safety Administration ("NHTSA"), approximately 52 million cars have been recalled this year in the U.S., beating a previous record of 30.8 million set in 2004.<sup>1</sup> Reportedly, there are millions of cars sold each year to unsuspecting buyers that have been recalled but remain unfixed.<sup>2</sup> Rather than wait for tragic statistics, DCA sent subpoenas in July of this year to approximately 200 secondhand auto dealerships - nearly a quarter of all dealers citywide - in effort to discover whether dealers are selling unrepaired recalled cars, providing their policies on selling unrepaired recalled cars and revealing how many such vehicles they have sold in the past year.

### **Introduction 178 (Price Displays for Used Cars) and Introduction 518 (Recalls)**

I will now provide specific comments on the two bills being considered before the Committee today. The first bill, Introduction 178, requires that secondhand auto dealers display a stamp, label, or tag that contains the total selling price, including any administrative, service or other fee charged by the secondhand automobile dealer, but exclusive of tax and fees for securing a registration and/or certificate of title. Improving price transparency is an important step to empower consumers to make informed purchase decisions. DCA supports the goal of this legislation to require more full and complete price disclosures. We offer the following suggestions to strengthen the proposed bill.

---

<sup>1</sup> See, e.g., Jim Gorzelany, "What to Do (And How To Find Out) If Your Car Is Being Recalled", Forbes, October 23, 2014. Available at <http://www.forbes.com/sites/jimgorzelany/2014/10/23/what-to-do-if-your-car-is-being-recalled/>

<sup>2</sup> See, e.g., Carfax, "Consumer Alert: 3.5 Million Recalled Cars Sold Online in 2013," February 11, 2014. Available at <http://news.carfax.com/2014-02-11-Consumer-Alert-3-5-Million-Recalled-Cars-Sold-Online-In-2013>.

We recommend that the Council include in this bill a requirement that the prices of any offered add-on products are also clearly and conspicuously posted. All too often, dealerships include in sales agreements thousands of dollars unwanted add-on options. Such tactics are of serious concern to the agency, as consumers are often tricked into purchasing expensive add-on items such as warranties, theft deterrent systems, insurance products, debt cancellation agreements (“gap insurance”), exterior or interior surface protection, and window etching. Requiring dealers to post prices of these products will allow the consumer to avoid being unwittingly duped into purchasing these products and to know the base cost of these items. This posting will also prevent another predatory practice: disconcertingly, many dealers will not only include such items to inflate the final sales prices, but will also deceptively steer consumers into loans with rates higher than necessary so that dealers can receive kickbacks from lenders, as the vehicle is actually being financed through the dealer at a rate lower than what has been sold to the consumer. Following specific comments on both bills, I will highlight serious concerns DCA has with respect to secondhand auto dealers’ financing practices.

To ensure that the price-posting requirement is meaningful, the agency also recommends the addition of language to the bill that would ensure the posted price is the same price that is advertised and that is reflected in the bill of sale.

Finally, to improve the efficacy of this legislation in meeting its intended purpose, we ask the Council to consider the following technical amendments to the bill:

b. For secondhand automobile dealers **required to be** licensed pursuant to section 20-265 of this code, such stamp, tag, label or sign displayed pursuant to subdivision a of this section shall state the total selling price, which shall include any administrative, service, **inspection**, or other fee charged by the secondhand automobile dealer, exclusive of tax and **optional** fees for securing a registration and/or certificate of title.

DCA would also like to work with the Council to make further amendments to the legislation to:

- Ensure these protections are also applied to unlicensed auto dealers by clarifying that the provisions of this legislation apply to all secondhand automobile dealers that are “required to be” licensed by DCA;
- Clarify that disclosure of any inspection fees is required; and
- Ensure consistency with DCA’s rules (6 RCNY 2-103(i)), as well as the New York State Attorney General’s Advertising Guidelines, which treat title and registration fees as optional fees (meaning that it is optional for a consumer to pay these fees through the dealer as opposed to obtaining title and registration independently).

### Introduction 518

The second bill being considered today, Introduction 518, would amend the Administrative Code to specifically prohibit secondhand automobile dealers from selling any used automobile that a

manufacturer has recalled without repairing it first. Consumers purchasing used cars have an expectation, grounded in law, that the car they are sold is safe and does not have a dangerous defect that could cause serious harm, injury, or even death. Compared to other municipalities in the nation, New York City and DCA are in a unique position to investigate these businesses because of the authority DCA has under the City's licensing and consumer protection laws and because it is illegal to sell cars "as is" under state and City laws. Current City law, enforced by DCA, requires dealers to certify that their vehicles are "roadworthy" and prohibits dealers from misleading consumers about the safety of their vehicles. As I've discussed, regulating the sale of unrepaired recalled cars is already in DCA's jurisdiction and has been a priority for the agency. This legislation would confirm DCA's position and, by increasing penalties, would enhance the agency's ability to protect New Yorkers by ensuring dealers comply. DCA is supportive of this legislation. We anticipate that the industry will urge the Council to simply require disclosure of a vehicle's recall status prior to sale, an approach which we think is inadequate to protect the lives of consumers who buy cars, as well as those who use the roads. We recommend clarifying the proposed bill by defining "recall" to mean any manufacturer or NHTSA safety recall. Such a provision would not place an undue burden on auto dealers, as information about recalls is easily retrievable by inputting a vehicle identification number ("VIN") on the NHTSA's recall database website: [www.safercar.gov](http://www.safercar.gov).

To ensure that the bill can be enforced, we recommend adding the following requirements. First, dealers should be required to maintain documentation that they complied with this provision, including maintaining documents that they confirmed the recall status of the vehicle prior to sale and that the vehicle was actually repaired. Amending the proposed bill to provide the Commissioner with the authority to describe required documentation in rules would address this concern.

Requiring clear disclosures of the full selling price of a secondhand car and confirming that the sale of a secondhand car with unrepaired recalled parts is illegal and is subject to heightened penalties would ensure that consumers are better informed about how much purchasing a secondhand car would cost them, and, crucially, would reassure them that their lives and the lives of others are not being endangered by unsafe vehicle.

At the same time, further reforms are necessary to protect consumers from predatory practices by used car dealers.

### **Dealer Financing Practices**

Such reforms include stringent regulation of secondhand auto dealer financing practices. Dealer financing is not only often predatory, but can result in particularly dire consequences for New Yorkers of limited means. As I said before, a used car is often the largest purchase a low-income family may ever make. DCA, in consultation with the Mayor's Office, is currently considering additional measures to address predatory and discriminatory automobile financing practices and abusive practices.

Nearly 80 percent of secondhand auto sales are financed through dealers<sup>3</sup>, who frequently mark up used car loans by an average of an additional 2.91%.<sup>4</sup> Too often, consumers believe the dealer has negotiated the best rate for them and are unaware that they are actually paying to increase the dealer's profit margin. These dealer markups can inflate the costs of loans by more than \$1,200 over a five-year term.<sup>5</sup> Dealer markups also provide dealers with the incentive to sell consumers unwanted add-ons to increase the amount of financing on a loan and the related markup. A July 2014 New York Times article noted that subprime auto loans often come with interest rates that can exceed 23 percent.<sup>6</sup> The Times's investigation also found that dozens of loans that included incorrect information about borrowers' income and employment, leading people who had lost their jobs, were in bankruptcy or were living on Social Security to qualify for loans that they could never afford.<sup>7</sup>

Through its Office of Financial Empowerment ("OFE"), DCA has since 2008 provided more than 50,000 hours of free, one-on-one, intensive financial counseling to New Yorkers at thirty sites across the five boroughs, and many of our clients have been saddled with auto-related debt. Among those who have such debt, DCA has found that average amounts are more than \$12,000 and that 70% of these same clients have annual incomes of \$36,000 or less. For such clients, auto-related debts can amount to over 35% of their annual incomes - amounts that can be difficult to manage, pay down, and ultimately, could leave them in paralyzing debt.

The fact that so many New Yorkers face such financial challenges renders a careful and critical assessment of secondhand auto dealer practices especially important. In addition to requiring full disclosure of the total selling price of a car and criminalizing the sale of unrepaired cars with recalled parts, DCA would like to work with the Council to that effective legislation would also require the posting of a "consumer's bill of rights," significantly increase regulation of high-pressured sales tactics, ban or cap dealer markups on loans, and also ban curbstoning. The inclusion of such provisions in legislation would significantly expand the positive impact of a statutory approach to regulating the industry and in particular ensure that New York City's most vulnerable consumers are better protected from harm.

We look forward to an ongoing dialogue with the Council on this topic. Thank you for the opportunity to testify today. I will be happy to answer your questions.

---

<sup>3</sup> Delvin Davis, "The State of Lending in America & its Impact on U.S. Households: Auto Loans," Center for Responsible Lending, December 2012. Available at <http://www.responsiblelending.org/state-of-lending/reports/4-Auto-Loans.pdf>.

