



NEWS for Immediate Release: September 28, 2017

Contacts: Rosemary Shahan, CARS Foundation, 530-759-9440
Deirdre Cummings, MASSPIRG Education Fund, 617-747-4319
Jason Levine, Center for Auto Safety, 202-328-7700

**CarMax Survey Finds 27% of Vehicles for Sale with Dangerous Unrepaired Safety Recalls
Percent has more than doubled since 2015
One CarMax “Certified” vehicle had 6 unrepaired safety recall defects**

The nation’s largest retailer of used cars, CarMax, has more than doubled the percentage of dangerous, defective unrepaired recalled used cars for sale to consumers, according to *Used Car Roulette*, a new report released today by the Consumers for Auto Reliability and Safety Foundation, MASSPIRG Education Fund, and the Center for Auto Safety.

The report is based on recent surveys conducted by the Frontier Group of nearly 1,700 vehicles CarMax advertised for sale in Northern and Southern California, Massachusetts, and Connecticut, compared with data about CarMax’s sales of unrepaired recalled cars in those states in 2015. The report also found that more than one in four cars for sale on the surveyed lots have unrepaired safety recalls.

“CarMax is selling huge numbers of unsafe, defective recalled cars that are ticking automotive time bombs. They pose a serious threat to the safety of all American motorists and their families,” said Rosemary Shahan, President of the Consumers for Auto Reliability and Safety (CARS) Foundation, a non-profit auto safety organization based in Sacramento, CA.

“Over the last two years CarMax has expanded across the state. Meanwhile our survey found one in four of their cars for sale is unsafe,” said Deirdre Cummings, Consumer Program Director for MASSPIRG Education Fund, a non-profit consumer protection organization in Massachusetts. “No one should have to gamble with their safety or the safety of those who share the roadways.”

“Recalls happen when there is an unreasonable safety risk or the car fails to meet a safety standard. Evidence of these defects is readily available to CarMax and calling an unrepaired recalled car ‘safe’ is deceptive on its face,” said Jason Levine, Executive Director of the Center for Auto Safety, an independent, non-profit consumer advocacy organization based in Washington, DC.

The survey of nearly 1,700 vehicles for sale at eight CarMax locations – four in Massachusetts, two in California, and two in Connecticut – found that more than one in four vehicles (27%) had unrepaired safety recalls. Researchers surveyed vehicles for sale at all four CarMax locations in Massachusetts (Danvers, North Attleboro, Norwood, and Westborough), two locations in California (Oxnard and Sacramento), and two in Connecticut (East Haven and Hartford). They found that:

- More than one in four (27%) vehicles surveyed had unrepaired safety recalls.
- At each of the 8 CarMax locations surveyed, at least 20% of vehicles CarMax advertised for sale had at least one unrepaired defect subject to a safety recall.
- At North Attleboro MA, Westborough MA, and East Haven CT, more than 30% of vehicles CarMax offered for sale had at least one unrepaired safety recall defect.
- On average, the percentage of vehicles with unrepaired safety recalls CarMax offered for sale has more than doubled, jumping from 12% to 27%, compared to survey results from 2015, which covered five of the eight locations newly surveyed.
- In 2015, for example, 10% of vehicles sold at the Hartford CarMax location had unrepaired safety recalls. In the newly updated survey, 28% of vehicles at the same location had unrepaired safety recalls, an increase of 180%. In North Attleboro the percentage of vehicles with unrepaired safety recalls rose from 17 to 31%.
- 43 vehicles had unrepaired safety recalls for which no repairs are available, so consumers who purchase them are stuck driving unsafe cars for an indefinite period before they can get the cars repaired.
- The survey found 86 vehicles that had more than one unrepaired safety recall; 19 vehicles had 3 or more unrepaired safety recalls. One GMC Sierra Light Duty Pickup Truck for sale in Westborough had 6 unrepaired safety recalls.

“For a customer at CarMax, about one out of four cars they look at will contain an unsafe recalled part,” said Gideon Weissman of Frontier Group, report co-author. “Those are bad odds, and far worse than the results of surveys from just two years ago.”

