
CENTER FOR AUTO SAFETY

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March 2, 2016

The Honorable Kumar Barve
Environment and Transportation Committee
Room 251, House Office Building
Annapolis, MD 21401

Honorable Chair Barve and Members of the Environment and Transportation Committee:

This letter is in support of Maryland HB 982, Vehicle Laws –Manufacturers and Dealers, with the attached amendments. Consumer access to Service Bulletins and Service Campaigns is essential to safe, reliable and economical use and ownership of motor vehicles. One need go no further than the GM Ignition Switch Defect which took at least 174 lives to see the value of Service Bulletins. In December 2005, GM issued TSB 05-02-35-007 that stated the driver “could inadvertently turn off the ignition due to low ignition key cylinder torque/effort.” [NHTSA never published the Bulletin which also offered a free fix, however inadequate.](#) At the very least, this was an early warning that never got to consumers.

Every auto company makes mistakes in building cars. Whether they are design defects that affect every car or whether they are manufacturing defects which affect only some cars, they must be repaired. The only question is who pays for the manufacturers' mistakes, the manufacturer or the consumer. All too often it is the consumer who is unaware that the defect in their vehicle is a manufacturing defect disclosed in a Service Bulletin.

The auto industry does its best to conceal defects and prevent the public from getting access to Service Bulletins that reveal defects because disclosure could cost the industry billions of dollars per year. Although some defects are covered by Service Campaigns which are supposed to be covered by Maryland’s secret warranty law, Commercial Code §§ 14-1401-1403, most defects are not covered. Even those which are covered never result in notice intended under the law because consumers move, vehicles are sold, and manufacturers don’t find current registered owners. The last line of notification is the franchised dealer who often is so concerned about retaliation from the manufacturer that the dealer doesn’t tell the consumer.

The Center for Auto Safety wrote a book in 1994, “Little Secrets of the Auto Industry,” that revealed consumers paid billions of dollars every year for defects covered by Service Bulletins and Secret Warranties. Unfortunately, what was true then is true today. Take the case of aluminum corrosion in millions of 2000-08 Ford vehicles that causes the paint to blister. Ford first issued a [Service Bulletin in December 2004](#) that covered 2000-2005 and [then extended it to later model years.](#) The Bulletin revealed: “Ford’s Scientific Research Laboratory has performed a number of tests on vehicle body parts returned for corrosion related concerns. Testing has revealed that the aluminum corrosion was caused by iron particles working their way into the aluminum body part prior to it being painted.” The Bulletin went on to describe precise measures that had to be taken to repair the defect that if not taken could lead to further costly damage. Without the Bulletin, the consumer could easily be hit with a second costly repair.

Access to Service Bulletins can avoid costly failures by doing inexpensive preventive repairs disclosed in the Bulletin. For example, [Honda issued a Service Bulletin on a defective engine oil seal](#)

that could lead to catastrophic engine failure if not repaired. Moreover Honda had a Service Campaign that provided for free repair of the oil seal and any engine damage caused by failure up through January 1, 2003. But consumers reported to the Center that they never got notice of the Service Campaign and had catastrophic engine failures costing \$6,000 or more which Honda refused to cover because they occurred after January 1, 2003. A conscientious dealer who informs the consumer of the Service Campaign is the consumer's last line of defense against a costly repair bill.

However, auto manufacturers can and do retaliate against dealers who too frequently disclose and make repairs covered by Service Campaign and for defects covered by Service Bulletins. Dealers can be subject to warranty audits and withholding of benefits. More subtle means such as withholding allocation of high profit models can be used. Creation of a new dealership near an existing is another way to discipline who shows too much fairness to consumers, In the GM and Chrysler bankruptcies, some high sales dealers were terminated for no apparent reason – the ultimate sanction.

HB 982 provides a vital consumer need by allowing dealers to provide consumers with important information about (1) Service Bulletins that affect the safe and efficient operation of their vehicles and (2) about Service Campaigns that cover costly repairs in their vehicles. But disclosure only is not enough. Auto manufacturers must be prohibited from retaliating against dealers who provide the information and services covered by HB 982. Otherwise, HB 982 will be little more than a paper tiger.

Sincerely,

A handwritten signature in black ink, appearing to read "Clarence Ditlow". The signature is written in a cursive, flowing style.

Clarence Ditlow
Executive Director

cc: Marceline White, Maryland Consumer Rights Coalition

Amendments to HB 0982

Amendments to bill HB 982 – ADDITIONAL LANGUAGE IN CAPS:

Page 3

- Line 14: Disclose to a consumer in any NON-DECEPTIVE manner
- Line 17: (II) SUBSEQUENTLY, make any necessary repairs...
- Add after Line 18 a new paragraph: (3) A DEALER MAY DISCLOSE AND PROVIDE TO A CONSUMER A COPY OF ANY SERVICE BULLETIN OR ANY OTHER WRITTEN OR ELECTRONIC COMMUNICATION OR DOCUMENT ISSUED BY THE MANUFACTURER PERTAINING TO AN ADJUSTMENT PROGRAM OR TO A CONDITION THAT MAY SUBSTANTIALLY AFFECT MOTOR VEHICLE DURABILITY, RELIABILITY, OR PERFORMANCE.
- Delete from Line 19-30

Page 4

Delete from Lines 1-8

After Line 18 insert two new subsections:

(IV) “DEALER BENEFIT” MEANS ANY CONSIDERATION RECEIVED BY A DEALER FROM A MANUFACTURER, DISTRIBUTOR OR FACTORY BRANCH.

(V) “RETALIATE” MEANS TO WITHHOLD A DEALER BENEFIT AND/OR APPOINT OR THREATEN TO APPOINT AN ADDITIONAL DEALER WITHIN THE MARKET AREA ASSIGNED TO A DEALER, WITHOUT A COMPELLING BUSINESS JUSTIFICATION. RETALIATION ALSO MEANS TO WITHHOLD A CONSUMER BENEFIT THROUGH A DEALER.

Page 5

- Line 10 -- Add to the end of the line: THAT IS NON-DECEPTIVE AND COMPLIES WITH APPLICABLE LAW

Page 6

- After Line 21 add: (M) A MANUFACTURER MAY NOT RETALIATE AGAINST A DEALER OR AN EMPLOYEE OR CONSUMER OF A DEALER