<sup>4</sup> Delvin Davis and Joshua M. Frank, "Under the Hood: Auto Loan Interest Rate Hikes Inflate Consumer Costs and Loan Losses," Center for Responsible Lending, April 19, 2011. Available at <http://www.responsiblelending.org/other-consumer-loans/auto-financing/research-analysis/Under-the-Hood-Auto-Dealer-Rate-Markups.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> Jessica Silver-Greenberg and Mike Corkery, "In a Subprime Bubble for Used Cars, Borrowers Pay Sky-High Rates," New York Times, July 19, 2014. Available at [http://dealbook.nytimes.com/2014/07/19/in-a-subprime-bubble-for-used-cars-unfit-borrowers-pay-sky-high-rates/?\\_php=true&\\_type=blogs&\\_r=0](http://dealbook.nytimes.com/2014/07/19/in-a-subprime-bubble-for-used-cars-unfit-borrowers-pay-sky-high-rates/?_php=true&_type=blogs&_r=0).

<sup>7</sup> *Id.*

[The following is only submitted, not delivered, testimony]

### Summary of DCA's Recommendations

#### Intro. No. 178

- Include a requirement that the prices of any offered add-on products are also clearly and conspicuously posted.
- Add language to the bill that would ensure the posted price is the same price that is advertised and that is reflected in the bill of sale.
- Make 3 technical amendments to the bill:
  1. Clarifying that the provisions of this legislation apply to all secondhand automobile dealers that are “required to be” licensed by DCA (hence including those which are unlicensed);
  2. Clarify that disclosure of any inspection fees is required; and
  3. Clarify that title and registration fees are “optional” for a dealer to collect, ensuring consistency with both DCA’s rules and the New York State Attorney General’s Advertising Guidelines.
- The following edits to the bill text would accomplish these 3 points:
  - b. For secondhand automobile dealers required to be licensed pursuant to section 20-265 of this code, such stamp, tag, label or sign displayed pursuant to subdivision a of this section shall state the total selling price, which shall include any administrative, service, inspection, or other fee charged by the secondhand automobile dealer, exclusive of tax and optional fees for securing a registration and/or certificate of title.

#### Intro. No. 518

- Clarify the proposed bill by defining “recall” to mean any manufacturer or NHTSA safety recall.
- Require dealers to maintain documentation that they have complied with this provision, including maintaining documents that they confirmed the recall status of the vehicle prior to sale and that the vehicle was actually repaired.
  - This can be accomplished by providing the Commissioner with the authority to describe required documentation in rules would address this concern.

#### Additional Reforms

In addition to requiring full disclosure of the total selling price of a car and criminalizing the sale of unrepaired cars with recalled parts, DCA would like to work with the Council to:

- Require the posting of a “consumer’s bill of rights”
- Significantly increase regulation of high-pressured sales tactics
- Ban or cap dealer markups
- Ban curbstoning

*Testimony of*  
*Greater New York Automobile Dealers Association*  
*National Automobile Dealers Association*

October 28, 2014

**City Council Consumer Affairs Committee**  
**City of New York**

Presented by: Mark Schienberg, President  
Greater New York Automobile Dealers Association  
18-10 Whitestone Expressway  
Whitestone, NY 11357



Thank you for the opportunity to appear today to provide the perspective of the retail automobile industry with regard to the two items on the agenda: Intro. 518 regarding sales of used cars with open recalls, and Intro. 187 regarding item pricing on used vehicles.

My name is Mark Schienberg, and I am the President of the Greater New York Automobile Dealers Association (GNYADA), a not-for-profit trade association headquartered in Whitestone, Queens. We represent 400 franchised new vehicle dealers in the twelve downstate counties of New York, including nearly 100 in the City of New York alone. GNYADA members are engaged in the retail sale and leasing of new and used vehicles, and servicing, repairing, and supplying parts for new and used vehicles.

Automobile dealerships are small businesses that have a huge positive impact on the economy of New York City. GNYADA dealers in New York City alone employ more than 9,700 people, and represent an annual payroll of \$512 million. These dealers also spend \$100 million annually on advertising. Our members in this region collect and pay nearly \$2 billion dollars in taxes annually for state and local governments. GNYADA and its members produce and promote the New York International Automobile Show at the Javits Convention Center every spring, which generates more than a quarter of a billion dollars in economic activity for New York City each year.

This testimony is being presented jointly on behalf of the members of the Greater New York Automobile Dealers Association and the National Automobile Dealers Association (NADA).

NADA represents more than 16,000 franchised dealers nationwide, who sell new and used motor vehicles and engage in service, repair, and parts sales, including 1,800 who sell medium- and/or heavy-duty trucks. These dealers include approximately 70 in New York City, and hundreds of others in New York State, Connecticut, New Jersey, and elsewhere who sell new and used motor vehicles to New York City residents. The majority of NADA's dealer members are small businesses as defined by the U.S. Small Business Administration.

## **Intro. 518 (Recalls)**

Intro. 518, as drafted, would require a dealer to repair any imperfection on a used vehicle that has been recalled by a manufacturer, regardless of the reason for that recall, before the dealer could sell that used vehicle. We are urging the Council not to pass this bill as drafted.

The industry's history of working with its partners in government is extensive. GNYADA's record includes developing groundbreaking policies like the country's first Auto Dealer Advertising Guidelines, developed in cooperation with then-Attorney General Bob Abrams. It also includes drafting the first used car lemon law in the nation and the first Retail Motor Vehicle Leasing Act, which the Federal Trade Commission used to model its subsequent regulations. GNYADA also worked with the New York City Department of Consumer Affairs (DCA) to devise leasing forms, the NYC Department of Transportation and other agencies on numerous educational forums on road safety, and the NYC Department of Education to prepare young men and women for jobs in the auto industry.

At the federal level, NADA played an instrumental role in the development and implementation of the National Traffic and Motor Vehicle Safety Act. Since 1966, that law has required the promulgation of hundreds of federal motor vehicle safety standards (FMVSS) that help to protect all motorists and anyone who shares the streets and highways with motor vehicles. That law also has established a comprehensive national program for managing the recall of vehicles and vehicle equipment that may be noncompliant with a FMVSS or otherwise defective. Franchised dealerships play the single most important role in that well-established national safety recall program. It is the dealerships that invest in the training, tools, equipment, service information, and parts inventories necessary to accurately and efficiently inspect and, if necessary, to provide service for repair recalled vehicles.

### **Intro. 518 Would Have Serious Negative Impacts on the Market**

As currently drafted, Intro. 518 would have the devastating impact of increasing the costs of used cars for consumers in New York City while decreasing their value in the marketplace -- all without appreciably improving road safety -- for the following reasons:

- Dealers will incur significant costs in time and labor expenses just to determine the recall status of used vehicles they take in trade from consumers or otherwise purchase for their inventory.
- If a dealer finds an open recall involving a vehicle that is a brand that the dealer does not sell new, the dealer will be forced to try to arrange with one or more dealers of that brand to obtain authorized repairs. Under the best circumstances, significant time and labor costs will be incurred attempting to obtain “repairs” for those open recalls – no matter how significant or insignificant those repairs might be.
- If a manufacturer has yet to devise a remedy or manufacture a part necessary for a recall, Intro. 518 would force dealers to hold onto vehicles at significant costs, including floor plan interest, storage lot costs, and depreciation. Virtually all dealers in New York City incur very significant costs for off-site vehicle storage or parking.
- The legislation will likely result in excluding trade-ins or sales of certain used vehicles in certain boroughs entirely. For example, there are more than ten vehicle brands (including Lexus, Acura, Audi, Mercedes Benz, SMART, MINI, Volvo, and BMW) that do not have any dealers where authorized recall work could be performed on Staten Island alone.

We note that, as presently drafted, Intro. 518 appears to include, as an unintended consequence, a requirement to repair the entire used vehicle once it has been recalled for any reason. Thus, even a cosmetic or other non-safety related issue, such as a dent, would prevent the sale of a recalled vehicle, even after that recall work is completed.

The legislation is also far too broad and overreaching in that, it purports to relate to all safety recalls, not just those of a critical nature. Non-critical safety recalls include when a vehicle owner’s manual contains a misprint, or when the recall relates to a safety problem that *might* develop at some time in the future, but, with a visual inspection, can be determined not to create a present or near-term danger. It would appear that the costs imposed by Intro. 518 far outweigh any benefits when such non-critical issues are involved.

More likely than not, if an open recall is identified, dealers will be forced to decrease the value of consumers' vehicles they intend to trade-in, predictably resulting in some number of those consumers going to out-of-city or out-of-state dealers who are not subject to Intro. 518. Other consumers will sell their vehicles in the wholly unregulated private marketplace. This predictable market disruption will translate into lost sales, lost customer retention, lost jobs, lost tax revenues, lost investments by businesses due to decreasing business values, and lost opportunities that can never be regained.

The resulting interruption of the regular process of commerce in New York City, to which both consumers and businesses have become accustomed, will be significant, disruptive, and harmful.

### **Used Cars for Sale in New York Already Go Through an Extensive Safety Process**

This law is not necessary because all New York dealers inspect all vehicles prior to sale and these automobiles are subject to extensive safety checks. All franchised new car dealers employ New York State certified inspectors who perform state mandated safety inspections with regard to all used cars, not just those subject to recalls.