It is dangerous and irresponsible for CarMax or other dealers to assume that car buyers will have time to get unsafe, defective vehicles repaired before disaster strikes. In one tragic case, a California Highway Patrol officer, his wife, their 13-year-old daughter, and his brother-in-law, were all killed by a runaway Toyota Lexus the same day, within hours after a dealer handed the CHP officer the keys. (That was the crash that led to the Toyota sudden acceleration recall, affecting millions of cars.)¹

“It is illegal in Massachusetts for any car dealer to sell a used vehicle to a consumer that is not fit to be driven safely on the roads,” said Sebastian Korth, an attorney who specializes in representing Massachusetts consumers in cases against auto dealerships and lenders. Mr. Korth is representing

1 “CHP Releases 911 Tape in Officer’s Fiery Crash,” *San Diego Union-Tribune*, September 10, 2009. Posted at: <http://www.sandiegouniontribune.com/sdut-bn10-911call-fatal-crash-2009sep10-htlmlstory.html>

Bonnie Belanger of Mansfield, MA in a case against a different dealership. On June 17, 2016, Ms. Belanger purchased a 2013 Chrysler Town & Country for approximately \$19,000 from Fafama Auto Sales in Milford, MA. It was not disclosed to her that the minivan had two unrepaired safety recalls. In December of 2016, the driver's door caught on fire without warning, just as described in the recall notice. Ms. Belanger says about her experience: "If you are buying a car from a licensed car dealer in our state, you shouldn't have to worry they didn't bother to get the free safety recall repairs done first. That's their job, to make sure all the cars they sell are safe to drive before they sell them to a consumer."

The consumer groups are calling on state law enforcement officials to curb CarMax's sales of unsafe recalled cars, and on the Courts to overturn consent orders finalized by the Federal Trade Commission which allow dealers including CarMax to advertise that unsafe vehicles with unrepaired safety recalls are "safe," "repaired for safety," and passed a "rigorous inspection" and are offered for sale as "certified" cars, without getting the free repairs, if they merely disclose that the cars they offer for sale "may" have an "open recall." Consumers for Auto Reliability and Safety, USPIRG, and the Center for Auto Safety are suing the FTC to get the consent orders overturned. The case is pending before the U.S. District Court in Washington, D.C.

CarMax advertising and "disclosures" are false, misleading, and deceptive

CarMax claims that they provide disclosure about safety recalls. However, the information CarMax provides verbally and in writing is often false, contradictory, deceptive, or misleading, or presented too late to be an effective form of disclosure.

CarMax advertises that "We select the best" and that "We renew each car." In Massachusetts, a CarMax sales contract for a Jeep with 3 unrepaired safety recalls included this information in bold type: **"ATTENTION PURCHASER: All vehicles are WARRANTED as a matter of state law. They must be fit to be driven safely on the roads..."**

The new report found that sometimes the AutoCheck vehicle history reports provided by CarMax to prospective car buyers falsely indicate that there is NO safety recall, when according to the National Highway Traffic Safety Administration, based on data provided by the manufacturer that issued the safety recall(s), there are in fact multiple unrepaired safety recalls.

CarMax sometimes does not present the "disclosure" form to car buyers until AFTER they have already signed a purchase contract. That is what happened to safety advocate Sean Kane, who purchased a Jeep from CarMax in North Attleboro, MA, in 2015. He shopped for the car with his 15-year-old son, and told sales personnel that it was very important to have a safe vehicle for his son to drive. CarMax did not present him with the recall "disclosure" form until AFTER he had already signed the purchase contract.

The "disclosure" form itself was false and misleading, indicating that according to NHTSA there was an "open recall(s)" but *according to AutoCheck there was NO safety recall*. In fact, the Jeep CarMax sold him had 3 unrepaired safety recalls – it was prone to catching on fire, had faulty brakes, and was prone to stalling in traffic.

CarMax has Safer Options

CarMax is not authorized to perform safety recall repairs. But that is no excuse for selling unsafe cars. The company, which took in over \$15 billion in 2016, can easily afford to pay employees to deliver unrepaired recalled cars to dealerships that are authorized to perform the repairs, and incentivize the dealers to perform the repairs promptly. Under federal law, auto manufacturers must provide the repairs to owners, including auto dealers, for free. CarMax could also sell the recalled vehicles at wholesale, instead of retailing them to consumers for top dollar.

Links to key documents:

[*Used Car Roulette*: Full Report, with Appendix that includes details about each recalled vehicle](#)

[*Used Car Roulette*: Executive Summary](#)

[Summaries about Bonnie Belanger and Bianka Janvier's car buying experiences](#)

[Description of Sean Kane's experience buying an unsafe, recalled Jeep from CarMax](#)

[Purchase contract for Jeep Sean Kane purchased from CarMax](#), including warranty mandated by MA law that the car is *"fit to be driven safely on the roads..."*

[AutoCheck report for Jeep that Sean Kane purchased from CarMax](#) (Jeep had 3 unrepaired safety recalls)

[Disclosure form for Jeep that Sean Kane purchased from CarMax](#) (Jeep had 3 unrepaired safety recalls)

[Documents re: Legal Case: Consumers for Auto Reliability and Safety, U.S. PIRG, and Center for Auto Safety vs. Federal Trade Commission](#)