



**POLICY & ACTION FROM  
CONSUMER REPORTS**

**Statement of William C. Wallace, Policy Analyst, Consumers Union  
Before the U.S. House of Representatives Committee on Energy and Commerce  
Subcommittee on Commerce, Manufacturing, and Trade**

**“Legislative Hearing on VIN Database and Auto Whistleblower Bills”  
Friday, September 25, 2015**

## Summary

- Lawmakers need to take strong action to address the corporate accountability crisis in the auto industry – exemplified by the GM fiasco.
- While pleased that the Subcommittee seeks to improve motor vehicle safety through legislation, Consumers Union, the public policy and advocacy arm of Consumer Reports, believes that the two pending discussion drafts fall far short of what is needed to ensure defects are identified and repaired before consumers get hurt.
- The potential benefit of the Improving Recall Tracking Act—ensuring owners of older vehicles can be contacted in case of a recall—is far outweighed by the lack of additional funding for NHTSA or the states. The potential benefit of the Motor Vehicle Safety Whistleblower Act—incentivizing auto industry employees to report information about a defect to NHTSA—is jeopardized by language regarding internal reporting and the lack of an established minimum award.
- More fundamentally, these proposals do not go far enough to bolster consumer safety—particularly following several major auto safety crises in the last few years.
- Instead of considering these discussion drafts, we urge the Subcommittee to take up broader, bolder legislation such as H.R. 1181, the Vehicle Safety Improvement Act of 2015. The bill would: (1) address shortfalls in current law, through greater civil penalties and a ban on selling unrepaired, recalled used cars; (2) strengthen NHTSA through additional funding, imminent hazard authority, and better Early Warning Reporting; and (3) empower consumers through greater public access and usability for safety information reported to NHTSA.
- The Subcommittee and the full House should move forward on this bill. Also, if members consider a safety title for a highway bill, they should include these needed reforms.

Good morning, Chairman Burgess, Ranking Member Schakowsky, and members of the Subcommittee. My name is Will Wallace, and I am the safety policy analyst for Consumers Union, the public policy and advocacy arm of Consumer Reports. Consumer Reports is the independent nonprofit organization that works for a fair, just, and safe marketplace for all consumers, and to empower consumers to protect themselves.

Consumers Union and Consumer Reports have fought for decades to make cars safer, and to make sure that companies are held accountable for the products they sell. Working with consumers and for consumers, we have pushed for stronger laws, better standards, and for safety features such as seat belts, air bags, and electronic stability control to be made standard. We work every day at our Auto Test Center to evaluate safety technologies, ranging from the newest child car seats to automatic emergency braking, and we communicate with millions of consumers to help them make informed choices and help them stay safe on the roads.

We appreciate the opportunity to testify on the two draft bills before you today, because they are generating a discussion about what steps the Subcommittee should take to increase consumer safety on our roads. This hearing is very timely, given the enormous amount of news recently about auto safety and corporate accountability. The government settlement with General Motors over faulty ignition switches that have been linked to at least 174 deaths was very disappointing because—among other reasons—it didn't go nearly far enough to hold GM officials personally accountable for their involvement, and for hiding the truth. Right on the heels of that settlement was the news that Volkswagen had cheated on emissions control testing for some 11 million diesel vehicles—and they had covered it up.

This news is sending shock waves through the industry, the government, and the public. The erosion of confidence cannot be overstated. Lawmakers need to take action to address this corporate accountability crisis.

Today this Subcommittee is focused on two bills that attempt to address pieces of the problem. One of the bills, the Improving Recall Tracking Act, aims to tackle low recall completion rates for older cars, while the other, the Motor Vehicle Safety Whistleblower Act, is intended to ensure defects are uncovered when auto companies fail to report them as required.

While we are pleased that the Subcommittee is pursuing these goals, Consumers Union believes that these two discussion drafts fall far short—both in terms of meeting their objectives, and improving the flawed system that is supposed to ensure defects are identified, and repaired, before people get hurt. We urge the Subcommittee to instead take up legislation that would meaningfully bolster consumer safety, such as H.R. 1181, the Vehicle Safety Improvement Act of 2015.