New York State DMV regulations go even further than the safety inspection requirements recommended by the Federal government. (*See* 15 NYCRR 79.21.) Vehicles are physically inspected for any defect in eighteen critical systems and parts, including essential safety systems, such as steering, suspension, and braking, as well as other critical parts, such as headlights, brake lights, window glass, mirrors, and wipers. Inspections are not limited to just parts or systems that have been subjected to a recall.

Following that inspection, and upon sale, dealers are required to issue a state-mandated Certificate of Adequacy with the sale of any used vehicle (*See* Vehicle and Traffic Law § 417). The Certificate, which is not part of the private sales process, must state that a vehicle's condition is satisfactory for use on the state's highways at the time it is delivered to the consumer. This process has been relied upon successfully in New York for decades.

With regard to vehicles of brands other than those which they sell, many dealers also will, *when possible*, have recall repairs made at a competitor's repair shop prior to offering them for sale. In addition, industry practice is that dealers that have knowledge of a NHTSA "stop drive" order for a particular vehicle refrain from selling that automobile.

### **The Proposed Legislation Raises Several Practical Concerns**

GNYADA urges the Council to consider several practical issues implicated by its legislation.

- A "day of sale" VIN check for an open recall is extremely unlikely to be accurate. Recall information from automakers is uploaded weekly to the NHTSA database in batches. The database is not up-to-date at any given moment with regard to recalls or repairs that have been completed. All of the existing recall databases have lag time built into them, including NHTSA, CarFax, VINCheck, AutoCheck, and the manufacturers' own proprietary systems.

- Automobile dealers will be subject to potential liability even when making good faith efforts to review the recall status of a vehicle if a preexisting recall is discovered only after sale.
- Requiring a check of the system immediately prior to delivery could prevent dealers' efforts to fulfill consumer contract obligations to deliver used vehicles on or before an estimated delivery date that is required on consumer contracts (*See* N.Y. Gen. Bus. Law § 396-p). Indeed, a last minute VIN check that reveals an open recall (or misses a repair that has already been made) would require the vehicle to be held or sent for repair, thus delaying delivery for what could be an indefinite period of time. Such a delay would violate state law and constitute a breach of contract.
- Intro. 518 would result in a significant increase in the costs incurred by used vehicle dealers. Federal law ensures that when there is a lack of remedy or parts to a no-sale order results in a delay and causes increased dealer inventory costs, manufacturers must reimburse dealers for those costs. Under Intro. 518, however, there is no mechanism for New York City to require vehicle manufacturers to reimburse dealers for the costs of holding used vehicles in inventory nor will the City provide any compensation.
- Intro. 518 should explicitly exclude used vehicles that are "wholesaled" (*i.e.*, not sold or leased to consumers in retail transactions) as those vehicles are not subject to safety inspections or to the certification of adequacy at the time of that transaction.

GNVADA commends the Council for its commitment to vehicle safety issues. We welcome this dialogue as an opportunity to not only share information with the Council, but also to explore ways to ensure that New York's vehicle safety policies achieve those goals.

## **Intro. 178**

Intro. 178 would require that second-hand auto dealers display a stamp, tag, or label that states the total selling price for a vehicle, including administrative, service, or other fees that will be charged by a dealer. Our concern with this bill is that it is overbroad, duplicative and fails to recognize or take into account the commercial reality and circumstances that occur with the sale of a used vehicle.

New York City already has a stringent item pricing law that is enforced by the Department of Consumer Affairs. This legislation would duplicate that law and in these circumstances, would only serve to confound small businesses, giving rise to opportunities to fine well-intentioned but confused small businesses twice for the same actions.

Every buyer is in different circumstances, and unlike most commodities, each used car is unique. Used cars are an item for which the price is virtually always negotiated between the buyer and the seller because of the wide range of options that are available in connection with that purchase. These options include financing, the state of registration, potential export to a foreign country, inclusion of an extended warranty, addition of custom items, and the providing of new tires. If this law were adopted as drafted, a consumer will not be able to negotiate for any improvements to a used vehicle because they would not be listed on a pre-sale tag or label.

For example, under this bill, a dealer may inadvertently violate the law by providing a customer with new tires. State law requires that the dealer collect a \$2.50 fee per new tire for the purpose of remediating used tire dumps. As the fee would not be listed on the label if the new tires are negotiated at the time of sale, the dealer will have to choose between either rejecting the customer's request or violating this new law by providing new tires on the used car.

New York City already has a stringent item pricing law that is enforced by the Department of Consumer Affairs. This legislation would duplicate that law and in these circumstances, would only serve to confound small businesses, giving rise to opportunities to fine well-intentioned but confused dealerships twice for the same actions. This law would also chill the sales of used cars to out of state residents because the costs to register and title cars vary by state and that variable amount cannot be anticipated by a pre-sale sticker.

We urge the council to reconsider this legislation.



## Consumer Affairs

**FOR IMMEDIATE RELEASE**

October 28, 2014

### **THE DEPARTMENT OF CONSUMER AFFAIRS ENTERS SETTLEMENT AGREEMENT FORCING UNSCRUPULOUS USED CAR DEALERSHIP TO PAY \$441,000 IN FINES AND RESTITUTION**

*Planet Automotive Used Deceptive Advertising and High-Pressure Sales Tactics to Coerce Consumers into Paying for High-Cost Financing and Unwanted Add-ons*

Department of Consumer Affairs (DCA) Commissioner Julie Menin today announced a settlement agreement with Planet Automotive, Inc. and its owner. The agreement is a result of DCA's charges that Planet Automotive used deceptive advertising to lure consumers in and then pressured those consumers into agreeing to thousands of dollars in unwanted add-ons, such as extended warranties and theft protection, and then compelled those consumers to finance through the dealership. The agreement requires Planet Automotive, which now does business as Platinum Auto Mall at 37-15 Northern Boulevard in Long Island City, to pay \$441,000 in fines and consumer restitution to 39 New Yorkers and to adhere to strict compliance with the law. The settlement agreement, which comes just months after DCA launched an aggressive investigation into the sale of unrepaired recalled used cars in New York City, also requires the dealership to check the recall status of each vehicle and repair all safety defects prior to sale. This is the first time DCA has made this requirement as part of a settlement agreement.

“With this comprehensive settlement agreement, DCA is continuing its efforts to protect consumers from unscrupulous used car dealerships,” said DCA Commissioner Julie Menin. “A car is one of the biggest purchases any family makes – especially low-income and immigrant families – and we are vigilant about getting all New Yorkers restitution when they are deceived and taken advantage of by a business. This settlement agreement is a victory for DCA because it means a rogue business has agreed to come into compliance with the law and 39 families will be getting a refund after being cheated out of their hard-earned money.”

In addition to refunding \$284,000 and agreeing to not sell recalled cars, Planet Automotive will pay \$157,000 in fines to the City and must also hire an independent monitor for at least one year. This monitor will work to reform Planet Automotive's business practices, update its documents and forms, and report to DCA on the dealership's compliance efforts. The dealership must comply with all laws, including clearly posting all prices, cancellations, and finance terms in all consumer contracts, and conspicuously post the Used Car Buyer's Bill of Rights.

As required by the agreement, the dealership must provide any consumer who wants financing with a notice stating that consumers are not required to finance through the dealership, as well as other information about credit scores, obtaining a credit report, the finance charge for the

purchase of add-ons, including warranties and insurance, and the total finance charge and monthly installment cost to purchase the vehicle without add-ons.

Since 2009, 165 consumers have filed complaints with DCA, the Attorney General's Office and the Better Business Bureau about Planet Automotive, Inc. which had been doing business as KG Suzuki. The company advertised used vehicles at discounted prices on various websites, luring consumers to travel to the dealership in Long Island City. Once the consumers were there, sales representatives disclosed additional charges that were not included in the advertised price. The dealership also did not allow consumers to shop around for loans, but instead required them to finance all purchases through a lender chosen by Planet Automotive. Customers were made to wait hours before being able to meet with a finance representative who then pressured them into signing unclear and incomplete agreements, which the dealership later altered, increasing the amounts owed to much higher than what was agreed upon.

In July, DCA announced an investigation into the used car dealerships industry to discover whether they are selling unrepaired recalled cars. As part of the investigation, DCA issued subpoenas to 200 dealers, requiring them to provide their policies on selling unrepaired recalled cars, to reveal how many such vehicles they have sold in the past year, and whether the consumer was notified at the time of sale. DCA will work to ensure that any dealer found to have sold a recalled car that was not repaired at time of sale in the past year, notify the customer and make any repairs that are necessary at the dealers' expense and stop selling unrepaired recalled used cars in the future.

DCA, which licenses 849 used car dealerships citywide, conducted more than 500 inspections of used auto dealers and issued 170 violations last year. During that time, DCA received 261 complaints about used car dealerships and secured almost \$300,000 in restitution. To file a complaint with DCA, or for a free copy of the *Used Car Buyer Guide*, call 311 or go online to [nyc.gov/consumers](http://nyc.gov/consumers). Visit DCA's YouTube channel to watch a video in English and Spanish about what to know when shopping for a used car. Video captions are also available in English, Spanish, Chinese, Korean, Haitian Creole and Bengali.

The Department of Consumer Affairs (DCA) licenses, inspects, and educates businesses, mediates complaints, educates consumers, and offers free financial counseling and safe banking products. DCA enforces the Consumer Protection Law, the Paid Sick Leave Law and other related business laws throughout New York City and licenses nearly 80,000 businesses in 55 different industries. Through targeted outreach, partnerships with community and trade organizations, and informational materials, DCA educates consumers and businesses alike about their rights and responsibilities. DCA's Office of Financial Empowerment assists low-income New Yorkers with innovative programs and services to increase access to high-quality, low-cost financial education and counseling, safe and affordable mainstream banking, and access to income-boosting tax credits and savings. For more information, call 311 or visit DCA online at [nyc.gov/consumers](http://nyc.gov/consumers) or on its social media sites, Twitter, Facebook, Instagram and YouTube.

## Buying a Used Car?

The Department of Consumer Affairs (DCA) has created these tips to help you.

### Before You Go Shopping

- **Look at your budget and decide how much you can afford up-front and over time.** Don't forget about insurance, parking, gas, tolls, and repairs.
- **Check your credit report at [annualcreditreport.com](http://annualcreditreport.com)** and correct any errors.
- **Get preapproved for a loan.** Knowing the rates will help you comparison shop across financial institutions. Using your own bank or credit union gives added protection if something goes wrong.
- **Research the car's value.** Check the [National Automobile Dealers Association's \(NADA\) Guides](#), [Edmunds](#) and [Kelley Blue Book](#) to find out the average price of the car you plan to buy and trade in.
- **Check the dealership's license status and complaint history.** All used car dealerships must be licensed by DCA. You can search for a licensee online at [nyc.gov/consumers](http://nyc.gov/consumers). You can also call 311 (212-NEW-YORK outside NYC) to learn more about a business' license status or to check a business's complaint history.

### At the Dealership

- **Beware of "bait and switch" advertising.** Ads that promise savings, rates that are too good to be true, or cars that aren't actually available when you get there are illegal. If you feel pressured, walk away.
- **Examine the car carefully.** Get a vehicle history report at [vehiclehistory.gov](http://vehiclehistory.gov), take a test drive, and have an independent mechanic check the car. If the dealer won't let you, walk away. Be sure to check the condition of the engine, tire wear and any sign of an accident. Compare the odometer reading to the bill of sale and check the Federal Trade Commission's (FTC) Buyer's Guide and NYC Department of Motor Vehicles (DMV) inspection sticker posted on the car.
- **Say no to "add-ons" and options.** Paint and fabric protection, rust-proofing, extra security systems, extended warranties, etc. are cheaper when bought separately. Ask for your monthly payments with and without the extra options. Before you sign a contract or pay any money, make sure no extra fees have been added and don't buy anything you don't want.
- **Don't negotiate based on a monthly payment.** Negotiate the best price for the car at the lowest interest rate and for the fewest number of payments. Don't believe dealers who say you must finance through them.
- **Review the contract carefully.**
  - In NYC, you have 48 hours to look over a contract while the dealer holds the car. If the dealer is pressuring you to buy the car, walk away.
  - Never sign a blank, partially blank, or unclear contract. Cross out any empty spaces so they can't be filled in after you sign.
  - Never sign a contract if you don't understand the terms.
  - Don't give a dealer any money before you sign the contract, not even a "deposit."
  - Get the mileage in writing.
  - Never buy a car "as is."



- If a car sale is negotiated in Spanish and will be paid in installments, the contract must also be written in Spanish.
- Ask whether the interest rate includes a dealer markup. If so, ask for the interest rate offered by the lender. Although no law prevents the dealer from marking up the interest rate, you may be able to negotiate the amount.
- **Know about warranties.** Under the New York State Lemon Law, used car dealers must provide written warranties on used cars that cost more than \$1,500 or that have less than 100,000 miles. The law does not cover motorcycles, motor homes, off-road vehicles, or used cars purchased from an individual. The warranty covers the engine, transmission, drive axle, brakes, radiator, steering and alternator.

Mileage	Warranty
0 – 36,000	90 days or 4,000 miles
36,001 – 79,999	60 days or 3,000 miles
80,000 – 100,000	30 days or 1,000 miles

- **Get copies of all paperwork.** Don't leave without copies of everything that you signed always keep them. Also keep receipts for any repairs.
- **File a complaint.** If you have a problem with a dealership, file a complaint with DCA at [nyc.gov/consumers](http://nyc.gov/consumers) or by contacting 311.

**Follow these Tips to Protect Yourself from Recalled Cars**

- **Visit [safercar.gov](http://safercar.gov) to check if the car you own or plan to buy has been recalled or has any safety complaints.** You can search by the vehicle's year, make and model and, starting August 20, 2014, the vehicle identification number (VIN). For more information on recalls, download the federal government's guide, *Motor Vehicle Defects and Safety Recalls: What Every Vehicle Owner Should Know*.
- **Check if the used car you are buying has any unrepaired safety defects.** Ask the dealer for the vehicle identification number (VIN) and contact an authorized dealership to ask if safety recall repairs have been made. You can search [safercar.gov](http://safercar.gov) by VIN to determine if a specific vehicle was subject to recall and whether the appropriate repairs were performed. You can also download the *SaferCar App* for [iPhones](#) and [Android](#) devices to check for recall and complaint information.
- **Before you buy a used car, ask the dealership what their policy is for selling vehicles that have been recalled.** Even if the dealer tells you they won't sell a recalled car, you should do your own research.
- **Get the used car you are buying inspected by an independent mechanic.** Do not buy a car if the dealer will not let you have it inspected or if the dealer tries to sell you a car "as is." Many safety defects will not be identified during a standard inspection so you should also check for recalls.
- **Notify the manufacturer that you are the new owner when you buy a used car or if your contact information changes.** If you are the original purchaser or registered owner, the manufacturer will contact you directly if your vehicle is recalled. You can also subscribe for email alerts at [safercar.gov](http://safercar.gov) for future safety recalls.

- **Have safety-related defects repaired immediately.** If you bought a used car that was recalled for a safety defect but was not repaired when you bought it, you have the right to request that the dealer repair the car or pay for the repairs. If you are buying a used car that has been recalled and the dealership won't repair it prior to sale, file a complaint with DCA. If you are the original owner of a recalled car, contact the manufacturer immediately to have the defect repaired; the manufacturer will repair the car free of charge if the vehicle is less than 10 years old and the repair is made by an authorized dealer.
- **Don't wait for a recall letter if your car shows signs of a problem; take it to the dealer or a mechanic.** You should also file a complaint with the National Highway Traffic Safety Administration at [safercar.gov](http://safercar.gov) or by calling 888-327-4236.

MEDIA CONTACT: Connie Ress / Katyusca Abreu  
Department of Consumer Affairs  
(212) 436-0042  
[press@dca.nyc.gov](mailto:press@dca.nyc.gov)

Stay Connected:    *Instagram*

# NATIONAL INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION

2521 BROWN BOULEVARD  
ARLINGTON, TX 76006-5203

---

817.640.3838 / FAX 817.649.5866  
WWW.NIADA.COM

## **TESTIMONY OF THE NATIONAL INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON CONSUMER AFFAIRS ON USED CAR SALES IN NEW YORK CITY ON VEHICLES RECALLED BY THE MANUFACTURER**

**OCTOBER 28, 2014**

Chairman Espinal and members of the Committee on Consumer Affairs, my name is Shaun Petersen, legislative and regulatory counsel for the National Independent Automobile Dealers Association (NIADA).

NIADA is among the nation's largest trade associations representing the used motor vehicle industry comprised of more than 38,000 licensed used car dealers. Since 1946, NIADA has represented the voice and interests of used car dealers on issues of national importance particularly in Washington, D.C. Coupled with the state association network across the country, our grass-roots framework provides a dual layer of advocacy unmatched in the used motor vehicle industry. For 68 years, NIADA has engineered programs and leveraged technology to fulfill its mission to advance, educate and promote the independent, used car dealer. NIADA stands tall for its members who subscribe to a strict Code of Ethics of duty, honor and integrity and who believe in the advancement of small business in support of the free-market system.

NIADA is a federated trade association with affiliated state associations in 46 states, the New York Independent Automobile Dealers Association among them. When a dealer enrolls as a member of the New York state association, that dealer also becomes a member of NIADA. In becoming a member of both a state and national association, the dealer's interests are represented at local, state, and a national level.

NIADA members, by and large, are the quintessential small business owner. More than half have five or fewer employees.

NIADA is honored to have been invited by the Council to provide testimony on an issue that is of great interest across the country: that being the impact to consumers and the industry of manufacturer recalls on used vehicles. This issue is being debated in many locations from the White House, to the Halls of Congress, in state legislatures, and now in arguably the greatest of the cities in our nation.

NIADA and its dealer members are concerned about consumer safety and as members, NIADA dealers subscribe to a strict Code of Ethics that lends itself to taking care of their customers now and in the future, offering better products, services and buying experiences. NIADA is committed to selling safe vehicles.

Because of the breadth of the current discussion on manufacturer recalls and the significant impact it will have on the economy, it is important that this issue be fully studied and all ramifications thoroughly understood before any action is taken.