Since it became clear last year just how deeply and recklessly General Motors deceived the public, there have been many calls for action. Consumers recognize that the system did not work. Federal law, specifically the Motor Vehicle Safety Act, assigns joint responsibility to the government and industry to spot defects and get them fixed. The GM fiasco—along with crises involving defects in Toyota, Takata, and Chrysler products, among others—made clear that auto

companies must do far more to ensure their vehicles are safe, and the National Highway Traffic Safety Administration (NHTSA) must do far more to hold auto companies accountable.

Yet, the drafts before the Subcommittee today offer strikingly limited advances for consumer safety—and even then, these advances would come about only if the bills are fully funded, implemented, and revised in important ways. The Improving Recall Tracking Act could help auto companies reach consumers, especially owners and lessees of older vehicles, in case of a recall, and could make NHTSA’s *safecar.gov* more useful by allowing VIN searches for multiple vehicles. However, this potential benefit is far outweighed by the fact that this draft authorizes no additional funding for NHTSA or the states yet requires them to carry out a substantial amount of new work. NHTSA, in particular, is chronically underfunded. To protect the public the way we all expect, it needs to be able to hire more staff—not have them stretched more thinly than they already are.

Moreover, the bill does not address other clear factors contributing to recall completion, such as consumer confusion about recall notices and the very real inconvenience of taking a car to a dealer for repairs. The Subcommittee should consider potential solutions to these problems, such as requiring manufacturers to include an in-car alert for recalled cars with infotainment systems and requiring dealers to provide consumers with a free, safe loaner vehicle if repairs are going to take longer than a certain amount of time.

Similarly, the Whistleblower Act could incentivize auto industry employees to give NHTSA information about covered-up defects and require the agency to keep this information

confidential. Just imagine how much suffering could have been prevented if a GM engineer had reported the flawed ignition switch to NHTSA in 2006 or 2007. However, we are very concerned the bill may disincentivize potential whistleblowers, and not be as effective as it could be, for two main reasons: first, because of the presence of language allowing the denial of an award if the whistleblower fails to report or attempt to report the information internally; and second, because of the lack of an established minimum award that at least covers the loss of earnings a whistleblower could face by sacrificing his or her career.

More broadly, though, these discussion drafts do not go nearly far enough to bolster consumer safety. Instead, we urge you to take up bolder legislation, such as H.R. 1181, the Vehicle Safety Improvement Act of 2015. The bill would:

- **Address shortfalls in current law**, by increasing NHTSA's inadequate civil penalties authority—which clearly does not hold auto companies accountable and deter law-breaking as it should—and closing the loophole that allows dealers to sell or lease used cars before they are repaired. We would also strongly encourage the enactment of a criminal penalties provision to deter executives from hiding defects.
- **Strengthen NHTSA**, by authorizing the additional funding it desperately needs; giving it imminent hazard authority, just like the CPSC and FDA have, to get the most dangerous products recalled immediately; and making sure it receives more detailed information from manufacturers through Early Warning Reporting that will help make the program more useful to NHTSA's work.

- **Empower consumers**, by giving them free access to the full text of manufacturers' communications to dealers dealing with a defect or noncompliance, and by making NHTSA's existing public databases—which can be clumsy, confusing, and hard for an ordinary consumer to use—more timely and more readily searchable.

The Vehicle Safety Improvement Act would create an auto safety system that is less reactive, and more proactive, in identifying safety defects before they reach epidemic proportions. We would urge the Subcommittee and the full House to move forward on this bill. Separately, we would also urge members to create a strong safety title in any long-term highway bill. In addition to requiring that rental car companies fix recalled vehicles before they offer them to consumers—as the Senate surface transportation bill does—such a safety title, if advanced, should also include the needed reforms that I have just outlined. Thank you.