The present recall process is entirely controlled by three entities: the United States government through the National Highway Transportation Safety Administration (NHTSA), vehicle manufacturers, and franchise dealers. Manufacturers either on their own discovery or upon direction from NHTSA make a determination that a vehicle must be recalled. Once that determination has been made, the manufacturer is required to notify the present owner of the vehicle that a recall has been issued, the reason for the recall, and whether there is a fix available for it. Federal law requires that the manufacturers repair recalled vehicles at no charge to the owner. Manufacturers only allow their dealer network to repair the recalled vehicles.

Independent dealers do not have any control or participation in any part of this process. They do not have authority, and quite frankly, do not have the expertise, to determine whether a vehicle should be recalled. In fact, they are in the same position as any public consumer – that as a vehicle owner. They have no more access to recall information than any other vehicle owner.

One of the concerns with the recall process is the fact that owners of recalled vehicles often do not heed the recall notices sent from the manufacturers to have a vehicle fixed. Perhaps the owner is too busy to take the vehicle to the franchise dealership for repair or perhaps the franchise dealership is unable to accommodate an owner at a desired time. Additionally, a recent Congressional Research Service report notes that recalled vehicles are often not repaired because the manufacturer may take as long as a year to procure the parts necessary for the repair. We have seen that be the case with some recent high profile recalls.

Disseminating information from the manufacturers to the current owner is not an exact science given the transiency of the vehicle and how quickly title may be transferred. This is particularly true of independent dealers. An independent dealer may only have a vehicle in its inventory for a few days, or for a few hours. The title transfer from the transferor to the independent dealer to the dealer's customer may happen instantaneously. Thus, the independent dealer is often never going to receive notice from the manufacturer that a vehicle has been recalled.

Historically, recall information has been made known to the public at large by announcements from NHTSA that a particular year, make, and model has been recalled with a brief explanation as to the reason for the recall. However, these announcements never included a specific vehicle identification number for consumers or dealers to check whether their particular vehicle is subject to the recall. The only way to obtain

information about whether a specific vehicle was subject to recall was directly from the manufacturer or one of its franchised dealerships. Many times, they would not share this information with independent dealers.

In August of this year, NHTSA released a new tool that now allows the public to search whether a specific vehicle has an open recalls. This new tool has opened the possibility for any consumer or any dealer to check a particular vehicle identification number for open recalls at any time. However, this tool is still in its infancy, and not without kinks. Just this week, the website crashed because of the overload of users trying to obtain information, a story reported by CNN.

NIADA applauds the attempt to make real time recall information more readily available, but all of the kinks need to be ironed out before the system can truly be effective and thus wholly relied upon. We continue to support and work with NHTSA in this process.

During the recall debate across the country, there have been many proposals including what this Council has proposed: a complete prohibition on the sale of a used vehicle with any open recall unless the dealer repairs that recall.

While NIADA and its dealer members are concerned about consumer safety as members, NIADA cannot support the prohibition on sales as contained in this legislation for a litany of reasons.

First, it is important to note that not all recalls are the same. Some pertain to what may be construed as safety issues, such as air bags, and others have no impact on the safety or drivability of the vehicle. For example, manufacturers have issued recalls because of a misprint in the owner's manual, or because a vehicle's paint job may experience flaking due to an improper mixture. Certainly, non-safety recalls deserve to be fixed just as much as non-safety related recalls. However, vehicles should not be grounded and commerce halted because of a misprint in the owner's manual.

It has been suggested by some that a solution to the concern NIADA and others in industry have raised about the wide variety of recalls would be to create a scale from which to rank them. Those recalls that pose fire hazards or significant safety issues, for example, would rank higher than those that do not. Proponents of this ranking system propose that those vehicles with recalls that rank higher could not be sold until the dealer fixes the recall.

The problem with this proposal is there is no current ranking system in federal law. Neither manufacturers nor NHTSA look at recalls from this ranking perspective. They are the experts on determining whether a recall should be issued and what the fix is. Independent dealers, franchised dealers, the Department of Consumer Affairs, or this Council are not qualified to make any decision on what should be recalled or how it ranks. That simply is an unworkable solution.

Second, NIADA cannot support a prohibition on sales until the recall is repaired given the fact that a great number of recalled vehicles often do not have a fix readily available. We have seen from some of the recent recalls that have made the national news cycle that it often takes a significant amount of time for manufacturers to determine the appropriate fix, and even longer to provide the technical specifications and parts for the vehicle to be repaired.

Furthermore, more often than not, manufacturers and NHTSA publicly state that grounding a vehicle pending a repair is not necessary. During the recent GM recall over faulty ignition switches, a recall that affected millions of vehicles, several members of Congress and safety advocates called on NHTSA to ground those vehicles until such time as the parts became available for the repair. Plaintiffs in a federal lawsuit made the same request of the court. Both NHTSA and the federal judge declined to do so indicating the cars could be driven safely. As NHTSA's determination in the GM ignition switch recall shows, it is not necessary to ground vehicles pending a repair every time a recall is issued, even when some of those recalls affect "safety." NIADA believes that is sound public policy.

NIADA is also concerned about the proposed language when independent dealers do not have the ability to repair the vehicles themselves. Independent dealers are beholden to the same process as any other vehicle owner for their repair: take the vehicle to a franchised dealer. This can pose economic and competitive challenges to the independent dealer.

Independent dealers are in competition with franchised dealers' used car operations. The possibility exists that the franchised dealer will move its competitor's repair to the back of the line behind its own inventory and that of other customers that come in the door. With limited parts availability and a ban on selling a vehicle pending repair, independent dealers may be left out in the cold.

The other economic challenge many independent dealers face in having to rely on franchised dealers for a repair is the proximity of a franchise dealer. This is likely not as big a concern in New York City as it is in rural areas across the country, but it is a real issue nationwide. The closest franchise dealership may be more than a hundred miles away. The independent dealer would incur the costs of transport and personnel time in moving that vehicle to and from the franchised dealership.

It has been suggested by some that with the public availability of recall information now available by specific vehicle identification number that the dealer should disclose the existence of recall information as part of the sales transaction. While this is a proposition that warrants further discussion, certain considerations must be accounted before NIADA could fully endorse it.

First, we must be certain that the information in the NHTSA database is accurate, up-to-date, and the database is fully functional. NIADA does not want to put dealers in a position where they are required to make a representation about a vehicle's "open recall"

condition that they do not know to be 100% accurate. As recalls get repaired, the information related to the fix must be transmitted to the manufacturer and then the NHTSA in a timely manner to ensure that future owners do not believe an open recall exists when in fact it has been corrected.

Moreover, any disclosure requirement that would be considered must include immunity for the independent dealer against the veracity of that information. What do I mean by that? Because independent dealers do not have any control over the recall process, as I mentioned earlier, they should not be held responsible for the accuracy of the information in the recall database.

NIADA would be open to discussions on a requirement that dealers provide the consumer with a copy of the recall database information pertaining to a particular vehicle identification number if the only requirement is to provide that information. In exchange, any legislative or administrative requirement must expressly state that the dealer is not responsible for any errors or omissions contained in a recall report from the NHTSA database.

This idea is identical to a law the state of California passed in 2012 requiring dealers to provide to each customer a copy of a vehicle history report from the National Motor Vehicle Titling Information System (NMVTIS) operated by the US Department of Justice. The California legislature provided express language protecting dealers from "errors or omissions" contained in the NMVTIS report. The specific California language states, "A dealer shall not be liable for any errors or omissions contained in a NMVTIS vehicle history report that is obtained from a NMVTIS data provider, or for failure to provide information added to NMVTIS after the dealer obtained the NMVTIS vehicle history report pursuant ...." See, California Vehicle Code, Section 11713.26(e). This was a provision that independent dealers in California fully supported and the same concept could easily be implemented here. Again, NIADA would be willing to discuss this idea in greater detail.

As I conclude, let me be perfectly clear in reiterating that NIADA and its dealer members are concerned about consumer safety and as members, NIADA dealers subscribe to a strict Code of Ethics that lends itself to taking care of their customers now and in the future, offering better products, services and buying experiences.

As a matter of best practice, NIADA encourages its dealers to only make representations about vehicles that they know to be accurate whether it is regarding the open recall status of a vehicle, the vehicle's condition, or otherwise. NIADA encourages its members to assist their customers gather as much information about a vehicle, including the existence of open recalls, so those customers can make a well informed purchasing decision.

Finally, as a matter of best practice, and not legislative directive, NIADA encourages all independent dealers to take additional steps necessary to identify vehicles in their inventory that have open recalls and have those vehicles fixed, when fixes are readily available.

Thank you again for inviting NIADA to testify before the Committee. We look forward to working with you on this important issue moving forward. I am happy to answer questions that the Committee may have.



**TESTIMONY OF THE  
NEW YORK STATE AUTOMOBILE DEALERS ASSOCIATION  
BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON CONSUMER  
AFFAIRS ON USED CAR SALES IN NEW YORK CITY ON VEHICLES  
RECALLED BY THE MANUFACTURER**

**OCTOBER 28, 2014**

Chairman Espinal and members of the Committee on Consumer Affairs, my name is Bob Vancavage and I am the President of the New York State Automobile Dealers Association ("NYSADA"). I am joined by our counsel, Steven Blatt, Esq., a partner in the law firm of Bellavia Blatt & Crossett, P.C.

Founded in 1923, the New York State Automobile Dealers Association actively represents approximately 1,000 franchised new car and truck dealers in New York State. The association is dedicated to providing the highest quality service in the areas of education, insurance and legislative and regulatory matters for New York dealers. NYSADA, the statewide advocate for franchised dealers, is committed to promoting and maintaining a competitive automotive industry for our members across the Empire State. NYSADA diligently advocates for the interests and concerns of its members with the state's leaders. In addition to providing legislative support, and education to franchised auto dealers throughout the state, NYSADA develops, compiles and provides to the consumer, information which will promote a better understanding of the franchised motor vehicle dealers' place in the economy and provides relevant information to regulatory and lawmaking bodies so that they may have a better understanding of the possible effects of proposed laws, rules and regulations on the consumer and the motor vehicle industry.

NYSADA is extremely grateful to have been asked to provide testimony on an the very important issue before the New York City Council Committee on Consumer Affairs - the impact to consumers and franchised car and truck dealers of manufacturer recalls on used vehicles. This very issue is at the forefront of federal, state and local legislatures and we are appreciative of having the opportunity to contribute to the debate before the New York City Council Committee on Consumer Affairs.

It cannot be stressed enough that, while the dealer members of NYSADA provide invaluable services to their local communities, and generate significant economic activity, including, but not limited to, employment, sales tax revenue, and property tax revenue, our members strive to provide excellent service to their communities and customers. In this respect, the dealer members of NYSADA place consumer safety as their number one concern. Although automobile sales is also one of the most highly regulated businesses within New York State and our members must contend with a host of laws and regulations promulgated by federal, state, and local agencies, because NYSADA's members are committed to selling safe vehicles, they accept this burden because of the importance of the automobile industry to our state and the public.

One of the many proposals discussed with respect to the issue of manufacturer recalls on used vehicles, including one that this Council has discussed, is a complete prohibition on the sale of a used vehicle with any open recall unless the dealer repairs that recall. Due to the substantial impact it will have on franchised dealers, it is crucial that the effect or ramifications of any action or legislation enacted in this area be comprehensively analyzed before any action is taken. Specifically, it is important that a certain sector, such as franchised dealer members not be singled out or severely impacted for matters outside of their control.

First, the present recall process is entirely controlled by three entities: the United States government through the National Highway Transportation Safety Administration (NHTSA), vehicle manufacturers, and franchise dealers. Manufacturers either on their own discovery or upon direction from NHTSA make a determination that a vehicle must be recalled. Once that determination has been made, the manufacturer is required to notify the present owner of the vehicle that a recall has been issued, the reason for the recall, and whether there is a fix available for it. Federal law requires that the manufacturers repair recalled vehicles at no charge to the owner. While, manufacturers only allow their dealer network to repair the recalled vehicles, franchised dealers do not have any control or participation in any part of the process as it pertains to vehicles that are not of their own line makes. It is simple to understand that a General Motors franchised dealer will not receive from General Motors recall information concerning a Ford or Chrysler vehicle that is traded in to that GM dealership. As such, franchised dealers have neither the authority nor the expertise, to determine whether all used vehicles should be recalled. There is no difference between an individual consumer and a franchised dealer, as a vehicle owner, as it pertains to access to recall information of a different line make from that of the franchised dealer in question.

In fact, as a practical matter, franchised dealers may never receive notice from the manufacturer of a different line make that a used vehicle that it has accepted as a trade in has been recalled. Just some examples of difficulties incurred by in receiving notice of a recall include (a) the fact that owners of recalled vehicles often do not heed the recall notices sent from the manufacturers to have a vehicle fixed – as the owner is too busy to take the vehicle to the franchise dealership for repair or perhaps the franchise dealership is unable to accommodate an owner at a desired time (b) recalled vehicles are often not repaired because the manufacturer may take as long as a year to procure the parts necessary for the repair and (c) difficulties in disseminating information from the manufacturers to the current owner given the transiency of the vehicle and how quickly title may be transferred – especially if a dealer may only have a vehicle in its inventory for a few days, or for a few hours available (d) dealers may not want to take in trades that have open recalls due to the uncertainty of getting them fixed, or dealers may offer less for trades with open recalls, forcing the customer to leave NYC to trade their vehicle in for full value elsewhere.

Second, it is self-evident that not all recalls are the same. Some recalls concern significant safety issues, while others have no impact on the safety or drivability of the vehicle. It should initially be noted that, even with certain safety related recalls, manufacturers and the NHTSA have often taken the position that the grounding of a vehicle pending even a safety related repair is not necessary. During the recent GM recall over faulty ignition switches, both the NHTSA and the federal judge who was asked to ground such vehicles until such time as the parts became available for the repair, declined to do so indicating the cars could be driven safely. As such, it is sound public policy that it is not necessary to ground vehicles pending a repair every time a recall is issued, even when some of those recalls affect "safety." Furthermore, while a system in which various recalls are ranked based on factors such as safety issues has been discussed, there is no current ranking system in federal law. Neither manufacturers nor NHTSA look at recalls from this ranking perspective. They are the experts on determining whether a recall should be issued and what the fix is. Franchised dealers, the Department of Consumer Affairs, or this Council are not qualified to make any decision on what should be recalled or how it ranks. That simply, at this time, is an unworkable solution. Finally, manufacturers have issued recalls because of a misprint in the owner's manual, or because the paint may experience flaking because of an improper mixture. The grounding of a vast numbers of vehicles due to non-safety related recalls serves no purpose and will cause too great an economic impact on a franchised dealer's business.

A third issue facing a general prohibition on sales until a recall is repaired is that a great number of recalled vehicles often do not have a fix readily available. Our franchised dealer members have advised us that that it often takes a significant amount of time for manufacturers to determine the appropriate fix, and even longer to provide the technical specifications and parts for the vehicle to be repaired. Again, the grounding of a vast numbers of vehicles due to the manufacturer's unavailability of parts will cause too great an economic impact on a franchised dealer's business.

Fourth, as stated above, franchised dealers are concerned of the impact of any proposed legislation enacted a general prohibition on sales until a recall is repaired when such franchised dealer does not have the ability to repair the vehicles themselves – such as trades ins of a different line make or manufacturer. In this situation – franchised dealers are bound to the same process as any consumer or independent dealer vehicle owner for their repair: take the vehicle to a franchised dealer of the same line make as the recalled vehicle in question. It is self-evident that this will cause severe economic and competitive challenges as franchised dealer of different line makes are in direct competition with each other. It certainly can be envisioned that, with limited parts available, that a franchised dealer of a recalled used vehicle will move its competitor franchised dealer's repair to the back of the line behind its own inventory and that of other customers that come in the door. Additional burdens that franchised dealers will incur in having to rely on other or different franchised dealers for a repair is obviously the cost of transport and personnel time in moving that vehicle to and from the other or different franchised dealership.

An additional or related issue that has been discussed is that the dealer should be obligated to disclose the existence of recall information as part of the sales transaction. Although recall information may now be publicly available from a NHTSA database by specific vehicle identification number, there is no guaranty that the information in the NHTSA database is accurate, up-to-date, and the database is fully functional. Franchised dealers should not be put in the position where they are required to make a representation about a vehicle's "open recall" condition that may not be 100% accurate. As such, any disclosure requirement that would be considered must include immunity for the franchised dealer against the veracity of that information. As an example, while dealers in California are required to provide customers with a copy of a vehicle history report from the National Motor Vehicle Titling Information System (NMVTIS) operated by the US Department of Justice, other legislation in California specifically protects dealers from errors or omissions contained in a NMVTIS vehicle history report that is obtained from a NMVTIS data provider, or for failure to provide information added to NMVTIS after the dealer obtained the NMVTIS vehicle history report. See California Vehicle Code, Section 11713.26(e).

It should be noted that, as a matter of practice, and without legislative directive, NYSADA and our franchised dealer members have long been addressing this very issue. Specifically, we advise our franchised dealer members to (a) only make representations about vehicles that they know to be accurate whether it is regarding the open recall status of a vehicle, the vehicles condition, or otherwise (b) assist their customers gather as much information about a vehicle, including the existence of open recalls, so those customers can make a well informed purchasing decision and (c) to take additional steps necessary to identify vehicles in their inventory that have open recalls and have those vehicles fixed, when fixes are readily.

Based upon the above, while NYSADA and its member dealers place consumer safety as its number one priority, NYSADA cannot back the prohibition on sales as contained in the legislation currently being proposed. We ask that you look to current federal law on this topic as a guideline. Specifically, while federal law requires dealers to complete any open recalls on new vehicles prior to *delivering* them to consumers (*see* 49 U.S.C. §30120(i)), there is no federal or state law that requires the same for used vehicles. Furthermore, we believe Congress did not intend to define the sale of vehicles with open recalls as a deceptive practice prohibited by consumer protection laws, and instead drafted the aforementioned statute to address an important public safety concern. As such, it is respectfully submitted that any New York City or State legislation that would include a complete prohibition on the sale of a used vehicle with any open recall would seemingly conflict with longstanding federal and state consumer protection law. We also believe that Congress has clearly occupied this field of interstate commerce related to the sale of vehicles with open recalls, and thereby preempted state or local law that regulates the same.

Again, on behalf of the NYSADA, I am extremely grateful to have been asked to provide testimony on the very important issue before the New York City Council Committee on Consumer Affairs.

# The New York Times

Business Day

## New York City Imposes a Used-Car Repair Rule

By RACHEL ABRAMS and CHRISTOPHER JENSEN

JULY 29, 2014

In an effort to prevent the sale of unsafe used cars, New York City is cracking down on dealers that sell vehicles recalled for safety defects without having had them repaired.

The requirement seeks to address what consumer advocates say is a glaring hole in the auto industry's safety regulations: used-car dealers, as well as rental car companies, are not required to repair vehicles with safety defects before putting the cars back into public use.

The New York Times reported in May that legislation to address the issue had been stalled for years in Congress, stymied in part by dealers who say the law would cost companies and consumers unnecessary time and expense.

New York's requirement is a stricter interpretation of a state law that requires all vehicles to be safe and roadworthy in order to be sold. Now, city officials want to make it clear to dealers that being safe includes repairing cars under recall.

"We believe very strongly that this is a life-and-death matter in New York City," said Julie Menin, commissioner of the city's Department of Consumer Affairs.

Last week, city officials sent subpoenas to 200 dealerships asking how many used vehicles they had sold in the last year that had been recalled but not repaired, and whether consumers were notified about the defects before the sale. Some subpoenas went to companies selected at random. Others went to dealerships with a history of selling faulty cars, according to the Consumer Affairs Department. Those defects may not have been related to recalls, but prompted complaints about defective tires, brakes and other safety issues, according to the agency.

Companies found to have sold unrepaired used cars will be required to notify the vehicles' owners about the defect and make any necessary repairs. The department is prepared to issue violations to offending companies and, if necessary, revoke their licenses to operate.

Used-car dealers, like consumers, can take recalled vehicles to franchised dealerships for free repairs, according to emailed statements from Chrysler, Ford, General Motors, Honda, Hyundai, Nissan, Toyota and Volkswagen.

But taking a vehicle to a dealership requires time and manpower, and would most likely delay the sale of a recalled vehicle.

Mark Schienberg, president of the Greater New York Automobile Dealers Association, which represents about 125 dealerships in the five boroughs, said that getting recalled vehicles fixed promptly is “an important conversation to have” and “an important safety concern.” Mr. Schienberg said he believed most of his members — who have new-car franchises — already handle recall repairs on used vehicles.

Potamkin, a General Motors dealer in New York, has a written policy requiring its employees to fix recalled vehicles before selling them to the public, according to John Bruno Jr., a general sales manager at one Potamkin location.

“If there are any open recalls, we get them taken care of as fast as possible,” Mr. Bruno said, adding that it was “illegal and irresponsible” to do otherwise.

Still, the Department of Consumer Affairs’ concern is that many used-car dealers do not follow up on recalls.

“It is a big burden,” said Fred Donnelly, president of the New York Independent Automobile Dealers Association and owner of Hunts Point Auto, a used-car dealership in the Bronx. “When do we stop babysitting the consumer?”

It would make more sense to tell the consumer that repairs are needed and have the buyer take the vehicle to a new-car dealership for a free repair, Mr. Donnelly said in a telephone interview. Making a used-car dealer take a car in for a recall repair means a loss of time and money that will drive up prices and make vehicles in the city less competitive, he said.

“I think the laws in New York are tough enough for car dealers,” Mr. Donnelly added. Instead of requiring the recall repairs, he said, the city should focus on “the illegal selling of cars to the consumer. Cars all over the streets, all over Craigslist, and there doesn’t seem to be anything done with that.”

General Motors has become engulfed in a crisis over its long failure to fix faulty ignition switches in older cars, a defect that G.M. has linked to at least 13 deaths. Already, automakers have recalled a record 37.5 million vehicles this year in the United States, including about 25.5 million from General Motors, city officials said.

Such issues have recently concerned Honda, which since 2008 has recalled 8.9 million vehicles worldwide for faulty air bags. On Tuesday, the automaker confirmed that it wanted consumers buying recalled cars that had not yet been fixed to sign statements acknowledging that they could be “injured or killed” by the air bags in a crash.

A Honda spokesman, Chris Martin, said that the company wanted consumers to know that cars should be fixed when parts became available, but that they could still purchase vehicles without signing the statement.

Such sales will be prohibited in New York City under the Consumer Affairs Department's more aggressive recall stance, however, with or without a signed acknowledgment of risk.

The city is relying on its subpoenas, along with a news release, to get the word out about the change in policy. It does not plan to directly communicate anything to the roughly 800 dealerships it licenses.

That could satisfy the requirement to alert dealerships to the issue, said Gillian E. Metzger, an administrative law professor at Columbia Law School.

"Then it's just a question of whether or not their statutory interpretation will hold up," Ms. Metzger said, referring to the city's stance, which is tougher than current state law. "A court would review whether or not it's an acceptable interpretation."

Ms. Menin, the consumer affairs commissioner, says the city is on solid ground. "There's no legal defense for the industry to make," she said.

A version of this article appears in print on July 30, 2014, on page B3 of the New York edition with the headline: New York City Imposes a Used-Car Repair Rule. [Order Reprints](#) [Today's Paper](#) [Subscribe](#)

TESTIMONY OF THE  
NEW YORK INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION (NYIADA)  
BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON CONSUMER AFFAIRS ON USED CAR  
SALES IN NEW YORK CITY ON VEHICLES  
RECALLED BY THE MANUFACTURER

October 28, 2014

Chairman Espinal and members of the Committee on Consumer Affairs,

My name is Paula Frendel, Executive Director of the New York Independent Automobile Dealers association. I am accompanied by Fred Donnelly, the President of NYIADA. NYIADA would like to thank the committee for the opportunity to testify.

NYIADA is an affiliate of NIADA and support their testimony regarding the recall issue brought to us today. We would like share some of the experiences and hurdles our NYC dealer members have had to overcome in the past couple of months complying with the DCA 's demand on the used car dealer to repair open recalls prior to sale.

The following statements have been submitted to NYIADA as part of our testimony today.

One of our members had a vehicle at the manufacturer for three weeks for a repair of a bolt on a third row seat on a SUV. In this instance, this law hurt the consumer as they needed to take delivery of that car to transport their family. The consumer was not able to have the SUV repaired at a time that was convenient for them. In addition the consumer was not offered a rental car which would have been offered to them if they had brought the SUV to the manufacture themselves.

In another example, a dealer quotes, "We tried to bring in vehicles to their franchise dealers to have the recalls repaired, but the dealers will not accept the cars without proper plates on the cars. They say that their insurance company will not a allow vehicle in the facility without proper plates and registration." The manufacturers require that the vehicles have plates on at the time of the repair. This requirement forces the dealer to use their dealer plates which should be for transport and test drives when their cars are being repaired. Since dealer plates are a limited resource, this basically puts the dealer out of doing any other business during the time that their cars are being repaired for recalls.

Another dealer writes, "Cost to the used car dealer. I can not bring a vehicle to the manufacturer and simply wait for them to repair it, sometimes they need the car for days. Now I have to bring it there and then somehow come back to my facility and then later pick it up. I am a small used car dealership with just myself as an employee. I do not sell many cars a year. In order to bring a car to the dealer I either have to hire a driver for a short period or take a taxi back and forth, either way it is costly."

"Also with some vehicles the manufacturer has to order parts for the recall and it takes time to receive them. Then there is additional time to schedule an appointment, during this time I cannot sell the vehicle and the vehicle sits in my lot. I lose money because by the time the vehicle is completed, the price values have gone down and the vehicle is now overpriced. This vehicle now has diminished value."

It is NYIADA's opinion that, due to the current negative experiences of our members and NIADA'S testimony under this plan of the used car dealer repairing open recalls prior to sale, this plan simply will not work. Furthermore, it is necessary to discuss another component of the issue – how to enforce the proposed law against dealers who sell cars illegally in the street, known as "curbstoning." For example, NYIADA was contacted by a typical defrauded consumer who thought they were buying a car from a NYC dealer but in reality was purchasing from a NJ dealer doing business on NYC streets. This car was sold for \$1200 but when the consumer attempted to get the car inspected, it needs \$1400 in repairers to make this car road-worthy. How many recalls could this unsafe vehicle have? We don't know because it was sold by a curbstoner.



We ask the committee to please review the attached curbstoning information for discussion at a further date.

NYIADA is concerned with consumer safety and we do encourage our members to urge their consumers to gather all information available to them regarding their vehicle purchase.

Thank you again for the opportunity to testify today.

Respectfully submitted,  
NYIADA

Please feel free to contact us at [NYIADA.PFRENDEL@GMAIL.COM](mailto:NYIADA.PFRENDEL@GMAIL.COM)

855-694-2324



## Curbstoning is bad for consumers, dealers & communities

### Curbstoning hurts your community in two ways: loss of control and loss of revenue.

Curbstoning is the unlicensed commercial sale of vehicles for profit. It's not the ordinary citizen selling one or two vehicles. It's the hustler churning and flipping 20, 50 or more cars a year.

Research shows that up to one in five vehicles sold outside of licensed automotive dealerships are *not* legal private party car sales, but are in fact illegal sales of curbstoned vehicles.

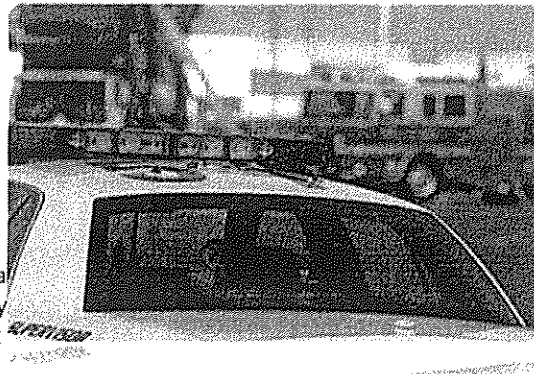
Your city may already have [ordinances against curbstoning](#), and for good reason. Despite advances in public transportation, cars remain essential to a healthy local economy. Businesses, shoppers, families, tourists - they all rely on cars and trucks. A well-regulated local used car market helps ensure that those vehicles are safe and sound.

However, curbstoners operate in the shadows, ignoring regulations, licenses, and laws. They're essentially [con artists](#), luring transactions away from your community's licensed businesses, taking money from unsuspecting consumers, and then vanishing - only to reappear days or even hours later with another dressed-up wreck to sell.

To add insult to injury, curbstoners often use city streets and parking lots as places to showcase their "inventory." As those illicit business operations ramp up their activity, they trigger an increase in traffic - and crime - along key commuting corridors, while simultaneously taking valuable parking spaces away from local residents and businesses.

Because curbstoners operate outside the system, much of their profits are taken "tax-free," with little sales tax revenue reaching strained city coffers. Add in the lack of revenue from the licenses required of most businesses, and the cumulative effect on your city's budget can be substantial.

The passage and enforcement of anti-curbstoning regulations help your city take back economic control, support local businesses, and protect the public.



## ARIZONA PASSES CURBSTONING LEGISLATION WITH LINK TO BILL

Very pleased with our new legislation

- Limits where vehicles can be parked for sale:
  - o No parking on public property
  - o No parking on private property that access by public (e.g. Walmart)
- New provisions for vehicle tow:
  - o Parking provisions above
  - o Vehicles displayed with VIN covered
- New fines:
  - o Increased fine from \$3,000 max to \$1,000 - \$3,000 max per occurrence (per car)
  - o Offender also responsible for all sales tax that should have been collected

Over the next 90 days we will be working with ADOT on implementation and enforcement plan.

Curbstoning is a \$650 million dollar black market industry in Arizona State. Hopefully we will see a major reduction as a result of our legislation.

Here is the link to our

bill: [http://azleg.gov/DocumentsForBill.asp?Bill\\_Number=2120&Session\\_Id=112&image.x=0&image.y=0](http://azleg.gov/DocumentsForBill.asp?Bill_Number=2120&Session_Id=112&image.x=0&image.y=0)

Dave Warkentin  
Executive Director  
Arizona Independent Auto Dealer Association

Curbstoning has many downstream consequences for local, municipal and state level economies which are itemized below using New York State as an example:

#### Dealer Licensing Fees

A used car dealer has the following associated costs to become licensed in New York State:

- \$225 per year licensing fee from DMV
- Business certificate from the county clerk (\$100 fee per year)
- Proof of Workers Compensation and Disability Insurance \$5000
- Proof of Vehicle Insurance on vehicles for sale \$12,000
- A surety bond ranging from \$20,000 to \$50,000
- Rent for place of business \$4000

Suppose all 8234 curbstoners became legitimate dealers today, the total money flowing into state, municipal, and DMV purses would be \$172,914.00  
Titling Fees and Sales Tax

Licensed dealers are required to pay sales tax when purchasing their inventory. By the estimate above, the total titling fees lost by DMV is \$50 multiplied by 8234 curbstoners, each of whom have sold at least 10 cars over a 1 year period yields a total of \$4, 117,000.

But the bigger ticket item is lost sales tax, which taken as 8.875% of \$955 Million, or about \$8,482,000 per year.

- For DMV: lost titling fees
- For Taxation: lost income, corporate tax

#### Auto Repairs and Reclamation Fees

The consumer who purchases a vehicle from a curbstoner is often left to pay mandatory repairs to the vehicle to recertify it, remove the branding from a vehicle's title, or otherwise payout of pocket due to non-disclosure of the curbstoner of vehicle history (for example odometer rollbacks). In some cases the vehicle is not repairable to a drivable standard and the consumer is completely at a loss. Those fees can be estimated conservatively to be \$500 per vehicle, which ends up being a total \$41,170,000 per year.

## Insurance Fraud Costs

Although not quantified, a correlation exists between curbstoning and insurance fraud.

Many sub-standard parts that have been in prior "staged car accidents" or vehicles with "enhanced damage" end up in the vehicles sold by curbstoners. It is the same body shops

# USA Statistics

State	# Curbstoners in state*	Lost sales due to curbstoners each year**
Nebraska	911	\$59,756,547
Nevada	3017	\$291,609,858
New Hampshire	674	\$50,212,902
New Jersey	4419	\$445,747,788
New Mexico	1721	\$147,779,358
New York	8234	\$955,710,564
North Carolina	5448	\$423,500,046
North Dakota	182	\$31,878,528
Ohio	6620	\$437,182,071
Oklahoma	2053	\$181,277,790
Oregon	3908	\$269,114,601
Pennsylvania	4662	\$344,216,415
Puerto Rico	22	\$2,121,087
Rhode Island	1011	\$72,903,936
South Carolina	2478	\$191,124,072
South Dakota	501	\$39,320,655
Tennessee	5108	\$378,356,097
Texas	18089	\$1,945,818,747
US Virgin Islands	24	\$1,575,396
Utah	225	\$24,996,846
Vermont	351	\$25,214,535
Virginia	3214	\$219,915,093
Washington	4419	\$332,661,873
West Virginia	1125	\$66,372,873
Wisconsin	3361	\$217,217,481
Wyoming	131	\$7,750,626

\* data obtained from correlating 3 or more unique cars for sale back to the same phone number under Craigslist ads in the "Autos - For sale By Owner" classifieds from March 15 to June 15, 2013

\*\* data obtained by analyzing Craigslist ads by suspected curbstoners from March 15 to June 15, 2013, then conservatively multiplied by 3 for annual sales

## Effect on the New York State Economy

Sub-Region	# ADS	%	Vehicles \$ value	# Vehicles
NJ suburbs	5132	4.4%	\$25,557,021	940
Westchester	10139	8.7%	\$50,491,550	1856
Fairfield Co	8561	7.3%	\$42,633,214	1567
Long Island	20210	17.3%	\$100,644,465	3700
Manhattan	7270	6.2%	\$36,204,120	1331
Brooklyn	22914	19.7%	\$114,110,206	4195
Queens	24992	21.4%	\$124,458,509	4576
Bronx	11131	9.5%	\$55,431,645	2038
Staten Island	6209	5.3%	\$30,920,410	1137
Boroughs total		62.2%	\$361,124,889	21,340
All	116558	100.0%	\$580,451,139	34300

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Paula Fendel

Address: 565 Hunts Pt Ave

I represent: New York Independent Automobile Dealers ASSOC

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 178/518 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10.28.14

(PLEASE PRINT)

Name: Connie Ress

Address: Maria TETTER

I represent: DCA

Address: DCA

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 178/518 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10.28.14

(PLEASE PRINT)

Name: Marla Tepper

Address: \_\_\_\_\_

I represent: DCA

Address: \_\_\_\_\_



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 178/518 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Doug Jackson

Address: \_\_\_\_\_

I represent: DCA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 178/518 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Amit Bagar

Address: \_\_\_\_\_

I represent: DCA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 178/518 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Arjun Poo

Address: \_\_\_\_\_

I represent: BCA

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 178-518 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: Oct 28, 2014

(PLEASE PRINT)

Name: MARK SCHIENBERG

Address: 18-10 White Stone Exp

I represent: White Stone NY 11357

Address: GREATER NY Auto Dealers Assn

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 178 + 518 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/28/14

(PLEASE PRINT)

Name: JONATHAN BZNG

Address: WILSON EUSEE, 150 E 42 NYC 10017

I represent: Greater NY Auto Dealers

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. RECALL Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: ROBERT VANCAVAGE

Address: 37 EIK ST, ALBANY, NY 12224

I represent: NY'S AUTO DEALERS ASSOC.

Address: 37 EIK ST., ALBANY, NY, 12224

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition - Recall issues

Date: 10/20/14

(PLEASE PRINT)

Name: Shawn Petersen  
Address: 6930 W. Campus Oval Suite 210, Columbus, Ohio  
I represent: National Independent Automobile Dealers Association  
Address: 2521 Brown Blvd, Arlington, Tx 76006

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 18/518 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Commissioner Julie Menin  
Address: 42 Broadway  
I represent: DCA  
Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms