

CAR TITLE FRAUD: ISSUES AND APPROACHES FOR KEEPING CONSUMERS SAFE ON THE ROAD

HEARING
BEFORE THE
SUBCOMMITTEE ON COMMERCE, TRADE, AND
CONSUMER PROTECTION
OF THE
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COMMERCE
HOUSE OF REPRESENTATIVES

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CAR TITLE FRAUD: ISSUES AND APPROACHES FOR KEEPING CONSUMERS SAFE ON THE ROAD

WEDNESDAY, MARCH 1, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON COMMERCE, TRADE, AND
CONSUMER PROTECTION,

Washington, DC.

The subcommittee met, pursuant to notice, at 10:08 a.m., in Room 2123 of the Rayburn House Office Building, Hon. Cliff Stearns (chairman) presiding.

Members present: Representatives Stearns, Deal, Bass, Otter, Blackburn, Schakowsky, Green, and Barton (ex officio).

Staff present: David Cavicke, General Counsel; Andy Black, Deputy Staff Director, Policy; Chris Leahy, Policy Coordinator; Will Carty, Professional Staff Member; Billy Harvard, Legislative Clerk; Michael Abraham, Legislative Clerk; Jonathan Cordone, Minority Counsel; and David Vogel, Minority Staff Assistant.

MR. STEARNS. Good morning, everybody. The subcommittee will come to order. For most Americans, buying a car is the second biggest financial decision they will make, next to, of course, buying their home. It is a process that many dread, and of course is full of decisions: paint, options, stick, or automatic. Unfortunately, because of a small percentage of fraudsters in the pre-owned vehicle market, finding the perfect car can be even more stressful. The practice of passing off flood damaged or salvaged vehicles as ready for the road through cleaning or “washing” their titles continues to be a major problem for the consumers in America. And the massive number of flood and salvaged vehicles that were left in the wake of Katrina only served to highlight a problem that reputable car dealers, recyclers, motor vehicle administrators, and law enforcement deal with every single day. No one wants to discover that the car of their dreams they just drove off the lot spent some time as a water-logged submarine, or a twisted wreck, but many folks are duped and suffer financial consequences and sometimes physical loss because of an unsafe vehicle that has no business being on the road. The fact is that vehicle title fraud costs the United States consumer and our economy billions of dollars every year.

A unique vehicle identifier called a vehicle identification number, or VIN, as we know it, sometimes called a car's fingerprint, is an essential piece of information for tracking a vehicle's life, its use or misuse, and of course its death. Vehicle title tracking through a VIN allows the compilation of vehicle history, fraud prevention, and preventing practices like title washing. In theory, cradle to grave vehicle tracking means that events such as a flood damage or crashes can be included in the title information. Now unfortunately, thieves and other criminals have made the traditional titling system less than perfect. VINs have been known to be counterfeited, erased, and switched from one road-worthy vehicle to a damaged one. Title washing allows a thief to effectively eliminate negative title brand such as salvaged and flood damaged from an imperfect title so they can pass off an unsafe vehicle to an unsuspecting buyer and make considerably more money on the resale. Flood damage and severely wrecked vehicles, if allowed back into commerce, present real danger to the consumers that unknowingly purchase them, as well as for all of us who simply navigate our highways. Critical safety systems, like air bags and antilock brakes, can be compromised and fail when affected by water or other damage. Unseen damage can also affect the structural integrity of a vehicle's safety structures that are designed to protect occupants in case of crashes. Therefore vehicle title fraud is a vehicle safety issue as much as it is a consumer fraud issue.

What I would like to know is why practices like title washing are still a major problem in our world that is networked so well with real-time information. I think we can do better. It seems to me that the problem of title fraud is one that could be solved, or at least, my colleagues, greatly reduced by allowing greater and more immediate access to information about a car's history, including when that car is damaged by floods or other means, as well as creating more uniform standards nationwide for title branding designations like "salvaged" or "flood damaged." We also should examine whether the 1992 Anti-Car Theft Act mandate for a national title tracking system is working, as well as can we involve the private sector, the data industry, to make such technology work for us, make it better and more accessible so that the consumers themselves can be the watchdogs.

As they say, data provides knowledge and knowledge, of course, is power. As I said, the challenge is empowering the buyers, both the consumers and the dealers, with a more uniform nationwide title data system. This requires constantly updating VIN data so that all consumers and those in the pre-owned vehicle market can make better decisions that save everyone money, either through fraud prevention and of course ultimately through lower insurance rates. Now, I know in my opening statement here, this is an oversimplification of the problem, but I

believe we can do a lot more to make the system work better, including trying to engage the private sector, the data industry, and their best practices to find better ways to simply inform the consumer better and also to protect him.

So I would like to thank everybody for joining us this morning as our witnesses. I would also like to thank Mr. Glenn Turner, Chief of Staff, Florida Division of Motor Vehicles, from my home State of Florida for coming. I appreciate your making the journey up here to the cold weather from the warm weather. The committee appreciates the panel's testimony today and its assistance in helping all of us here in Congress to better understand this important issue.

[The prepared statement of Hon. Cliff Stearns follows:]

PREPARED STATEMENT OF THE HON. CLIFF STEARNS, CHAIRMAN, SUBCOMMITTEE ON
COMMERCE, TRADE, AND CONSUMER PROTECTION

Good Morning. For most Americans, buying a car is the second biggest financial decision they will make, next to buying their home. It's a process that many dread and it's one full of decisions – paint, options, stick or automatic. Unfortunately, because of a small percentage of fraudsters in the pre-owned vehicle market, finding that perfect ride can be even more stressful. The practice of passing off flood-damaged or salvaged vehicles as ready for the road through cleaning or “washing” their titles continues to a major problem for the consumer. And the massive numbers of flood and salvaged vehicles that were left in the wake of Katrina only served to highlight a problem that reputable car dealers, recyclers, motor vehicle administrators, and law enforcement deal with every day. No one wants to discover that the car of their dreams they just drove off the lot spent some time as a water-logged submarine or a twisted wreck, but many folks **ARE** duped and suffer financial and sometimes physical loss from an unsafe vehicle that has no business being on the road. That fact is that vehicle title fraud costs the U.S. consumer and our economy billions of dollars every year.

A unique vehicle identifier called a vehicle identification number or “VIN”, sometimes called a car's fingerprint, is an essential piece of information for tracking a vehicle's life, its use or misuse, and its death. Vehicle title tracking through a VIN allows the compilation of vehicle histories, fraud prevention, and preventing practices like “title washing.” In theory, “cradle to grave” vehicle tracking means that events such as flood damage or crashes can be included in the title information. Unfortunately, thieves and other criminals have made the traditional titling system less than perfect. VINs have been known to be counterfeited, erased, and switched from one roadworthy vehicle to a damaged one. “Title washing” allows a thief to effectively eliminate negative title “brands” such as “salvaged” and “flood damaged” from an imperfect title so they can pass off an unsafe vehicle to an unsuspecting buyer and make considerably more money on resale. Flood-damaged and severely wrecked vehicles, if allowed back into commerce, present real danger to the consumers that unknowingly purchase them, as well as for all of us who navigate the highways. Critical safety systems like airbags and antilock brakes can be compromised and fail when affected by water or other damage. Unseen damage can also affect the structural integrity of a vehicle's safety structures that are designed to protect occupants in crashes. Therefore, vehicle title fraud is a vehicle safety issue as much as it is consumer a fraud issue.

What I'd like to know is why practices like “title washing” are still a major problem in a world that is so networked with real time information. **I think we can do better.** It

seems to me that the problem of title fraud is one that can be solved, or at least greatly reduced, by allowing greater and more immediate access to information about a car's history, including when that car is damaged by flood or other means, as well as creating more uniform standards nationwide for title branding designations, like "salvaged" or "flood damaged." We also should examine whether the 1992 "Anti-Car Theft Act" mandates for a national title tracking system are working, as well as ways we can involve the private sector data industry to make such technology better and more accessible so that consumers can be better fraud watchdogs.

As they say, data provides knowledge, and knowledge is power. As I said, the challenge is empower buyers, both consumers and dealers, with a more uniform, nationwide title data system. This requires constantly updated VIN data so that all consumers and those in the pre-owned vehicle market can make better decisions that save everyone money either through fraud prevention and lower insurance rates. I know this is an oversimplification but I believe we can do a lot more to make the system work better, including trying to engage the private sector data industry and their best practices to find better ways to inform and protect consumers.

Again, I'd like to thank everyone for joining us this morning. I'd also like to thank in particular Mr. Glenn Turner, Chief of Staff, Florida Division of Motor Vehicles, from my home state of Florida for coming. The Committee appreciates the panel's testimony today and its assistance in helping us learn more about this important issue.

Thank you.

MR. STEARNS. With that, the Ranking Member, Ms. Schakowsky, is recognized.

MS. SCHAKOWSKY. Thank you, Mr. Chairman, for holding today's hearing on car title fraud. As we explore this problem, it is clear that consumers may essentially be driving blind when they buy used cars. Title washing is when a car's title cleaned of the car's actual history, such as having been in a bad accident and rebuilt. Fraudsters title wash by titling and re-titling cars in various States, each of which sets its own standard for branding or notating on titles that a car has been severely damaged, hoping that the bad information is lost along the winding paper trail. They also title wash by obscuring the information on the title before re-titling, for example, using a hole-punch to make the brand disappear. The various strength of laws and branding requirements between the States has been a boon for title washers.

I appreciate the chance to explore this issue which has been deemed by the National Association of Attorneys General to be the worse problem used car buyers face. Hurricane Katrina, as the Chairman mentioned, brings this issue to the forefront, because a number of the nearly 600,000 flooded cars which should have had that fact on their titles are having their titles washed and are showing up, showing back up on the market. This is a financial issue for consumers and industry, but it is also a very serious public safety issue. Currently there is no way to tell if a car that is on a used car lot should be on the scrapheap instead.

Congress created the National Motor Vehicle Title Information Systems, a national title database, in 1992, in part to track branded titles

from State to State. However, the system is underfunded and voluntary. Thirteen years later, there are only 27 States participating. While some may say that is a good level of participation, it only takes one State not having their titles on the list, or with weak protections, to start the title washing machine. Rehabbed cars are worth more money when damage is hidden. Some estimate that cars with clean titles fetch \$2,000 more than cars with accurate histories. The Kelly Blue Book's executive editor, Charlie Vogelheim, says that the value of a used car with a clean title is twice that of one that is branded. Clearly, the incentive to hide accidents is great. The problem of improperly titled cars is not merely a matter of buyer beware and consumers getting a bad financial deal. The very safety of the driver, passenger, and every person who is passed on the road is at stake.

Although there are rigorous safety testing requirements for new cars, there are no requirements for safety inspections of rebuilt cars. When consumers are getting behind the wheel of two tons of steel going 60 miles an hour and have the uncertainties of weather and road conditions and other drivers with which to contend, they should not have the false sense of security that their cars are in mint condition when they are not. Flooded cars, like those from the Gulf Coast, have such unique and frightening problems that many car rebuilders and experts recommend that consumers avoid them all together. While some say those cars can be restored to safe conditions, flooded cars can "literally corrode from inside out, causing mystery problems and electrical failures," as stated in an account by Consumer Reports. Those cars could be showing up on online auctions sites and used car lots across the country as we speak.

My Attorney General in Illinois, Lisa Madigan, has already issued a warning to consumers to be on the lookout for Katrina cars. Because of the seriousness of the implications of title washing, I think we need to work vigorously toward adequate funding for the Motor Vehicle Title Information Systems, require participation, and perhaps set national standards for the branding of titles. Now is the time to get these hazards off the roadway.

I would like to thank you again, Chairman Stearns, for holding today's hearing. I look forward to hearing from our witnesses, especially Ms. Weintraub, who is here despite feeling so under the weather, about what we can do to protect consumers from the hazards of title fraud.

[The prepared statement of Hon. Jan Schakosky follows:]

PREPARED STATEMENT OF THE HON. JAN SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ILLINOIS



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**SCHAKOWSKY SAYS CONSUMERS SHOULD NOT BE FORCED TO
DRIVE BLIND WHEN BUYING USED CARS**

Wants to ensure a car's full history is available to consumers

WASHINGTON, DC -- U.S. Representative Jan Schakowsky, ranking member on the Subcommittee on Commerce, Trade, and Consumer Protection, today raised concerns about car title washing at a hearing before the Subcommittee. Title washing occurs when fraudsters erase the history of an automobile from its title before reselling it on the market.

Representative Schakowsky's full opening statement is below:

As we explore this problem it is clear that consumers may essentially be "driving blind" when they buy used cars. Title washing is when a car's title is "cleaned" of the car's actual history, such as having been in a bad accident and rebuilt. Fraudsters title wash by titling and re-titling cars in various states -- each of which sets its own standards for "branding," or notating on titles that a car has been severely damaged -- hoping the bad information is lost along the winding paper trail. They also title wash by obscuring the information on the title before re-titling -- for example, using a hole punch to make the "brand" disappear. The variance strength of laws and branding requirements between the states has been a boon for title washers.

I appreciate the chance to explore this issue, which has been deemed by the National Association of Attorneys General to be the worst problem used car buyers face. Hurricane Katrina brings this issue to the forefront because a number of the nearly 600,000 flooded cars -- which should have had that fact on their titles -- are having their titles washed and are showing back up on the market. This is a financial issue for consumers and the industry but it is also a very serious public safety issue. Currently, there is no way to tell if a car that is on the used car lot should be on the scrap heap instead.

Congress created the National Motor Vehicle Title Information Systems – a national title database – in 1992, in part, to track branded titles from state to state. However, the system is under-funded and voluntary. Thirteen years later, there are only 27 states participating. While some may say that is a good level of participation, it only takes one state not having their titles on the list – or with weak protections – to start the title washing machine.

Rehabbed cars are worth more money when damage is hidden. Some estimate that cars with clean titles fetch \$2,000 more than cars with accurate histories. The Kelley Blue Books executive editor, Charlie Vogelheim says that the value of a used car with a clean title is twice that of one that is branded. Clearly, the incentive to hide accidents is great.

The problem of improperly titled cars is not merely a matter of “Buyer Beware” and consumers getting a bad financial deal. The very safety of the driver, passenger, and every person who is passed on the road is at stake. Although there are rigorous safety testing requirements for new cars, there are no requirements for safety inspections of rebuilt cars. When consumers are getting behind the wheel of 2 tons of steel, going 60 miles an hour, and have the uncertainties of the weather, road conditions, and other drivers with which to contend, they should not have the false sense of security that their cars are in mint condition when they are not.

Flooded cars, like those from the Gulf Coast, have such unique and frightening problems that many car rebuilders and experts recommend that consumers avoid them altogether. While some say those cars can be restored to safe conditions, flooded cars can “literally corrode from the inside out, causing mystery problems and electrical failures” as stated in an account by Consumer Reports. Those cars could be showing up on on-line auction sites, and used car lots across the country as we speak. My Attorney General in Illinois, Lisa Madigan, has already issued a warning to consumers to be on the look-out for Katrina cars.

Because of the seriousness of the implications of title washing, I think we need to work vigorously to provide adequate funding for the Motor Vehicle Title Information Systems, require participation, and set a national standard for the branding of titles. Now is the time to get these hazards off the roadway.

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MR. STEARNS. I thank my colleague. The distinguished Chairman of the full committee, Mr. Barton from Texas, is recognized.

MR. BARTON. Thank you, Mr. Chairman. This week Mardi Gras is in full flower in New Orleans. It is supposed to be about cutting loose and having a good time, but this time it is about returning to normalcy. As the pace of rebuilding accelerates, it is impossible to forget the many people who lost their families, their homes, and everything that own. This hearing is a continuation of the committee’s effort to delve into the aftereffects of Katrina and try to find out what has happened and what, if anything, we can do to alleviate the pain and suffering.

Among the things lost to the storm were hundreds of thousands of automobiles and trucks, possibly as many as 600,000. Most of those vehicles were damaged beyond usefulness, but it seems inevitable that a few bad actors will seek to spread the misery of the hurricane by shining

these vehicles up and selling them to the gullible public in States far from the Gulf of Mexico.

Most cars damaged by flooding are required to be labeled as such so that they cannot be resold to unsuspecting customers. Yet the States, which are responsible for the titling of automobiles, do not have uniform standards in this area. And it also doesn't appear that the States receive and share the same information about these abused cars. Unfortunately, this often leaves the doors open for creative criminals who steal or duplicate legitimate vehicle identification numbers and thus are able to provide a "clean" title that can then be used to resell a flood-damaged car to either a dealership or to an unsuspecting individual.

The incentives for criminals are obvious. Cars with clean titles are worth much more than those have been marked as damaged or flooded. Of course this is not a problem unique to the disaster on the Gulf Coast with Hurricane Katrina. But given the number of cars damaged by Katrina and by Rita, the scale of which it may affect the automobile market is probably unprecedented. While the economic damage to the unsuspecting buyer is considerable, the possible consequences of a damaged car for the driver and everyone else on that road where that car is being driven are even more serious. Anyone who might come in contact with an unsafe vehicle is put in harm's way, and that is a concern, a primary concern for this committee.

Many of the industry participants and governmental entities that are seeking to mitigate this problem with a coordinated effort to track and identify the cars ruined by Katrina; that is a good thing. I want to commend their efforts. I think that until a consistent and unified system exists, a system that is coordinated with the industry, any attempt to track damaged and dangerous vehicles is only as good as its weakest link.

I want to thank Subcommittee Chairman Stearns for suggesting that we hold this hearing, and thank Ranking Member Schakowsky for her and her staff's effort in preparing the witness list for the hearing. I look forward to hearing from the witnesses, and with that, Mr. Chairman, I would yield back.

[The prepared statement of Hon. Joe Barton follows:]

PREPARED STATEMENT OF THE HON. JOE BARTON, CHAIRMAN, COMMITTEE ON ENERGY
AND COMMERCE

This week the Mardi Gras celebration comes back to New Orleans for the first time since Hurricane Katrina left. Mardi Gras in New Orleans is supposed to be about cutting loose, but this year it's about a return to normalcy. As the pace of rebuilding accelerates, it's impossible to forget the many people who lost their families, their homes and everything they own. This hearing is a continuation of this Committee's efforts to delve into the important concerns of all those affected.

Among those things lost to the storm were hundreds of thousands of cars, possibly as many as 600,000. While most of these cars are damaged beyond usefulness, it seems inevitable that a few crooks will seek to spread the misery of the hurricane by shining them up and selling them to gullible buyers, often in states far from Louisiana and the Gulf Coast.

Most cars damaged by any flooding are required to be labeled as such so that they cannot be resold to unsuspecting customers. Yet the States, which are responsible for the titling of automobiles, do not have uniform standards in this area. Nor does it appear that all States receive and share the same information about these cars. Unfortunately, this often leaves the door open for creative criminals who steal or duplicate legitimate Vehicle Identification Numbers to provide a "clean" title that can then be used to resell a flood-damaged car to either a dealership or an individual.

The incentives for criminals are obvious: cars with supposedly "clean" titles are worth much more than those that have been marked as damaged or flooded. Of course, this is not a problem unique to last year's disaster along the Gulf Coast, but given the number of cars damaged by those hurricanes, the scale on which it may affect the automobile market could be unprecedented. And while the economic damage to the unsuspecting buyer is considerable, the possible consequences of a damaged car for the driver and everyone else on the road are even more serious. Anyone who may come in contact with an unsafe vehicle is put in harm's way, and that should be the primary concern for all of us.

Many of the industry participants and governmental entities are seeking to mitigate this problem with coordinated efforts to track and identify the cars ruined by Katrina, and that's good. I commend their efforts. I think that until a consistent and unified system exists, a system that is coordinated with the industry, any attempt to track damaged and dangerous vehicles is only as good as its weakest link.

I look forward to hearing how the situation can be remedied as expeditiously as possible, and I want to thank all of our witnesses for participating today. Their expertise, experience, and continued coordinated efforts to protect consumers are essential.

Thank you, and I yield back the balance of my time.

MR. STEARNS. I thank the Chairman. The gentleman from Idaho, Mr. Otter. No opening statement?

[Additional statements submitted for the record follows:]

PREPARED STATEMENT OF THE HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Good Morning. I'd like to thank Chairman Stearns and Ranking Member Schakowsky for holding this hearing today.

I'm very familiar with this issue because of Tropical Storm Allison in 2001. It was only because of Tropical Storm Allison that the Texas Department of Transportation set up a data base listing cars that had been Flooded.

Also, Texas does participate in the National Motor Vehicle Title Information System.

Half a million vehicles were flooded during Hurricanes Katrina and Rita. The Texas Department of Transportation hasn't been able to supply a solid number on how many are in the state, but estimates released between the two storms were already around 5 thousand.

I'm concerned that many people in Texas and in Houston will be buying used vehicles that are unsafe.

When I was in the State Legislature, I helped pass the State's first Lemon Law in 1983. This law is designed to protect consumers from buying questionable automobiles.

This law has been strengthened over the years, but it does not mean that consumers are entirely protected from buying cars with "washed titles".

I believe we should require insurance companies to provide timely, accurate title information so that consumers can know all the facts before they spend thousands of dollars on a vehicle.

It is still too easy for someone to wash the title of a flooded or totaled vehicle, and turn around and sell it to an unsuspecting buyer.

I appreciate those businesses out there that offer title histories such as Carfax. However, these services are only as good as the information that is made available.

If a title has been washed, it appears in the DMV system as a legitimate title. Lag times in reporting information on damaged vehicles and the different requirements from state to state make it difficult for the consumer to be protected from title fraud.

I look forward to hearing the testimony of our panel today and hope we can begin crafting solutions to this serious problem

I yield the balance of my time.

MR. STEARNS. With that, then, we welcome the witnesses, Mr. Robert Bryant, President and CEO of National Insurance Crime Bureau; Mr. Glenn Turner, Chief of Staff, Florida Division of Motor Vehicles. He is also here on behalf of the American Association of Motor Vehicle Administrators. Mr. David Regan, Vice President of Legislative Affairs, National Automobile Dealers Association; Mr. Alan Fuglestad, Vice President, Operations and Technology, Experian Automotive; Mr. James Watson, President, Automotive Recyclers Association; and Ms. Rachel Weintraub, Director of Product Safety and Senior Counsel, Consumer Federation of America. Welcome, and we will start with you, Mr. Bryant, for your opening statement.

STATEMENTS OF ROBERT M. BRYANT, PRESIDENT & CHIEF EXECUTIVE OFFICER, NATIONAL INSURANCE CRIME BUREAU; GLENN D. TURNER, CHIEF OF STAFF, FLORIDA DIVISION OF MOTOR VEHICLES, ON BEHALF OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS; DAVID W. REGAN, VICE PRESIDENT OF LEGISLATIVE AFFAIRS, NATIONAL AUTOMOTIVE DEALERS ASSOCIATION; ALAN FUGLESTAD, VICE PRESIDENT, OPERATIONS AND TECHNOLOGY, EXPERIAN AUTOMOTIVE; JAMES WATSON, PRESIDENT, AUTOMOTIVE RECYCLERS ASSOCIATION; AND RACHEL WEINTRAUB, DIRECTOR OF PRODUCT SAFETY, SENIOR COUNSEL, CONSUMER FEDERATION OF AMERICA.

MR. BRYANT. Good morning, Mr. Chairman and members of the subcommittee. My name is Bob Bryant and I am proud to lead the

National Insurance Crime Bureau, the Nation's leading not-for-profit organization dedicated exclusively to fighting insurance fraud and vehicle theft, crimes that threaten people's lives, and impose more than \$30 billion in annual losses on the insurance companies' policyholders and the American public. NICB has more than 300 employees on the frontlines every day working to prevent, detect and deter such crimes as vehicle theft and the fraudulent sale of undisclosed wrecks to American consumers. With support from more than 1,000 member insurers and self-insured companies, NICB offers the most complete array of expert fraud solutions from any single source anywhere in the world.

Hurricane Katrina and other recent national disasters confronted us with an unprecedented challenge. NICB and its members promptly responded with a new solution. Through extraordinary cooperation with our members, law enforcement, and disaster recovery agencies, NICB posted on its website a registry containing the vehicle identification numbers, or VINs, of tens of thousands of vehicles that are known to be destroyed or damaged in the storms. State motor vehicle authorities and motor vehicle dealers and the general public may consult the list free of charge, and over one million people have done so already. NICB, of course, has other initiatives underway to meet the threat posed by the rising tide of flood vehicles from Katrina.

Unfortunately, NICB cannot solve the problem completely by publishing a registry of storm-damaged vehicles. Criminals can still use many of those vehicles and their VINs to victimize America a second time. We remain vulnerable for one simple reason: some State motor vehicle titling procedures are lax, which makes it easy to commit vehicle crimes that involve title washing. Car thieves routinely reveal stolen vehicles as legitimately owned by simply putting a salvaged vehicle VIN plate inside the windshield and obtaining clean paperwork from a State DMV. We call this practice VIN switching. The newest form of "VIN switching" is cloning. To create a clone, a VIN from one vehicle is reproduced and attached to an identical stolen vehicle, usually in another State or several other States. Innocent purchasers over the last several years have lost millions of dollars due to these types of clones.

Another scam is even more frightening. Wrecked vehicles that cannot be returned safely to the road get rebuilt to the point of being drivable, but not enough to be safe. Air bag compartments stuffed with rags; frame damage makes it impossible for the vehicle to stop in an emergency; electronic and safety systems corrode slowly from flood damage. These rebuilt wrecks can kill owners and anyone in their path.

Even without these long overdue improvements in titling procedures, NICB and other investigators would have a much stronger opportunity to protect the public if all crucial titling information were available

electronically to us and to every dealer and consumer. Congress mandated a real-time, nationwide system to provide this and other types of information 14 years ago when it passed the Anti-Car Theft Act of 1992; but the system still has not been implemented in total. Before it can address the problem effectively, Congress should identify the impediments that have delayed the implementation of the National Motor Vehicle Title Information System, or better known as the NMVTIS, and consider the major technological changes that have occurred over the past 14 years.

We are looking forward to working with the subcommittee in our joint efforts to protect the lives and pocketbooks of the American public.

[The prepared statement of Robert Bryant follows:]

PREPARED STATEMENT OF ROBERT M. BRYANT, PRESIDENT & CHIEF EXECUTIVE OFFICER,
NATIONAL INSURANCE CRIME BUREAU

Mr. Chairman, Members of the Subcommittee, my name is Bob Bryant. I am proud to head the National Insurance Crime Bureau, the nation's leading not-for-profit organization dedicated exclusively to fighting insurance fraud and vehicle theft – crimes that threaten people's lives, and impose more than thirty billion dollars in annual losses on insurance companies and their policyholders.

NICB has more than three hundred employees on the front lines every day, working to prevent, detect and deter such crimes as vehicle theft and the fraudulent sale of undisclosed wrecks to American consumers. With support from more than one thousand member insurers and self-insured companies, NICB offers the most complete array of expert fraud solutions from any single source anywhere in the world.

Hurricane Katrina and other recent natural disasters confronted us with an unprecedented challenge. NICB and its members promptly responded with an unprecedented solution. Through extraordinary cooperation with our members, law enforcement and disaster recovery agencies, NICB posted on its Web Site a registry containing the Vehicle Identification Numbers (VINs) of tens of thousands of vehicles that are known to be destroyed or damaged in the storms. State motor vehicle authorities, motor vehicle dealers and the general public may consult the list, free of charge, and over one million people have done so already. NICB has other initiatives currently underway to meet the threat posed by the rising tide of "flood" vehicles.

Unfortunately, NICB cannot solve the problem completely by publishing a registry of storm-damaged vehicles. Criminals can still use many of those vehicles and their VINs to victimize America a second time. We remain vulnerable for one simple reason. Some state motor vehicle titling procedures are lax which make it easy to commit vehicle crimes that involve title washing.

Car thieves routinely reveal stolen vehicles as legitimately-owned by simply putting a salvage vehicle's VIN plate inside the windshield and obtaining "clean" paperwork from a state DMV. We call this practice "VIN switching." The newest form of VIN switching is "cloning." To create a clone, a VIN from one vehicle is reproduced and attached to an identical stolen vehicle usually in another state. Innocent purchasers lose millions of dollars on these types of crime every year.

Another scam is even more frightening. Wrecked vehicles that cannot be returned safely to the road get re-built to the point of being drivable, but not enough to be safe. Airbag compartments get stuffed with rags. Frame damage makes it impossible for the

vehicle to stop in an emergency. Electronic and safety systems corrode slowly from flood damage. These rebuilt wrecks can kill owners and anyone in their path.

Even without these long-overdue improvements in titling procedures, NICB and other investigators would have a much stronger opportunity to protect the public if all the crucial titling information were available electronically to us, and to every dealer and consumer. Congress mandated a “real-time,” nationwide system to provide this and other types of information fourteen years ago when it passed the Anti-Car Theft Act of 1992, but the system still does not exist. Before it can address this problem effectively,

Congress should identify the impediments that have delayed implementation of the National Motor Vehicle Title Information System (“NMVTIS”) and consider major technological changes that have occurred over the past decade.

We look forward to working with the Subcommittee in our joint efforts to protect the lives and pocketbooks of American consumers.

MR. STEARNS. Mr. Turner, welcome.

MR. TURNER. Thank you. Good morning, Mr. Chairman and distinguished members of the subcommittee. I am Glenn Turner, Chief of Staff of the Florida Division of Motor Vehicles, and today I am speaking on behalf of the American Association of Motor Vehicle Administrators, and thank you for the opportunity to discuss a solution...

MR. STEARNS. We need you a little closer to the mic.

MR. TURNER. Oh.

MR. STEARNS. There you go.

MR. TURNER. Is that better?

MR. STEARNS. That is better.

MR. TURNER. Good. Yes. Thank you for the opportunity to discuss a solution that AAMVA and the State DMVs believe will help protect consumers from car title fraud. The solution is increased State participation in the federally mandated National Motor Vehicle Title Information System, or NMVTIS. Congress recognized the consumer value of a system like NMVTIS, and in 1992 passed the Anti-Car Theft Act. This act directed the States to begin the development and rollout of a national online real-time motor vehicle title history system. In 2001, Justice Department cost benefits analysis indicated that once fully implemented nationwide, NMVTIS has the potential to save consumers from \$4 to \$11.3 billion annually. And the preliminary results from a recent DOJ commission study indicated NMVTIS continues to be an effective technological solution.

Mr. Chairman, I am proud to say that our home State of Florida is participating in NMVTIS. As you know, Floridians are often victimized by flooding that results from natural disasters. This flooding endangers our lives, our homes, and in many cases, it ruins the automobiles we drive every day. Flooded vehicles in one State are a problem for consumers in every State. Today, the National Insurance Crime Bureau has documented over 200,000 potentially flood-damaged vehicles, all of which may have been impacted by the numerous hurricanes of 2005. In

January 2006, the Florida DMV branded 305 vehicles as flood damaged. This is a 197 flood vehicles more than we saw in January of 2005. That is a 182 percent increase.

Once a vehicle has been flood damaged, many critical auto safety features are compromised. If a consumer unwittingly purchases one of these potential road hazards, they are jeopardizing their safety and the safety of others. Thanks to Florida's participation in NMVTIS, we were able to crack a car theft ring involving 250 cars worth \$8 million. Floridians now have a greater protection from economic and safety issues associated with flood-damaged vehicles and the detection of stolen motor vehicles. States participating in NMVTIS today can detect fraudulent titles by verifying paper title data against electronic records; identify odometer rollbacks by verifying odometer readings; determine if a vehicle is stolen, and view the brand history and carry forward all State brands. Although this system is built, some components that Congress stipulated are still not realized. Specifically, these include the provision of data reporting by insurance companies and junk salvage yards into NMVTIS. This function is critical in noting where insurance claims have been paid on vehicles being salvaged, totaled, or flooded. If reported directly to the system, this vehicle history would be available to participating DMVs, as well as consumers, in a timely online manner. But due to the lack of funding, today NMVTIS contains data on only 52 percent of the vehicle population in the United States.

Until the objectives set by Congress and the Anti-Car Theft Act are fully realized and every State is online and sharing vehicle title history data with each other, consumers will not have the information they need to make safe and informed purchase decisions. In the absence of Federal legislation, many States have enacted additional laws or strengthened existing laws governing the titling or branding salvaged motor vehicles. In addition, State DMVs participating in NMVTIS have a useful tool that helps compensate for the lack of uniform salvage branding legislation. State DMVs and AAMVA are doing their part to protect consumers from car title fraud. Please help us do more to ensure consumers have complete protection from motor vehicle fraud.

Mr. Chairman, thank you for the opportunity to speak before you today, and if you have any questions, I will be glad to answer.

[The prepared statement of Glenn Turner follows:]

PREPARED STATEMENT OF GLENN D. TURNER, CHIEF OF STAFF, FLORIDA DIVISION OF
MOTOR VEHICLES, ON BEHALF OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE
ADMINISTRATORS

Good afternoon, Mr. Chairman and distinguished members of the Subcommittee. I am Glenn Turner, chief of staff, Florida Division of Motor Vehicles and today I am

speaking on behalf of the American Association of Motor Vehicle Administrators (AAMVA).

AAMVA Background

Founded in 1933, AAMVA is a state-based, non-profit association representing motor vehicle agency administrators, senior law enforcement officials and industry in the United States and Canada. Our members are the recognized experts who administer the laws governing motor vehicle operation, driver credentialing, and highway safety enforcement. AAMVA plays an integral role in the development, deployment and monitoring of both the commercial driver's license (CDL) and motor carrier safety programs. The Association's members are responsible for administering these programs at the state and provincial levels. As a non-regulatory organization, AAMVA uses motor vehicle expertise to develop standards, specifications and best practices to foster the enhancement of driver licensing administration and vehicle titling and registration.

Consumer Concerns

AAMVA and its members place the concerns of consumers first. AAMVA has long realized the potential danger motor vehicle title fraud presents and has worked to combat the problem for years. Motor vehicle fraud costs consumers billions of dollars a year with life-threatening consequences. It endangers human life by putting unsafe vehicles back onto our roads. Title fraud dupes hard-working consumers into buying vehicles that look good on paper, but are not safe and reliable. Perhaps the most important issue concerning title fraud is the adverse effect it has on the consumer. For instance:

- In 2003, over 450,000 cases of odometer fraud cost consumers more than \$1 billion.
- Roughly 50,000 to 100,000 vehicles have had their Vehicle Identification Numbers (VINs) stolen or cloned. Consumers won't realize this until after the vehicles have been purchased or their numbers have been duplicated.
- Each year 200,000 stolen vehicles are shipped overseas where law enforcement organizations believe they are being used or resold to fund terrorist activities.
- Each year, 1.5 million motor vehicles are reported stolen at an average cost of \$5,000 per vehicle, amounting to total costs of \$8 billion.
- Over 30,000 vehicles were flood-damaged after Hurricane Floyd ravaged eastern North Carolina in 1999. An untold number of these vehicles were destined to be resold to the unsuspecting consumer.
- Most recently, the hurricanes that battered the Gulf Coast region caused flood damage to an estimated 500,000 motor vehicles. Unfortunately, many of these vehicles will be resold to unsuspecting consumers.

Addressing the Concerns

I would like to discuss two solutions that AAMVA, and the state Departments of Motor Vehicles, believe will help protect consumers from motor vehicle fraud: increased state participation in the federally mandated National Motor Vehicle Title Information System or NMVTIS and uniform salvage branding legislation.

Congress recognized the consumer value in a system like NMVTIS, and passed The Anti-Car Theft Act in 1992. To comply with this Act the states began the development, and roll-out, of this national online, real-time motor vehicle title history system.

The Anti-Car Theft Act also directed the Secretary of Transportation to establish the Motor Vehicle Titling, Registration and Salvage Advisory Committee to study problems which relate to motor vehicle titling, vehicle, registration, and controls over motor vehicle salvage which may affect the motor vehicle theft problem. The Advisory Committee, which included motor vehicle administrators and other stakeholders, developed recommendations in 1994 which AAMVA continues to support. While AAMVA realizes that a number of efforts to establish national standards have been

unsuccessfully attempted, the association feels that NMVTIS helps alleviate some of the concerns this lack of uniformity presents. While national standards for title branding at the time the advisory committee was established were of paramount importance, years later, ~~the~~ capability of NMVTIS to communicate a vehicle's title history between jurisdictions helps mitigate the need for identical matches on brands among jurisdictions.

The importance of NMVTIS as a reporting mechanism can best be illustrated by the fact that a 2001 Justice Department cost-benefit analysis indicated that, once fully implemented nationwide, NMVTIS has the potential to save consumers from **four to 11.3 billion** dollars annually.

A pilot evaluation report of NMVTIS conducted by AAMVA in 1999 further indicates that:

- NMVTIS can be used to instantly and reliably verify information on the previous state's title document prior to issuing a new title. During the pilot period, data verification occurred 97 percent of the time within the performance requirement of 7 seconds.
- NMVTIS deters fraud by reducing the occurrence of title washing. Brands are washed from titles when the state that issues the new title does not carry forward a brand issued by some previous state. Since NMVTIS maintains brands on a central file, they are available to any inquirer and are never washed from titles. Using data from the pilot, NMVTIS could prevent approximately 57,000 titles from being washed per year.
- NMVTIS reduces the issuance of stolen titles to stolen vehicles. Many state DMVs do not conduct NCIC checks prior to vehicle titling. Pilot data shows that use of NMVTIS could effect a cost avoidance of almost \$214 million per year in insurance payoffs on stolen vehicles.
- Law enforcement officials believe that NMVTIS provides significant value as well. Law enforcement agencies, such as auto theft task forces, can use NMVTIS to investigate thefts and recover vehicles. AAMVA is also analyzing possible enhancements to NMVTIS, such as inclusion of export data, which will provide even more assistance to auto theft investigators.

Mr. Chairman, I am proud to say that our home state of Florida is participating in NMVTIS.

As you know, Floridians are often victimized by the flooding that results from natural disasters like hurricanes. This flooding endangers our lives, our homes, and in many cases, it ruins the automobiles we drive everyday. It is the last of these threats that bring us here today.

Flooded vehicles in one state are a problem for all consumers in the United States.

Today the National Insurance Crime Bureau has documented over 200,000 potentially flood damaged vehicles in its database-- all of which may have been impacted by Hurricanes Katrina and Rita in late 2005.

And in January 2006, the Florida DMV branded 305 vehicles as "flood damaged." This is 197 flood vehicles more than we saw in January 2005. This amounts to a 182 percent increase in the total number of flood vehicles over January 2005.

Once a vehicle has been flood damaged, many critical auto safety features have been compromised. If a consumer were to unwittingly purchase one of these potential road hazards, they would be jeopardizing their safety, and the safety of others.

Thanks to Florida's participation in NMVTIS, Floridian's are experiencing such consumer benefits as a reduction in brand washing, the ability to carry forward brands that did not appear on the paper title and the detection of stolen motor vehicles.

States participating in the system today:

- detect fraudulent titles by verifying paper title data against electronic records,
- identify odometer rollbacks by verifying odometer readings,

- determine if a vehicle is stolen, and
- view the brand history and carry forward all state brands.

Although this system is built, some components that Congress stipulated are still not realized: specifically, these include the provision of data by insurance companies and junk and salvage yards into NMVTIS. This function is critical in noting where insurance claims have been paid on vehicles deemed salvage, total loss or flooded. If reported directly to the system, this vehicle condition would be available to participating DMVs, as well as consumers, in a timely manner, preventing them from becoming victims of inaccurate or untimely title information. If this reporting mechanism had been in place before hurricanes struck the Gulf, the concerns about the current situation would not be as great.

But due to lack of federal funding, today NMVTIS contains data on only 52 percent of the vehicle population in the United States. Until the objectives, set by Congress in the Anti Car Theft Act, are fully realized and every state is online, and sharing vehicle title history data with each other, consumers will not have the up-to-date information they need to make informed purchase decisions.

Also, consumers need to know how each state defines **all** vehicle brands, including: salvage, junk and flood. Criminals can exploit the loophole created by an absence of standardized vehicle brands. In addition, vehicle brands get lost, or washed, when outdated paper titles are used to create new titles. Lack of consistency in branding definitions leaves the consumer at a major disadvantage when purchasing a new or used motor vehicle.

AAMVA has supported a number of efforts to help establish national salvage branding legislation. But to date, none have been successful. In the absence of federal legislation, many states have enacted additional laws or strengthened existing laws governing the titling or branding of salvaged motor vehicles. In addition, state DMVs participating in NMVTIS have a useful tool that helps compensate for the lack of uniform salvage branding legislation.

AAMVA also works to help DMV employees more quickly and accurately spot fake titles by continuing to advance its Vehicle Document Examiner Certification Program (VDEC). This program provides instruction on:

- Fraud prevention and employee responsibility,
- How to effectively examine features of vehicle documents,
- Alteration and counterfeit detection techniques,
- Basic interviewing techniques used in customer service, and
- Recognition of jurisdictional policies and procedures.

This national training program increases vigilance for fraudulent documents among title examiners as well as educating them about statutes, policies and procedures. The VDEC program provides better service and security in state DMVs and will deter fraudulent enterprises.

State DMVs and AAMVA are doing their part to help protect consumers from motor vehicle fraud. Please help us do more to ensure consumers have better protection from motor vehicle fraud.

Mr. Chairman, thank you for the opportunity to share our members' concerns. AAMVA applauds your efforts in addressing the issue of motor vehicle title fraud and feels strongly that with the support of Congress, the solution is well within reach.

I welcome your questions.

MR. STEARNS. Thank you, Mr. Turner. Mr. Regan, welcome.

MR. REGAN. Thank you, Mr. Chairman and members of the committee. My name is David Regan and I am the Vice--

MR. STEARNS. I don't think you have the mic on. There is just a little button right there.

MR. REGAN. My name is David Regan. I am Vice President of Legislative Affairs for the National Automobile Dealers Association. Our franchise dealers sell and service every type of new vehicles, import and domestic, from the Mini Cooper to the Mack Truck. Last year, they also sold 15-million used vehicles, so they have a direct economic interest in the integrity of the titling process and in the availability of reliable VIN-based vehicle histories. Each year thousands of wrecked, flood and stolen vehicles are sold with clean titles to unsuspecting consumers.

Fraudulent resellers thrive for three reasons: one, the 51 jurisdiction State motor vehicle titling regime is confusing, contradictory and incomplete; two, just because an insurance company declares a total loss, does not mean that the insurance company is required to obtain a new title reflecting that damage; and third, there is no database for total-loss vehicles, and dealers and consumers do not have enough timely access to DMV data. The insurance companies total five million vehicles each year. Unfortunately, the total lost vehicle on a salvage auction lot today could be tomorrow's raw material for a fraudulent rebuilder and title washer.

The confusing State titling laws, together with the loss mitigation model of the insurance companies, work in tandem to the detriment of consumers. There is one central truth about the loss mitigation model of the insurance companies: the cleaner the title at salvage auction, the higher the sales price at salvage auction. Therefore insurance companies have a powerful economic incentive to oppose more aggressive State titling laws, and to underreport their obligations under existing State title laws. Consumers and dealers, however, have exactly the opposite economic interest. They want to know if a used vehicle they are purchasing has ever been declared a total loss before they make the purchase. Unfortunately, if the insurance company fails to report a total loss to the DMV, there may never be a public document that exists to put future purchasers on notice. To remedy this lack of disclosure, NADA believes that Congress should require the creation of a fully accessible electronic database for total loss vehicles that would include the VIN of a total loss vehicle, the date of declaration of total loss, the odometer reading at total loss, and a simple reason for total loss, such as flood, salvage, or stolen and recovered. This database should be populated at the same time the insurance company cuts the check to the insured for

the payoff. Please note that none of this VIN-based data would include any personal identifiers protected by Federal and State privacy laws.

There is precedent for such a system. In the United Kingdom and in Australia, the insurance companies provide such a system. Also, here in the United States, the NICB has, for the first time, started to provide total loss data about some of the Katrina cars. NADA applauds this effort, but if it is in the public interest to post VINs for hundreds of thousands of Katrina cars, it also should be in the public interest to post the VINs of millions of vehicles that are salvaged every year because of wrecks.

Increasingly, vehicles are totaled because air bags have been deployed. Fraudulent rebuilders often replace air bags with false fronts rather than install expensive new air bags. This fraud is difficult to detect, but a total loss vehicle database could put everyone on notice.

What can Congress do to ensure that total loss data becomes available to the general public? Congress should require the Justice Department to implement the 1992 Anti-Car Theft Act, which requires insurance companies to start disclosing total loss data. What else can Congress do? Congress should encourage States to carry forward all previous title brands when issuing new titles. This will make it harder for criminals to wash titles.

In conclusion, before making a purchase, dealers and consumers need to know if a used car has been totaled. Using today's technology and the existing databases of insurance companies, this is possible. We volunteer to work with any interested party to make public access of total loss data a reality. Thank you for your time and I would be happy to take your questions here or after this hearing. Thank you.

[The prepared statement of David Regan follows:]

PREPARED STATEMENT OF DAVID W. REGAN, VICE PRESIDENT OF LEGISLATIVE AFFAIRS,
NATIONAL AUTOMOBILE DEALERS ASSOCIATION

SUMMARY OF THE TESTIMONY OF DAVID W. REGAN

The problem – The combination of the confusing 51-jurisdiction state motor vehicle titling regime and the loss mitigation practices of automobile insurance companies invites fraud. Any unscrupulous rebuilder can repair or refurbish a wrecked or flood damaged car (typically a late model car “totaled” by an insurance company) and obtain a “clean” or “washed” title in a state with weak title disclosure rules. The new title will not reference the damage, leaving the buyer (consumer or dealer) to rely only on a physical inspection of the vehicle to expose any damage. The fraudulent rebuilders enjoy substantial profit margins because: 1) state motor vehicle titling laws are confusing, contradictory and incomplete; 2) insurance companies have a short-term economic interest in under-reporting total loss vehicle data; and 3) public and private sectors have failed to exploit existing technology to produce timely electronic transparency for motor vehicle title histories. DMV's document transactions after the fact, and vehicle history services do not have access to current title information. Worse, DMVs and title history services may never get information about vehicles totaled by insurance companies, which

have an incentive to underreport the damage of totaled vehicles to obtain higher prices at salvage auctions.

The solution – More transparency, more timeliness, and more technology to provide buyers more complete and reliable VIN based vehicle histories before a sale, and penalties for intentional circumvention of disclosure of severely damaged vehicles.

Transparency: More complete vehicle history data and total loss data is needed. Insurance companies should provide VIN-based disclosure for all totaled vehicles. All states should “carry forward” prior brands when issuing new titles and states should brand registrations as well as titles. States should at least brand vehicles within four basic categories to capture the most relevant data on severe damage: salvage, rebuilt salvage, flood, and non-repairable. Congress should require the Department of Justice to initiate and issue a rule (delineated in the 1992 Anti-Car Theft Act) requiring insurance companies, salvage auctions and junkyards to report VIN-based information on total loss, salvage, and junk vehicles to the National Motor Vehicle Title Information System (NMVTIS). The rule should require private information industry involvement.

Timing: More current vehicle data is needed. An essential element to this solution is the ability of consumers to access VIN based vehicle data and enhanced access to DMV vehicle title data. All states should be encouraged to move to electronic titling of motor vehicles, should make existing title data available on a cost structure that reflects electronic records rather than paper records, and work with the private sector to reduce the timeframe that the data reaches consumers.

Technology: More accessible vehicle history data is needed. The information industry in the private sector should have access to insurance company information for VIN based total loss vehicles and salvage auction sales data. Additionally, DMVs should make title data commercially available in bulk on a daily basis to the information industry. This information, marketed to consumers by private sector companies, would enable consumers to have more complete information to make an informed decision before purchasing the vehicle.

MORE TIMELY TOTAL LOSS DATA AND TITLE DATA ARE NECESSARY TO COMBAT TITLE FRAUD

My name is David Regan. I am Vice President of Legislative Affairs for the National Automobile Dealers Association. NADA’s 20,000 franchised auto and truck dealerships sell, service and repair new and used car and trucks, all makes and models from the Mini Cooper to the Mack Truck. NADA’s membership penetration is 93% of all domestic and import dealerships. The majority of NADA’s members are small, family-owned and community-based businesses, and NADA’s members employ more than one million people nationwide.

Overview of the Title Fraud Problem

At NADA, we applaud the full committee and this subcommittee for focusing on such an important national issue. According to news accounts, flooding caused by the Gulf Coast hurricanes last fall damaged more than 500,000 vehicles. Unfortunately, we are learning that many of these severely damaged vehicles are being reconditioned and sold to unsuspecting buyers. In an effort to put consumers on notice of the nature of the problem, NADA’s website (www.nada.org) contains tips on how to spot a flood vehicle. However, increased public awareness is only a part of the solution.

This problem is not limited to “Katrina cars.” Flooding in New England and North Carolina and other areas of the nation has led to countless other flood vehicles. Moreover, cars severely damaged in accidents are a major part of the title fraud problem as well. Last year, we believe that insurance companies totaled approximately five

million vehicles. Whenever an insurance company deems a car to be “totaled” as a result of collision, theft, or fire damage, the vehicle can be rebuilt and given a clean title that does not disclose damage.

Each year thousands of totaled vehicles are fraudulently sold to unsuspecting buyers as undamaged vehicles. These vehicles may then resurface in the classified section of your local newspaper, at a wholesale auto auction, in consumer-to-consumer sale, or as a “trade in” on the lot of a franchised dealer. The fraudulent rebuilders enjoy substantial profit margins because: 1) state motor vehicle titling laws are confusing, contradictory and incomplete; 2) insurance companies have a short-term economic interest in under-reporting total loss vehicle data; and 3) public and private sectors have failed to exploit existing technology to produce timely electronic transparency for motor vehicle title histories.

Today, I will explain how confusing state title laws and insurance company practices benefit fraudulent rebuilders and resellers and suggest some potential legislative remedies.

DISPARITIES IN STATE TITLING LAWS CREATE OPPORTUNITIES FOR FRAUD

The laws of fifty states and the District of Columbia govern the titling and registration of motor vehicles, which creates a systemic lack of uniformity. A motor vehicle title documents ownership of a specific vehicle, while a motor vehicle registration provides permission to operate a specific vehicle. Although the trend in state titling laws has been toward more uniformity during the past several years, the 51 jurisdictions still conduct business 51 different ways. Each jurisdiction has created a distinct paper title, different computer programs to issue and track titles and registration, and a separate, extensive body of statutes and regulations to govern the titling and registration of motor vehicles within their respective borders. Additionally, these discrepancies can be complicated by the informal policies and procedures used by title clerks, which may vary even within jurisdictions.

In common usage, a “title brand” is a notation on the face of a certificate of title that provides notice to all subsequent purchasers of the damage, condition, or prior use of a vehicle. A “brand” is a word, symbol or abbreviation printed on the title itself. The 51 titling jurisdictions use a wide variety of brands, such as reconstructed, salvage, rebuilt salvage, rebuilt, restored, reconditioned, junk, non-repairable, taxi, police, flood damage, fire damage, unsafe, and repaired. The complete list is extensive and confusing.

Because 51 jurisdictions title vehicles 51 different ways, many opportunities for fraud exist. Under the current system, any unscrupulous rebuilder can repair or refurbish a wrecked or flood damaged car (typically a late model car “totaled” by an insurance company) and then obtain a “clean” or “washed” title in a state with weak title disclosure rules. The new title will contain no reference to the damage, leaving the buyer (consumer or dealer) to rely on a physical inspection of the vehicle to expose the damage or rely on commercially available title history products, such as Auto Check and CARFAX.

The vehicle history products in the market today are helpful, but a clean vehicle history report is not conclusive evidence that a vehicle has never sustained significant damage. Vehicle history services can only report information to which they have access. While title history products have improved in the past few years, the recent settlement between State Farm Insurance and the state Attorneys General demonstrates the extent to which the title data within a state department of motor vehicles (DMV) is incomplete. Many state titling laws do not require insurance companies to obtain a salvage title for every totaled vehicle. Moreover, the insurance companies have a powerful economic incentive not to obtain a salvage title. Insurance companies receive

higher sale prices for these totaled vehicles at salvage auctions if the titles are not branded. As a result, DMV title data does not include all totaled vehicles.

INSURANCE COMPANY PROCEDURES EXACERBATE THE PROBLEM

Every year millions of motor vehicles are “totaled” by insurance companies, and many of these vehicles routinely re-enter used car commerce. Typically, an insurance company “totals” a vehicle when the projected repair costs are too excessive in relation to the fair market value of the vehicle immediately prior to the flood or accident. Once the insurance company has totaled a car, the company usually sends a check to the insured, takes possession of the vehicle, and sells the damaged vehicle at a salvage auction to mitigate loss. Unfortunately, fraudulent rebuilders frequently buy totaled vehicles at salvage auction, repair them, and sell the cars as undamaged to an unsuspecting buyer, thereby reaping huge profits.

The current loss mitigation model used by insurance companies increases the likelihood of subsequent fraudulent activity. The attached chart (“How Total Loss Vehicles Reenter the Market”) is an attempt to present the interrelationship between the state titling laws and the loss mitigation model of the insurance companies. While this process may vary from state to state and from insurance company to insurance company, the graphic depicts the lack of transparency that increases risk to subsequent buyers. The red flags indicate the points in the process where fraudulent activity may occur.

HOW TOTAL LOSS VEHICLES REENTER THE MARKET

Box 1. The process begins when an insurance company declares a total loss on a vehicle.

Boxes 2a-2d. In step 2, the insurance company determines if the nature and extent of the damage requires the insurance company to obtain a salvage or flood title under state law. (The fact that the insurance company declares a total loss does not automatically trigger an obligation under state laws to obtain a salvage title. Each state has specific requirements that control this process.) Under 2a, the insurance company permits the consumer to retain the vehicle after receiving a total loss payment. This creates a red flag because the consumer could repair and resell without disclosure to the unsuspecting consumer in box 5b. In 2b, the company obtains a salvage title, then that title should accompany the vehicle throughout the process and surface in the title history search. However, when the insurance company does NOT obtain a salvage title, as in 2c, the red flag is noted because the vehicle will go to the salvage auction with a clean title, despite being declared a total loss.

Boxes 3a-3d. Step 3 captures the representative transactions at a salvage auction. Reputable buyers at salvage auctions, the recyclers in box 3b, purchase the totaled cars for scrap or parts. The potential for fraud still exists, however, as shown in box 3d. Unscrupulous resellers will purchase the wrecked vehicle solely to obtain a VIN with a clean title. They will then switch that VIN with a stolen vehicle of the same make and model. Box 3c depicts the rebuilders purchasing vehicles at salvage auction.

Box 4. This step shows that legal and illegal activity may occur after the vehicle is rebuilt. In box 4a the rebuilder obtains the necessary title documents and fully discloses the nature of the damage when selling to the informed consumer in box 5a. However, in boxes 4a and 4b no such disclosure occurs so a red flag is noted.

In 4b, even if the rebuilder received a salvage title at auction, the rebuilder simply washes the salvage title by obtain a clean title in another state. Then the rebuilder sells to the unsuspecting consumer in box 5b without disclosure. The consumer may obtain a title history report, but the data in the private sector database may not be current enough to assist the consumer before the purchase. In box 4c, the rebuilder does not even have to

wash the title, because the insurance company never notified the DMV of the total loss. Moreover, the unsuspecting consumer can find no protection at all in relying on a title history because the insurance company has never provided the DMV any information about the total loss.

If the insurance company fails to obtain a salvage title for the totaled vehicle, no public document may ever exist to put future purchasers on notice that the car was totaled. The insurance company may fail to report the status of the vehicle to the DMV because:

- a) The state titling law may not trigger an obligation by the insurance company or the original owner to report to the DMV; or
- b) State law may contain a reporting obligation, but the insurance company may fail to comply because of administrative oversight.

Insurance companies have a powerful economic incentive to oppose more aggressive title laws or to underreport under existing laws. A total loss vehicle with a clean title is likely to sell at auction for substantially more than the same vehicle with a salvage title. In other words, there is a market-based premium for a clean title and a market based penalty for a salvage title.

Consumers have exactly the opposite economic interest – they want to know if a vehicle has been declared a total loss. The decision to total a vehicle is based on a variety of factors and may vary from company to company and from insured to insured, but one fact is abundantly clear – a declaration of total loss is one of the most material factors in determining the value of a vehicle. Every subsequent purchaser would want to know – prior to the sale – if a vehicle has been totaled.

THE SOLUTION MUST FOCUS ON PRE-TRANSACTION TRANSPARENCY: INSURANCE DATA ON TOTAL LOSS VEHICLES SHOULD BE RELEASED TO THE PUBLIC AND DMV DATA SHOULD BE ENHANCED AND RELEASED MORE QUICKLY.

The type of disclosure advocated is consistent with the Federal and state privacy laws that strictly limit the use of personal information obtained in the titling process. The Federal Driver Privacy Protection Act and similar state statutes limit the distribution of names and addresses included in title databases. The distribution of VIN-based title branding data or VIN-based total loss vehicle data would not include the personal identifiers protected by those statutes.

More transparency, more timeliness, and more technology are necessary to provide buyers more complete and reliable VIN-specific data before a purchase. All buyers of a used vehicle (consumers, businesses, and even automobile dealers taking a vehicle in trade) have the same economic interest – determining fair market value prior to purchase. A more complete, near real-time title history would provide a more accurate picture of a vehicle's prior condition/use. The insurance companies should be commended for providing some total loss vehicle data for many of the flood vehicles from the hurricanes. The VINs for some of these vehicles are now available on the website of the National Insurance Crime Bureau, but more should be done. The United States should follow the example of the United Kingdom and Australia, which now put the VINs of all totaled vehicles in the public domain. A similar effort in this country would include the following elements:

- **Transparency: More complete DMV and total loss data should be provided.** Most state DMVs are collecting the necessary title data about damaged vehicles, but there are exceptions. The motor vehicle title laws of each should provide a threshold level of disclosure to capture significant damage to a vehicle. Also, the states

should move to more uniform classification of title data. Insurance companies should provide total loss data (VIN, odometer reading, and date of declaration of total loss, and reason for total loss) to the information industry, which could then incorporate the data into vehicle history reports. Similarly, salvage auctions should provide sales data (VIN, odometer reading, date of salvage auction sale).

- **Timing:** DMV data should be released daily and total loss data should be released to the general public when the total loss occurs – whether or not the total loss triggers a filing under state motor vehicle titling laws. Title histories provide key data that dramatically affect fair market value and may raise safety-related concerns. Yet, as many as 30 to 60 days may pass between the time a vehicle is damaged and the time that data reflecting that damage are publicly available. The DMVs, insurance companies and salvage auctions need to work with the private sector to reduce this timeframe, because the delay facilitates criminal activity.
- **Technology:** The DMVs and the insurance companies should work with the private sector information industry to make vehicle history data more accessible to the general public. State title agencies exist to document ownership after the transaction, so they do not have the sufficient statutory charge or corporate culture to obtain, package and market data to the general public. The information industry in the private sector should have access to insurance company information for total loss vehicles and salvage auction sales data. Additionally, DMVs should make title data commercially available in bulk on a daily basis to the information industry. This information, marketed to consumers by private sector companies, would enable consumers to have more information before buying a vehicle. This level of public disclosure would strike at the heart of the economic model of the fraudulent rebuilders and resellers.

Comments about the National Motor Vehicle Title Information System (NMVTIS)

Congress has recognized that technology should play a critical role in this arena. The Anti-Car Theft Act of 1992 authorized the creation of NMVTIS. As envisioned, NMVTIS would become the single source for title history data from all 51 jurisdictions. AAMVA has attempted to link all 51 databases in real-time using a combination of federal funds, state funds, and internal resources. The system envisioned would provide real-time, title clerk-to-title clerk linkage and then provide third party access to title histories. NMVTIS has not been completed because state resources are required to reconfigure state DMV systems to communicate with NMVTIS. AAMVA's attempts to design and implement a system to provide public access to NMVTIS have failed.

NMVTIS, in its current form, will not solve the problem. AAMVA should be commended for pursuing a national technological solution. Since NMVTIS is a system designed for DMVs by DMVs, the system is designed to meet the needs of title clerks not the general public. The existing economic model of NMVTIS – relying exclusively on public funding – is not sustainable. Unless the system can generate income through the sale of data to the general public (VIN-based information that does not include vehicle ownership identifiers), the future of the system is in doubt. DMVs are extremely proprietary with respect to title data. Also, some states are required to charge the same fee for an electronic title history as they would for a paper record. The combination of state statutory constraints and the “ownership” mentality of the DMVs will cripple any chances that NMVTIS will ever market title data to the general public.

Private sector information vendors are essential to the distribution of data to consumers. Any NMVTIS-based solution must rely on the private sector to package and market title histories to the general public. These vendors already buy title data from DMVs in bulk, usually every month. If the states simply provided daily electronic updates instead of monthly, the private sector could use technology to close the window

for fraud. The end result would be an efficiently administered, up-to-date system that would provide consumers with more timely information. The very same technology could be used to provide title clerk to title clerk access as well.

Potential Legislative Solutions

Congress should require the Department of Justice to implement the 1992 Anti-Car Theft Act to require insurance companies to disclose total loss data and salvage auctions to disclose sales data. DOJ has existing statutory authority to create more motor vehicle title transparency in a matter of months. 49 U.S.C. §§ 30501-30505. Congress should compel DOJ to initiate the rulemaking that was originally intended and enforce the penalties under existing law for failing to submit data to NMVTIS. The rule should: 1) recognize that NMVTIS has been created; 2) require insurance companies to submit to NMVTIS VIN-based information on total loss vehicles; 3) require salvage auctions and junk yards to submit to NMVTIS VIN-based information for vehicles sold at salvage auctions and junk yards; 4) require NMVTIS to engage a private sector joint venture partner to market the NMVTIS data to consumers no later than December 31, 2006; and 5) encourage state DMVs to submit VIN-based motor vehicle title and registration data to NMVTIS in electronic batch form every 24 hours. All data marketed to the public must comply with Federal and state privacy protection statutes.

NMVTIS should be reconfigured to focus on providing consumers transparency prior to a transaction. The vast majority of the resources of NMVTIS have been used in an attempt to link DMVs so that title clerks can talk to title clerks electronically before issuing new titles. Unfortunately, most title fraud occurs before a title clerk ever sees an application for a new title. Most DMVs exist to document motor vehicle ownership after a transaction has occurred. Moreover, DMVs do not have the statutory authority, expertise, or financial resources to package and market VIN history data to the public.

In contrast, there is an active, innovative, and highly competitive information industry that could provide more complete, timely and accurate vehicle title histories. The DMVs and the private sector must work together more aggressively to enhance consumer access to title history data.

All states should “carry forward” prior brands when issuing new titles. This requirement is one of the first steps necessary to provide a “closed loop” system. Once any state brands a vehicle, every subsequent jurisdiction titling and registering that vehicle must carry forward all previous brands of all previous jurisdictions. For example, if Virginia brands a title as a flood vehicle and the car is re-titled in Kentucky, the Kentucky title should carry the notation “VA-FL” (an abbreviation for Virginia-Flood Damage). Just as important, this carry forward requirement would require every state to carry forward previous brands on duplicate titles issued within the same jurisdiction. In short, interstate and intrastate brand carry forward is critical.

In addition to placing the brands on titles, states should brand registrations as well. Owners often do not see a title if the vehicle is subject to a lien, but every owner receives a registration document.

Congress should encourage all states to, at a minimum, brand vehicles within these four basic categories to capture the most relevant data for vehicle purchasers: salvage, rebuilt salvage, flood, and non-repairable. The most significantly damaged vehicles are covered by the following brands in most states: salvage, rebuilt salvage, flood, and non-repairable. To avoid needless confrontation over the exact wording of definitions, the states should retain flexibility in defining these terms.

All states should make existing title data readily available on a cost structure that reflects electronic records rather than paper records. Currently, private sector information vendors such as CARFAX and Auto Check buy title history data in bulk and aggregate the data from various states to provide title histories to consumers. The states

sell this data in bulk to these vendors and the lag time may be as long as 60 days. The laws of some states have not been updated to reflect economic commerce. Congress could encourage the states to make title data more available so that data vendors can obtain daily downloads of active title and registration and brand files.

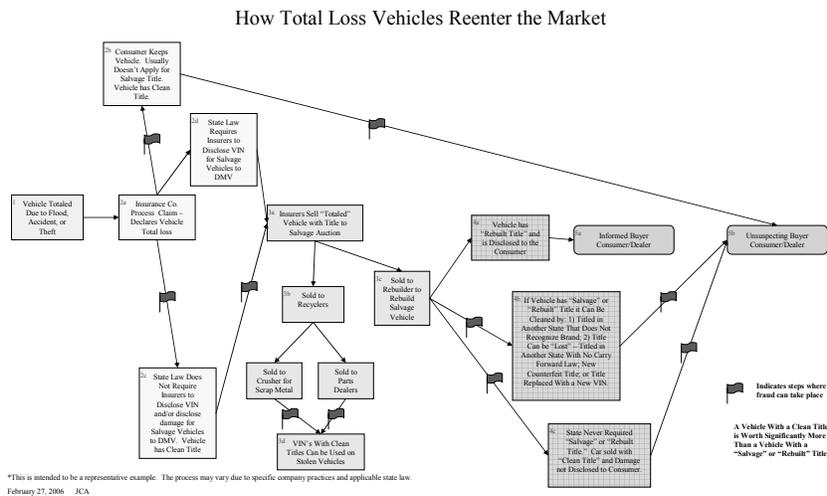
All states should be encouraged to move to electronic titling of motor vehicles. If every state DMV issued electronic titles, the benefits to the consumer would be significant. Title histories would be more readily available, and the perfection and release of liens, an essential element of motor vehicle commerce, would be more efficient. An electronic titling regime does not mean the elimination of paper titles, because paper titles will be necessary for years to come to facilitate consumer-to-consumer transactions.

Any federal remedies must reflect federalism. Motor vehicle titling laws fall within the jurisdiction of the states. Federal preemption of this state-based regulatory regime could be challenged under the Tenth Amendment to the U.S. Constitution. To limit such a challenge, Congress could use incentives (provide grant money) or penalties (withhold certain Federal funds) to encourage states to change their respective motor vehicle titling laws promptly.

Conclusion

Any solution to the title fraud problem must be viewed through the pre-transaction lens. The technological solution to the problem of flood vehicles – and all other title fraud – lies in creating near real-time, pre-transaction access to the vehicle history data that DMVs, insurance companies, and salvage yards currently collect.

NADA and automobile dealers throughout the country are prepared to assist with efforts to eliminate title fraud. Thank you for the opportunity to present our views, and I look forward to your questions.



MR. STEARNS. And we put your chart up there.

MR. REGAN. Yes, sir.

MR. STEARNS. And so I appreciate that. I think that chart gives a better overview, too.

MR. REGAN. Thank you.

MR. STEARNS. Mr. Fuglestad?

MR. FUGLESTAD. Thank you.

MR. STEARNS. Welcome.

MR. FUGLESTAD. Thank you. Good morning, Chairman Stearns, Ranking Member Schakowsky and members of the subcommittee. I appreciate having the opportunity to testify today on behalf of Experian regarding car title fraud. I plan to touch briefly on a few topics around how private industry is and can help in protecting consumers from car title fraud.

First, let me give a brief description of Experian Automotive. Experian Automotive is a unit of Experian that delivers information solutions to the automotive marketplace, including car manufacturers, dealers, lenders, insurance companies, and consumers. Our core data asset that drives our solutions is our national vehicle database, which houses information from a variety of sources, including State departments of motor vehicles, auto auctions, police accident reports, and salvage yards.

One of Experian's key automotive solutions that is applicable to today's discussion is its AutoCheck vehicle history report. A vehicle history report helps consumers and businesses make better vehicle purchase decisions by understanding historical events for pre-owned vehicles. The AutoCheck vehicle history report is similar to Experian's many other products and services, in that responsible data sharing results in compiled third-party information that benefits consumers. These benefits may range from expanding consumer access to a wide range of affordable services and products to facilitate in detection and prevention of fraud and other crimes.

Let me move to how Experian Automotive helps prevent vehicle title fraud. Today's consumer faces a number of challenges in ensuring they know what they are getting when buying a used vehicle. The challenges include the lack of consumer access to or knowledge of vehicle history information and differences in title branding and reporting from State to State. The recent storms and resulting flood damage to hundreds of thousands of vehicles have highlighted the vehicle title fraud problem and how significant of an issue it really is. Since the hurricanes of last year, we have seen up to a 400 percent increase in derogatory vehicle brands such as salvaged, scraped, water or storm damaged, coming into Experian's database from the DMVs of certain hurricane-impacted States.

We feel there are important steps consumers can take to help protect themselves from title fraud or unknowingly buying a damaged car. In addition to a physical inspection, one of the most important steps a car

buyer can take is to better understand the history of a car prior to purchasing it by obtaining a vehicle history report. This report can tell potential buyers if the vehicle has severe flood damage, been branded lemon, or salvaged, if the vehicle has been in an accident, where and how many times the vehicle has been titled, and the vehicle's odometer history. Because Experian's vehicle history reports include DMV data from all 51 U.S. jurisdictions, the risk of title fraud or title washing is reduced when multiple title events occur across States with different titling and branding standards. Today, consumers can check a car's reported background by obtaining a history report from the seller or dealer or online through our autocheck.com site.

In the wake of the most recent hurricanes, Experian wants a cooperative effort with NADA to educate dealers and consumers of the large number of storm-damaged cars that would be hitting the market after these catastrophes. Information was supplied about how to identify and recognize a storm-damaged vehicle, and a process was established so that dealers and others could report their own vehicles damaged by the storms. Experian is now making this information available to dealers and consumers at no charge via its AutoCheck storm scan functionality.

In addition to these examples of what Experian is doing, there are numerous opportunities of how public and private organizations can partner to improve titling and brand disclosure. Experian has enjoyed a good relationship with the State DMVs and their member organization, AAMVA, for many years. We have been in discussion with AAMVA for some time about how we may further support their efforts with the National Motor Vehicle Title Information System to combat title and vehicle fraud. For the past several years, industry, including Experian, has developed data assets and solutions for the marketplace that can be leveraged to support AAMVA's vehicle title information system initiative.

As far as some of the examples of where industry can help, first, in providing a comprehensive data repository. Experian receives vehicle data from all of the U.S. jurisdictions. A comprehensive national data source is imperative to combating title and vehicle fraud. Experian's database currently consists of information on over 530 million vehicles, of which over 280 million are still in operation or on the road, and has over one billion vehicle registrations, nearly 900 million title and title transfer transactions, and 275 million brands.

Second, in managing the data, Experian has expended significant resources in analyzing and interpreting, validating, standardizing, and hosting this data to support our solutions and services. And third, in distributing or providing access to this data, Experian has developed secure, flexible methods for distributing our vehicle history reports to

businesses and consumers. I would also like to mention that today Experian offers AutoCheck services free of charge to law enforcement agencies to support their investigative efforts.

So overall, Experian welcomes the opportunity to work with government and other organizations to provide critical information to consumers and business. This does conclude my initial statement, and I would like to thank you again for the opportunity to talk today.

[The prepared statement of Alan Fuglestad follows:]

PREPARED STATEMENT OF ALAN FUGLESTAD, VICE PRESIDENT, OPERATIONS AND
TECHNOLOGY, EXPERIAN AUTOMOTIVE

Description of Experian Automotive

Experian Automotive delivers information solutions to manufacturers, dealers, lenders, insurance companies, and consumers. Experian helps automotive clients increase customer loyalty, target and win new business, and make better lending and vehicle purchase decisions. Its National Vehicle Database, housing information on more than 500 million vehicles, meets the industry's growing demand for an integrated information source. Experian technology supports several top automotive web sites including eBay Motors, CarsDirect.com, NADAguides.com, Autobytel and Yahoo! Autos.

One of Experian's key automotive solutions is its AutoCheck® Vehicle History Report. A Vehicle History Report is designed to help consumers and businesses make better vehicle purchase decisions by quickly and easily understanding potentially significant historical events for pre-owned vehicles manufactured in 1981 or later. Using the Vehicle Identification Number (VIN) and depending on the information reported to Experian, an AutoCheck vehicle history report can reveal frequency and location of title and registrations, past title brands, past accidents, and odometer history. Through its joint venture with The First American Corporation (leading provider of mortgage title insurance), Experian also offers consumers a vehicle title insurance policy (TitleGuard) that covers hidden title defects (e.g., water damage, salvage) with coverage up to the full purchase price of the vehicle.

AutoCheck Vehicle History Reports supply information about pre-owned vehicles from a multitude of data sources, including state departments of motor vehicles (DMVs), auto auctions, police accident reports, and salvage yards. AutoCheck is the volume leader in supplying vehicle history information to the automotive industry. Dealers, consumers and manufactures can easily access the AutoCheck information via the AutoCheck web site or other integration methods. One example is Experian's partnership with NADA to integrate and market AutoCheck vehicle history information to auto dealers through its line of used car valuation products. AutoCheck offers toll-free telephone and email support to all clients should they have questions regarding any event in the vehicle's past.

The AutoCheck Vehicle History Report is similar to Experian's many other products and services in that responsible information-sharing results in compiled, third-party information that benefits consumers. Information sharing:

- Allows businesses to ascertain and meet customer needs rapidly and efficiently
- Permits consumers to learn rapidly and at low cost of those opportunities in which they are most likely to be interested
- Promotes market competition
 - by facilitating the entry of new competitors into established markets,
 - by reducing the advantage of large, incumbent firms have over smaller startups, and
 - by encouraging business to specialize to meet specific consumer needs.

- Expands consumer access to a wide range of affordable services and products
- Enhances customer convenience and services
- Improves efficiency and significantly reduces the cost of many products and services
- Expands the number of consumers who have access to more credit at better prices
- Facilitates the detection and prevention of fraud and other crimes.

Consumers enjoy many benefits from the responsible sharing of information. This sharing also enables economic activity and competition.

How Experian Automotive Helps Prevent Vehicle Title Fraud

Today's consumer faces a number of challenges in ensuring they know what they're getting when buying a used vehicle. The challenges include the lack of consumer access to or knowledge of vehicle history information and differences in title branding and reporting from state to state.

Vehicle title fraud has existed for years – well before the hurricane tragedies of last year. However, the recent storms and the resulting flood damage to hundreds of thousands of vehicles have highlighted the vehicle title fraud problem and how significant of an issue it really is. Since the hurricanes of last year, we have seen up to 400% increases in derogatory vehicle brands, such as salvage, scrapped, water damaged and storm damaged, coming into Experian's vehicle database from the DMVs of certain hurricane-impacted states. Even if potential buyers are not in an area directly affected by a hurricane or flooding, cars often are repaired and shipped across the country in a matter of weeks, putting consumers at risk of unknowingly buying damaged, unsafe vehicles.

There are steps consumers can take to help protect themselves from title fraud or unknowingly buying a damaged car. One of the most important steps a car-buyer can take is to better understand the history of a car prior to purchasing it by obtaining a vehicle history report. A vehicle history report can tell potential buyers if the vehicle has severe flood damage, been branded "lemon" or "salvage," if the vehicle has been in an accident, where and how many times the vehicle has been titled and the vehicle's odometer history. Experian's vehicle history reports include DMV data from all 51 U.S. jurisdictions. Therefore, consumers are protected against title fraud or title washing when multiple title events occur across states with different titling and branding standards.

Consumers can check a car's reported background by obtaining a history report from the seller or dealer or online through AutoCheck Vehicle History Reports. Consumers can enter a car's Vehicle Identification Number (VIN) at www.autocheck.com and receive a detailed vehicle history report. See the attached examples of AutoCheck Vehicle History Reports – one example is a history report for a damaged vehicle and the other example is for a vehicle with no major issues reported. Experian recommends a thorough vehicle inspection be performed as well. We advocate consumer inspection tips from the National Automobile Dealers Association (NADA).

By taking a few simple precautions when buying a used car, consumers can safeguard themselves from the frustration of wasting their hard-earned money on a damaged vehicle, or worse, unknowingly purchasing an unsafe vehicle.

In the wake of the most recent hurricanes, Experian set out on an awareness campaign for dealers and consumers. Experian launched a cooperative effort with NADA designed to educate its members and build awareness of the large number of storm damaged cars that would be hitting the market after these catastrophes. Information was supplied about how to identify and recognize a storm-damaged vehicle and a process was established so that dealers and others could report their own vehicles damaged by the storms. Our goal was to make this information available more quickly than the traditional reporting process through state DMVs. Experian is now making this information available to NADA members and consumers at no charge via its AutoCheck storm scan functionality, which includes three pieces of information:

1. Self-reported information on storm damaged vehicles from dealers and manufacturers.
2. Past vehicle title brands whether or not they are the result of a storm.
3. Title and registration history that reveals whether the vehicle has been titled or registered in areas affected by storm during the previous twelve months. If considering a purchase of one of these vehicles, Experian recommends a professional vehicle inspection.

Experian also provided state attorneys general offices with vehicle inspection tips and AutoCheck storm scan availability so they may educate their constituents regarding the risk of purchasing a storm damaged vehicle.

Public/Private Efforts to Improve Titling and Disclosure of Brands

There are numerous examples and opportunities of how public and private organizations can partner to improve titling and brand disclosure.

Experian has enjoyed a good relationship with the American Association of Motor Vehicle Administrators (AAMVA) for many years. We are also an Industry Member with the 'sister' organization, Canadian Council of Motor Transport Administrators.

Experian supports AAMVA as an Associate Member and through our participation in the Industry Advisory Board. We have been in discussion with AAMVA for some time about how we may further support their efforts to combat title and vehicle fraud.

For the past several years, industry has developed assets and solutions for the marketplace that can be leveraged to support AAMVA's National Motor Vehicle Title Information System (NMVTIS) initiative. For example,

- Experian currently receives vehicle data from all U.S. jurisdictions. A comprehensive, national data source is imperative in combating title and vehicle fraud.
- Experian has expended significant resources in analyzing, interpreting, validating, standardizing, and hosting this data to provide a comprehensive national database of vehicle data to be used in solutions and services. This process allows the data to be used in a 'common' format while retaining the specific content of the different sources.
- Experian has developed secure, flexible methods for distributing our vehicle history reports and services based on the needs of our partners and clients.

Experian offers our AutoCheck services free of charge to law enforcement agencies to support their investigative efforts. We support organizations such as the National Odometer and Title Fraud Enforcement Association (NOTFEA), the International Association of Lemon Law Administrators (IALLA) and the Association of Traffic Safety Information Professionals (ATSIP).

Experian welcomes the opportunity to work with government to provide critical information to consumers and business. Whether working with AAMVA, the state DMVs or other organizations, having comprehensive vehicle history information available at the point of purchase or titling a vehicle, or during an investigation, is critical to consumers, businesses, DMVs, law enforcement and others in combating title and vehicle fraud.

Challenges Associated with Acquiring Data

Experian Automotive has dedicated staff who are researching and analyzing potential data sources everyday. We are always looking for important data that can impact our AutoCheck report to the benefit of business and consumers.

Timely access to vehicle data from a broad set of data sources is a key Experian goal. There are key challenges in meeting this goal that we address on a continuous basis.

The high and unpredictable nature of our data costs from the state DMVs is one of our primary risks of doing business. Experian pays millions of dollars annually to the states for the right to collect and preserve this data. There are significant differences in pricing between the various state DMV organizations, and we've seen significant increases in pricing from year to year. In addition, in order for the data to continue to be useful, it is necessary to store and maintain the information for an indefinite period of time.

Experian provides information solutions based on a national database of vehicle information. As a bulk data purchaser, we must aggregate data from all of the DMVs prior to offering our services and solutions (and beginning to recover costs). To add to the business risk of our data cost, various state and federal laws and regulations greatly restrict what we can do with the records we purchase, which limits our ability to recover the cost of this data.

Finally, in addition to the cost of acquiring this data, we also expend significant resources interpreting, validating, aggregating, and standardizing the various state-specific file formats for use in our solutions.

Your AutoCheck Vehicle History Report



Report Run Date: 08/31/2005
Vehicle Description 1J4FF48SXYLXXXXXX
TitleCheck Records found
ProblemCheck No records found
OdometerCheck Records found
Vehicle Information Records found
Full History Records found

[Print Report](#)

 **Warning! This Vehicle Does NOT qualify as AutoCheck Assured.**
 The Vehicle Identification Number (VIN) you submitted has been analyzed and summary detail information on your car is shown below.

[Vehicle Description](#) | [TitleCheck](#) | [ProblemCheck](#) | [OdometerCheck](#) | [Vehicle Information](#) | [Full History](#)

Vehicle Description

Your Vehicle's Description:
 VIN: 1J4FF48SXYLXXXXXX
 Year: 2000
 Make: Jeep
 Model: Cherokee Sport
 Style/Body: 4 Door Utility
 Engine: 4.0L I-6 SFI
 Country of Assembly: United States

Key:	 = No Problem Found	 = Problem Found	 = Information Found
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[Vehicle Description](#) | [TitleCheck](#) | [ProblemCheck](#) | [OdometerCheck](#) | [Vehicle Information](#) | [Full History](#)

TitleCheck

 **Title Problem Found!** AutoCheck's database for this 2000 Jeep Cherokee Sport (1J4FF48SXYLXXXXXX) found historical events that might indicate a significant automotive problem. These problems can indicate past automotive damage or warnings associated with the vehicle title.

Problems Checked:	Results Found
Abandoned	<input checked="" type="checkbox"/> No Abandoned Record Found
Damaged	<input checked="" type="checkbox"/> No Damaged Record Found
Fire Damage	<input checked="" type="checkbox"/> No Fire Damage Record Found
Grey Market	<input checked="" type="checkbox"/> No Grey Market Record Found

- Hail Damage ✔ No Hail Damage Record Found
- Insurance Loss ✔ No Insurance Loss Record Found
- Junk ✔ No Junk Record Found
- Rebuilt/Rebuildable ❗ Rebuilt/Rebuildable Record(s) Found
- Salvage ❗ Salvage Record(s) Found

Vehicle Description | TitleCheck | ProblemCheck | OdometerCheck | Vehicle Information | Full History

ProblemCheck

 **Your Vehicle Checks Out!** AutoCheck's database for this 2000 Jeep Cherokee Sport (1J4FF48SXYLXXXXX) shows no historical events that indicate a significant automotive problem. These problems can indicate previous car damage, theft, or other significant problem.

Problems Checked:	Results Found
NHTSA Crash Test Vehicle	✔ No NHTSA Crash Test Vehicle Record Found
Frame Damage	✔ No Frame Damage Record Found
Major Damage Incident	✔ No Major Damage Incident Record Found
Manufacturer Buyback/Lemon	✔ No Manufacturer Buyback/Lemon Record Found
Odometer Problem	✔ No Odometer Problem Record Found
Recycled	✔ No Recycled Record Found
Salvage Auction	✔ No Salvage Auction Record Found
Water Damage	✔ No Water Damage Record Found

Vehicle Description | TitleCheck | ProblemCheck | OdometerCheck | Vehicle Information | Full History

OdometerCheck

 **Your Vehicle Checks Out!** For this 2000 Jeep Cherokee Sport(1J4FF48SXYLXXXXX)no indication of an odometer rollback or tampering was found. We determine odometer rollbacks by searching for records that indicate odometer reading that are less than a previously reported value. Other odometer events can report events of tampering, or possible odometer breakage.

Report Run Date: 08/31/2005

Date Reported	Odometer Reading
01/23/01	12,320
07/06/01	14,897
09/24/04	44,000

Vehicle Description | TitleCheck | ProblemCheck | OdometerCheck | Vehicle Information | Full History

Vehicle Information

 **Information Found!** AutoCheck found additional information on this vehicle. These records will provide you with more past history for this 2000 Jeep Cherokee Sport(1J4FF48SXYLXXXXX).

Problems Checked:	Results Found
Accident Data	❗ Accident Data Record(s) Found
Corrected Title	✔ No Corrected Title Record Found
Driver Education	✔ No Driver Education Record Found
Duplicate Title	✔ No Duplicate Title Record Found
Emission/Safety Inspection	✔ No Emission/Safety Inspection Record Found

- Fire Damage Incident ✓ No Fire Damage Incident Record Found
- Lease ✓ No Lease Record Found
- Lien ✓ No Lien Record Found
- Livery Use ✓ No Livery Use Record Found
- Government Use ✓ No Government Use Record Found
- Police Use ✓ No Police Use Record Found
- Fleet ✓ No Fleet Record Found
- Fleet and/or Rental ✓ No Fleet and/or Rental Record Found
- Rental ✓ No Rental Record Found
- Fleet and/or Lease ✓ No Fleet and/or Lease Record Found
- Repossessed ✓ No Repossessed Record Found
- Taxi Use ✓ No Taxi Use Record Found
- Theft ✓ No Theft Record Found

[Vehicle Description](#) |
 [TitleCheck](#) |
 [ProblemCheck](#) |
 [OdometerCheck](#) |
 [Vehicle Information](#) |
 [Full History](#)

Full History

Below are the historical events for this vehicle listed in chronological order. Any discrepancies will be in bold text.

Report Run Date: 08/31/2005

Event Date	Event Location	Odometer Reading	Data Source	Event Detail
				VIN 1J4FF48SXYLXXXXX 2000 Jeep Cherokee Sport
01/08/00	HUNTINGTON, NY		MOTOR VEHICLE DEPT.	REGISTRATION EVENT/RENEWAL
02/19/00	SUFFOLK COUNTY, NY		STATE AGENCY	COLLISION WITH ANOTHER VEHICLE (Case #: 01622500)
09/13/00	QUEENS COUNTY, NY		STATE AGENCY	COLLISION WITH A FIXED OBJECT (CURB) (Case #: 03815070)
01/23/01	LENNOX, SD	12,320	MOTOR VEHICLE DEPT.	TITLE (Title #: 11397487) TITLE (Title #: 11397487)
01/25/01	POUGHKEEPSIE, NY		MOTOR VEHICLE DEPT.	TITLE
01/25/01	POUGHKEEPSIE, NY		MOTOR VEHICLE DEPT.	REBUILT/REBUILDABLE
01/25/01	POUGHKEEPSIE, NY		MOTOR VEHICLE DEPT.	SALVAGE
02/23/01	DUBUQUE, IA		MOTOR VEHICLE DEPT.	TITLE (Title #: 31S038113) SALVAGE
04/10/01	DUBUQUE, IA		MOTOR VEHICLE DEPT.	TITLE (Title #: 31W495682) SALVAGE
07/06/01	DUBUQUE, IA	14,897	MOTOR VEHICLE DEPT.	TITLE (Title #: 31W502991) SALVAGE
08/13/01	KANSAS CITY, MO		MOTOR VEHICLE DEPT.	REGISTRATION EVENT/RENEWAL
08/20/01	KANSAS CITY, MO		MOTOR VEHICLE DEPT.	TITLE (Title #: PC250290)
08/29/02	KANSAS CITY, MO		MOTOR VEHICLE DEPT.	REGISTRATION EVENT/RENEWAL
09/21/04	STERLING, IL		MOTOR VEHICLE DEPT.	REGISTRATION EVENT/RENEWAL

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09/24/04 STERLING, IL 44,000 MOTOR VEHICLE DEPT. TITLE (Title #: T4268146013)
07/30/05 STERLING, IL MOTOR VEHICLE DEPT. REGISTRATION
EVENT/RENEWAL

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Your AutoCheck Vehicle History Report



Report Run Date: 02/28/2006

Vehicle Description 1MEFM55S61AXXXXXX
TitleCheck No records found
ProblemCheck No records found
OdometerCheck Records found
Vehicle Information Records found
Full History Records found

[Print Report](#)



This Vehicle Qualifies as AutoCheck Assured

The vehicle submitted has been analyzed and currently qualifies for **AutoCheck Buyback Protection!** See detailed information, terms and conditions below. If you own this vehicle, register at www.autocheck.com/protection.

[Vehicle Description](#) | [TitleCheck](#) | [ProblemCheck](#) | [OdometerCheck](#) | [Vehicle Information](#) | [Full History](#)

Vehicle Description

Your Vehicle's Description:

VIN: 1MEFM55S61AXXXXXX
Year: 2001
Make: Mercury
Model: Sable LS Premium
Style/Body: 4 Door Sedan
Engine: 3.0L V6 EFI DOHC
Country of Assembly: United States

Key:  Found = No Problem	 Found = Problem	 Found = Information
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[Vehicle Description](#) | [TitleCheck](#) | [ProblemCheck](#) | [OdometerCheck](#) | [Vehicle Information](#) | [Full History](#)

TitleCheck



Your Vehicle Checks Out! AutoCheck's results for this 2001 Mercury Sable LS Premium (1MEFM55S61AXXXXXX) show no significant Title events. When found, events often indicate past automotive damage or warnings associated with the vehicle title.

Problems Checked:	Results Found
<u>Abandoned</u>	✓ No Abandoned Record Found
<u>Damaged</u>	✓ No Damaged Record Found
<u>Fire Damage</u>	✓ No Fire Damage Record Found

Grey Market	✓ No Grey Market Record Found
Hail Damage	✓ No Hail Damage Record Found
Insurance Loss	✓ No Insurance Loss Record Found
Junk	✓ No Junk Record Found
Rebuilt/Rebuildable	✓ No Rebuilt/Rebuildable Record Found
Salvage	✓ No Salvage Record Found

[Vehicle Description](#) |
 [TitleCheck](#) |
 [ProblemCheck](#) |
 [OdometerCheck](#) |
 [Vehicle Information](#) |
 [Full History](#)

ProblemCheck

 **Your Vehicle Checks Out!** AutoCheck's database for this 2001 Mercury Sable LS Premium (1MEFM55S61AXXXXXX) shows no historical events that indicate a significant automotive problem. These problems can indicate previous car damage, theft, or other significant problem.

Problems Checked:	Results Found
NHTSA Crash Test Vehicle	✓ No NHTSA Crash Test Vehicle Record Found
Frame Damage	✓ No Frame Damage Record Found
Major Damage Incident	✓ No Major Damage Incident Record Found
Manufacturer Buyback/Lemon	✓ No Manufacturer Buyback/Lemon Record Found
Odometer Problem	✓ No Odometer Problem Record Found
Recycled	✓ No Recycled Record Found
Salvage Auction	✓ No Salvage Auction Record Found
Water Damage	✓ No Water Damage Record Found

[Vehicle Description](#) |
 [TitleCheck](#) |
 [ProblemCheck](#) |
 [OdometerCheck](#) |
 [Vehicle Information](#) |
 [Full History](#)

OdometerCheck

 **Your Vehicle Checks Out!** For this 2001 Mercury Sable LS Premium (1MEFM55S61AXXXXXX) no indication of an odometer rollback or tampering was found. We determine odometer rollbacks by searching for records that indicate odometer reading that are less than a previously reported value. Other odometer events can report events of tampering, or possible odometer breakage.

Report Run Date: 02/28/2006

Date Reported	Odometer Reading
02/09/2001	20
02/05/2002	12,372
03/20/2002	12,392
09/18/2002	15,590
05/18/2004	24,035
03/01/2005	26,960

[Vehicle Description](#) |
 [TitleCheck](#) |
 [ProblemCheck](#) |
 [OdometerCheck](#) |
 [Vehicle Information](#) |
 [Full History](#)

Vehicle Information

 **Information Found!** AutoCheck found additional information on this vehicle. These records will provide you with more past history for this 2001 Mercury Sable LS Premium(1MEFM55S61AXXXXXX).

Problems Checked:	Results Found
Accident Data	✓ No Accidents Reported Through State Agencies Or Independent Sources
Corrected Title	✓ No Corrected Title Record Found

<u>Driver Education</u>	✓ No Driver Education Record Found
<u>Duplicate Title</u>	✓ No Duplicate Title Record Found
<u>Emission/Safety Inspection</u>	⊕ Emission/Safety Inspection Record(s) Found
<u>Fire Damage Incident</u>	✓ No Fire Damage Incident Record Found
<u>Lease</u>	✓ No Lease Record Found
<u>Lien</u>	⊕ Lien Record(s) Found
<u>Livery Use</u>	✓ No Livery Use Record Found
<u>Government Use</u>	✓ No Government Use Record Found
<u>Police Use</u>	✓ No Police Use Record Found
<u>Fleet</u>	✓ No Fleet Record Found
<u>Fleet and/or Rental</u>	✓ No Fleet and/or Rental Record Found
<u>Rental</u>	✓ No Rental Record Found
<u>Fleet and/or Lease</u>	✓ No Fleet and/or Lease Record Found
<u>Repossessed</u>	✓ No Repossessed Record Found
<u>Storm Area Registration/Title</u>	✓ No Storm Area Registration/Title Record Found
<u>Taxi Use</u>	✓ No Taxi Use Record Found
<u>Theft</u>	✓ No Theft Record Found

Vehicle Description | TitleCheck | ProblemCheck | OdometerCheck | Vehicle Information | Full History

Full History

Below are the historical events for this vehicle listed in chronological order. Any discrepancies will be in bold text.

Report Run Date: 02/28/2006

VIN	1MEFM55S61AXXXXXX	2001 Mercury Sable LS Premium
Event Date	Event Location	Odometer Reading Data Source Event Detail
02/09/2001	OTTSVILLE, PA	20 MOTOR VEHICLE DEPT. TITLE (Lien Reported) (Title #: 55759006)
02/20/2001	OTTSVILLE, PA	MOTOR VEHICLE DEPT. REGISTRATION EVENT/RENEWAL
06/13/2001	OTTSVILLE, PA	MOTOR VEHICLE DEPT. TITLE (Lien Reported) (Title #: 55759006)
09/24/2001	OTTSVILLE, PA	MOTOR VEHICLE DEPT. REGISTRATION EVENT/RENEWAL
02/05/2002	DEARBORN, MI	12,372 MOTOR VEHICLE DEPT. TITLE (Title #: 298N0360388)
03/20/2002	EASTERN REGION	12,392 AUTO AUCTION REPORTED AT AUTO AUCTION
07/09/2002	CLYDE, NY	MOTOR VEHICLE DEPT. REGISTRATION EVENT/RENEWAL
07/19/2002	NY	INDEPENDENT SOURCE INSPECTION/THEFT DETERRENT EQUIPPED
09/18/2002	NY	15,590 MOTOR VEHICLE DEPT. TITLE (Lien Reported)
09/04/2003	CLYDE, NY	MOTOR VEHICLE DEPT. REGISTRATION EVENT/RENEWAL
03/15/2004	WOLCOTT, NY	MOTOR VEHICLE DEPT. REGISTRATION EVENT/RENEWAL

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05/18/2004 NY	24,035 MOTOR VEHICLE DEPT.	TITLE (Lien Reported)
01/31/2005 WOLCOTT, NY	MOTOR VEHICLE DEPT.	REGISTRATION EVENT/RENEWAL
03/01/2005 NY	26,960 MOTOR VEHICLE DEPT.	PASSED EMISSION INSPECTION PASSED SAFETY INSPECTION

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"Except where "buyback protection" is issued and, in such case, these terms and conditions are modified only to the extent inconsistent with the express terms of the "buyback protection".

These terms and the relationship between you and Experian shall be governed by the laws of the State of Illinois (USA) without regard to its conflict of law provisions. You and Experian agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Cook, Illinois.

Buyback Protection Terms and Conditions for VIN 1MEFM55S61AXXXXXX:



Buyback Protection Terms and Conditions

Subject to the following, Experian agrees to pay the Customer the Customer's purchase price of the Vehicle if:
A. the AutoCheck Report was provided prior to the purchase of the Vehicle and on or after June 27, 2005; and
B. the Report reflects no Branded Titles as part of the Vehicle title history, but a Branded Title actually exists.

DEFINITIONS

- 1a. **Branded Title-** is a vehicle ownership or registration document issued by any of the 50 states of the U.S. (or the District of Columbia), issued with words or symbols signifying that the vehicle was: junked or salvaged; dismantled, rebuilt or reconstructed; flood damaged; fire damaged; hail damaged; bought back by its manufacturer ("Lemon Law" vehicle); odometer exceeds mechanical limits; odometer was not actual mileage; or which was issued with any other symbol or word signifying a substantially similar brand.
- 1b. **Excluded Brands-** Specifically excluded from the definition of Branded Title are: ownership and registration documents originally issued without a brand but later stamped with a brand without being reissued; salvage titles issued due to theft; damage disclosure documents; and Branded Titles issued in error and later corrected.
2. **Consumer-** the person (other than a Dealer or Transferee) who ordered and paid for the Report prior to their purchase of the Vehicle.
3. **Customer-** a Consumer, or any licensed automobile dealer ("Dealer") who ordered and paid for the Report through an AutoCheck Commercial Service ("Commercial Service") is any site geared solely for dealers or other commercial users, such as AutoCheckmembers.com, either accessed directly or through a partner, and AutoCheck Express) or the Transferee of any such Dealer.
4. **Report/AutoCheck Report-** AutoCheck Vehicle History Report.
5. **Transferee-** the purchaser of the Vehicle from the Dealer.
6. **Vehicle-** the passenger vehicle or light truck to which the Report relates.

TERMS AND CONDITIONS

http://www.autocheck.com/autocheck/1_members/jsp/main.jsp?ts=093722310

2/28/2006

1. The Customer must have previously purchased the Vehicle and own the Vehicle at the time the claim is made. If the Vehicle is subject to a lien in an unpaid amount greater than the amount identified in Item 8, this Protection only applies if the Customer pays Experian the difference.
2. The Customer must complete and submit to Experian an executed claim form and provide a complete copy of the Report. Any Dealer/Customer must have obtained the Report through an AutoCheck Commercial Service prior to the purchase of the Vehicle.
3. The Customer must provide to Experian proof of ownership of the Vehicle in the form of the original bill of sale and a current vehicle ownership document issued to the Customer by the motor vehicle agency of one of the 50 states of the United States or the District of Columbia.
4. The Customer must provide to Experian a copy of the front and back of the Branded Title, certified by the issuing state authority. The Branded Title must have been issued at least sixty (60) days prior to the date the Report was run.
5. The Customer must deliver to Experian all ownership and registration documentation including, the certificate of title and certificate of registration, properly assigned by the Customer to Experian so Experian becomes the owner of the Vehicle.
6. If, prior to purchasing the Vehicle, the Customer knew, or had evidence, of the existence of a Branded Title for the Vehicle, the Protection does not apply.
7. Experian will pay a maximum of the purchase price of the Vehicle paid by the Customer (plus warranties and other additional purchases such as installed aftermarket accessories, not exceeding a total of \$500).
8. If the purchase price of the Vehicle in Item 7 exceeds the NADA Used Car Guides used vehicle retail value at the time of the sale, Experian will pay no more than ten percent (10%) over the NADA Used Car Guides used vehicle retail value at the time the Customer purchased the Vehicle.
9. The Buyback Protection will apply only if the Vehicle was manufactured in model year 1981 or later.
10. The Buyback Protection will expire the earlier of (a) the date the Customer sells the Vehicle or (b) one (1) year after the date of the first Report run by or for the Customer relating to the Vehicle.
11. This Buyback Protection is deemed assigned to the Transferee upon the sale of the Vehicle, provided that a copy of the Report is given to the Transferee and the Transferee registers in accordance with Item 12.
12. In order for this Buyback Protection to be in effect for Transferees or Consumers, they must register with Experian within ninety (90) days of the date they purchased the Vehicle. Registration may be made online at www.autocheck.com/protection or by writing Experian for a registration form and submitting the same to Experian. The registration form must be completed and submitted to: Buyback Protection C/O Experian Automotive, 955 American Lane, Schaumburg, IL 60173.
13. Claims can be submitted to: Buyback Protection C/O Experian Automotive, 955 American Lane, Schaumburg, IL 60173. Please include name, address, telephone number, email address, the Vehicle Identification Number (VIN) of the Vehicle and a copy of the original report. Claim forms can be obtained online at www.autocheck.com/protection or by writing to Experian at the address above.
14. Experian reserves the right to cancel the Buyback Protection program at anytime, but pledges to honor all current and future Buyback Protection claims as long as they meet all of the Buyback Protection terms and conditions stated herein and the AutoCheck vehicle history report was run prior to Buyback Protection program cancellation.
15. Dealer Customers must use an AutoCheck Commercial Service in order for their transferees to be eligible for Buyback Protection. Because Dealer Customers are prohibited from using the AutoCheck Consumer Web site, they are not eligible for Buyback Protection if they purchase from a Consumer Web site, and their subsequent Transferees are not covered by Buyback Protection in such instance.
16. The Buyback Protection will be governed by the laws of, and Customer consents to the exclusive jurisdiction of the courts of, the State of Illinois, United States of America.

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MR. STEARNS. Thank you. Mr. Watson?

MR. WATSON. Mr. Chairman, Ranking Member Schakowsky, honorable members of the House Subcommittee on Commerce, Trade, and Consumer Protection, good morning and thank you for holding these hearings. My name is Jim Watson. I am here today as President of the Automotive Recyclers Association. I am also a small business owner. I

own an automobile dismantling and recycling business in Blue Island, Illinois. My family has owned and employed the business continually since 1936. We currently employ more than 50 technicians, sales representatives, administration, and support staff.

The Automotive Recyclers Association was founded in 1943 and for 63 years has represented the best interests of the Nation's quality automotive parts recycling enterprises. Our members are small business owners who employ many thousands of people in every State, and we are very concerned about the issue of vehicle title fraud. In fact, our industry, automotive recycling, takes this issue so seriously that ARA has drafted legislation that would require that vehicle identification numbers of any motor vehicles declared total loss and non-repairable by insurers would have to be reported to the National Insurance Crime Bureau and permanently retired. This information on these vehicles would then be available in an online database available to the general public, law enforcement, and business entities at no charge. A copy of the draft of this legislation is attached to my written statement and, Mr. Chairman, I would request that written statement and its accompanying attachments be submitted for the record in its entirety.

MR. STEARNS. By unanimous consent, so ordered.

MR. WATSON. Thank you. Vehicle title fraud is a growing criminal business in the United States that frauds consumers and insurance companies of millions of dollars annually. It takes more forms and here are a few examples. Katrina cars create huge opportunity for fraudulent dealers to take advantage of consumers. These cars can be rebuilt and their titles can be washed in certain States in the United States and then sold to consumers. Salt water flood vehicles should be crushed or otherwise destroyed. Salt water corrosion is an irreversible process included on these vehicles in the retired VIN classification. There is no reason for the VINs of these vehicles to be available for misuse.

VIN swapping is a problem that these measures would address. Auto thieves would no longer be able to take a VIN number off of a salvaged vehicle and place it on a stolen one, since the VIN would be retired. Title fraud also enables other criminal activities to occur, from insurance fraud to narcotic trafficking, and the smuggling of undocumented aliens. Everyone wants to create a level playing field for legitimate bidders who legally process totaled vehicles, and to curtail the fraud, VIN swapping, theft, any crime involving motor vehicles. This is why we believe Federal legislation is necessary and now. The ARA strongly encourages the House Subcommittee on Commerce, Trade, and Consumer Protection to aggressively support legislation to prevent car title fraud, theft, and organized crime and terrorism activities involving motor vehicles, and to level the playing field in the salvage recycling across the United States.

We also ask the subcommittee to consider seriously the ARA draft legislation as an example of what needs to be done. I thank you again for the opportunity to testify in support of the subcommittee's initiatives and the ARA VIN retirement legislation. If you do have any other questions, I would be happy to answer them. Thank you very much.

[The prepared statement of James Watson follows:]

PREPARED STATEMENT OF JAMES WATSON, PRESIDENT, AUTOMOTIVE RECYCLERS
ASSOCIATION

One Page Summary of ARA Key Points in Testimony

On

Car Title Fraud: Issues and Approaches for Keeping Consumers Safe on The Road

- Katrina cars create a huge opportunity for fraud criminals to take advantage of consumers: *These cars can be rebuilt, then their titles can be washed in certain states in the US then sold to consumers*
- Create a classification of Retired VIN Vehicles: *Within two weeks of declaring a vehicle a salvage only vehicle, insurers would alert those who maintained a publicly accessible free database, preferable DOT. The VIN of this vehicle would be retired and it would not be able to be registered again.*
- Create another database to track Total Loss Vehicles: *If insurer declares a vehicle a Total Loss but determines it can be rebuilt and SAFELY put back on the road, this information should also be made available to the public.*
- Give DOT the authority to Make Retired VIN and Total Loss VIN info available to the public: *Vehicle histories should be transparent to consumers.*
- Salt water flood vehicles should be crushed or otherwise destroyed: *Salt water corrosion is an irreversible process. Include these vehicles in the Retired VIN Classification. There is no reason for the VINs of these vehicles to be available for misuse.*
- VIN "swapping" is a problem that these measures would address: *Auto thieves would no longer be able to take the VIN number off a salvage vehicle and place it on a stolen one since the VIN would be retired.*
- Create remedies for victims of title fraud ... *impose penalties and sanctions against fraud criminals*

Mr. Chairman, Honorable members of the House Subcommittee on Commerce, Trade, and Consumer Protection: *Good Morning!*

My name is Jim Watson and I am here today as President of the Automotive Recyclers Association (ARA). I am qualified to speak to the issue under consideration because, with my family, I own a dismantling and recycling business in Blue Island, IL. My family has owned and operated the business continually since 1936. We currently employ more than 50 technicians, sales reps, administration and support Staff.

The Automotive Recyclers Association was founded in 1943 and for 63 years has represented the best interests of the Nation's quality automotive parts recycling enterprises. The recycling of quality OEM automotive parts supports the highest pinnacle of recycling which is reuse, and through reuse, recycling saves our Nation raw materials, reduces the need to manufacture additional and unnecessary brand-new parts, saves valuable landfill space and makes available to the consuming public, quality OEM used products that are much less costly than brand-new OEM parts.

Thank you very much for this opportunity to explain ARA's position in support of federal car title fraud legislation as a necessary requirement to protect the American consumer in several important ways, which I will address.

We appreciate this opportunity to speak to this important issue because vehicle title fraud is huge business in the United States. It ranges in the millions of dollars annually in the defraud of consumers and insurance companies. It also steals valuable time and effort from law enforcement agencies and officials both at home and in the international arena.

According to Interpol, the total value of motor vehicles involved in organized crime, including car title fraud, exceeds US\$19 billion per annum worldwide.

In fact, our industry, automotive recycling, takes this issue so seriously that ARA has drafted legislation to be introduced within the next week or so that would require the Vehicle Identification Numbers (VIN) of motor vehicles declared Total Loss and Non-Repairable by insurers would have to be reported to the National Insurance Crime Bureau (NICB) and permanently retired. The information on these vehicles would then be available on an online database available to the general public, law enforcement and business entities at no charge.

In addition, the ARA legislation would create a second and separate database that would also identify the VIN numbers of motor vehicles declared Total Loss by insurers but deemed safe to repair and ultimately are put back on the road. The legislation would also create yet a third database that would identify all vehicles destined for export out of the U.S. I have included a copy of the ARA draft legislation as an attachment to our written submitted statement, as Exhibit A, for your consideration.

Many consumers and dealers purchase unsafe and substandard motor vehicles each year and the unsuspecting consumer always is the loser because their purchase fails to perform properly as the result of sloppy, shabby and minimal repair necessary to just get the vehicle up and running and back on the road. Failure on the part of the vehicle to perform safely is the cause of many accidents and, in fact, collisions that often result in the unnecessary and avoidable death of innocent people.

As licensed automotive recyclers responsible for the safe removal and recycling of every end-of-life and collision vehicle, we are keenly aware of the role salvage plays in title fraud, organized crime and vehicle theft.

Automotive recyclers not only see VIN numbers from declared Total Loss Vehicles being used or duplicated to be put on stolen vehicles of the same year, make and model, and often the same color, we have to compete for salvage vehicles against thieves who bid to purchase vehicles just to get the VIN number so they can put it on a matching stolen vehicle to be able to prove ownership of the stolen vehicle. Then, the thief will sell the stolen vehicle with its new VIN number and continue to repeat the process over and over again; paying whatever it takes to get the next vehicle he needs, for its VIN number.

Many of the stolen vehicles are represented to the buying public and to legitimate used car and new car dealers as rebuilt salvage vehicles. And worse, and often, the thieves will have rebuilt salvage titles washed so they are able to offer those vehicles for sale as just other nice vehicles available to the consuming public.

We also see VIN numbers used to title non-existent vehicles in insurance claims. What happens is that fraudulent stolen vehicle reports are created and filed with insurance companies as a loss.

Frequently, we also see VIN numbers from Total loss Vehicles being transferred to stolen vehicles that are exported from the United States to unsuspecting buyers in foreign countries.

ARA, as the voice of automotive recycling in the United States, believes that it is absolutely critical to take immediate action to remove the use of Total Loss vehicles and their VIN numbers out of the tool box of criminals intent on increasing title fraud in the U.S. and worldwide.

To that end, ARA has drafted a National VIN Retirement Bill (VRB) for which we hope to have notable Congressional sponsors and co-sponsors when we introduce it. The bill will not require the States to introduce any new State regulations for compliance. But it will require the retirement of the VIN numbers of legitimate Total Loss, Non-Repairable vehicles in every State. Our legislation will prevent the use of retired VIN numbers in the United States and its Territories, prevent their use to register another vehicle, prevent their use to file fraudulent insurance claims, or to be usefully transferred to a stolen vehicle.

With, conservatively, more than five million vehicles declared a Total Loss Vehicle each year in the United States, with the number increasing each year as more and more air bags, which represent an expensive component in new cars, are added to improve passenger safety, having these data bases which identify the vehicle VIN numbers retired nationwide available to the public would be a gigantic step forward in the effort to reduce title fraud in the United States.

In addition to the draft legislation attached as Exhibit A, I am also attaching other documents I believe are relevant to understanding our position on stopping if possible or at least drastically minimizing title fraud in the U.S. The attachment included as Exhibit B is an article I wrote for the Power Source magazine which was published in December 2005. It focuses on the direct impact of the increasing percentage in salvage each year that is not available to legitimate automotive recyclers because of Total Loss Vehicle declarations. Exhibit C is another article I wrote on the subject that was published by the same magazine in January 2006. It explains the two types of Total Loss Vehicles and the problem faced by what is going on in the marketplace. Exhibit D also addresses the problem of salvage emphasizing the key provisions in the ARA draft legislation to help solve the problem.

Exhibit E is an article written by reporter Bryan Bender of the GLOBE Staff published October 2, 2005 entitled "US Car Theft Rings Probed for Ties to Iraq Bombings." According to that article, car theft in the U.S. alone exceeds \$8 billion per annum. Exhibit F is a copy of the Issue Briefing on the legislation and Exhibit G is a copy of an article by Peter Alexander, a correspondent with NBC Nightly News, dated June 9, 2005, which discusses cloning, the problems it creates and how to avoid buying a cloned vehicle.

In summary, ARA is very concerned about (1) how out of control the disposal of Total Loss Salvage has become in the United States, (2) the huge increase in the number of Total Loss Settlements versus Repairable Vehicle estimates that are being written today and the lack of accountability to track the Total Loss Salvage vehicles or their accompanying ownership documents to protect the consumer and business interests, and (3) the growing fraud, theft and terrorism issues directly related to declared Total Loss Vehicles.

The fact that Homeland Security and U.S. Ports Authorities inspect about 5% of the inbound freight and a lesser percentage of what is exported only compounds the problems and our concerns. Recently, at a Canadian port, as an example, the North American Export Committee had a large number of containers searched, I think it was 100, and 10% of those searched had stolen vehicles in them!

In another instance, close to home, the Chairman of ARA's Salvage Solution Committee and a Past ARA President, Herb Lieberman, Vice President, LKQ Corporation, recently advised that he personally found fourteen 2005 Nissans that were sold in Los Angeles, CA on October 13, 2005 by Auto Auctions, Inc., a public company, with Arizona salvage certificates showing salt water damage. All 14 were listed on the National Insurance Crime Bureau website as Katrina cars from New Orleans.

These cars should never have been put back on the road because of the impact of corrosion from being submerged under 20 feet of salt water for several weeks which cannot be reversed, and because EPA tested the water in New Orleans and publicly

announced that it contained high level traces of arsenic, lead, chromium and E coli. The toxic residue hidden in those vehicles make them a bona fide safety hazard to the consuming public.

Of the more than five million Total Loss Vehicles sold through salvage pools in the U. S. every year, the vast majority ... approximately 70% ... are not sold for the purpose of dismantling and recycling. Some are purchased by legitimate rebuilders

And others are purchased by rebuilders who embrace questionable safe and accepted repair techniques who may also use stolen parts to rebuild or repair vehicles for sale.

It is also interesting that 70% of the vehicles sold through salvage pools are insurer-declared Total Loss Vehicles. This would suggest that these vehicles probably should not have been declared Total Loss in the first place.

Another problem is that anyone can purchase a salvage vehicle thru a salvage pool by going on the internet. The purchaser does not have to have a license to make the purchase and such sales may well support a large underground economy that skirts the payment of any taxes.

Two of the goals ARA is pursuing are to create a level playing field for al legitimate bidders whose business is to legally process end of life and collision vehicles for any legal purpose, and to curtail the fraud, theft and crime involving motor vehicles. This is why we believe federal legislation is needed, necessary and now.

Other reasons ARA promulgates the need for federal legislation to prevent fraud, theft and criminal activity, and any illegal activity involving motor vehicles, includes the following points, which are also supported by the North American Export Committee:

- 1) auto theft has been linked to terrorist groups as a funding source, for transportation, and as an improvised explosive device;
- 2) organized crime has been and continues to be one of the greatest threats to the safety and well-being of American citizens on a daily basis and motor vehicle theft is a staple in organized crime activities and is a major commodity in global trade;
- 3) the success to date of law enforcement to quickly identify motor vehicles used in criminal activity, including terrorism, has resulted in a demand for "cloned" vehicles that cannot be traced back to their owners, hiding the paper trail. Had the van used in the first World Trade Center bombing in 1993 been a cloned vehicle, to hide its paper trail, law enforcement might not have been able to make the arrests so quickly. In London, last summer, when the trains were bombed, one of the suspects had a vehicle document on him that led police to quickly find a vehicle parked at another train station. It had seven explosive devices inside and the evidence collected helped lead to the suspects arrest. Had it been a clone, more bombings may have occurred;
- 4) title fraud enables other criminal activity to occur, from insurance fraud to narcotics trafficking and the smuggling of undocumented aliens;
- 5) "Operation Road Runner" in Miami-Dade County illustrated the reach title fraud can have. Cars stolen in South Florida were given "cloned" numbers from legitimate automobiles, salvage and exported vehicles. These vehicles were then distributed to more than 14 States where they were utilized in drug smuggling on the eastern seaboard, undocumented alien smuggling in Arizona, and funding being sent to Iran from Nevada. In addition, two f the main principals in this group were operating out of a federal prison.
- 6) law enforcement has found salvage and food vehicles rebuilt without quality OEM used parts or workmanship. Some vehicles even have had air bags that turned out to contain rags or other debris inside;
- 7) car title fraud is a fast-growing issue that affects all U.S. citizens, either directly as a victim, or as a consumer paying higher insurance and repair bills; and

- 8) legislation to fight title fraud is needed along with the full implementation of the National Motor Vehicle Title Information System (NMVTIS).

ARA strongly encourages the House Subcommittee on Commerce, Trade and Consumer Protection to aggressively support the need and initiative for legislation to prevent car title fraud, theft, and organized crime and terrorism activities involving motor vehicles, and to level the playing field in salvage recycling across the United States to protect the American consumer from the perils of not moving to secure federal legislation and what inaction imposes on the public and to keep innocent and deserving citizens safe on the road. We also ask the Subcommittee to consider seriously the ARA draft legislation as a positive and affirmative step in the direction to accomplish what needs to happen.

Thank you again, very much and sincerely, for this opportunity to testify in support of the Subcommittee's initiative and the ARA VIN Retirement legislation.

If we may answer any questions or assist further in any way, please let me know.

Respectfully submitted,

James Watson, President
Automotive Recyclers Association

March 1, 2006

Attachments:

EXHIBIT A
PROPOSED LEGISLATION - DRAFT
TO ADDRESS PROBLEMS ASSOCIATED WITH FLOOD AND DAMAGED
VEHICLES NOT WORTH REPAIRING
AND SUITABLE ONLY FOR RECYCLING OR SCRAPPING

109TH CONGRESS
2ND SESSION

H. R. _____

To protect the public against unreasonable risks of property damage, injury or death in incidents with cosmetically repaired but inherently unsafe or salt water flood vehicles and against fraud in the sale of these vehicles, and to reduce vehicle theft involving the wrongful use of vehicle identification numbers.

SECTION 101. SHORT TITLE

This Act may be designated as the "Vehicle Flood, Damaged, Theft and Anti-Fraud Act of 2006."

SECTION 102. DEFINITIONS

For purposes of this Act –

- (a) "Automotive recycler or dismantler" means a person or entity engaged in the act of acquiring, dismantling, or destroying 12 or more vehicles in a calendar year for purposes that may include resale or reuse of their parts for any purpose.
- (b) "Actual Cost of Repair" means the total dollar amount of a comprehensive repair estimate of the damage to a vehicle compiled by a professional repair estimator and deemed necessary to restore the vehicle to its pre-incident condition.
- (c) "Department" means the Department of Transportation and "Secretary" means the Secretary of Transportation.
- (d) "Actual cash value" means a vehicle's actual cash value immediately prior to the incident in which it was damaged (i) as set forth in a current edition of any independent, nationally recognized compilation (including automated databases) of retail vehicle values or (ii) as determined pursuant to an independent market survey of comparable vehicles with regard to condition and equipment.
- (e) "Insurer" means a person engaged in (i) the business of underwriting any type of insurance relating to vehicles, including collisions insurance, liability insurance, and comprehensive-coverage insurance, (ii) a self-insured business leasing or renting out ten or more vehicles, or (iii) a self-insured owner or operator of a fleet of ten or more vehicles.
- (f) "Insurer's vehicle" or "its [referring to an insurer's] vehicle" means a vehicle with respect to which an insurer has issued or assumed insurance coverage of any type as described in subsection (e)(i) of this section.
- (g) "Internet web site" means a web site established and maintained solely for the purposes of this Act pursuant to section XXX of this Act.
- (h) "Person" means an individual, corporation, partnership, trust, other private entity, or a unit or entity of the federal or a state or local government.
- (i) "Register information" means any or all of the information specified in paragraphs (i) through (vii) of section 301(a) and "register" means an organized collection of register information for each of a number or grouping of vehicles.
- (j) "Salt water flood vehicle" means any vehicle that has been submerged in salt water above the bottom of the passenger compartment.
- (k) "Scrap Recycling Facility" means a fixed location where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for remelting and licensed for such purposes.
- (l) "State" means a state of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands
- (m) "Substantial damage to a vehicle" means damage that led the insurer to declaring or determining the vehicle a total loss.
- (n) "Title" means a certificate of title or other document issued by a state showing ownership of a vehicle, or the manufacturer's certificate of origin if no state has issued a document showing ownership.
- (o) "Vehicle" means a vehicle which is (i) driven or drawn by mechanical power and manufactured primarily for use on any street, road, or highway (but not a vehicle operated only on a rail line) and which (ii) either has (A) a manufacturer's model year designation of or later than the year in which the vehicle was damaged or any of the seven preceding years and (B) a fair retail market value greater than \$5,000.
- (p) "Vehicle identification number" means a unique identification number (or derivative of that number) assigned to a passenger motor vehicle by a manufacturer or by a state in compliance with applicable laws and regulations.

SECTION 103. SALT WATER FLOOD VEHICLES

Salt water flood vehicles shall be crushed or otherwise destroyed. None of the parts from a salt water flood vehicle shall be sold for the purpose of resale for use in other vehicles. Salt water flood vehicles are not subject to Section 301.

SECTION 201. VEHICLES SUBJECT TO CONDEMNATION

A vehicle and its VIN shall be subject to condemnation under this Act if (a) the vehicle is incapable of safe operation for use on any street, road, or highway and wrecked or damaged to the extent that it has little or no resale value except as a source of parts or scrap or as a source of a vehicle identification number, or if (b) the vehicle has been irreversibly designated by its owner as a source of parts or scrap only, or if (c) the actual cost of repair of the vehicle condition equals or exceeds the fair retail market value of the vehicle immediately prior to the incident.

SECTION 202. DETERMINATION AND CONDEMNATION

- (a) As soon as practicable after learning of an incident resulting in damage to one of its vehicles, the insurer shall with reasonable care make a good-faith determination whether it was substantial damage and, if so, whether that vehicle is subject to condemnation under section 201 this Act. If the insurer determines that the vehicle is subject to condemnation under any of the clauses of section 201, the insurer need not make any determination under either of the others. If the insurer determines that the vehicle is not subject to condemnation under either clause (a) or clause (b) of section 201, the insurer shall make a determination under clause (c) of section 201.
- (b) Whenever an insurer determines that a vehicle is subject to condemnation under this Act, the insurer shall immediately notify the Department by electronic media using the electronic form prescribed by regulation for this purpose and available on the internet web site.

SECTION 203. CONDEMNATION BY DEPARTMENT

- On receipt of a notification under section 202(b), the Department shall immediately:
- (a) issue to the owner of the vehicle a Certificate of Vehicle Condemnation that:
 - (i) declares the vehicle, its title, and its vehicle identification number are condemned pursuant to this Act,
 - (ii) assigns to the vehicle a unique "Condemned-Vehicle Identification Number," which shall also be the number of the Certificate of Vehicle Condemnation,
 - (iii) includes statements of the effect of condemnation and penalties for violation of this Act, and
 - (iv) includes a form enabling transfer of the vehicle but only in compliance with section 204(b) and (c);
 - (b) transmit the Certificate of Vehicle Condemnation to the insurer electronically; and
 - (c) give notice of the condemnation and of issuance of the Certificate of Vehicle Condemnation by posting it on the internet web site and directing it by electronic media to the National Motor Vehicle Titling Information System; all state motor vehicle administrators, attorneys general, and police department heads; the United States Customs Service; and any person subscribing to the notification service which the Department shall establish. This notice shall include the following information: make and model of the vehicle, vehicle identification

number, state that issued the title, and title number, and Condemned Vehicle Identification Number.

- (d) If the insurer is not the owner of the condemned vehicle at the time the insurer receives the Certificate of Vehicle Condemnation, the insurer shall promptly transmit the Certificate to the person who is the owner.
- (e) States may set other standards by which vehicles titled by their state are to be condemned, and any vehicle meeting such standard is to be condemned in the same manner as vehicles meeting any requirement of section 201.

SECTION 204. EFFECT OF CONDEMNATION

Effectively immediately upon the Department's giving of notice under section 203(c) with respect to any condemned vehicle, its title, and its vehicle identification number:

- (a) It shall be unlawful for the last title owner or any other person to operate the condemned vehicle on any street, road, or highway or to engage or seek to engage in, or to facilitate in any way, any transaction involving titling or registration of the condemned vehicle under any jurisdiction for the purpose of its operation on any street, road, or highway.
- (b) It shall be unlawful for any person to transfer the condemned vehicle to any other person who is not an insurance company, automotive recycler or dismantler or scrap recycling facility, or a person in the business of crushing or otherwise destroying wrecked vehicles.
- (c) It shall be unlawful for any person to transfer the condemned vehicle except by use of the condemned vehicle transfer form on the Certificate of Vehicle Condemnation.
- (d) It shall be unlawful to use the condemned vehicle's title or vehicle identification number for any purpose having any relationship whatsoever to any other vehicle or to transportation on any street, road, or highway, except only that the vehicle identification number may be retained on parts taken from the condemned vehicle by an automotive recycler or dismantler, or scrap recycling facility for the purpose of resale for use in other vehicles.

SECTION 301. DETERMINATIONS REGARDING OTHER VEHICLES

- (a) As soon as practicable after learning that an incident resulted in damage to one of its vehicles, if the insurer has with reasonable care made a good-faith determination that it was substantial damage but that the vehicle is not subject to condemnation under section 201, the insurer shall enter on a register, using forms prescribed by the Department for electronic media, the following information with respect to the vehicle:
 - (i) make, model, and vehicle identification number;
 - (ii) state of vehicle registration and registration number;
 - (iii) brief statement of the nature and extent of damage sustained in the incident;
 - (iv) any brand or brands previously assigned to the vehicle, the agency which assigned each brand, and the date of each assignment (to the extent this information is reasonably available). For this purpose, "brand" means a designation assigned pursuant to state law regarding damage to or condition or status of a vehicle, including "salvage," "flood," "nonrepairable," "nonrebuildable," "certificate of destruction," "restored salvage," "remanufactured," "rebuilt," "reconstructed," "junk," "dismantled," and "frame change";
 - (v) name and address of the insurer;

- (vi) name, address, occupation, and employer of the individual or individuals who actually made the determination for or on behalf of the insurer; and
- (vii) name and address of any transferee and name and address of any auto auction or other agent or representative that may have been involved in transferring or otherwise disposing of the vehicle.
- (viii) certification by the insurer that the car will not be transferred to any person unless and until all the repairs necessary to restore the car to its pre-incident condition have been fully and properly performed, and
- (b) Each insurer shall at all times maintain, in electronic media, a complete and current register containing all register information for each and every vehicle it has determined is not subject to condemnation under section 201, and each insurer shall do so in a manner that ensures instant electronic retrieval according to any of the points of information mentioned in subsection (a) of this section.
- (c) Within ten days after the end of each calendar month, each insurer shall transmit to the Department, in electronic media, a complete inventory containing all register information for each and every vehicle it determined within that month is not subject to condemnation under section 201.
- (d) The Department shall maintain all register information received under subsection (c) of this section in a manner that ensures instant electronic retrieval according to any of the points of information mentioned in subsection (a) of this section.
- (e) Information with respect to one or more or all vehicles of any model year may be retired or deleted from the registers prescribed in subsections (b) and (d) of this section after twenty years have passed from that model year.
- (f) Whenever a vehicle is offered to retail sale by a seller required to display a Buyer's Guide on the vehicle, that seller shall also display in the same manner a copy of any non-confidential register information about that vehicle.

SECTION 302. USE OF REGISTER INFORMATION; CONFIDENTIALITY

Notwithstanding any other provision of law, it shall be unlawful for any person within the Department to publish or disclose register information except as follows:

- (a) The Department shall disclose all register information concerning a specific vehicle when requested in writing by (i) a person reasonably claiming to have suffered any damage or loss in an incident in which the vehicle was damaged or (ii) any party to a legal proceeding involving such a claim.
- (b) The Department shall also post on the internet web site all register information except the identities of persons referred to in paragraphs (v), (vi), or (vii) of section 301(a) or any other confidential business information. This shall be done in a manner which ensures instant electronic retrieval by any person according to any of the applicable points of information which this register contains. The Department shall disclose this same register information in writing when requested in writing by any person lacking easy access to the internet web site.
- (c) The Department may use register information for statistical and analytical purposes, and for the purpose of preparing, in consultation with the Attorney General, an annual report for transmittal every March to the Committees of Congress having appropriate jurisdiction, and to the motor vehicle administrators, attorneys general, and heads of police departments of the states, provided that it shall not, under this subsection, disclose to any person the identities of persons referred to in paragraphs (v), (vi), or (vii) of section 301(a) or any other confidential business information.
- (d) The Department shall disclose register information to any committee of the Congress having appropriate jurisdiction when and as specifically requested by a majority of that committee.

- (e) The Department shall have no obligation to disclose to any person identified in register information the making of any request for information under this section.
- (f) The Attorney General and the chief law enforcement officer of any state shall at all times have access to all register information. The Attorney General and the chief law enforcement officer of any state shall provide this information as necessary or appropriate with state and local law enforcement officers in connection with federal, state, or local law enforcement activity, but shall not otherwise disclose to any person the identities of persons referred to in paragraphs (v), (vi), or (vii) of Section 301 (a).

SECTION 401. INTERNET WEB SITE

(Development of necessary software for purposes of this Act; management and control of internet web site; interface between DOT and insurance companies; limited and “personal” access for insurers; fees for access – when, to whom, and how much?).

SECTION 501. PENALTIES AND ENFORCEMENT

- (a) Civil penalty
 - (i) A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. A separate violation occurs for each motor vehicle involved in the violation. The maximum penalty under this subsection for a related series of violations is \$500,000.
 - (ii) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the amount of the penalty. Before compromising the amount of the penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur.
 - (iii) In determining the amount of a civil penalty under this subsection, the Secretary shall consider--
 - (A) the nature, circumstances, extent, and gravity of the violation;
 - (B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and
 - (C) other matters that justice requires.
- (b) Criminal penalty. A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter without regard to penalties imposed on the corporation.
- (c) Civil actions by Attorney General. The Attorney General may bring a civil action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpoena for a witness in the action may be served in any judicial district.
- (d) Civil actions by States.

- (i) When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action
 - (A) to enjoin the violation; or
 - (B) to recover amounts for which the person is liable under section 502 of this title for each person on whose behalf the action is brought.
- (ii) An action under this subsection may be brought in an appropriate United States district court or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

SECTION 502. CIVIL ACTIONS BY PRIVATE PERSONS

- (a) Violation and amount of damages. A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable for 3 times the actual damages or \$5,000, whichever is greater.
- (b) Civil actions.--A person may bring a civil action to enforce a claim under this section in an appropriate United States district court or in another court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues. The court shall award costs and a reasonable attorney's fee to the person when a judgment is entered for that person.

SECTION 503. RELATIONSHIP TO STATE LAW

Except to the extent that State law is inconsistent with this chapter, this chapter does not --

- (1) prevent States from enacting State laws which provide additional protections to vehicle purchasers; or
- (2) exempt a person from complying with that law.

SECTION 601.

The Secretary shall have the authority to issue rules and regulations to implement this chapter.

Exhibit B

powersource 12-2005

The number of total loss vehicles has been increasing; in 1997 the total loss rate was under 8%, in 2004 the rate was over 13% and that only includes the vehicles for which an estimate was written. I have seen statistics which report total loss rates exceeds 17%.

The ARA Executive Committee had the opportunity to attend a meeting with the Vehicle Recycling Partnership in Detroit recently. They indicate that they are putting more than 17 million new vehicles in the market each year and can account for 15 million vehicles are de-registered. Have you been buying more cars lately?

The ARA Regional Directors in a May 2005 report stated: "it would seem very straight forward that the primary issue is, and for the foreseeable future will be, the availability of quality recyclable product. I have seen the statistic that 30% of the product sold by the insurance companies is leaving the country." The report furthermore identifies as the number one priority to be the available of quality salvage.

This issue is not new. Is there a shortage of salvage or is the salvage there and cost too much? For some, if we are buying we always want to buy for less so the cost is always too high. And some people say just pay more and you can buy all the salvage you want. True and we have been doing that for the past few years. Now add in all the surcharges, fees and additional transportation costs. It doesn't matter what you pay for the car, the parts are only worth so much.

The competition at the salvage pools and auctions for our industry raw material are the out of country buyers, the total loss re-builders and according to a recent FBI report thieves. None of these competitors have to comply with any part of the regulatory burden of the licensed automobile dismantler. Additionally the individual state governments have created a disjointed and ineffectual system of titling laws which are exploited by our competition.

There is a case for letting the market decide who buys the salvage. I realize that there is a world market, and emerging markets in Eastern Europe need North American salvage vehicles to fuel their fledging economies. The auction companies boast on their web sites how they sell the old Ford Probe in California to buyers in Russia. I am told that the soft U.S. dollar encourages the South and Central American buyers to enter our market buy salvage and take the vehicles back to their home countries.

What about the U.S. Economy? What about our employees and our contribution to our communities? The major problems of total loss vehicle salvage and total loss non-repairable vehicles availability is created by ineffectual state and federal regulations and legislation. We as licensed regulated businesses must be accountable and we must comply, where our competition does not. The remedy is a federal legislative initiative to create a uniform market for our industry. This has been tried before with limited success in 1992. ARA attempted to further the 1992 act on two occasions with help from Sen. Lott (R-Mississippi) and Sen. Feinstein (D-California), both attempts were unsuccessful.

The Automotive Recyclers Association has had a long history in support of consumer protection and law enforcement initiatives to combat the use of Non-Repairable Total Loss, flood vehicles and the title documents from contributing to the crimes of Consumer Fraud, Vehicle Cloning and Auto Theft. The ARA served on The U.S. Department of Transportation and The U.S. Department of Justice Advisory Committees to report to Congress on key provisions of the 1992 Anti Car Theft Act.

To act in the interest of the membership the ARA Executive Committee has created a legislative task force to take a leadership position on this vital industry problem and develop a legislative solution for introduction early in the 2006 to The U.S. Congress. The Automotive Recyclers Association recently hosted a meeting of concerned parties that addressed flooded and salvage vehicle fraud in October of this year.

Attendees at the meeting included the Association of American Motor Vehicle Administrators, Consumers for Auto Reliability and Safety, GEICO, Locator Technologies, the North American Export Committee, and the Institute for Scrap Recycling Industries.

These groups discussed their common interest and ultimate goal: to eliminate flooded and salvage vehicle fraud by condemning the Vehicle Identification Numbers of non-repairable and exported vehicles. ARA has taken a leadership position on this issue.

We have committed resources, we continue to gather additional support from other interested industry groups, and we have made contacts on the hill for sponsorship of our legislation. We look forward to a real solution in 2006 to this escalating industry problem.

Exhibit C

Powersource 02-06

We as an industry have debated the issue of salvage and total loss vehicles for years. We have all complained about the salvage vehicle problems and aside from some isolated instances we have not taken action on the issue. There has been some activity regarding state legislation, but there has not been a comprehensive solution advanced which would positively affect the entire industry. And state by state our opposition, the auctions and pools, will continue to open the market to unqualified buyers.

This issue of salvage vehicles and our ability to purchase them has become for our industry intolerable.

I have been told we cannot do anything about the problem. I guarantee that if we are not actively engaged in the legislative and regulatory process nothing will happen and our situation will continue to worsen. This problem was created by patchworks of ineffectual state and federal laws and regulations, the solution must be addressed in the same manor. Our shortcomings in the past have been centered on our failure as an industry to pull together and unite around a position which we can all live with. In a recent discussion I had with an active and involved ARA member he cautioned me on language which would affect less than 2% of the total number of vehicles targeted. The resulting comment was, well I would like to buy that 2%. Well, I would like to buy all the cars too! The problem is, even if those cars were at the auction our bid would lose out to the thieves and fraudsters. Why are we willing to manage or legislate for the exceptions? If we take that position we risk losing the other 98%. And that number is approximately 4.8 million total loss cars, of which we only buy around 30%. Solve the problem and there are more than enough cars to go around.

ARA is taking action on the issue of total loss and salvage vehicles. The natural disasters of Wilma and Katrina have focused the attention of the press and congress on saltwater flood vehicles and in general total loss salvage. The questions of salvage and salvage disposal are being questioned. The black market for total loss salvage, exported thefts and flood vehicles is providing vehicles for car bombings in Iraq, donor vin numbers for to clone vehicles, funding mechanisms for Eurasian criminal organizations. ARA has drafted federal legislation to address our concerns. This past February key members of the ARA leadership attended a briefing in Washington D.C. on the issue and took our message to Congress. ARA members meet with 75 congressional offices and we were well received.

Key Provisions included in the bill include:

1. Require insurers (per definition) to provide information to a publicly accessible electronic database on retired vin vehicles.
2. Require insurers (per definition) to provide information to a publicly accessible electronic database on Total Loss Vehicles
3. Establish a definition and class of damaged vehicle as "VIN Retired"
4. Give the Department of Transportation the authority to retire VIN and provide public access to the retired vin and total loss vin data.
5. Protect consumers from salvage related VIN fraud and theft.
6. Retire the VIN's of vehicles being exported from the U.S.A.

For more information on the issue or a copy of the bill visit the ARA website at www.A-R-A.org

Exhibit D

There are two types of total loss vehicles. The first total loss class is the vehicle which has sustained significant damage, which after careful review by the trained repair technician and in consultation with the insurance company representative, who has become the secondary customer or primary decision maker, has determined that the subject vehicle cannot or should not ever be repaired and put back on the road again. In many instances these vehicles have partial estimates or no estimates written on them. They are not even counted in the average 13% total loss rate cited in a 2004 study by CCC information systems. And rightly so, those vehicles are obvious Total loss. We could talk about design for repair or manufacturer training or repairer's defined manufacturing process or speed limits but these vehicles cannot or should not be repaired.

The second total loss class is the damaged vehicle for which you create an estimate. This is the 13% average, or as one insurance company reports on their web site, 17% of vehicles that have a claim are declared a total loss. Why?

The total loss vehicle issue has reached pandemic proportion in the automobile repair industry. No longer is the problem regional or localized effecting a small but significant portion of the industry but this issue is international in scope and affects all segments of the automotive repair supply, parts distribution and support network.

Some of the insurance company comments are:

Total Loss Vehicle; Property that has sustained damage so extensive that repairing it is not reasonable.

Total Loss Vehicle: Generally, a vehicle is determined to be a total loss when the cost of repair exceeds the vehicle's pre-accident value.

Total losses do not occur frequently. A 17% total loss rate is not frequent? That is money out of your pocket! If these vehicles were not repairable then why are they not declared non repairable? Why do you allow these damaged vehicles are pulled from your repair facilities and sold at auction to who ever wants to buy them?

A Comment from a Salvage Auctions; "Many of the vehicles declared to be total losses are repairable," Our and other auto salvage auction companies act as sophisticated "recyclers" of vehicles that have been declared total losses by insurance companies by finding buyers who will rebuild the cars or use them for parts. Insurance companies don't want to deal with buying and selling cars, so they turn to companies like Ours that manage the total loss recovery process.

Amazing, declared a total loss by an insurance company and they are repairable? If the vehicle is repairable then why, was it not repaired? If the vehicle could not be repaired by a licensed trained, accountable body repair facility why should it be sold as "repairable" by the insurance company to some unknown individual? Each of the repairable vehicles, which you have created an estimate for and in essence have taken the time and effort to bid to repair, which is taken from your shop and sold at auction, is money out of your pocket.

I sell OEM used auto parts. I and may of my colleagues believe that repairable vehicles should not be declared a total loss and those repairable vehicles should be repaired at your facility. I do go to those auctions and I do bid and buy some of the cars they sell. A huge segment of my industry relies on the total loss vehicle auctions to supply our industry with raw material. And we have the opportunity to supply 21% of the claims estimates with 13% of the included parts. There is a shortage of good quality OEM used parts currently in the market. We believe this is due to the increasing number of repairable total loss vehicles at the auctions. These repairable vehicles are sold at auction. But not to the OEM used part dealers for disassembly and the introduction of the OEM used parts into the part repair stream. These vehicles are sold to individuals who are repairing them and removing the OEM used parts from the market place. As you total more repairable vehicles you increase the demand for the repairable total loss vehicle, then the demand for the second and third tear total loss parts vehicle increases which is purchased by the rebuilder to provide the donor parts to fix the primary vehicle. The result is increased prices at the auctions for the totaled vehicles and a shortage of quality OEM used parts. As the salvage values increases so does the total loss rate for repairable vehicles. Salvage recovery value is added to the repair estimate and factored in to determining a total loss equation. The solution to the total loss pandemic, repair the repairable vehicles at the facilities which have the training, technology, tools and accountability to do so and require those vehicles which could not or should not be repaired to be disposed of by a federal certificate of destruction through the network of OEM used part dealers and Scrap processors certifying those total loss vehicles are used for parts or scrap and never titled again.

EXHIBIT E

Top of Form

US car theft rings probed for ties to Iraq bombings

By Bryan Bender, Globe Staff | October 2, 2005

WASHINGTON – The FBI's counterterrorism unit has launched a broad investigation of US-based theft rings after discovering that some of the vehicles used in deadly car bombings in Iraq, including attacks that killed US troops and Iraqi civilians, were probably stolen in the United States, according to senior government officials.

Inspector John E. Lewis, deputy assistant director of the FBI for counterterrorism, told the Globe that the investigation hasn't yielded any evidence that the vehicles were stolen specifically for car bombings. But there is evidence, he said, that the cars were smuggled from the United States as part of a widespread criminal network that includes terrorists and insurgents.

Cracking the car theft rings and tracing the cars could help identify the leaders of insurgent forces in Iraq and shut down at least one of the means they use to attack the US-led coalition and the Iraqi government, the officials said.

The inquiry began after coalition troops raided a bomb-making factory in Fallujah last November and found a sport utility vehicle registered in Texas that was being prepared for a bombing mission.

Investigators said they are comparing several other cases where vehicles evidently stolen in the United States wound up in Syria or other Middle East countries and ultimately into the hands of Iraqi insurgent groups – including Al Qaeda in Iraq, led by Jordanian-born Abu Musab Al Zarqawi.

Citing the sensitive nature of the ongoing inquiry, investigators wouldn't say how many specific cases they have found, and FBI spokesman Edwin Cogswell in Washington did not respond to repeated requests for comment.

But Lewis said the origins of the vehicles in question were unearthed by tracing the vehicle identification numbers, or VINs – a standard production marker stamped on during manufacture – as well as through other forensic tools such as auto parts. Some of the automobiles can be easily identified, specialists said, while others have had their VINs ground down or have been fitted with fake ones.

Investigators believe the cars were stolen by local car thieves in US cities, then smuggled to waiting ships at ports in Los Angeles, Seattle, and Houston, among other cities. From there they are shipped to black-market dealers all over the world, including in places like Syria where foreign militants fighting in Iraq are thought to be transiting from countries across the region and where they gain critical logistical support.

"It is getting a tremendous amount of attention in the US government," said Steven Emerson, who runs the Investigative Project on Terrorism, a Washington research firm that consults for law enforcement and intelligence agencies. "We have gotten more calls on this than anything else in the last three or four weeks. [Auto theft] is an unregulated market. Some of the proceeds are going to terrorists."

Citing recent discussions with government investigators, Emerson said Al Qaeda terrorists suspected in suicide attacks in Saudi Arabia in recent years also apparently used cars stolen in the United States.

According to the Bureau of Justice Statistics, more than 1 million cars were stolen from US streets in 2003, the most recent statistics available. Government officials think the vehicles insurgents use were stolen from locations as varied as Virginia, Maryland, Texas, and Florida. Arizona reported more than 56,000 vehicles stolen last year, the largest per-capita number of thefts in the country.

Terrorism specialists think Iraqi insurgents prefer American stolen cars because they tend to be larger, blend in more easily with the convoys of US government and private contractors, and are harder to identify as stolen.

The new disclosures are part of a pattern, according to government officials. US law enforcement and intelligence agencies are increasingly finding links between violent Islamic extremists groups and vast criminal enterprises such as drug trafficking, weapons smuggling, and car theft.

Since the attacks of Sept. 11, 2001, the federal government has cut off some of the terrorists' access to money, including freezing bank accounts of suspect groups and individuals and pressuring Middle Eastern governments to terminate aid. But terrorist operatives have found other means to raise cash, acquire weapons, or gain other logistical help. Facing greater scrutiny, terrorist groups are increasingly using illegal, highly lucrative business arrangements to support their operations, according to the FBI and other law enforcement and intelligence agencies.

Investigators say the criminal activities that terrorists use to raise money run the gamut from creating and selling fake documents to insurance fraud. Taliban and Al Qaeda followers are thought to be heavily involved in the expanding heroin trade in Afghanistan, and a US-based cigarette smuggling ring was linked to Hezbollah militants in Lebanon. James G. Conway, Jr., legal attache at the US Embassy in Mexico City, told the Globe that "where you find terrorists you often find some kind of criminal activity."

Car theft, a criminal enterprise that costs US citizens more than \$8 billion a year, now seems to have become a new enterprise for some terrorist groups, according to the law enforcement officials and private specialists.

"The car bomb is the top weapon in the world for carrying out terrorist attacks," said Lieutenant Greg Terp, commander of the Miami-Dade Police Department's Auto Theft Task Force. "These car thieves don't necessarily know that they are financing terrorism, but they might."

Tracing the path of these vehicles from the streets of America to the local "chop shop" -- where criminal wholesalers process stolen vehicles -- and then on to the black market half a world away could help thwart a terrorist network that has wrought some of the worst violence against US troops and thousands of Iraqi civilians.

"They want to follow it through the whole process so they can identify as many people in the process as they can," Terp said. "As you go back to the chop shop guy, he may not know the end user is some terrorist, but who are his contacts?"

Charlie Savage of the Globe staff contributed to this report. Bryan Bender can be reached



EXHIBIT G

What's next? Thieves turn to cloning cars
In the market for a new vehicle? Beware of clones

By Peter Alexander
Correspondent
NBC Nightly News
June 9, 2005

LOS ANGELES - All Sharon Lesniak has left of her dream car is the license plate. Her Cadillac Escalade became her nightmare when police impounded it.

"You definitely feel like a victim," says Lesniak. "Two vehicles with the same VIN number and one of them was stolen and they thought it was mine."

She paid a reputable Michigan dealer \$52,000 cash for the SUV, unaware it was one of an estimated 50,000 "cloned" cars on the road right now.

Investigators confirmed Sharon's car was stolen and sold with a copied VIN, or vehicle identification number. That 17-digit code is your car's everything - essentially its fingerprint, DNA and Social Security number combined. It's located on the driver's side of the dashboard near the windshield, and no two VINs should be identical.

If thieves tried to sell a stolen car with its own VIN number, they'd get caught. Instead, they often clone the VIN from a similar make and model, then forge new documents - including fake titles - and re-register the stolen car in another state, selling it as legitimate.

"It is high profit and very, very low risk," says Linda Lewis-Pickett with the American Association of Motor Vehicle Administrators. "And the ability or the chance of getting caught is really slim to none."

Why?

The departments of motor vehicles in only six states - Arizona, Indiana, Kentucky, South Dakota, Tennessee and Virginia - share title information. Another eight - Arkansas, Florida, New Hampshire, Ohio, Nevada, New Mexico, Washington and Wisconsin - are expected to join the network by the end of the year.

Critics are calling for a nationwide title-tracking system.

"I think you could cut the auto theft rate in the entire country if the DMV databases talk to each other," says Les Craven, a detective with Florida's Miami-Dade County Police Department.

HOW TO AVOID BUYING A CLONED VEHICLE

- Check the VIN with your state's DMV
- Analyze the ownership pattern for any vehicle with no lien
- Hire an investigator to conduct a vehicle history search
- Trust your instincts: If a used vehicle deal sounds too good to be true, it probably is

Source: National Insurance Crime Bureau

But what about people who really do own their cars, whose VINs are copied?

People like Rosie and Frank Martin have a problem, too.

"Somebody else was driving their car with our VIN number," says Rosie.

When they tried to sell their GMC Yuko Denali, they couldn't. The Florida DMV said their VIN was registered to another car.

It took them weeks to prove theirs was legit and the other car stolen.

Call it the "attack of the clones" - it's a whole new kind of identity theft - on wheels.

MR. STEARNS. Ms. Weintraub?

MS. WEINTRAUB. Weintraub, yes. Mr. Chairman, Ranking Member Schakowsky and members of the subcommittee, thank you for providing me with the opportunity to speak with you today about the hazards caused by car title fraud and related scams. I am Rachel Weintraub, Director of Product Safety and Senior Counsel at Consumer Federation of America. CFA is a nonprofit association of approximately 300 pro-consumer groups, with a combined membership of 50 million people. I request that written testimony and its accompanying attachments be submitted in the record.

MR. STEARNS. By unanimous consent, so ordered.

MS. WEINTRAUB. Thank you. Car title fraud occurs when a car title intentionally does not accurately reflect the title history of the vehicle. Car titles can easily be washed of relevant history, or critical information can be kept intentionally absent from titles. By far the biggest problem is that consumers have no reliable way to know the true history of a used car that they seek to purchase, and they are thus hit with the dire safety and economic implications when the car they bought is actually seriously damaged. Most agree here agree that this is a big problem, but how does

it happen? We actually put together a common sequence of events to make this a bit more clear.

First, a vehicle is damaged in a flood, crash, or other devastating event. Then the consumer files a claim with the insurance company, or the self-insured entity decides to have their vehicle sold at auction. The insurer inspects the vehicle and declares it a total loss. The insurer pays the claim, which is often less than the estimated value of the vehicle prior to the crash or flood, and the insurer, at this point, may or may not submit the title to the State where the claim was filed in order for the title to be branded, if that is required by State law. The insurer may destroy the vehicle or send the total loss vehicle to auction with which it has a contract. The auction has a contract with the insurer to give the insurer a percentage or flat rate per vehicle sold. The auction advertises the vehicle as total loss or salvage or saltwater damaged. The title may or may not be branded.

Dealers, recyclers, rebuilders, or individuals bid on vehicles, including online bidding. Legitimate recyclers dismantle vehicles and offer usable parts for sale as used parts to consumers, auto body shops, and/or mechanics. Unscrupulous rebuilders cut corners and make cosmetic repairs that leave the vehicle structurally unsound but appear fine. Rebuilders sell the vehicle to another auction or directly to dealers or to consumers. If the title was branded, the title may be sent to a State where the brand is not recognized or carried forward in order to wash it. Dealers or individuals advertise the vehicle as being in mint condition. The dealers sell prior damaged cars with the representation on the FTC-required used buyer guide that the vehicle is being sold with the remainder of the original warranty or extended service contract. The dealer may provide consumers with a history report which may have gapping loopholes, or the dealer may alter the report to erase negative information. If the consumer has problems with the vehicle or is in a crash or the warranty or service contract is denied. And it is at this point that the consumer realizes that they may have been defrauded.

Natural disasters such as Hurricane's Katrina, Rita and Wilma resulted in approximately 570 to 600,000 flood-damaged vehicles. Most of those vehicles are grossly unsafe and they are beyond proper repair. The electronic components will corrode, the air bags may not inflate in a collision, the brakes and seatbelts may not work, and they are also prone to toxic mold. We know that these cars are, however, being sold by the thousands on the auto auction websites. Fraudsters exploit variations in State laws to perpetuate their crimes. State laws concerning damage disclosure or rebuilding practices and threshold definitions for salvaged vehicles differ widely. Cars with salvage titles, as defined in one State,

can be washed of their salvage brand if another State's law has a weaker definition.

In order to protect consumers from the consequences of damaged auto frauds, we propose the following solutions: Federal legislation is needed to require the permanent destruction and removal of flood and other excessively damaged vehicles from the roads where they pose a severe risk to public safety. Federal legislation should establish a minimum national definition for salvage vehicles. Insurers, self-insured entities, which is car rental and lease companies and large auto dealers and States, must be required to provide information about damaged vehicles to a publicly accessible national electronic database on a timely basis. In addition, licensed dealers must provide car buyers a copy of a vehicle's title prior to consummating any car deal. Any disclosure made to the publicly available database must be posted with the buyers guide in the window of a car offered for sale by a licensed dealer. This information must also be indelibly affixed to the car itself.

Remedies must be provided and must be at least as strong as those under the Federal Odometer Act and should be modeled after that act. That act created a floor for States and allows States that have been targeted by title fraud perpetrators to strengthen protections for their citizens. Remedies must include private rights of action for victims, civil penalties, criminal penalties, and civil actions for both injunctive relief and restitution brought by State Attorneys General.

Consumers are under a veil of ignorance when purchasing a used car. The free marketplace depends upon consumers making informed decisions, but the information most crucial to making an informed decision is either missing due to intentional obfuscation of car titles, or deliberate title washing, exploiting variations and confusions, and State law. Your help and Federal legislation could greatly solve this problem and protect consumers. Thank you.

[The prepared statement of Rachel Weintraub follows:]

PREPARED STATEMENT OF RACHEL WEINTRAUB, DIRECTOR OF PRODUCT SAFETY & SENIOR
COUNSEL, CONSUMER FEDERATION OF AMERICA

Mr. Chairman, Ranking Member and members of the Subcommittee, thank you for providing me with the opportunity to testify before you today to discuss ways to protect consumers from the hazards caused by car title fraud. This is an issue that Consumer Federation of America has been working on and concerned about for many years.

Consumer Federation of America (CFA) is a non-profit association of approximately 300 pro-consumer groups, with a combined membership of 50 million people. CFA was founded in 1968 to advance the consumer interest through research, education, and advocacy.

I. Car Title Fraud- Introduction

Car title fraud occurs when a car title intentionally does not accurately reflect the title history of the vehicle. Car titles can be “washed” of relevant history or critical information can be kept intentionally absent from titles by a failure to disclose such pertinent information. In addition, the vast variation in state laws which define “salvage” or “junked” vehicles create a loophole for car titles to be re-branded as they move in interstate commerce from state to state. To make matters even worse for consumers, there is no oversight of state titling procedures. Furthermore, consumers often don’t see titles until well after the purchase has taken place. Thus, titles are ineffective as a disclosure mechanism to inform consumers of problems with vehicles. To truly prevent salvaged vehicles from re-entering the marketplace, we must find other ways to disclose pertinent car history information to consumers.

II. The Problem

A. Unsafe Cars Re-Emerge on the Roads

The vast implication for consumers of title fraud occurs with cars that have been salvaged, wrecked, or colloquially, “damaged beyond repair.” Many vehicles which are deemed severely damaged are destroyed, including being disassembled with the unusable parts recycled appropriately. However, each year millions of severely damaged vehicles are not destroyed, but rather are sent by unprincipled insurers to auto auctions where they are sold to unscrupulous auto dealers and rebuilders.¹ According to Mitchell International, one of the three major information service providers to the insurance and collision Repair Industry, there are 5 million vehicles which are totaled in the United States every year.² More cars are being “totaled” than in the past.³ The sale price of these vehicles is several times more than the worth of the vehicle since the retail value of a salvaged vehicle is diminished by 50% or more.⁴ In many instances, unprincipled insurers fail to brand the titles as salvaged before they are sent to auction and unscrupulous insurers, auctions, rebuilders and dealers perpetuate this fraud, profiting from every transaction which ultimately leads to the potentially unsafe vehicle being driven by an unsuspecting consumer.

B. Consumers are Unaware of their Car’s History

By far, the biggest problem is that consumers have no way to know the true history of a used car they seek to or have purchased. Consumers may unwittingly purchase a car that superficially appears in good working order but had been previously severely damaged by serious collision or flood damage. These vehicles are sold across the nation, from state to state, and pose a serious hazard to the American public, especially vulnerable consumers such as young, first-time buyers, recent immigrants and members of the armed forces.

C. Used Cars are Affected by Fraud

Used cars are predominantly affected by title fraud. Used cars provide tremendous value to consumers, especially to low income consumers and first time car purchasers. However, without protections at the federal level, consumers will buy excessively damaged cars without knowing that they are risking their safety and the safety of their families.

¹ “Wrecks in Disguise,” Consumer Reports, January 2002, pp. 28-35.

² “Salvage Autos on the Rise,” John Yoswick, Fender Bender, February 2006, p. 45.

³ Ibid.

⁴ “Wrecks in Disguise,” Consumer Reports, January 2002, pp. 28-35.

D. How Damaged Vehicles End up in Consumer's Hands

To best understand how title fraud enables unsafe salvaged vehicles to re-enter the stream of commerce, it is useful to consider the common sequence of events making up these often fraudulent transactions:

1. Vehicle owner purchases insurance or vehicle is purchased by a self-insured entity such as an auto dealer or rental car company.
2. Vehicle is damaged in flood, crash, or other devastating event.
3. The consumer files a claim with their insurance company or the self-insured entity decides to have the vehicle essentially “fenced” at an auction in an attempt to avoid liability and raise privacy issues.
4. Insurer inspects vehicle and declares it a “total loss” and would be more cost-effective to buy it and dispose of it via an auction than to pay for repairs.
5. Insurer pays claim which is often less than the estimated value of vehicle prior to crash or flood to the consumer.
6. The insurer may submit the title to the state where the claim was filed in order for the title to be “branded” if that is required by state law. Or—the insurer may violate the law and fail to submit the title to be branded.
7. Insurer may destroy the vehicle or send “total loss” vehicle to auction with which it has a contract. Vehicle may or may not carry proper title.
8. Auction takes possession of vehicle. Auction has contract with insurer to give insurer a percentage of the profits based on the sale of the vehicles or flat rate per vehicle.
9. Auction advertises vehicle as “total loss” or “salvage” or “salt water damaged.” If the state required the title to be branded, and if the insurer does not violate the law, the title may carry a brand.
10. Dealers, recyclers, rebuilders or individuals bid on vehicles, including on-line bidding.
11. Legitimate recyclers dismantle vehicles, dispose of oil or other toxins properly and offer usable parts for sale as used parts to consumers, auto body shops, and/or mechanics.
12. Unscrupulous rebuilders cut corners and make cosmetic repairs that leave the vehicles structurally unsound, but not visible to consumers. They lack the training, expertise, or desire to perform a proper repair. They tend to be unlicensed by any state. Some are based in other countries, including Mexico.
13. Rebuilders sell the vehicle to another auction, or directly to dealers or curbstoners. Curbstoners are individuals who make repairs in their own shops or backyards and resell the cars individually to consumers. If the title was branded, the rebuilder, dealer, or curbstoner may send the title to a state where the brand is not recognized or carried forward, in order to “wash” it. Or they may simply use “White Out,” punch holes in the title, or counterfeit the title to “wash” the brand. There is a large incentive to commit fraud: a vehicle with a clean title can command a far higher price than one with a branded title.
14. Dealer or curbstoner advertises vehicle as being in “mint condition” with low mileage. Typically, consumer does not see title prior to sale. If the consumer obtains a loan to buy the car, the lien holder obtains the title. The consumer may see the title only years later, when the loan is paid off, or not at all. If asked, dealer or curbstoner tells consumer the vehicle has a clean title.
15. Dealers sell prior damaged cars with the representation, on the FTC-required Used Car Buyers Guide, that the vehicle is being sold with the remainder of the original factory warranty or an extended service contract. However, when problems arise, the consumer is denied coverage, based on prior damage. Dealer may well know that the car has been salvaged.

16. Dealer may provide consumer with a Carfax report or other vehicle history report. However, such databases tend to have gaping loopholes. Some states still withhold information from the databases. Timing is also an issue. The vehicle may already have been sold at retail before its damage history is obtained by Carfax and entered into the database. Insurers have access to a better database, CLUE,⁵ which is based on claims filed and is more timely and complete.
17. Consumer has problems with vehicle and gets it inspected, or vehicle is in a subsequent crash, or the warranty or extended service contract coverage is denied due to prior damage, and at that point consumer realizes they have been defrauded.

E. Natural Disasters such as Floods pose Particular Problems

Natural disasters such as Hurricanes Katrina, Rita and Wilma resulted in approximately 570,000-600,000 flood-damaged vehicles.⁶ Most of those vehicles are grossly unsafe and are beyond proper repair: the electronic components will corrode; the air bags may not inflate in a collision; the brakes and seatbelts may not work; and they are also prone to toxic mold, and can pose a health hazard to anyone who rides in them, and also to small business owners and their employees who attempt to repair them.⁷ The economic impact is staggering: title-related car fraud costs consumers up to an estimated \$11.3 billion each year.⁸ These cars are, however being sold today on at least one auto auction web site.⁹

F. State Laws Vary Widely

The fact that state laws vary widely helps to provide the loophole that title frauders need to perpetuate their crimes. State laws concerning damage disclosure, rebuilding practices and threshold definitions for “salvaged vehicles” differ widely. This variation in state laws allows cars to go from state to state where cars with a salvaged title, as defined in one state, can be “washed” of its salvaged past if another state’s law has a weaker definition. In addition, states use different mechanisms to disclose damage of a vehicle to consumers, whether it is a specific letter next to the manufacturer of the vehicle or a larger notice across the title. The differences in states’ designations of salvaged vehicles make deciphering these definitions almost impossible for consumers. In addition, it provides a haven for fraudulent people or entities that choose to exploit the confusion and choose among different state laws to title a vehicle without a pejorative brand.

States also can not easily share title information with one another. The National Vehicle Title Information System (NMVTIS) was established by the Department of Transportation by the Anti Car Theft Act.¹⁰ NMVTIS is a computerized database designed to provide information about histories of vehicles to law enforcement and consumers. However, NMVTIS has been plagued with problems such as lack of funding and 15 years after it was established, twenty seven states are submitting data and consumers do not have access to the database.

⁵ CLUE is a registered trademark of Choicepoint, Inc.

⁶ Jeff Brady, “Katrina and Recovery, Holes in Monitoring System Let Lemons Get Resold,” National Public Radio, February 1, 2006, available on the web at www.npr.org/templates/story/story.php?storyID+5173717

⁷ *National Motor Vehicle Titling Information System Cost Benefit Analysis*, Project Report, prepared for National Institute of Justice, U.S. Department of Justice, by Logistics Management Institute, June 2001.

⁸ *Ibid.*

⁹ <https://www.iaai-bid.com/hotpicks.aspx?type=flood>

¹⁰ Pub. L. 102-519, 102nd Congress, October 25, 1992.

In 1999, the GAO recommended that the Department of Justice perform a life cycle cost-benefit analysis to determine if additional federal investment in NMVTIS was justified. The analysis, completed in June 2001 by the Logistics Management Institute was prepared for the U.S. Department of Justice and concluded that it would cost \$22 million to establish NMVTIS and would save car buyers as much as \$11 billion per year.¹¹ The study found that seven states are participating in NMVTIS on a pilot basis.¹² The study found that if NMVTIS were fully implemented by all 50 states and the District of Columbia, it could achieve benefits in the range of \$4 billion to \$11.3 billion annually. The study also found that the present net benefits of NMVTIS would be substantial, ranging from \$.06 billion to \$9.5 billion. Further, the study found that the original cost estimates to implement NMVTIS in states and to establish a central management and coordination function were reasonable.

In addition to the difficulty in sharing title information, some state laws do not permit states to recognize each other's title brands and carry them forward on new titles. Further, the variation in definitions makes it difficult to determine equivalents among state laws' definitions making this even murkier for consumers who were able to obtain access to their car's accurate title history.

G. Damaged Vehicles Are on the Road and Posing Hazards

Each year, approximately 5 million vehicles become a total loss, or "salvage," due to damage in crashes, floods, or similar incidents. As indicated above, many of these cars are sold by insurers at auctions. Unscrupulous insurers fail to accurately brand the titles as salvaged vehicles.¹³ Unscrupulous rebuilders cobble them together so they appear pristine, but in fact they are structurally unsound and may not offer protection in a subsequent collision.¹⁴

H. Other Entities That Profit from Rebuilt Wreck Frauds

Unscrupulous insurers, auto dealers, auto auctions, and rebuilders pocket billions in ill-gotten gains from the fraudulent sales of prior damage autos — at the public's expense.

1. INSURERS

Some insurers appropriately destroy vehicles that are not repairable and brand titles of "salvaged" autos. But others engage in fraud by selling these unrepairable vehicles to auction without the accurate title brand.¹⁵ The incentive for this fraud is that insurers recoup more than the vehicle is accurately worth. The consequence is that these unsafe vehicles end up in the hands of consumers and on our roads posing a severe threat to public health and safety as well as posing severe economic restraints on the unwitting consumers who purchased them.

State Farm Insurance, for example, in 1998 settled a case brought by the Attorney General of Indiana, which argued that, "State Farm sold, exchanged, or transferred salvage vehicles it had acquired without obtaining salvage titles. . . . People who

¹¹ *National Motor Vehicle Titling Information System Cost Benefit Analysis*, Project Report, prepared for National Institute of Justice, U.S. Department of Justice, by Logistics Management Institute, June 2001.

¹² Arizona, Florida, Indiana, Kentucky, Massachusetts, New Hampshire and Virginia. However Florida and Massachusetts have not fully implemented NMVTIS. This was finalized in 2001, therefore information is accurate as of that time, but may have changed.

¹³ "Insurers split on fate of Katrina cars: What Insurers are doing," Arlena Sawyers, *Automotive News*, October 31, 2005.

¹⁴ "Wrecks in Disguise," *Consumer Reports*, January 2002, pp. 28-35.

¹⁵ "Insurers split on fate of Katrina cars: What Insurers are doing," Arlena Sawyers, *Automotive News*, October 31, 2005.

purchased these vehicles did so without knowledge of the damage, safety, reliability and true value of these vehicles.”¹⁶ Late last year, State Farm settled another case with 49 state attorneys general and the District of Columbia. State Farm admitted that it had resold between 30,000 and 50,000 totaled vehicles without appropriate salvage titles.¹⁷

2. CURBSTONERS

Curbstoners are individuals who purchase salvaged vehicles from auctions and personally repair them, often in their own backyard repair shops. These repairs can be de minimus at best and could cover up severe damage caused by collisions or floods. Once the cars are superficially or cosmetically repaired, these individuals will sell them to another individual, often an unsuspecting consumer with no knowledge of the car’s history.

3. NEW CAR DEALERS AND AUTO RENTAL COMPANIES

While used cars are by far the main victim of title fraud, some new cars may also be affected. New cars that would be affected would most likely be those in areas devastated by hurricanes and flooding. For example, new car lots located where flood waters rose may have hundreds of new cars under water. These vehicles could be transferred, by unprincipled dealers to other likeminded dealers without any indication of their flood histories. Thus, it is possible that consumers who perceive that they are purchasing a new vehicle may end up purchasing a vehicle with significant electronic and other problems. Manufacturers may not honor the car’s warranties since they know of the car’s history while the consumer does not.

4. DEALERS- CERTIFIED USED CARS

Unscrupulous dealers may sell “certified used cars” to unsuspecting consumers without representing that the used car has been salvaged. “Certified used- cars” are sold at a premium to consumers because of the more rigorous inspection required. However, sometimes the inspections either knowingly or unknowingly fail to identify a salvaged vehicle. Consumers are thus hit extra hard by having paid a premium for what they thought was a more thorough inspection but then end up with an unsafe car with a warranty that is void due to prior damage.

I. Data Bases- Existing Technology

Existing databases offered by such private entities as Carfax and Experian are seriously deficient in helping consumers avoid flooded and rebuilt wreck cars because the most important information is not provided to them. Flooded and rebuilt vehicles often don’t make it into their databases. Insurance companies have their own data bases which are not available to the public and withhold their damaged claims data from Carfax, Experian and consequently to the public.¹⁸ If the databases do receive data, it is often too late because the vehicles have already been sold to consumers.

III. The Solution

In order to protect consumers from the consequences of title fraud, we propose the following solutions:

¹⁶ “Attorney General Modisett, State Farm Settles Salvage Motor Vehicle Title Case,” News Release, State of Indiana Office of the Attorney General, July 28, 1998.

¹⁷ “State Farm Violated Agreement on Selling Totaled Cars,” St. Louis Post Dispatch, January 24, 2005.

¹⁸ CLUE is a registered trademark of Choicepoint, Inc. NMVTIS has never received data from insurance companies in part, because the Department of Justice has not yet written the rules for how this information is to be provided.

1. Federal Legislation.

- A. Federal legislation is needed to require the permanent destruction and removal of flood and other excessively damaged vehicles from the roads where they pose a severe risk to public safety. The destruction of salvaged vehicles must involve the responsible disposal of such vehicles. Complete removal of severely damaged vehicles from the stream of commerce is necessary to adequately prevent these vehicles from being handled by unscrupulous entities, willing to prioritize profit over consumer health and safety and compliance with the law.
- B. Federal legislation should establish a national definition for salvage vehicles.

2. National Electronic Database. Insurers, self-insured entities — such as car rental and lease companies and large auto dealers and states must be required to provide information about damaged vehicles to a publicly accessible national electronic database on a timely basis. This information already exists but is exclusively for the use of insurers, manufacturers, lenders and car dealers. Since such information already exists it should be relatively easy to make it available to consumers. Such information is critical for consumers to make an informed decision about the car they seek to purchase.

Do to the fact that buyers typically don't see the title during the purchase; any notice on the title ("title brands" such as "salvage" or "flood vehicles") is not effective as a form of consumer disclosure. Such disclosure must exist in an accessible and affordable data base. In addition, licensed dealers must provide a copy of a vehicle's title prior to consummating any car deal.

3. Public Disclosure. Any disclosure made to the publicly available database must be posted with the Buyers Guide in the window of any car offered for sale. The information must also be indelibly fashioned to the car itself. Since 1985, the Federal Trade Commission has required that a disclosure form called a "Buyers Guide" be posted in the window of every used car offered by a licensed dealer to the public. According to the National Academy of Science (NAS), on-vehicle disclosures are the most effective, leading to the NAS recommendation adopted by the National Highway Traffic Safety Administration to require crash test ratings to be posted on vehicles.¹⁹

4. Remedies. Remedies must be at least as strong as those under the Federal Odometer Act and should be modeled on that Act. The Federal Odometer Act, which has existed since 1972, created a floor for states (not a ceiling) and allows states that have been targeted by title fraud perpetrators to strengthen protection for their citizens. Remedies under the Odometer Act include: private rights of action for victims, civil penalties imposed by the U.S. Department of Transportation and enforced by the U.S. Attorney General, criminal penalties enforced by the U.S. Attorney General, and civil actions for both injunctive relief and restitution brought by state attorneys general.

¹⁹ As part of the Department of Transportation and Related Agencies Appropriations Act of 1995, Pub. L 103-331; September 30, 1994, Congress provided NHTSA with funds "for a study to be conducted by the National Academy of Sciences (NAS) of motor vehicle safety consumer needs and the most cost effective methods of communicating this information." The NAS study was completed and released to the public on March 26, 1996. It is titled, "Shopping for Safety-Providing Consumer Automotive Safety Information," TRB Special Report 248. Based upon its findings, the study makes recommendations to NHTSA on ways to improve automobile safety information to consumers.

IV. Conclusion

Consumers currently act under a veil of ignorance when purchasing a used car. The free market place depends upon consumers making informed decisions, but the information most crucial to making an informed decision is either missing, due to intentional obfuscation of car titles or deliberate title washing exploiting variations and confusions in state laws. Cars are often one of the most expensive items a consumer purchases and motor vehicles are a source of transportation to work and school and, thus livelihoods. Unsafe vehicles are a threat to the consumers who unwittingly purchase them and to everyone else sharing the roads with them. Federal legislation removing salvaged vehicles from the market, providing a mechanism for publicly available information disclosing vehicle histories, and providing meaningful remedies for consumers who are harmed by violations of the law, as well as meaningful penalties against those who violate it, are essential to protecting consumers from the consequences of title fraud.

Attachments:

- 1) Letter sent by Coalition of Consumer Groups to House and Senate Commerce Committee members on February 22, 2006.
- 2) "Washed Up Cars Trickle to Market," Andrew Martin and Andrew Zajac, Chicago Tribune, Reprinted in Los Angeles Times, December 30, 2005.
- 3) Information from the IAII web site offering flood vehicles for sale. <https://www.iaai-bid.com/hotpicks.aspx?type=flood>
- 4) "Wrecks in Disguise," Consumer Reports, January 2002, pp. 28-35.
- 5) *Summary, National Motor Vehicle Titling Information System Cost Benefit Analysis*, Project Report, prepared for National Institute of Justice, U.S. Department of Justice, by Logistics Management Institute, June 2001.
- 6) "A Dealer's Guide to the Used Car Rule," Federal Trade Commission

ATTACHMENT # 1

**CARS (CONSUMERS FOR AUTO RELIABILITY AND SAFETY) •
CONSUMER ACTION • CONSUMER FEDERATION OF AMERICA •
NATIONAL ASSOCIATION OF CONSUMER ADVOCATES •
U.S. PUBLIC RESEARCH INTEREST GROUP (U.S. PIRG)**

February 22, 2006

Re: URGENT: Federal auto Katrina flood car/salvage fraud legislation

Dear Member of Congress:

As consumer organizations dedicated to protecting consumers' health, safety and financial stability, we would like to provide you with information about auto salvage fraud and offer our suggestions for protections that should be implemented at the federal level to better protect consumers from this pervasive and serious problem.

Auto salvage fraud is the worst problem America's used car buyers face.²⁰ People riding in rebuilt wrecks have been killed and maimed. These vehicles are sold across the nation and pose a serious hazard to the American public, especially young, first-time buyers.

²⁰ Source: National Association of Attorneys General

Hurricane Katrina and other recent storms have the potential to dump hundreds of thousands of flood-damaged cars on the market. Used cars provide tremendous value to consumers, but without protections at the federal level, consumers will buy excessively damaged cars without knowing that they are risking their safety and the safety of their families. Federal legislation is **URGENTLY** needed to protect buyers from purchasing these unsafe vehicles, which have already started to enter the automotive marketplace. While some insurers have crushed flood cars, others are sending to auctions, knowing they will eventually be sold to unsuspecting car buyers.

Here is a brief overview of the impact that auto salvage fraud has on American consumers:

- Approximately 570,000-600,000 vehicles were flood-damaged in Hurricanes Katrina, Rita, and Wilma.²¹ Most of those vehicles are grossly unsafe and are beyond proper repair. The electronic components will corrode. The air bags may not inflate in a collision. The brakes may not work. They are also prone to toxic mold, and can pose a health hazard to anyone who rides in them, and also to small business owners and their employees who attempt to repair them.²²
- Title-related car fraud costs consumers up to an estimated \$11.3 billion each year.²³
- Each year, approximately 2.5 million vehicles become a total loss, or “salvage,” due to damage in crashes, floods, or similar incidents. Of those, an estimated 1.5 million are rebuilt and eventually purchased by consumers for use as transportation. These vehicles may appear pristine, but in fact they are structurally unsound and may not offer protection in a subsequent collision. They endanger the lives of anyone riding in them, as well as other drivers who share the roads.
- Unscrupulous insurers, auto dealers, auto auctions, and rebuilders pocket billions in ill-gotten gains from the fraudulent sales of prior damaged autos — at the public’s expense. The nation’s largest insurer, State Farm, has admitted it sent between 30,000 and 50,000 total loss “salvage” autos to auction without obtaining a “salvage” title, as required by law.
- The illicit sale of non-repairable and “salvage” vehicles contributes to serious crimes including vehicle theft.²⁴
- Existing databases offered by Carfax and Experian are seriously deficient in protecting consumers from flooded and rebuilt wreck cars. Flooded and rebuilt vehicles often don’t make it into their databases. Insurance companies withhold their damaged claims data from Carfax, Experian and the public. Dishonest sellers and insurance companies manipulate titles and launder them to conceal the vehicles’ true histories.

The salvage car problem is urgent considering the hundreds of thousands of cars damaged in last year’s severe hurricanes. Given the seriousness of the problem, our coalition has developed four recommendations that must be included in any legislative solution. We urge you to incorporate these vital protections in legislation as it moves forward:

²¹ Carfax, many news reports

²² Trade associations for small businesses that provide auto repairs

²³ Source: *National Motor Vehicle Titling Information System Cost Benefit Analysis* Project Report June, 2001, prepared for the National Institute of Justice, U.S. Department of Justice, by Logistics Management Institute. In 1999, the GAO recommended that the DOJ perform a life-cycle cost-benefit analysis to determine if additional federal investment in NMVTIS was justified. The report concluded that NMVTIS would cost \$22 million to establish and would save car buyers as much as \$11 billion per year.

²⁴ See the Anti Car Theft Act of 1992, Public Law 102-519.

1. Destruction of Flood and Excessively Damaged Vehicles. Federal legislation is needed to require the destruction of flood and other excessively damaged vehicles. This is an urgent matter—these vehicles must be taken off the road to prevent death and serious injury.

Auto salvage auctions are already advertising flood cars on their websites, and both new and used flood cars have been shipped from Mississippi, Louisiana and other Gulf region states, to other states. There is NO legitimate purpose for allowing a vehicle that has been submerged in salt water to re-enter the marketplace.

2. National Electronic Database. Insurers and self-insured entities — such as car rental and lease companies and large auto dealers — must be required to provide information about damaged vehicles to a publicly accessible national electronic database on a timely basis.

Since buyers typically don't see car titles during the purchase, any notice on the title ("title brands" such as "salvage" or "flood vehicles") is not effective as a form of consumer disclosure.

3. "Buyers Guide" Disclosure. Any damage disclosure made to the publicly available database must be posted with the Buyers Guide in the window of any car offered for sale.

Since 1985, the Federal Trade Commission has required that a disclosure form called a "Buyers Guide" be posted in the window of every used car offered by a licensed dealer to the public.

According to the National Academy of Science (NAS), on-vehicle disclosures are the most effective, leading to the NAS recommendation adopted by the National Highway Traffic Safety Administration to require crash test ratings to be posted on vehicles.

4. Remedies. Remedies for violations of these provisions must be at least as strong as those under the Federal Odometer Act and should be modeled on that Act.

The Federal Odometer Act, which has existed since 1972, created a floor for states (not a ceiling) and allows states that have been targeted by scammers to strengthen protection for their citizens.

Remedies under the Odometer Act include: private rights of action for victims, civil penalties imposed by the U.S. Department of Transportation and enforced by the U.S. Attorney General, criminal penalties enforced by the U.S. Attorney General, and civil actions for both injunctive relief and restitution brought by state attorneys general.

While the U.S. Senate Commerce Committee Subcommittee on Consumer Affairs, Product Safety, and Insurance held a hearing on this topic last November 16, 2005, where all the participants expressed agreement there was an urgent need to act to protect the public from hundreds of thousands of grossly unsafe flood cars, the Congress has yet to act. Meanwhile, as reported in various major news reports, the flood cars are starting to enter the marketplace.

We ask that you support legislation to protect consumers from the safety and economic ramifications of owning a flood damaged or rebuilt salvage auto, and that you

urge any of your colleagues who take the lead on this issue to act on an urgent basis. We look forward to working with you to ensure that such legislation adequately protects consumers.

If you should have any questions about this letter or our position in this matter, please call Rachel Weintraub of Consumer Federation of America, our designated contact person, at 202-387-6121.

Sincerely,

Rosemary Shahan
President
CARS (Consumers for Auto Reliability and Safety)

Linda Sherry
Director, National Priorities
Consumer Action

Rachel Weintraub
Director of Product Safety and Senior Counsel
Consumer Federation of America

Ira Rheingold
Executive Director and General Counsel

Bernard Brown
Member, Board of Directors
National Association of Consumer Advocates

Paul Brown
Consumer Advocate
U.S Public Research Interest Group (U.S. PIRG)

ATTACHMENT # 2

Reprinted by Los Angeles Times.com: National News December 30, 2005

THE NATION Washed-Up Cars Trickle to Market # Police and insurance officials are trying to keep thousands of vehicles damaged by Hurricane Katrina from being resold.

By Andrew Martin and Andrew Zajac, Chicago Tribune

ST. BERNARD PARISH, La. As the vast vehicular wreckage wrought by Hurricane Katrina is carted away, law enforcement and insurance officials are anticipating the arrival of tens of thousands of those vehicles on used-car lots across the nation.

Already there is anecdotal evidence of flood-damaged vehicles turning up on lots in Florida, Arizona, New York and Oklahoma, authorities said. Two months ago, at least seven 2005 Nissans listed in the National Insurance Crime Bureau database as hurricane-damaged were sold at an auction in Los Angeles.

A task force of insurance investigators and Louisiana law enforcement officials is building a database of flooded cars to try to prevent vehicles from being spruced up and

foisted upon unsuspecting used-car buyers. The database at <http://www.nicb.org> lists more than 205,000 vehicles.

On a brisk afternoon this month, Tim Boucher stood in the median of a four-lane road in St. Bernard Parish checking the paperwork of truck drivers hauling away Katrina-damaged vehicles.

Boucher, a special agent with the National Insurance Crime Bureau working on the database, said: "It's really going to be incumbent upon the consumer to check."

As he spoke, sport utility vehicles with an inch of mud and straw on the floor, minivans with seats cracked and puckered by water, and one car after another with the rank smell that comes from being submerged in muck were towed away.

Four months after Katrina swamped New Orleans and pounded the Mississippi coastline, thousands of vehicles remain on streets or buried under wreckage. Thousands more have been towed away into the murky and lucrative world of salvage cars.

Though most experts agree that cars that have been submerged in saltwater should never be driven, they also agree that as many as half of the vehicles that were damaged by Katrina probably will be rebuilt and resold.

About half of an estimated 500,000 vehicles that were damaged by the storm weren't covered by comprehensive insurance, and with no insurance money to buy a replacement, the owners may be enticed to clean them up and resell them.

Another factor encouraging resales is loopholes in the nation's system for tracking vehicles that have been totaled. If a flood submerges a vehicle, many states require that the title reflect the damage by listing the car as "salvaged" or "flood-damaged." But experts agree that it is relatively easy for a rebuilder to buy a flood-damaged vehicle at auction, fix it up and "wash" the title of any evidence of the flooding by obtaining a new title in a state where title laws are weaker.

"What the smart individual who wants to be deceptive will do is take that title to another state like Arkansas, do a title washing and then take that car to Illinois as an Arkansas vehicle with no salvage on the title," Boucher said.

Herb Lieberman, an automotive recycler based in Santa Fe Springs, Calif., and a board member in the Automotive Recyclers Assn., is among those in the salvage industry who hope that the Katrina disaster gives some momentum to a long-stalled effort to complete a nationwide database of vehicle identification numbers.

With a database, state officials could easily track an automobile's state-by-state lineage before issuing a new title; currently, about half of the vehicles in the nation are listed in an identification number registry.

Salvage dealers also are drawing up proposed federal legislation that would create a national standard, a "certificate of destruction," for cars that are totaled.

Under the proposal, when a licensed mechanic or insurance adjuster determines that the cost to repair a car exceeds its cash value, its identification number would be permanently retired. That would mean the vehicle's owner couldn't obtain a new title in another state, or slap the number of a totaled car onto a stolen auto of similar make, model and year.

Without such legislation, said Jim Watson, president of the Automotive Recyclers Assn., "We're going to see these [flood-damaged] cars in the market for the next three or four years."

Such legislation has previously been opposed by the insurance industry because rebuilders pay more for salvaged cars than scrap companies do.

The removal of flooded vehicles is part of a broader effort, overseen by the Federal Emergency Management Agency, to clear debris that stretches for 100 miles along the Mississippi coastline and into the New Orleans metropolitan area.

Because there is a thriving market for stolen vehicles, autos are being handled differently from the rest of the debris. Identifying and tracking the hurricane-damaged vehicles not only prevents fraud but makes it easier for the vehicle's owner or the

insurance company to recoup some of the vehicle's value by selling it to a rehabber or for scrap. An analysis by the consulting firm Towers Perrin estimated that insured losses from damaged automobiles ranged from \$1 billion to \$2 billion.

Experts warn that a car that has sat in saltwater is bound to have problems, even if it is repaired. Saltwater corrodes metal parts, gums up joints and damages electrical and computer systems, potentially ruining air bags, among other things. Another problem is that the water could leave behind traces of mold, chemicals or E. coli bacteria in the vehicle's interior.

"To me, the biggest concern about cars that are sitting in brackish water is air bags," said Lt. Allen Carpenter, head of the Louisiana State Police insurance fraud section. "You're dealing with a corroded sensor that may or may not work."

To create a database of vehicle identification numbers from flood-damaged cars, a plan was devised in which local governments would tow vehicles to designated lots, where state police and insurance investigators would jot down the numbers and plug them into the database.

But the plan didn't work because most of the parishes were too overwhelmed with other problems.

In Louisiana, the state police, along with the National Insurance Crime Bureau, took over the task Sept. 30, a month after the storm hit, and they have been trying to catalog as many as 350,000 damaged vehicles in the New Orleans area since. Besides the checkpoint in St. Bernard Parish, police and insurance investigators are going street by street in New Orleans and writing down vehicle identification numbers.

The challenges they face are evident in the Lower 9th Ward, which was devastated by a levee rupture. On a recent tour of the neighborhood, there were demolished cars scattered on streets, pushed up against trees and crushed beneath houses that were lifted off their foundation.

"When you start hearing estimates of 350,000 cars and there are 28 of you, and as many [insurance bureau] agents, that's a lot of cars," said Louisiana State Police Sgt. Gary Bridges. "It's a huge job?. You tell the guys, 'This has never been done on this scale.'"

"It's kind of hard to pump them up because you don't know how long you're going to be doing this," he said. "You just have to keep your sense of humor."

Andrew Martin reported from Louisiana and Andrew Zajac reported from Washington.

ATTACHMENT # 3

<https://www.iaai-bid.com/hotpicks.aspx?type=flood>

Flood Vehicles

Visitors of this web site can only view these vehicles. Registered buyers must log in to the Auction Center in order to bid. If you would like to register as a buyer, click on the button below.

[View Printer Friendly List](#)

There are 560 Flood Vehicles to display.

Allow Paging

1 2 3 4 5 6 7 8 9 10 ..	
	<p>1999 CHEVROLET LUMINA on sale now at our branch in Dallas/Ft. Worth</p> <p>TITLE: LA-SALVAGE DAMAGE: FLOOD ODOMETER: 43293 (NOT ACTUAL) VIN: 2G1WL52M4X9000000</p>
	<p>2002 CHEVROLET ASTRO VAN on sale now at our branch in Dallas/Ft. Worth</p> <p>TITLE: LA-SALVAGE DAMAGE: FLOOD ODOMETER: 25 (NOT ACTUAL) VIN: 1GCDM19X72B000000</p>
	<p>2004 CHEVROLET SILVERADO on sale now at our branch in Dallas/Ft. Worth</p> <p>TITLE: TX-SAL-TITLE(VTR 441) DAMAGE: FLOOD ODOMETER: 6730 (ACTUAL) VIN: 1GCEC14V14Z000000</p>
	<p>2002 DODGE STRATUS on sale now at our branch in Phoenix</p> <p>TITLE: AZ-SALVAGE DAMAGE: FRESH WATER ODOMETER: (INOPERABLE DIGITAL DASH) VIN: 1B3EL46R92N000000</p>
	<p>1998 FORD RANGER on sale now at our branch in Dallas/Ft. Worth</p> <p>TITLE: LA-SALVAGE DAMAGE: FLOOD ODOMETER: 12 (NOT ACTUAL) VIN: 1FTYR10C8WP000000</p>
	<p>1999 FORD WINDSTAR on sale now at our branch in Dallas/Ft. Worth</p> <p>TITLE: LA-SALVAGE DAMAGE: FLOOD ODOMETER: 71255 (NOT ACTUAL) VIN: 2FMZA5142XB000000</p>

	<p>2001 FORD F150 on sale now at our branch in <u>Dallas/Ft. Worth</u></p> <p>TITLE: TX-DISMANTLER/COA DAMAGE: FRONT END ODOMETER: (NOT REQUIRED/EXEMPT) VIN: 3FTZF17201M000000</p>
	<p>2002 FORD ESCORT on sale now at our branch in <u>Dallas/Ft. Worth</u></p> <p>TITLE: LA-SALVAGE DAMAGE: FLOOD ODOMETER: 27094 (NOT ACTUAL) VIN: 3FAFP13P52R000000</p>
	<p>2003 FORD SRW SUPER DUTY on sale now at our branch in <u>Phoenix</u></p> <p>TITLE: AZ-SALVAGE DAMAGE: FRONT END ODOMETER: 119307 (ACTUAL) VIN: 1FTNF21L63E000000</p>
	<p>2005 GMC SIERRA on sale now at our branch in <u>Dallas/Ft. Worth</u></p> <p>TITLE: TX-SAL-TITLE(VTR 441) DAMAGE: FLOOD ODOMETER: 3379 (ACTUAL) VIN: 2GTEC13T151000000</p>
	<p>2005 GMC YUKON on sale now at our branch in <u>Dallas/Ft. Worth</u></p> <p>TITLE: TX-SAL-TITLE(VTR 441) DAMAGE: FLOOD ODOMETER: 12455 (NOT ACTUAL) VIN: 1GKEK63U55J000000</p>
	<p>2002 INFINITI G20 on sale now at our branch in <u>Dallas/Ft. Worth</u></p> <p>TITLE: LA-SALVAGE DAMAGE: FLOOD ODOMETER: 13500 (NOT ACTUAL) VIN: JNKCP11A12T000000</p>
	<p>2004 INFINITI G35 on sale now at our branch in <u>Dallas/Ft. Worth</u></p> <p>TITLE: LA-SALVAGE DAMAGE: FLOOD ODOMETER: 16377 (NOT ACTUAL) VIN: JNKCV51E94M000000</p>
	<p>2003 OLDSMOBILE ALERO on sale now at our branch in <u>Phoenix</u></p> <p>TITLE: AZ-SALVAGE DAMAGE: FRESH WATER ODOMETER: 30524 (ACTUAL) VIN: 1G3NL52F53C000000</p>
	<p>2005 VOLKSWAGEN NEW JETTA on sale now at our branch in <u>Phoenix</u></p> <p>TITLE: AZ-SALVAGE DAMAGE: FRESH WATER ODOMETER: 4392 (ACTUAL) VIN: 3VWVF71K25M000000</p>

	<p>2000 ACURA TL on sale now at our branch in <u>East Bay</u></p> <p>TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: (INOPERABLE DIGITAL DASH) VIN: 19UUA5660YA000000</p>
	<p>2005 AUDI S4 on sale now at our branch in <u>East Bay</u></p> <p>TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 4783 (ACTUAL) VIN: WAUPL68E75A000000</p>
	<p>2001 BUICK REGAL on sale now at our branch in <u>Southern New Jersey</u></p> <p>TITLE: NJ-SALVAGE DAMAGE: FLOOD ODOMETER: 73867 (ACTUAL) VIN: 2G4WB55K011000000</p>
	<p>2002 CADILLAC SEVILLE on sale now at our branch in <u>East Bay</u></p> <p>TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: (INOPERABLE DIGITAL DASH) VIN: 1G6KY54982U000000</p>
	<p>2003 CHEVROLET CAVALIER on sale now at our branch in <u>Southern New Jersey</u></p> <p>TITLE: NJ-SALVAGE DAMAGE: SALT WATER ODOMETER: 51252 (ACTUAL) VIN: 1G1JC52F037000000</p>
	<p>2000 DODGE NEON on sale now at our branch in <u>Wilmington</u></p> <p>TITLE: NC-PARTS ONLY - BILL OF SALE DAMAGE: FLOOD ODOMETER: 113509 (ACTUAL) VIN: 1B3ES46C1YD000000</p>
	<p>1998 FORD CROWN VICTORIA on sale now at our branch in <u>Metro DC</u></p> <p>TITLE: MD-SALVAGE DAMAGE: FLOOD ODOMETER: 100962 (ACTUAL) VIN: 2FAPF74W5WX000000</p>
	<p>2000 FORD ESCORT on sale now at our branch in <u>East Bay</u></p> <p>TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 88916 (ACTUAL) VIN: 3FAPF13P2YR000000</p>
	<p>2003 FORD MUSTANG on sale now at our branch in <u>East Bay</u></p> <p>TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 18455 (ACTUAL) VIN: 1FAPF404X3F000000</p>

	1998 HONDA CR-V on sale now at our branch in East Bay TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 151069 (ACTUAL) VIN: JHLRD1842WC000000
	1999 HONDA CR-V on sale now at our branch in East Bay TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 97773 (ACTUAL) VIN: JHLRD2849XC000000
	2003 HONDA ACCORD on sale now at our branch in East Bay TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 1 (INOPERABLE DIGITAL DASH) VIN: 1HGCM66503A000000
	2003 LINCOLN AVIATOR on sale now at our branch in East Bay TITLE: MS-SALVAGE DAMAGE: FLOOD ODOMETER: (INOPERABLE DIGITAL DASH) VIN: 5LMEU68H33Z000000
	1999 MAZDA MX-5 MIATA on sale now at our branch in East Bay TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 67150 (ACTUAL) VIN: JM1NB3534X0000000
	1999 MERCEDES-BENZ E CLASS on sale now at our branch in East Bay TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 46907 (ACTUAL) VIN: WDBJH82FXXX000000

1 2 3 4 5 6 7 8 9 10

Last updated: 2/28/2006 11:10:24 AM

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Please note: All vehicles are sold "AS IS, WHERE IS", with no warranty, expressed or implied, except as to ownership of the vehicle, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. No warranty is made with respect to the accuracy of any information provided. IAA reserves the right to reject all bids and to negotiate with the high bidder. Vehicles may be added or removed from this list at any time. A sale may be moved, postponed or cancelled in its entirety by IAA at any time without notice and without obligation or liability to IAA. After the sale, vehicles remain in IAA's facility at the buyer's risk and storage fees will apply. IAA will not recognize any claim for theft or damage after the vehicle has been awarded. All buyers must be registered with IAA. Buyer's fees will apply for each vehicle purchased. Other terms and conditions apply. All sales are final. Thank you for choosing Insurance Auto Auctions for your salvage purchases.

SPECIAL REPORT

WRECKS IN VIN DISGUISE

AS A RESULT OF THEIR EFFORTS TO SALVAGE MORE CASH FROM A CRASH, INSURERS HAVE GIVEN RISE TO A LITTLE-KNOWN INDUSTRY THAT SELLS POORLY REPAIRED CARS TO UNSUSPECTING CONSUMERS. HOW CAN YOU AVOID BEING CHEATED?

When a car or truck has been so badly damaged in an accident that an insurance company declares it a total loss, it usually means the labor and parts required for proper repair would cost too much, given the vehicle's worth. You might think that would put severely damaged vehicles on a one-way trip to the junkyard for parts or scrap.

Instead, hundreds of thousands of these wrecks make a U-turn each year and get right back on the road. One big reason: Insurance companies, which own the piles of twisted metal after they pay off a total-loss claim, have discovered they can get

more bucks for the bang-ups if they sell the wrecks at salvage auctions. The practice has fostered a thriving industry that rebuilds severely damaged vehicles—craftily enough to hide their traumatic pasts yet cheaply enough to turn a sizable profit.

Some of the new breed of rebuilders are refugees from criminal pursuits, says Bill Brauch, director of the consumer-protection division of the Iowa attorney general's office. "Instead of rolling back odometers, people who wanted to defraud consumers turned to rebuilding damaged cars whose history could be concealed," he says.

This shadow auto industry now annually beats, bends, and bangs out as many as 400,000 rebuilt wrecks that are five or fewer

model-years old, CONSUMER REPORTS estimates; no authority keeps track of the total. That represents 3 percent of the 13 million used vehicles sold in that model-year group in 2001. But the number looms large, because rebuilt wrecks, like all used vehicles, are not subject to federal safety standards.

Insurers say that as much as they disdain shoddy rebuilding, they cannot stop it. "Once we sell the vehicle to a salvage yard, there's very little we can do to influence the process," says Mary Beth McDade, a spokeswoman for Progressive Insurance, the nation's fourth largest auto insurer.

The Highway Loss Data Institute (HLDI), a leading highway-safety institute funded by the insurance industry, and several other

DIARY OF A REBUILT WRECK



Black 1998 Mercedes E320 four-door wagon, VIN: WDBJ46579NA560114. Manufactured in Germany. Retail value in 1998: \$20,000.

January 15, 1998
Registered in Forrest City, Ark. Odometer: 18 miles.



May-August 1999

A crash causes \$30,000 in damage. Car is rebuilt across the state line, in Memphis, Tenn. Damage doesn't appear to meet threshold for Arkansas title disclosure. Odometer: 11,459.

Mercedes-Benz flags the car's 4-year, 50,000-mile warranty. Repairs deemed accident-related won't be covered.

November-December 1999

Owner trades in car to Mercedes-Benz of Memphis for a new one. Odometer: 12,569. Sold for \$30,000 to Mid-South Motors of Memphis.



Sold for \$29,000 to Peck Daniels Auto Sales of Memphis. Sold for \$34,000 to Southern Imports, Leesburg, Fla.

December 20, 1999

Sold for \$36,000 to Ocean Imports of Houston, Texas. Odometer: 13,823.

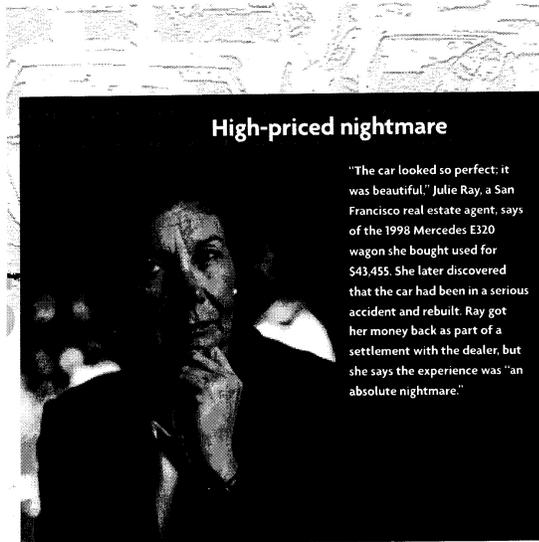


December 31, 1999

Sold for \$45,000 to a man in Houston, Texas. Odometer: 14,300.

February 4, 2000

Sold back to Ocean Imports, Houston, Texas, for \$45,000 after Houston owner says he discovered the prior damage. Odometer: 14,422.



High-priced nightmare

"The car looked so perfect: it was beautiful," Julie Ray, a San Francisco real estate agent, says of the 1998 Mercedes E320 wagon she bought used for \$43,455. She later discovered that the car had been in a serious accident and rebuilt. Ray got her money back as part of a settlement with the dealer, but she says the experience was "an absolute nightmare."

PHOTO BY ROBERT HOUSER; ILLUSTRATIONS BY GEOFF SMITH

data providers hold key information that could help reveal the scope of the problem. But industry officials say they cannot release their data, citing confidentiality concerns and contractual prohibitions. As a result, the full extent of this murky enterprise is largely unknown. (See "What We Don't Know" on page 34.)

But according to a CONSUMER REPORTS study using data from the National Highway Traffic Safety Administration (NHTSA) and the database of Carfax, a company that sells vehicle history reports to consumers and businesses, 20 percent of vehicles that were damaged severely enough to be "totaled"—that is, labeled by an insurer as not worth repairing—after fatal accidents in the U.S.

from 1993 through 1999 were rebuilt, reregistered, and put right back on the road.

Our six-month investigation also found the following:

- ▶ There's no way for consumers to know for sure the history of a used vehicle. States have widely differing laws concerning rebuilding practices and damage disclosure, and critical oversight is lacking in most states. It's not uncommon for rebuilt wrecks to hopscotch from state to state, receiving new titles "washed" of any hint of past problems.
- ▶ Overall, 30 percent of vehicles that had been totaled after a fatal accident and then put back on the road with a title that disclosed the damage had that disclosure subsequently removed, our study found.

▶ Wrecked cars can be rebuilt safely, experts say. But there are strong financial incentives to cut corners. Consumers should especially steer clear of newer-model vehicles that have been totaled and rebuilt, unless a trusted mechanic can vouch for the repairs. The damage is usually severe, which can encourage rebuilders to skimp on repairs to make a profit.

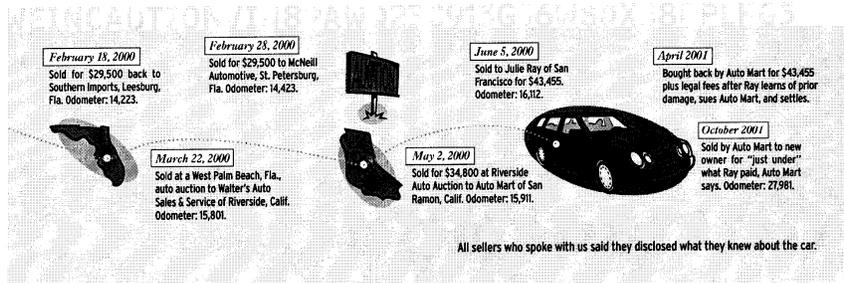
This report tells you the best way to identify such vehicles before you buy a used car and what to do if, after reading this, you think you may own one.

FLAWED DISCLOSURE

Used-car buyers have always had to be wary of unscrupulous individuals fobbing off a "cream puff" previously creamed in an accident. In all states except Wyoming and the District of Columbia, the used car's certificate of title is supposed to tell about severe accident damage. But title disclosure is incomplete. For starters, accident disclosure is required only if damage exceeds typically 70 percent or more of the vehicle's pre-accident book value or the insurer declares the vehicle a total loss. Lesser damage is not disclosed on the title.

In most cases, when an insurance company declares a total loss, it pays off the policyholder's claim and takes title to the vehicle. Often, the insurer must then apply for a different type of title for that vehicle, one generically known as "salvage," though different states use other designations, including "junk," "unrebuildable," "scrap," and "parts only." Whatever it's called, a salvage title's key distinction is that it declares the wreck not worth repairing, as far as the insurer is concerned, and doesn't allow the vehicle to be operated on public roads.

At this point, the wreck itself usually sits at a salvage auction company, which often obtains the salvage title and handles other paperwork as agent for the insurer. Three

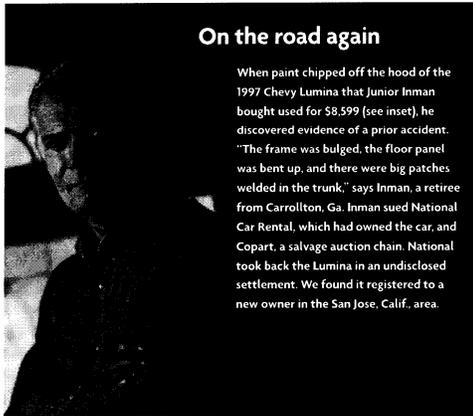


national chains, ADESA Impact, Copart, and Insurance Auto Auctions, sell insurance salvage vehicles almost exclusively at auctions throughout the country and handle about half of the estimated 2.5 million vehicles totaled each year. (Other auction chains sell unwrecked fleet, auto-rental company, and off-lease vehicles.)

From here, the car or truck might be sold to a dismantler for parts, a scrap processor, or a rebuilder or used-car dealer who works with a rebuilder to put the vehicle back together. In any event, the salvage title is transferred from the insurer to the buyer. If the wreck is rebuilt, it must regain a type of title that allows it to again operate on public roads. That's almost easier done than said because the majority of states require no special inspection of rebuilt wrecks. When inspection is required, it's often cursory, industry experts say.

Consider this red-letter warning on California salvage titles: "The vehicle described herein has been declared a total loss salvage vehicle" and "may not be registered without a brake and light inspection." The title says nothing, for example, about the frame, suspension, or air bags.

When a new title is issued for a rebuilt wreck, disclosure about prior damage leaves much to be desired. Every state uses different designations and methods of notice. Among the worst: Colorado, which alerts consumers that the vehicle was rebuilt with an "R" on the title in front of the vehicle's



On the road again

When paint chipped off the hood of the 1997 Chevy Lumina that Junior Inman bought used for \$8,599 (see inset), he discovered evidence of a prior accident. "The frame was bulged, the floor panel was bent up, and there were big patches welded in the trunk," says Inman, a retiree from Carrollton, Ga. Inman sued National Car Rental, which had owned the car, and Copart, a salvage auction chain. National took back the Lumina in an undisclosed settlement. We found it registered to a new owner in the San Jose, Calif., area.

identified "make," in same-size type. Among the best: Washington state, which requires "WA REBUILT" in big letters running diagonally across the title.

The lack of uniform titling is made worse by the fact that states can't easily share information with one another. The National Motor Vehicle Title Information System, a computerized database designed to con-

nect all state motor vehicle departments, may alleviate the problem, but it has been bogged down in development and may not be fully operational for several years.

DO THE MATH

Salvage disclosure leaves another mark on a vehicle: It diminishes book value—even if the car or truck is rebuilt as good as new.

PHOTO BY BOB MANNING

OUR STUDY

No one seems to know how many rebuilt wrecks are on the road today, and whether their current owners know the history of these vehicles. Insurers have the best information to help answer these questions, but they aren't releasing it.

We analyzed government data on an important subset of all wrecks: Some 393,000 passenger vehicles involved in fatal accidents from 1993 through 1999. Of those, we focused on the 58,000 late-model cars and trucks deemed to have disabling damage by police at the accident scene for which we could find vehicle-history information.

Our analysis provides new statistical evidence that a severe crash is not the end of the road for many wrecks. Indeed, more than 40 percent of the passenger vehicles involved in such crashes were rebuilt and retitled for use on public roads, according to our study.

Other key findings:

► All vehicles identified by police as having dis-

abling damage are not necessarily a total loss, as defined by states and hundreds of individual insurance companies. So we zeroed in on the 41,800 vehicles deemed by an insurer as totaled, as indicated by their receiving a "salvage," "junk," "dismantled," or "non-legal highway" title as their first title following the fatal crash date. About 20 percent of those cars, or 8,300, were subsequently retitled for use on public roads.

► About one-third of the 8,300—roughly 2,500 vehicles—had titles "washed" of their salvage history. That means the latest title said nothing about the vehicle being totaled and then rebuilt.

Overall, 6 percent of the totaled cars we studied had their title washed.

► Newer vehicles were more likely to be rebuilt. Experts say this is because their age and low mileage make them more attractive to used-car buyers. Approximately 25 percent of totaled vehicles that were the current model year or one model-year old at the time of the accident were

Which vehicles get rebuilt?

AGE OF VEHICLE	PERCENT TOTALED AND REBUILT
0-1 yr.	25%
2	24
3	19
4	17
5	15
All cars 0-5	20

Source: CONSUMER REPORTS, Carfax, NHTSA

retitled for the highway vs. just 15 percent of totals that were 5 model-years old. (See table above.)

A spokesman for the National Highway Traffic Safety Administration (NHTSA), a division of the Department of Transportation, said the agency has no official comment on our study. But NHTSA's Richard Morse, former chairman of the agency's Motor Vehicle Titling Registration and Salvage Advisory Committee, said of our find-

Say you have a choice between two used cars, which you know are identical except for this: Car #1 had been totaled and rebuilt; Car #2 was never so much as dinged by a shopping cart. Which would you want?

Of course you'd prefer Car #2, because Car #1 comes with the uncertainty of hidden damage. If the title does not divulge the accident, Car #1 can be sold for its regular book value. But if the damage becomes known, book value diminishes dramatically. "At best, a vehicle that's had a salvage title would be worth half its Blue Book value, even after repair," says Charlie Vogelheim, executive editor of Kelley Blue Book, a leading publisher of used-car prices.

That's because the market of potential buyers shrinks to only those willing to buy uncertain quality. And for that gamble, informed buyers demand a steep discount.

But that puts a squeeze on rebuilders. If you rebuild a total-loss vehicle by the book—with salvage titling, repairs that might be specified by an insurer, full disclosure to the consumer, and a sale price based on the diminished book value—you'd be hard-pressed to make a profit.

Consider an extended-cab 1993 Chevrolet K1500 pickup we found in Florida. It had a book value of \$18,150 as of March 8, 1995. That was just before it sustained more than \$14,520 in damage in a fatal rollover on Interstate 4 near Tampa, according to the application for salvage title filed by Progressive Insurance. With a salvage title, the book

value of the rebuilt pickup drops to \$9,075.

So how could a rebuilder afford to spend several thousand dollars to buy the wreck, plus \$14,520 more that Progressive certified it needed in repairs? Even if the rebuilder's labor costs were far lower than Progressive estimated, there would be little room for a profit.

The Chevy pickup was rebuilt. We tracked it to Kentucky, where it was sold for \$16,775, records show. More on that later.

THE SAFETY THREAT

Rebuilders have been around for as long as there have been car accidents. And many do high-quality work. Some use their mechanical know-how to create labor-of-love bargains for family and friends. Collision repair shops often keep a rebuild project on premises to occupy employees during slack times. And car buffs like Bill Plain—"Plain Old Bill" to folks around Ocala, Fla.—save money on the cost of parts by specializing in one favorite model; Plain rebuilds pre-1992 Mazdas.

But a different group of rebuilders elbowed their way into salvage auction yards in the 1990s. These rebuilders were on the prowl for quick, high profits.

"Backyarders," as they are called, often have neither the expertise nor the equipment to do the job right. "They'll take the car to their backyard, tie it to two trees, and pull out the frame that way," says George Menchen, a rebuilder and retired collision-repair-shop owner from Santa Rosa, Calif.

Supply is no problem, since insurers realized they can make far more money selling wrecks at auto auctions than to junkyards. "State Farm has always tried to recover as much as we can from salvage," says Dave Hurst, spokesman for State Farm, the nation's largest insurer. Kim Hazelbaker, senior vice president at HLDI, the insurance-industry research group, says insurers have been intent on extracting more dollars from wrecks in recent years because of thin industry profits. "They're trying to lower costs; one way to do that is to reclaim significant value from salvage vehicles," Hazelbaker says.

According to a 1997 HLDI study, insurers recovered \$2,756 on average per totaled 1995-97 model-year car or passenger van sold as salvage, or 18 percent of what they paid out in total-loss claims for those vehicles. And they received \$4,293 per totaled pickup, sport-utility vehicle, or large van. That's 23 percent of total-loss claim payouts for those vehicles. Those prices were for one- and two-year-old, low-mileage vehicles, the cream of the rebuilding crop. Many more older cars and trucks—more than five years old—are totaled and salvaged, too, but their high mileage, age, and lower book value make them less attractive for rebuilding. By contrast, insurers are paid only a few hundred dollars to a thousand dollars or so for parts-only vehicles and maybe \$50 for those destined for the scrap shredder.

We estimate that insurers recover about \$1 billion a year from the salvage sale of wrecks five or fewer model-years old and \$2.5 billion annually from wrecks of all ages, based on information from State Farm; analysts at A.M. Best, which rates the financial soundness of insurance companies; and ADESA Corp., owner of the third-largest salvage auction chain.

Are rebuilt wrecks safe?

"It is possible to make repairs to a vehicle that had been involved in a severe crash in such a way that the resulting vehicle has a structure that is similar to an uncrashed vehicle," says Bob Lange, executive director for safety integration at General Motors. "But if it's not properly repaired, the safety performance of the original product could be compromised."

To understand how easily safety can be shortchanged, you have to consider new-car design and development. Today's unibody vehicles are engineered as a single crash-protection unit. All individual components are aligned to work together to one end: Dissipate the fantastic crash energy created when 3,000 to 5,000 pounds of machinery rapidly decelerates from 55, 35, or 20 mph

ings, "That's a lot of cars." Morse said hard numbers on rebuilt vehicles are scarce and that lack of information has impeded reform efforts. "It's hard to build up a whole lot of support in Congress if you don't have a whole lot of numbers," he said.

Said Rosemary Shahan, president of Consumers for Auto Reliability and Safety, a California-based safety-advocacy organization: "These numbers are a big red flag for used-car buyers. They validate the concern that tremendously damaged cars do go back on the highway."

Our study tapped the federal Fatality Analysis Reporting System (FARS), a computer database maintained by NHTSA that contains detailed information about every fatal U.S. motor vehicle accident.

Most FARS data are public and accessible via the Internet or CD-ROM, but NHTSA does not disclose the entire vehicle identification number (VIN) because it regards that as personally iden-

tifying information, which it is not allowed to release. The FARS data also have no information about the vehicle's title history.

Carfax, one of two leading providers of vehicle title-history information, maintains a 1.6-billion-record database including VINs and vehicle histories. But it does not have the detailed accident information that's in the FARS database, though it has accident data reported by some states.

Our analysis for the first time joined information from these two databases, through a special agreement between NHTSA, Carfax, and Consumers Union, designed to preserve the confidentiality of the FARS VINs. Consumers Union never saw the VINs.

The findings apply only to the group of fatal crashes we studied, not to all wrecks. And our numbers are conservative. For example, we excluded from the study titles with incomplete information about their salvage, washed-title, or road-legal status.

to zero so that the people inside can safely "ride down" the same deceleration with minimal injury.

New vehicles must comply with federal safety standards. To test and refine their design, automakers conduct up to 100 crashes using 50 or more prototypes that cost \$300,000 to \$800,000 each.

By contrast, the rebuilding industry is subject to almost none of that rigor.

CUTTING CORNERS

If rebuilders replace all damaged parts, the level of safety should be the same, because the repairer would be simply replicating the original safety engineering. That, however, can be expensive, so even reputable mechanics take shortcuts. Experienced hands can do that without shortchanging safety. The problem comes when such repairs are made by rebuilders out to make a fast buck. By so doing, they can create a vehicle very different from the one Detroit intensively tested.

Potential problem areas include:

Sectioning. Instead of replacing a damaged critical structural component with a new one, rebuilders cut out only the damaged section and splice in a new piece. This procedure has the blessing of automakers and of the Allstate subsidiary Tech-Cor, a repair facility that develops "cost-effective repair procedures," according to a company bulletin, and shows anyone with a comput-

Telltale signs

1. Paint that chips off or doesn't match indicates damage repair and poor blending.
2. Paint overspray on chrome, trim, or rubber seals around body openings reveals that the adjacent panel was repaired.
3. Misaligned fenders suggest a poor repair job or use of nonoriginal equipment manufacturer (non-OEM) parts.

er and Internet access how to do it.

But a Tech-Cor bulletin warns that sectioning must be performed only by a properly trained technician, requires the use of accepted procedures, and must maintain the vehicle's "original energy management characteristics intact to ensure the proper functioning of passenger safety devices."

"We regularly conduct rigorous testing procedures, including crash tests, to validate the effectiveness of replacement procedures," Jack Ribbens, Tech-Cor's engineering manager, wrote in an e-mail exchange with CONSUMER REPORTS. When asked for details, and for comment on the issue of untrained rebuilders using such techniques, Allstate and Tech-Cor declined to be interviewed.

Bending, banging, cutting, welding. Pry bars, hammers, and welding torches provide cheaper fixes than replacement with a whole new part. The problem is that when

4. CAPA (Certified Automotive Parts Association) sticker on any part may indicate collision repair.
5. Uneven tread wear reveals wheel misalignment, possibly because of frame damage.
6. Mold or air freshener cover-up suggests water damage from a leak or flood.
7. Silt in trunk may mean flood damage.
8. Fresh undercoating on wheel wells, chassis, or engine strongly suggests recent structural repairs covered up.
9. Door that doesn't close correctly could point

high-strength steel alloys are torched, some lose their strength and rigidity while others lose their flexibility. "If the rigidity of the metal changes, the crash pulse that the air-bag sensor has to feel may change and the air bag may fire too soon or too late," says Priya Prasad, manager of safety research and development at Ford Motor Co.

Clipping. This procedure involves cutting two smashed vehicles of the same make and model in half and welding the undamaged half of one to the undamaged half of the other.

"Clipping can be done in a safe manner, provided it's done properly," says Lou DiLisio Jr., chairman of the Collision Industry Conference, a repair-shop education and training group. But without federal safety standards and government inspections, who's to know whether this intricate procedure is done properly?

CAUTION

Before you buy any used car ...

Bring a friend with you, preferably one who knows cars. Thoroughly inspect the exterior, interior, trunk, engine compartment, tire wear, and undercarriage.

Be direct. Ask the seller whether the car has been in an accident or a flood, and gauge his or her reaction.

Inspect the title for "salvage," "rebuilt," or similar notations. If the seller is an individual, check the title to make sure you're dealing with the vehicle owner.

Take the car for a test drive. Make right and left turns at various speeds; turning should be smooth. On a straight roadway, check that the car doesn't pull to one side. Ask your friend to follow behind in the car you arrived in to look for rear wheels that seem to skew to one side—a sign that the frame may be out of alignment.

Have the car inspected. If you're really interested in the car, have a qualified mechanic or vehicle appraiser examine it inside and out. Agree in advance with the seller that you'll pay if significant problems are discovered. Have the mechanic look under the air-bag covers to check that the air bags are present and functioning.

Check the warranty. Ask the service or warranty department of the local dealer if the warranty is still in effect.

Investigate the VIN. Use the Internet to find out whether the car's

vehicle identification number (VIN) is listed among the thousands of cars severely damaged in floods in North Carolina in recent years (www.jus.state.nc.us/cpframe.htm). And, yes, even cars used in crash tests can wind up rebuilt. The National Highway Transportation Safety Administration takes steps to prevent this by titling its crash-test cars "not rebuildable" and publishing their VINs on the Internet (www.nhtsa.gov/cars/problems/salvage). The Insurance Institute for Highway Safety also titles its crash-test cars unrebuildable but does not publicly disclose the VINs. It provided them to CONSUMER REPORTS, however, and we found that only 1 of 150 apparently had been retitled for the road.

Buy a title-history report. Ask the seller to pay if there are problems. Two Internet providers sell this information. Carfax (www.carfax.com) charges \$15 per report on a single VIN and \$20 for 60 days of unlimited access; Experian Automotive (www.e-autohistory.com/1_autohistory/index.html) charges \$15 per history report for a single VIN and \$20 for five. Both systems use state motor-vehicle departments to compile their reports, but each has other sources that differ slightly. Other history-report services repackage Experian's basic data.

Size up the seller. If it's a car dealer, consult the Better Business Bureau; if it's an individual, browse the classifieds for other auto ads with the same phone number—a sign of an unlicensed broker who sells used cars by posing as the owner.

to a door-frame deformation and poor repair.
 10. Hood or trunk that doesn't close squarely may indicate twisting from side impact.
 11. Dashboard lights, power windows, and other electronics with intermittent problems could be a sign of flood damage.
 12. Dashboard air-bag indicator that doesn't light up could mean the air bag was replaced improperly—or wasn't replaced at all.
 13. Big dents, kinks in structural components, or crimped or crunched fuel lines and pipes under-

neath are the easiest problems to find because rebuilders assume you won't be looking there.
 14. Uneven surfaces on frame components could be filler, seam sealer, or welding beads.
 15. Damaged/gouged nuts and metal on top surface of strut tower (which connects the front wheels to the frame) in engine compartment may mean the frame was realigned.
 16. New metal on only one part of the hood apron shows section repair rather than replacement of the entire apron piece.

17. Welding bead anywhere on heavy frame members underneath the engine suggests frame-rail sectioning or sloppy repair of a cutout made in the rail to perform repair work.
 18. Inconsistent welds around hood apron, door, door frame, or trunk exemplify a nonfactory weld.
 19. Frayed safety belts or belt fibers that have melted together because of friction indicate a previous frontal impact above 15 mph.
 20. Missing car emblem or name on trunk may mean a non-OEM part was used.

Cheating on air bags. Air bags are expensive, so "a lot of lower-cost vehicles get totaled because of air-bag deployment," says John Eager, senior director of claims services for the National Association of Independent Insurers. He added: "You can spend \$3,300 just for the air-bag system alone."

Rebuilders can save thousands by forgetting the air bags. "There are cars out there right now that had air bags deployed and were rebuilt and never had a new bag put in," says Richard Morse, who chaired NHTSA's Motor Vehicle Tinting Registration and Salvage Advisory Committee.

Alternatively, rebuilders can use recycled air bags, which are cheaper than factory-fresh replacements. But Robert Redding, the Washington, D.C., lobbyist for the Automotive Service Association, a trade group comprising 15,000 collision repair shops, says the risks of using recycled air bags is an important issue that has been ignored by safety regulators. "These things are very sophisticated pieces of electronic equipment, and when you see 60 used air-bag modules sitting on the ground underneath a tin shed in a salvage yard, that's a little scary," says Redding, who notes they can be damaged by exposure to the elements.

The Insurance Institute for Highway Safety (IIHS) recommends against recycled air bags because of the risk that they may come from the hundreds to thousands of cars that are flooded each year. The air-bag system's electronic diagnostics "cannot check whether the module itself, the folded air bag, gets damp or wet," says Brian O'Neill, IIHS president. "If it does get wet, that can impede the way the air bag unfolds."

Not replacing safety belts. The most effective piece of safety equipment is also the most easily overlooked by a rebuilder and used car buyer. Belts protect passengers and help them gradually decelerate by stretching, which permanently damages the belt. The belt retractors have metal spikes that become permanently damaged as well, as they bite into the belt to hold the load constant. Belts and retractors should be

replaced after a frontal crash at speeds of 15 mph or higher or if the belts are frayed or their fibers have been partially melted together by friction, advises Prasad of Ford.

Internal corrosion. This can be created by sloppy welds or failure to apply zinc-based undercoating—though generous undercoating is a favorite cover-up for shoddy workmanship. But the biggest corrosion problems start with vehicles that have been submerged above the door sill in floodwaters—especially salt water—that invade the sensitive electronic components in the dashboard and engine. Air-bag sensors and electronics can be harmed as well.

Flood cars can be properly restored, says Plain, the Ocala, Fla., rebuilder, but it takes about 75 hours to strip the car down

to its shell, replace all electronics, wash the upholstery, and dry up and protect wiring and connections. Such work isn't cheap, either.

Because much of that work can be left undone and undetected, other collision repairers and experts recommend that consumers avoid vehicles that have slept with the fishes. When only a cosmetic mop-up and air fresheners are used, flood cars can literally corrode from the inside out, causing mystery problems and electrical failures.

With no standards and no inspections, there's no way to know whether a rebuilt car is safe. "Our repairers tell us they can rebuild these cars from the ground up, and they can make them safe," Redding says. "Whether they're all safe? How in the world will we

Slap in the face

Navy Senior Chief Petty Officer Frederick Orns, stationed in Honolulu, and his wife, Shelley, didn't learn their 1994 Jeep Wrangler was a rebuilt wreck until its hood flew open and smashed the windshield while they were driving in September 2000. The couple bought the Jeep used for \$11,000 in May 1999 from a dealership, which gave them a clean Hawaii title. After the accident, Orns learned from a Carfax report that his Jeep had been issued a salvage certificate in California in January 1997. The couple has sued the dealer.



PHOTO BY DAVID L. MOORE

know unless they're inspected? The majority of states have no inspection."

QUESTIONABLE TITLES

Used-car buyers are at a further disadvantage when a vehicle's salvage history is not disclosed.

In Indiana, for example, State Farm Insurance sold, exchanged, or transferred hundreds of totaled vehicles in the 1990s without getting the required salvage titles, according to Jeffrey Modisett, the Indiana attorney general, who reached a settlement with State Farm in 1998. Consumers who ultimately bought these vehicles "did so without knowledge of the damage, safety, reliability, and true value of these vehicles," he said.

Hurst, the State Farm spokesman, says

the insurer offered to buy back 437 improperly titled vehicles as part of the settlement. He says the problem stemmed from a misunderstanding by a salvage dealer who disposed of the cars and trucks for State Farm.

Christopher Gridley of Louisiana had a different problem involving State Farm, according to a lawsuit filed in June 2000. He purchased a 1998 Volvo S70 with a clean title in November 1999, he says, but when he brought it in for repair after an accident of his own, the repair shop told him the car had previously been wrecked and improperly rebuilt. According to the lawsuit, which is still pending, State Farm declared the car totaled a month before Gridley bought it, but the company didn't apply for a salvage

title. Hurst says the allegations are "without foundation."

In California, three plaintiffs say in a class-action lawsuit that National Car Rental System did not obtain the proper salvage title after their cars were wrecked by rental customers, rebuilt, and subsequently sold to them with clean titles. Because the lawsuit is ongoing, National said that it wouldn't comment.

No one knows exactly how many rebuilt wrecks are for sale whose titles hide their histories. To get an idea, however, CONSUMER REPORTS analyzed some 10,000 cars and trucks offered for sale at 35 locations in 23 states one week last summer. They were being auctioned by Insurance Auto Auctions, one of the nation's leading auction chains, which says it sells insurer-totaled vehicles almost exclusively. Twenty percent of the vehicles we analyzed had clean titles. Wide differences in state salvage-titling regulations may partly explain why. At any rate, the numbers suggest the relative ease with which damage too great for insurers to repair can remain hidden from consumers.

But even if a vehicle gets a salvage title, that title can easily be washed by registering the car in a state with more lenient thresholds for salvage- or rebuilt-branding. For example, in Oklahoma, a salvage title is required when damage equals only 60 percent of the car's book value. For a car with more damage, a rebuilder can simply retitle the car in Texas, where a salvage title isn't required until damage hits 75 percent of book value.

Remember the Chevy pickup wrecked in Florida? Progressive Insurance's office in Brandon, Fla., declared it "unrebuildable" because it required more than \$14,520 worth of repairs, or at least 80 percent of book value, the Sunshine State's salvage threshold.

The wreck was then shipped to Kentucky, which has a lower salvage threshold than Florida (75 percent of book value), but other loopholes. Whoever rebuilt this pickup produced two notarized estimates from two body shops swearing that the rebuilding cost had fallen to as little as \$4,969, or a mere 27 percent of book value—a \$9,550 cost saving.

The pickup was rebuilt and given a new title with an inconspicuous "Rebuilt Vehicle" notation near the bottom of the certificate.

Kentucky says the state issues 40,000 rebuilt titles a year. The Chevy pickup was still on the road in the vicinity of Canada, Ky., as of July 2000, Carfax's last notation.

RECOMMENDATIONS

Before you buy any used vehicle, have a mechanic whom you trust inspect it thor-

WHAT WE DON'T KNOW

The Highway Loss Data Institute (HLDI) and its affiliate, the Insurance Institute for Highway Safety (IIHS), describe their mission as "finding out what works and what doesn't work to prevent motor-vehicle crashes in the first place." Their aim is to reduce human and property losses from automobile accidents. The combined \$14.6 million annual budget of these private nonprofit groups is provided mainly by 75 insurance companies.

Through crash testing and research of damage claims make-by-make, model-by-model, the institutes analyze the human, vehicular, and environmental factors associated with accidents. CONSUMER REPORTS uses IIHS data in our safety assessments of specific models.

A unique database maintained by the institutes—millions of records on loss claims related to roughly two-thirds of all insured late-model cars and trucks in the U.S.—allows them to glean rich information about those models that are more frequently involved in accidents.

That same database could help answer critical questions about rebuilt wrecks, such as: How many totaled vehicles have been rebuilt and put back on the road? Are there patterns or trends that merit further investigation or better regulation?

There's no evidence that the safety of rebuilt vehicles is a major problem, says Brian O'Neill, president of HLDI and IIHS. "Is it possible that repairs are related to vehicle performance during a crash? That's impossible to know," he says. "If I were going to have concerns about this issue, I'd be concerned whether consumers are adequately informed about the history of the vehicle."

For this report, we asked HLDI for the vehicle-identification numbers (VINs) and other basic details for all collision-totaled cars and trucks in its database. Merged with the extensive title-history database of Carfax, a Fairfax, Va., company, the HLDI data could provide the most comprehensive picture to date of rebuilt wrecks.

The HLDI board, whose members are executives from the nation's largest auto insurers, turned down our request. "The conditions in which we get our data from insurers is that we cannot release any individual records, and a VIN is an individual record," says O'Neill.

Even if the data were made available, "Knowing that there are that many rebuilt vehicles doesn't tell you very much," O'Neill says. He notes that some wrecks are bought by car thieves, who remove the VIN plate and put it on a stolen car of the same make, model, and year. He said he had no information on how often that might happen.

CCC Information Services (CCCIS), an insurance-industry service provider, maintains its own database containing information on 30 million vehicles that have been identified as totaled, salvaged, borderline totaled, stolen, or damaged since 1980. The company declined our request for information from the database; contracts with insurance-company customers prevents it, says Susan Jablonski, a spokeswoman.

We also asked Experian Automotive, a leading seller of vehicle-history reports, which draws on the CCCIS database to include the barest major-damage information about individual vehicles. Ken Kauppila, Experian's executive vice president, says his database has information on 10 million salvage vehicles and that the company retrieves data in large batches for car dealerships. But the company's contract with its partners doesn't allow release to CONSUMER REPORTS, he says.

oughly; at a minimum, cover the checkpoints in the boxes on pages 32 and 33.

Used cars that show evidence of prior repairs are not inherently unsafe; that depends on the severity and type of damage, the quality of the repair, and the age of the vehicle. (A totaled older-model car actually may have had relatively minor damage, given that it wasn't worth a lot to begin with.)

But avoid a newer-model vehicle that was totaled and rebuilt (or an older vehicle rebuilt years ago when it was newer) unless you have the assurance of your mechanic that repairs are proper and safe. Because of their higher book values, newer vehicles must sustain significant crash damage to be totaled. (An exception would be vehicles totaled because of extensive cosmetic damage from, say, hail.) The high cost of repairing extensive damage provides rebuilders with plenty of incentive to cut corners. But the biggest problem is that the majority of states require no safety inspection on the repair work.

If you believe you may have inadvertently bought a rebuilt wreck, ask your local or state consumer-affairs department about the applicable laws in your state. The National Association of Consumer Advocates' web site, www.naca.net, maintains a list of lawyers who are experienced in these matters.

Insurers should support meaningful legislation to regulate rebuilding. And Congress and states should require the following:

Claims reporting. Since accident damage is the first event that leads to all other problems involving rebuilt vehicles, insurers should be required to report to state motor-vehicle authorities the vehicle identification number of every vehicle that is totaled or that sustains frame or flood damage.

Release of claim data. To provide consumers with the best information about past accidents, federal legislation should require insurers and their data-service vendors to make their existing accident and total-loss databases available to motor vehicle departments—for a fee, if need be—so that authorities from all 50 states and consumers can check whether a vehicle has been totaled or sustained major damage.

Safety inspections. Every vehicle that has suffered frame damage or that has been totaled and rebuilt should be required to be inspected for the quality of its repairs.

Uniform titling. Congress should establish uniform titling standards in all states regarding rebuilt vehicles. ©

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Consumers Union, we get a number of tax breaks, as well as income for life. And we're giving something to a worthwhile organization."

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65	6.7%
70	7.2%
75	7.9%
80	8.9%
85	10.4%
90	12.0%

In exchange for your wise investment in a *Smart Consumer Gift Annuity*,™ we'll pay you a high fixed annuity rate for life. Trade in your low-interest bank account or save on capital gains tax by funding with appreciated stock.

You receive an immediate charitable income-tax deduction—and a substantial portion of each quarterly payment to you is **tax-free**. And investing in a *Smart Consumer Gift Annuity*™ entitles you to a **free lifetime subscription to CONSUMER REPORTS magazine**.

If you are under age 65, you can receive an even higher interest rate by deferring your payments until a later date.

Age Now	Rate at 65
40	26.4%
50	15.3%
60	8.7%

Use the coupon below to get a personal benefits profile—or contact **Rob Drucker at 914-378-2644 or email: drucro@consumer.org**. There is no obligation and all replies are confidential.

Smart Consumer Gift Annuity Coupon

Name(s) _____
Address: _____
City State Zip: _____
Date(s) of Birth _____
Phone: _____ Fax or E-Mail: _____
I am thinking of investing \$ _____

Mail to: Rob Drucker, Development Manager, Consumers Union
101 Truman Avenue, Yonkers, NY 10703

Fax to: (914) 378-2916

1003

Internal Document

9001
LMI TN-018

LOGISTICS MANAGEMENT INSTITUTE

**National Motor Vehicle Title
Information System
Cost-Benefit Analysis**

Project Report

NJ004S2

JUNE 2001

**John Dukovich
Walter Cooper
Spiros Coutavas
William Swartwout**

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Prepared for the National Institute of Justice, U.S. Department of Justice, by LMI under contract #OJP-99-C-011. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

**National Motor Vehicle Title
Information System (NMVTIS)
Cost-Benefit Analysis
Project Summary Report**

June 25, 2001

Prepared for the National Institute of Justice, U.S. Department of Justice, by LMI under contract #OJP-99-C-011. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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2000 Corporate Ridge
McLean VA, 22102
703-917-7512
www.lmi.org

This briefing summarizes work the Logistics Management Institute (LMI) has completed for the National Institute of Justice (NIJ) regarding a cost-benefit analysis of the National Motor Vehicle Title Information System (NMVTIS).

This report was prepared for the National Institute of Justice, U.S. Department of Justice, by LMI under contract #OJP-99-C-011. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Internal Document

Introduction

- Anti-Car Theft Act of 1992
 - Designed to reduce auto theft
 - Title II of the Act established the National Motor Vehicle Title Information System (NMVTIS)
- NMVTIS addresses problem of title washing, odometer fraud
- Seven states currently participating (AZ, FL, IN, KY, MA, NH, and VA)

The Anti-Car Theft Act was passed in 1992 by Congress as a response to motor vehicle theft, which was viewed to be the nation's top property crime at that time. The Act was designed to reduce auto theft by making the selling of stolen cars and parts more difficult. Title II of the Act required the establishment of a national motor vehicle title information system (NMVTIS).

The Act requires that NMVTIS enable users to instantly and reliably validate motor vehicle titles during the re-titling process, and to provide a vehicle history.

NMVTIS addresses title washing and odometer fraud, among other capabilities.

Currently, seven states are participating in NMVTIS on a pilot basis: AZ, FL, IN, KY, MA, NH, and VA. However, FL and MA have not yet fully implemented NMVTIS.

Introduction (cont'd)

- In 1999, GAO recommended DoJ perform life-cycle cost benefit analysis, prior to national NMVTIS roll out
- The National Institute of Justice (NIJ) contracted with LMI to perform that analysis

The logo for LMI (Leveraging Markets for Innovation) is located in the bottom left corner of the slide. It consists of the letters 'LMI' in a bold, sans-serif font, with a stylized graphic element to the left.

3

In 1999, the General Accounting Office (GAO) recommended the Department of Justice (DoJ) perform a life-cycle cost benefit analysis to determine if additional federal investment in NMVTIS was justified. The GAO recommended DoJ provide additional federal funds for NMVTIS if the cost-benefit analysis supports continued investment.

The NIJ contracted with LMI to conduct the cost-benefit analysis.

Summary of Findings

- We found NMVTIS—if fully implemented in all 50 states and the District of Columbia—can achieve billions of dollars of benefits.
- We calculated the present value of net benefits, under various scenarios, to range from \$0.6 billion to \$9.5 billion.
- We found the original cost estimates for implementing NMVTIS to be reasonable.

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We present a summary of our findings at this point, to allow the reader to have this information initially.

•We found that NMVTIS—if it is fully implemented in all 50 states and the District of Columbia, and if it is 100 percent effective—can achieve benefits in the range of \$4 billion to \$11.3 billion annually.

•Because there are many obstacles to full national implementation, we evaluated the costs and benefits of NMVTIS over a range of scenarios. In all of the scenarios investigated, we found the net benefits of NMVTIS to be substantial. After accounting for costs and benefits during 2001–2006, we calculated the present value of the net benefits to range from \$0.6 billion to \$9.5 billion (in year 2000 dollars).

•We found the original cost estimates to implement NMVTIS in the states and to establish a central management and coordination function at American Association of Motor Vehicle Administrators (AAMVA) are reasonable.

Details of the findings and the analysis behind them are in the following sections.

A
Dealer's
Guide

to

the Used Car Rule

Federal Trade Commission



National Independent Automobile Dealers Association

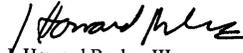
Dear Car Dealer:

The Federal Trade Commission and the National Independent Automobile Dealers Association are pleased to provide you with an updated copy of **A Dealer's Guide to the Used Car Rule**. The **Dealer's Guide** is part of a continuing partnership between the FTC and NIADA to educate the industry about compliance requirements. NIADA underwrote the costs of printing and distributing the previous version of the **Dealer's Guide** and it is proud to underwrite those costs for this version.

This **Dealer's Guide** defines the Rule's requirements, explains how to prepare and display the Buyers Guide, provides a compliance checklist, and includes sample Buyers Guides. We encourage you to use the **Dealer's Guide** and share it with your staff. While compliance with the Used Car Rule is required by federal law, it also can have bottom-line benefits for your dealership. That's because informed consumers are more likely to become repeat customers and provide referrals to your business.

If you have questions about the Used Car Rule, please contact John Hallerud in the FTC's Midwest Region at (312) 960-5634. If you would like additional copies of the **Dealer's Guide**, please follow the ordering instructions at the end of the booklet.

Sincerely yours,


 J. Howard Beales, III
 Director, Bureau of Consumer Protection
 FTC


 Michael R. Linn
 Executive Vice President
 NIADA

Most car dealers who sell used vehicles must comply with the Federal Trade Commission's (FTC's) Used Car Rule. In fact, car dealers who sell more than five used vehicles in a 12-month period must comply with the Rule. Banks and financial institutions are exempt from the Rule, as are businesses that sell vehicles to their employees, and lessors who sell a leased vehicle to a lessee, an employee of the lessee, or a buyer found by the lessee.

The Used Car Rule applies in all states except Maine and Wisconsin. These two states are exempt because they have similar regulations that require dealers to post disclosures on used vehicles. The Rule applies in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and American Samoa.

This booklet defines the Rule's requirements, explains how to prepare and display the Buyers Guide, and offers a compliance checklist.

You must post a Buyers Guide before you "offer" a used vehicle for sale. A vehicle is offered for sale when you display it for sale or let a customer inspect it for the purpose

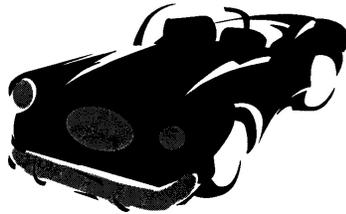
of buying it, even if the car is not fully prepared for delivery. This requirement also applies to used vehicles for sale on your lot through consignment, power of attorney, or other agreement. At public auctions, dealers **and** the auction company must comply. The Rule does not apply at auctions that are closed to consumers.

Previously titled or not, any vehicle driven for purposes other than moving or test driving, is considered a used vehicle, including light-duty vans, light-duty trucks, demonstrators, and program cars that meet the following specifications:

- a gross vehicle weight rating (GVWR) of less than 8,500 pounds;
- a curb weight of less than 6,000 pounds; and
- a frontal area of less than 46 square feet.

Exceptions to the Rule are:

- motorcycles;
- any vehicle sold for scrap or parts if the dealer submits title documents to the appropriate state authority and obtains a salvage certification; and
- agricultural equipment.



The Buyers Guide

A disclosure document that gives consumers important purchasing and warranty information, the Buyers Guide tells consumers:

- whether the vehicle is being sold “as is” or with a warranty;
- what percentage of the repair costs a dealer will pay under warranty;
- that oral promises are difficult to enforce;
- to get all promises in writing;
- to keep the Buyers Guide for reference after the sale;
- the major mechanical and electrical systems on the car, as well as some of the major problems that consumers should look out for; and
- to ask to have the car inspected by an independent mechanic before they buy.

If you conduct a used car transaction in Spanish, you must post a Spanish language Buyers Guide on the vehicle before you display or offer it for sale. (See pages 12-13.)

The Buyers Guide must be posted **prominently and conspicuously** on or in a vehicle when a car is available for sale. This means it must be in plain view and both sides must be visible. You can hang the Guide from the rear-view mirror inside the car or on a side-view mirror outside the car. You also can place it under a windshield wiper. The Guide also can be attached to a side window. A Guide in a glove compartment, trunk or under the seat is **not** conspicuous because it is not in plain sight.

You may remove the Guide for a test drive, but you must replace it as soon as the test drive is over.

Vehicle Information

At the top of the Guide, fill in the vehicle make, model, model year, and vehicle identification number (VIN). Write in a dealer stock number if you wish.

Dealer Information

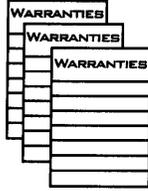
On the back of the Guide, fill in the name and address of your dealership. Also fill in the name (or position) and the telephone number of the person the consumer should contact with complaints. You may use a rubber stamp or preprint your Guide with this information.

Optional Signature Line

You may include a signature line on the Guide and you may ask the buyer to sign to acknowledge that he or she has received the Guide. If you opt for a signature line, you must include a disclosure near it that says: “I hereby acknowledge receipt of the Buyers Guide at the closing of this sale.” This language can be preprinted on the form. The signature line and the required disclosure must appear in the space provided for the name of the individual to be contacted in the event of complaints after the sale.

BUYERS GUIDE	

<input type="checkbox"/> AS IS - NO WARRANTY	
<input type="checkbox"/> WARRANTY	
_____	_____
_____	_____
_____	_____
<input type="checkbox"/>	



Warranty Information

- The Buyers Guide has two versions: One says “As Is-No Warranty;” the other says “Implied Warranties Only.”
- *As Is-No Warranty.* If state law allows it, and you choose not to offer a warranty – written or implied – you must use the “As Is” version and check the box next to the heading “As Is-No Warranty” on the Guide. (See page 8.)
- *Implied Warranties Only.* In states that limit or prohibit the elimination of implied warranties, you must use the “Implied Warranties Only” version and check the box next to the “Implied Warranties Only” heading if you don’t offer a written warranty. (See page 10.)
- *Warranty.* If you offer the vehicle with an express warranty, you must check the box next to the heading “Warranty” and complete that section of the Guide. Warranties required by state law must be disclosed in this section. Your state Attorney General can tell you about state warranty requirements.

State Law. In some states, use of the “As Is-No Warranty” Buyers Guide may be legally sufficient to eliminate implied warranties. In other states “as is” sales are allowed only if specific action is taken or certain language is used. For example, some states may require you to eliminate implied warranties by using special language and/or a document other than the Guide.

If you’re not sure which version of the Buyers Guide you should use or if you have questions about state requirements, contact the FTC or your state Attorney General.

Is the Warranty “Full” or “Limited”?

For a warranty to be considered “full:”

- Warranty service must be provided to anyone who owns the vehicle during the warranty period.
- Warranty service must be provided free of charge when necessary, even for services like removing and reinstalling a system covered by the warranty.
- The consumer must be able to choose either a replacement or a refund if the vehicle can’t be repaired after a reasonable number of tries.
- The consumer is not required to take any action to receive service, except to give notice that service is needed. Service must be rendered after notice unless the warrantor can demonstrate that it is reasonable to require consumers to do more than give notice.
- The length of implied warranties must not be limited.

The warranty is considered “limited” if any of these conditions don’t apply.

What Percentage of Costs Does the Warranty Cover?

Fill in the percentage of parts and labor costs covered by the warranty in the spaces provided. If a deductible applies to repairs made under the warranty, put an asterisk next to the number and explain the deductible in the “systems covered/duration” section. For example, “*A \$50 deductible applies to each repair visit.” (See page 8.)

**What Systems Are Covered?
For How Long?**

There's one column to list the systems covered, and another to list the length of the warranty for each system. In the left hand column, you must specify each system that's covered by the warranty. The Rule prohibits the use of shorthand phrases such as "drive train" or "power train" because it's not always clear what specific components are included in the "power train" or "drive train."

In the right hand column, you must state the length of the warranty for each system. If all systems are covered for the same length of time, you may state the duration once.

What if the Manufacturer's Warranty Still Applies?

If the manufacturer's warranty hasn't expired, you may disclose this fact by checking the "Warranty" box and including this disclosure in the "systems covered/duration" section: "MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the manufacturer's warranty booklet for details as to warranty coverage, service location, etc." The disclosure must be stated in the exact language quoted above. Using phrases such as "balance of factory warranty" are not sufficient.



If the consumer must pay to get coverage under the manufacturer's warranty, you may not check the "Warranty" box. Such coverage is considered a service contract. However, you may check the "warranty" box if you pay for coverage from the manufacturer and the consumer doesn't have to pay anything more than the price of the vehicle to get the coverage. If you provide a warranty in addition to the unexpired manufacturer's warranty, explain the terms of your warranty on the Buyers Guide. (See page 8.)

Where Should Negotiated Warranty Changes Be Included?

If you and the consumer negotiate changes in the warranty, the Buyers Guide must reflect the changes. For example, if you offer to cover 50 percent of the cost of parts and labor for certain repairs, but agree to cover 100 percent of the cost of parts and labor after negotiating with the customer, you must cross out the "50 percent" disclosure and write in "100 percent." Similarly, if you first offer the vehicle "as is" but then agree to provide a warranty, you must cross out the "As Is-No Warranty" disclosure and complete the "Warranty" section of the Buyers Guide properly.

What About Service Contracts?

If you offer a service contract for repairs, check the box next to the words "Service Contract." However, if your state regulates service contracts as the "business of insurance," you don't have to check this box. Check with your Attorney General or state insurance commissioner to find out if your state regulates service contracts as insurance.

What Do I Have to Give the Buyer At the Sale?

You must give the buyer the original or a copy of the vehicle's Buyers Guide at the sale. **The Guide must reflect all final changes.** (Completed samples are shown on pages 8 and 9.) If you include a signature line on your Buyers Guides, make sure the buyer signs the Guide that reflects all final changes.

If you offer a written warranty, or if the manufacturer's warranty still applies, you also must comply with the Magnuson-Moss Warranty Act and other FTC Rules, including the "Warranty Disclosure Rule." The Warranty Act contains provisions that establish consumers' rights with respect to written warranties. For example, the Act prohibits you from eliminating implied warranties when you provide a written warranty.

The Warranty Disclosure Rule requires that you disclose certain information about the coverage of your warranty and consumers' rights under state law. This information must be included in a single document that is clear and easy to read.

Can the Buyers Guide Serve As My Written Warranty?

The warranty information you provide on the Buyers Guide is not sufficient to meet the requirements of the Warranty Disclosure Rule. *Therefore*, your written warranty and the Buyers Guide must be two *separate documents*.

Another federal rule – the FTC's Rule on Pre-Sale Availability of Written Warranty Terms – requires that you display written warranties in close proximity to the vehicle

or make them available to consumers, upon request, before they buy.

Two publications are available to help you comply with these and other federal regulations on warranties: *A Businessperson's Guide to Federal Warranty Law and A Legal Supplement to Federal Warranty Law*. Both are available from the FTC. Call toll-free 1-877-FTC-HELP (382-4357), or write: Consumer Response Center, Federal Trade Commission, Washington, DC 20580. You also will find the full text of these publications at www.ftc.gov.

What Disclosures Should I Make if I Offer a 50/50 Warranty or Another Type of Split Cost Warranty?

Split cost warranties are those under which the dealer pays less than 100% of the cost for a warranty repair. This type of warranty includes 50/50 warranties where the dealer pays 50% of the cost for a covered repair and the buyer pays the remaining 50%. Another type of split cost warranty is one under which the buyer pays a deductible amount and the dealer pays the remaining cost for the repair.

If you offer a split cost warranty that requires you to pay a percentage of the repair cost for covered repairs, you should include the following disclosures in your warranty document:

- The percentage of the total repair cost you will pay.
- The percentage of the total repair cost the buyer must pay.
- How the total cost of the repair will be determined. For example, your warranty might state: "The total cost of a warranty repair will be the retail price ABC motors charges for the same job." As another example, your warranty might state: "The total cost of a warranty repair will be determined by adding the

dealer's cost for parts to the labor cost. Labor will be billed at a rate of _____ per hour for the actual time required to complete the repair." As a final example, your warranty might state: "If the work is done by an outside repair shop, total cost of a repair will be the same price ABC Motors is charged by the outside shop. If the work is done by ABC Motors, the total cost of the repair will be the same price ABC Motors charges non-warranty customers for the same job."

If your warranty requires buyers to pay a deductible, your warranty document should disclose the deductible amount and the details as to when and under what circumstances the deductible must be paid.

Dealers offering split cost warranties can require that buyers return to the dealer for warranty repairs. If your warranty includes this restriction, however, you should provide an estimate of the total repair cost before work is started. This will allow the buyer to decide whether to approve the repair or have the work done elsewhere.

Where Can I Get Copies of the Guides?

You can get Buyers Guides from business-form companies or trade associations, or you can download the Buyers Guide from the FTC's Web site. You also can generate them yourself on a computer. However, you must use the wording, type style, type sizes, and format specified in the Rule. You are not allowed to place any other wording or symbols (including logos) on the Buyers Guide. The Guides must be printed in 100 % black ink on white paper cut to at least 11" x 7¼." These requirements cannot be modified in any way. You may use colored ink to fill in the blanks.

How Am I Doing?

- ✓ Do you complete a Buyers Guide properly for each used vehicle offered for sale?
- ✓ Do you post the Buyers Guide *prominently and conspicuously* on each used vehicle you offer for sale?
- ✓ If you choose to include a signature line for the buyer's signature, do you include the following required disclosure language:
I hereby acknowledge receipt of the Buyers Guide at the closing of this sale.
- ✓ Do you put the following required disclosure in your sales contract:
The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.
- ✓ Do you give the vehicle's Buyers Guide or a copy to the purchaser at the time of sale and make sure it states the final negotiated warranty coverage accurately?
- ✓ If a sale is conducted in Spanish, do you use the Spanish language Buyers Guide?
- ✓ If you offer a written warranty, do you prepare a warranty document that complies with federal law? Is the warranty document available for examination by potential buyers?

What If I Don't Comply?

Dealers who violate the Used Car Rule may be subject to penalties of up to \$11,000 per violation in FTC enforcement actions. Many states have laws or regulations that are similar to the Used Car Rule. Some states incorporate the Used Car Rule by reference in their state laws. As a result, state and local law enforcement officials may have the authority to ensure that dealers post Buyers Guides and to fine them or sue them if they do not comply.

Where Can I Get More Information?

If you have questions about the Used Car Rule, contact the FTC and request a free copy of the Rule or staff compliance guidelines for the Used Car Rule; both documents explain some aspects of the Rule in more detail. You also can download these documents from the FTC's Web site. The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

Your Opportunity to Comment

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to www.sba.gov/ombudsman.



Example of a Completed Buyers Guide

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

Chevrolet	Cavalier	1995	IGIAD27P6DJ123456
VEHICLE MAKE	MODEL	YEAR	VIN NUMBER

DEALER STOCK NUMBER (Optional) _____

WARRANTIES FOR THIS VEHICLE:

AS IS - NO WARRANTY

YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

WARRANTY

FULL LIMITED WARRANTY. The dealer will pay **100%** of the labor and **100%** of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

<p>SYSTEMS COVERED:</p> <p><u>Engine</u></p> <p><u>Transmission & Drive Shaft</u></p> <p><u>Differential</u></p> <p><u>* A \$50 deductible applies to each repair visit.</u></p>	<p>DURATION:</p> <p><u>90 days or 3,000 miles, whichever comes first.</u></p>
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MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the manufacturer's warranty booklet for details as to warranty coverage, service location, etc.

SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of the time of sale, state law "implied warranties" may give you additional rights.

PRE PURCHASE INSPECTION: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

SEE THE BACK OF THIS FORM for important additional information, including a list of some major defects that may occur in used motor vehicles.

Below is a list of some major defects that may occur in used motor vehicles.

<p>Frame & Body Frame-cracks, corrective welds, or rusted through Dog tracks—bent or twisted frame</p> <p>Engine Oil leakage, excluding normal seepage Cracked block or head Belts missing or inoperable Knocks or misses related to camshaft lifters and push rods Abnormal exhaust discharge</p> <p>Transmission & Drive Shaft Improper fluid level or leakage, excluding normal seepage Cracked or damaged case which is visible Abnormal noise or vibration caused by faulty transmission or drive shaft Improper shifting or functioning in any gear Manual clutch slips or chatters</p> <p>Differential Improper fluid level or leakage excluding normal seepage Cracked or damaged housing which is visible Abnormal noise or vibration caused by faulty differential</p> <p>Cooling System Leakage including radiator Improperly functioning water pump</p> <p>Electrical System Battery leakage Improperly functioning alternator, generator, battery, or starter</p> <p>Fuel System Visible leakage</p> <p>Inoperable Accessories Gauges or warning devices Air conditioner Heater & Defroster</p>	<p>Brake System Failure warning light broken Pedal not firm under pressure (DOT spec.) Not enough pedal reserve (DOT spec.) Does not stop vehicle in straight line (DOT spec.) Hoses damaged Drum or rotor too thin (Mfg. Specs.) Lining or pad thickness less than 1/32 inch Power unit not operating or leaking Structural or mechanical parts damaged</p> <p>Steering System Too much free play at steering wheel (DOT specs.) Free play in linkage more than 1/4 inch Steering gear binds or jams Front wheels aligned improperly (DOT specs.) Power unit belts cracked or slipping Power unit fluid level improper</p> <p>Suspension System Ball joint seals damaged Structural parts bent or damaged Stabilizer bar disconnected Spring broken Shock absorber mounting loose Rubber bushings damaged or missing Radius rod damaged or missing Shock absorber leaking or functioning improperly</p> <p>Tires Tread depth less than 2/32 inch Sizes mismatched Visible damage</p> <p>Wheels Visible cracks, damage or repairs Mounting bolts loose or missing</p> <p>Exhaust System Leakage</p>
---	--

Reliable Used Cars

DEALER

1000 Downtown Expressway

ADDRESS

Lakeside, KS 02143

Stan Jones, General Manager, 202-916-4554

SEE FOR COMPLAINTS

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer purchase (except for purpose of test-driving) is a violation of federal law (16 C.F.R. 455).

Use this Buyers Guide if your state limits or prohibits "as is" sales.

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE _____ MODEL _____ YEAR _____ VIN NUMBER _____

DEALER STOCK NUMBER (Optional) _____

WARRANTIES FOR THIS VEHICLE:

IMPLIED WARRANTIES ONLY

This means that the dealer does not make any specific promises to fix things that need repair when you buy the vehicle or after the time of sale. But, state law "implied warranties" may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

WARRANTY

FULL **LIMITED WARRANTY.** The dealer will pay _____% of the labor and _____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

SYSTEMS COVERED:

DURATION:

SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of the time of sale, state law "implied warranties" may give you additional rights.

PRE PURCHASE INSPECTION: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

SEE THE BACK OF THIS FORM for important additional information, including a list of some major defects that may occur in used motor vehicles.

Below is a list of some major defects that may occur in used motor vehicles.

- | | |
|---|---|
| <p>Frame & Body
 Frame cracks, corrective welds, or rusted through
 Dog tracks—bent or twisted frame</p> <p>Engine
 Oil leakage, excluding normal seepage
 Cracked block or head
 Belts missing or inoperable
 Knocks or misses related to camshaft lifters and push rods
 Abnormal exhaust discharge</p> <p>Transmission & Drive Shaft
 Improper fluid level or leakage, excluding normal seepage
 Cracked or damaged case which is visible
 Abnormal noise or vibration caused by faulty transmission or drive shaft
 Improper shifting or functioning in any gear
 Manual clutch slips or chatters</p> <p>Differential
 Improper fluid level or leakage excluding normal seepage
 Cracked or damaged housing which is visible
 Abnormal noise or vibration caused by faulty differential</p> <p>Cooling System
 Leakage including radiator
 Improperly functioning water pump</p> <p>Electrical System
 Battery leakage
 Improperly functioning alternator, generator, battery, or starter</p> <p>Fuel System
 Visible leakage</p> <p>Inoperable Accessories
 Gauges or warning devices
 Air conditioner
 Heater & Defroster</p> | <p>Brake System
 Failure warning light broken
 Pedal not firm under pressure (DOT spec.)
 Not enough pedal reserve (DOT spec.)
 Does not stop vehicle in straight line (DOT spec.)
 Hoses damaged
 Drum or rotor too thin (Mfr. Spec.)
 Lining or pad thickness less than 1/32 inch
 Power unit not operating or leaking
 Structural or mechanical parts damaged</p> <p>Steering System
 Too much free play at steering wheel (DOT spec.)
 Free play in linkage more than 1/4 inch
 Steering gear binds or jams
 Front wheels aligned improperly (DOT spec.)
 Power unit belts cracked or slipping
 Power unit fluid level improper</p> <p>Suspension System
 Ball joint seals damaged
 Structural parts bent or damaged
 Stabilizer bar disconnected
 Spring broken
 Shock absorber mounting loose
 Rubber bushings damaged or missing
 Radius rod damaged or missing
 Shock absorber leaking or functioning improperly</p> <p>Tires
 Tread depth less than 2/32 inch
 Sizes mismatched
 Visible damage</p> <p>Wheels
 Visible cracks, damage or repairs
 Mounting bolts loose or missing</p> <p>Exhaust System
 Leakage</p> |
|---|---|

DEALER

ADDRESS

SEE FOR COMPLAINTS

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer purchase (except for purpose of test-driving) is a violation of federal law (16 C.F.R. 455).

Buyer's Guide in Spanish

GUÍA DEL COMPRADOR

IMPORTANTE: Las promesas verbales son difíciles de hacer cumplir. Solicite al vendedor que ponga todas las promesas por escrito. Conserve este formulario.

 MARCA DEL VEHÍCULO MODELO AÑO NÚMERO DE IDENTIFICACIÓN

 NÚMERO DE ABASTO DEL DISTRIBUIDOR (Opcional)

GARANTÍAS PARA ESTE VEHÍCULO:

COMO ESTÁ - SIN GARANTÍA

USTED PAGARÁ TODOS LOS GASTOS DE CUALQUIER REPARACIÓN QUE SEA NECESARIA. El vendedor no asume ninguna responsabilidad por cualquier reparación, sean cuales sean las declaraciones verbales que haya hecho acerca del vehículo.

GARANTÍA

COMPLETA LIMITADA. El vendedor pagará % de la mano de obra y % de los repuestos de los sistemas cubiertos que dejen de funcionar durante el periodo de garantía. Pida al vendedor una copia del documento de garantía donde se explican detalladamente la cobertura de la garantía, exclusiones y las obligaciones que tiene el vendedor de realizar reparaciones. Conforme a la ley estatal, las "garantías implícitas" pueden darle a usted incluso más derechos.

SISTEMAS CUBIERTOS POR LA GARANTÍA:

DURACION:

CONTRATO DE SERVICIO. Este vehículo tiene disponible un contrato de servicio a un precio adicional. Pida los detalles en cuanto a cobertura, deducible, precio y exclusiones. Si adquiere usted un contrato de servicio dentro de los 90 días del momento de la venta, las "garantías implícitas" de acuerdo a la ley del estado pueden concederle derechos adicionales.

INSPECCIÓN PREVIA A LA COMPRA: PREGUNTE AL VENDEDOR SI PUEDE USTED TRAER UN MECANICO PARA QUE INSPECCIONE EL AUTOMÓVIL O LLEVAR EL AUTOMÓVIL PARA QUE ESTE LO INSPECCIONE EN SU TALLER. VÉASE EL DORSO DE ESTE FORMULARIO donde se proporciona información adicional importante, incluyendo una lista de algunos de los principales defectos que pueden ocurrir en vehículos usados.

VÉA EL OTRO LADO PARA INFORMACIÓN ADICIONAL.

A continuación presentamos una lista de algunos de los principales defectos que pueden ocurrir en vehículos usados.

<p>Chasis y carrocería Chasis-grietas, soldaduras correctivas u oxidado Chasis doblado o torcido</p> <p>Motor Fuga de aceite, excluyendo el escape normal Bloque o tapa de recámara agrietados Correas que faltan o no funcionan Fallo o pistoneo Emisión excesiva de humo por el sistema de escape</p> <p>Transmisión y eje de cardán Nivel de líquido inadecuado o fuga, excluyendo filtración normal Cubierta agrietada o dañada visible Vibración o ruido anormal ocasionado por una transmisión o eje de cardán defectuoso Cambio de marchas o funcionamiento inadecuado en cualquier marcha Embrague manual patina o vibra</p> <p>Diferencial Nivel de líquido inadecuado o fuga excluyendo filtración normal Cubierta agrietada o dañada visible Ruido o vibración anormal ocasionado por diferencial defectuoso</p> <p>Sistema de refrigeración Fuga, incluido el radiador Bomba de agua defectuosa</p> <p>Sistema eléctrico Fuga en las baterías Alternador, generador, batería, o motor de arranque defectuosos</p> <p>Sistema de combustible Escape visible de combustible</p> <p>Accesorios averiados Indicadores o medidores del cuadro de instrumentos Acondicionador de aire Calefactor y descarchador</p> <p>Sistema de frenos Luz de advertencia de falla dañada Pedal no firma bajo presión (Especif. del Dpto de Transp.) Juego insuficiente en el pedal (Especif. del Dpto de Transp.)</p>	<p>No detiene el vehículo en línea recta (Especif. del Dpto de Transp.) Conductos dañados Tambor o disco muy delgados (Especif. del fabricante) Grosor de las bandas de los frenos menor de 1/32 de pulgada Sistema de servofreno dañado o con escape Partes estructurales o mecánicas dañadas</p> <p>Sistema de dirección Juego excesivo en el volante (Especif. Dpto. De Transp.) Juego en el varillaje en exceso de 1/4 pulgada Engranaje del volante de dirección se agarota Ruedas delanteras mal alineadas (Especif. del Dpto. De Transp.) Correas del sistema de servodirección agrietadas o flojas Nivel del líquido del sistema de servodirección inadecuado</p> <p>Sistema de suspensión Sellos de conexión de rodamientos defectuosos Piezas estructurales dobladas o dañadas Barra de estabilización desconectada Resorte roto Montura del amortiguador floja Bujes de goma dañados o ausentes Estabilizador para curvas dañados o ausente Amortiguador tiene fuga o funciona defectuosamente</p> <p>Llantas Profundidad de la banda de rodamiento menor de 2/32 de pulgada Diferentes tamaños de llanta Daños visibles</p> <p>Ruedas Grietas visibles, daños o reparaciones Pernos de montaje sueltos o ausentes</p> <p>Sistema de Escape Fuga</p>
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VENDEDOR

DIRECCIÓN

VÉASE PARA RECLAMACIONES

IMPORTANTE: La información contenida en este formulario forma parte de todo contrato de compra de este vehículo. Constituye una contravención de la ley federal (16 C.F.R. 455) quitar este rótulo antes de la compra del vehículo por el consumidor (salvo para conducir el automóvil en calidad de prueba).



National Independent Automobile Dealers Association

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www.niada.com

Michael R. Linn, Executive Vice President/CEO

The National Independent Automobile Dealers Association (NIADA) was established in 1946 and has over 18,000 members nationwide. NIADA, along with its Affiliated State Associations (chapters), is the only trade association representing licensed independent motor vehicle dealers in the United States. NIADA also has members from Canada, Puerto Rico and the U.S. Virgin Islands.

Part of NIADA's mission statement is to maintain a legislative presence representing independent automobile dealers in Congress and with Federal Regulatory Agencies. NIADA continues to work closely with the Federal Trade Commission (FTC), Internal Revenue Service (IRS) and many other regulatory agencies as well as the various Branches of our federal government.

NIADA also promotes a positive awareness of the independent dealer and the used motor vehicle industry to the consumer. NIADA enhances the reputation of our members as dealers who strive to serve the consumer fairly and honestly and still maintain a fair profit.

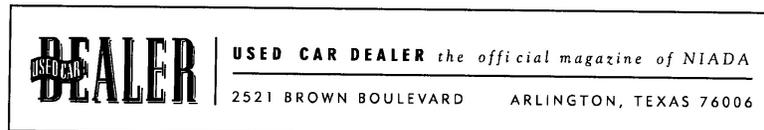
Another part of NIADA's mission is to promote a positive image of our members through dealer education. NIADA's "Certified Master Dealer" program, our "Regional Professional Development Seminars", along with educational sessions at each annual convention, provides dealers with unlimited opportunities to stay abreast of consumer issues, ever-changing governmental regulations and new practices within the industry. These educational forums, attended by dealers, lenders, representatives from both state and federal agencies, and others connected to the industry, have increased the overall professionalism of dealers and the industry as a whole. This "Dealers Guide to the Used Car Rule", prepared in conjunction with the Federal Trade Commission, is an example of that professionalism.

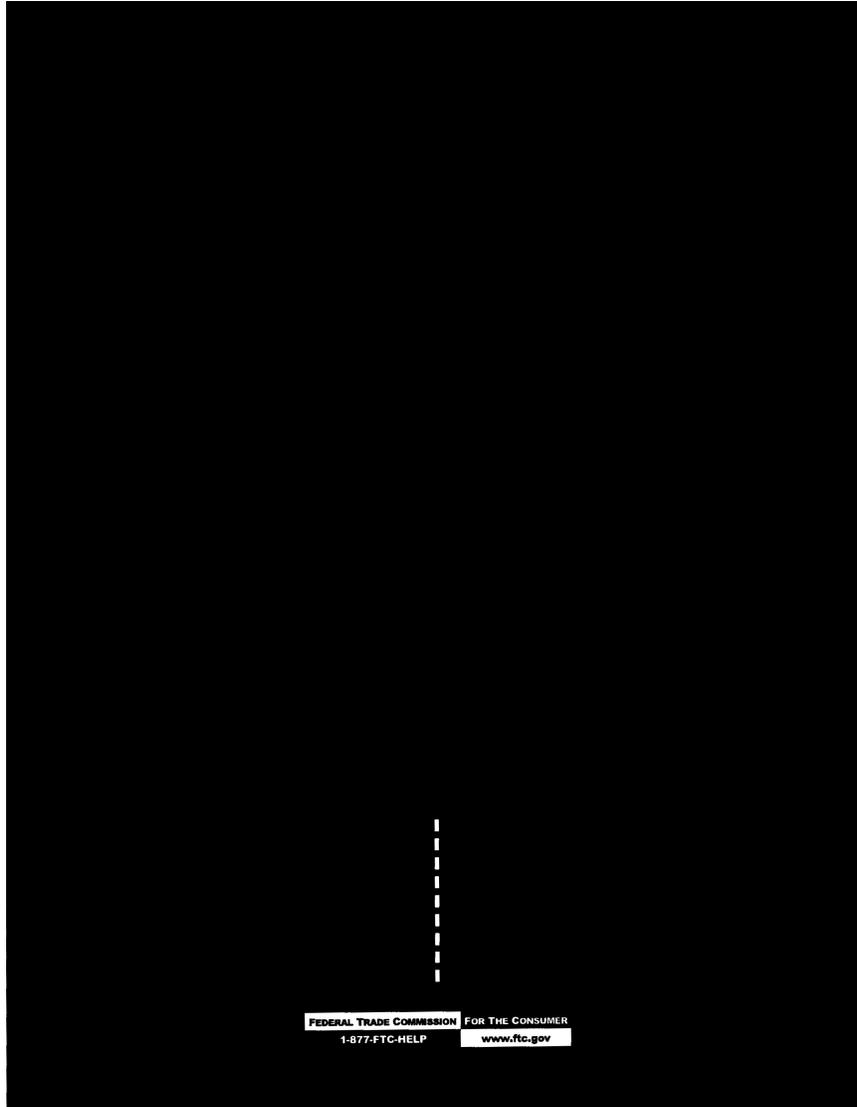


National Independent Automobile Dealers Association

NIADA is pleased to have the opportunity to work with the FTC in producing this Guide for the Motor Vehicle Industry. This project would not have been possible without the assistance of Standard Register Corporation (SRC), Automatic Data Processing (ADP) and their Dealer CAP Program. NIADA thanks SRC, ADP and the Dealer CAP Program for helping with the publication of this Guide.

Additional copies of this guide may be obtained by calling **NIADA** at 1-800-628-3837 or by visiting our website at www.niada.com. You may also obtain **NIADA** membership information by calling **NIADA** or your State Independent Automobile Dealer's Association.





MR. STEARNS. I thank the gentlelady. I will start with my questions. Mr. Regan, the chart that you have is the chart that I thought I would use and start from left to right, where the first green box--I wonder if we could put it up. Yes, it says vehicles totaled due to flood, accident, or theft. How many vehicles a year fit into that green category, the total?

MR. REGAN. We understand that insurance companies total approximately five million vehicles a year. We don't have breakdown beyond that of how many would be flood, how many would be salvage, how many would be stolen and recovered.

MR. STEARNS. Mr. Bryant, do you confirm that, five million a year?

MR. BRYANT. I don't know.

MR. STEARNS. You don't know. So then, Mr. Regan, five million a year is a large number, but you can't break that out in terms of theft, total, or flood damage?

MR. REGAN. That is correct, and the reason that we can't break that out is, as I said in my testimony, it is a 51-jurisdiction titling regime, and also there is no central database for all totaled vehicles. If there were a central database for all totaled vehicles, and a simple statement of why each of those vehicles was totaled, then the data would be readily available.

MR. STEARNS. If we in Washington set up a total database, the Justice Department could have it, how would you suggest we get the States to comply?

MR. REGAN. Well--

MR. STEARNS. The States can do it now voluntarily.

MR. REGAN. Yes, sir. I think--

MR. STEARNS. And I will ask you, Mr. Turner, what you think of it.

MR. REGAN. What we are proposing, quite frankly, is more out of the box than simply relying on the various DMVs. We are proposing a separate database, which is total loss, separate and distinct from an insurance company's obligation to report directly to the DMV. We are saying the day that a total loss check is cut, send that information to this central total loss database. Then it becomes in the public domain.

MR. STEARNS. And the VIN number is--

MR. REGAN. That is right. VIN, date of total loss, reason for total loss, and odometer reading at total loss. Then that is a red flag that is forever in the public domain regardless--

MR. STEARNS. Okay.

MR. REGAN. --of what Glenn's people do, regardless of whether the insurance company notifies the DMV, regardless of whether it ever gets into another database, it is out there forever.

MR. STEARNS. Now, that seems to be the crux of this. If we had a Federal or a mass database in which, when Equifax gives me something on a car, I sometimes asks them, well, how can I be sure that this is not a car that has been salvaged? They can't really provide that insurance because there is no master database.

MR. REGAN. That is correct, and the current vendors only receive database that the DMVs receive.

MR. STEARNS. Yes.

MR. REGAN. And as I said in direct testimony, if the insurance company never obtains a title for the damaged vehicle, there is no evidence in the public domain that that vehicle was totaled.

MR. STEARNS. Mr. Turner, do you have anything to add to that?

MR. TURNER. Well, I think, basically it is--

MR. STEARNS. Just put your mic on if you could.

MR. TURNER. Oh. Basically to be able to say that the primary purpose for NMVTIS was to be able to have a source or a database to be able to put this information in. Being that this database is real time, one of the issues that we have is to be able to, and hopefully, maybe you could help us, is to get a rule written to provide that insurance companies would provide this data to the national database and also the junk and salvage yard data as well. That way that information is available to not only the States, but it is available to the consumers as well.

MR. STEARNS. I understand that there are about 18 States that don't comply here, 14 I am told by staff, that really don't comply. I guess the question is why doesn't every State comply? Is there a reason why they are not complying in the sense of providing all of this information.

MR. TURNER. Through the national database?

MR. STEARNS. Yes.

MR. TURNER. One of the key reasons there, of course, is funding and that is why we are back at the table. And we are forever appreciative of the funding that we have gotten so far.

MR. STEARNS. So without Federal legislation, it would be a carrot and a stick. We would have to say, okay, you cannot get Federal funds unless you do this, or provide more funding to the States that do it, is what you are saying.

MR. TURNER. Basically to provide the funding to do that and that is why we had estimated \$13-and-a-half million over the next five years will allow us to get the other States in. You know, it may be noted that we do have 52 percent of the Nation's data on the national database right now. We are targeting four key States right now to be able to bring that figure up to 81 percent, the State of Illinois, the State of New York, the State of Michigan, and the State of California. We are working closely with these four States to get them on, and that would give us 81 percent.

MR. STEARNS. Okay. Mr. Bryant, you know, when I look at this chart and I see the insurance company processes the claim, but you know, I had a 1990 Buick LeSabre, and I gave it to my son, and he got in an accident and the insurance company wanted to total it, but I got in the car and drove it around, and it seemed to drive fine, except the front end was bashed, and I could get the front end fixed, but the insurance company said they wanted to total it. So they wouldn't give me the check unless I agreed. So can't the insurance company, since they are the ones that are most involved, couldn't we get them more compliant to take care of this instead of the States, or is that a total different issue?

MR. BRYANT. Well, I think that is what happened with the Katrina database, Mr. Chairman. I mean, the insurance companies, after discussions, they agreed to put the VINs of the vehicles which they paid damage on, they put it in this database and that is how it was created.

MR. STEARNS. Okay. Okay.

MR. BRYANT. And that is where the insurance companies are really trying, and NICB, were trying to do the right thing here.

MR. STEARNS. Okay. We are going to do a second round here, so I will yield back as my time has expired. Ms. Schakowsky?

MS. SCHAKOWSKY. Does everyone here agree that there ought to be a national database? Is there anyone who disagrees, there ought to be a national database of some--okay. So however we do it, at least we all definitely agree on that. I wanted to ask Mr. Regan, does your association do anything to police fraudulent sellers?

MR. REGAN. Our association is constantly engaged in best practices, educational material, and workshops for our members. And on this specific issue, one thing we have done is to impress upon the trade-in managers at dealerships, the due diligence that they have to do on vehicles when they come as trade-ins. Anecdotally, our incoming chairman from Kansas received a call from law enforcement a year or two ago, saying that a vehicle that he had inadvertently sold had been a stolen vehicle. He asked if he could go with law enforcement so that law enforcement could take the vehicle back and that he could offer the consumer, in essence, restitution for the original purchase price. We encourage our people to be engaged in this process, to work with law enforcement to try to correct these problems.

MS. SCHAKOWSKY. Mr. Watson, what do you do about fraudulent recyclers?

MR. WATSON. Fraudulent recyclers? We have no idea how they are fraudulent or not because there is no database. If we were active in the Department of Justice Stolen Parts Committee in 1992, after the 1992 Anti-Car Theft Act, we were working with them to create a database of stolen parts and that, just like the NMVTIS program, it never went anywhere.

MS. SCHAKOWSKY. Mr. Bryant, the charge was made that really the insurance industry has a lot to gain by cleaning titles, and I am looking at how State Farm, which is actually headquartered in Illinois, the Nation's--I am reading, State Farm, the Nation's largest auto insurer, continued to resell thousands of vehicles nationwide without disclosing they had been in wrecks, even though the company had agreed years earlier to stop the practice. The company announced this month that it would pay \$40 million to owners of thousands of totaled vehicles that State Farm had sold without State salvage titles as required by law. Actually, this article

goes on to say, for many consumers, that settlement is actually a pretty bad deal, in fact. So we are talking about huge amounts of money that can be laid at the feet of the insurance industry itself. Apparently, State Farm admitted to about 50,000 vehicles being fraudulent re-titled and sold in this agreement. I mean, don't we have to change the incentives here?

MR. BRYANT. What do you mean?

MS. SCHAKOWSKY. Well, I mean if you total loss a vehicle and then the insurance company wanting to make up as much money as possible, would have an incentive to conduct what State Farm has done.

MR. BRYANT. Well, I believe, just from my own experience, which I have been in this business for about six years from another career, but from what I have seen and particularly with the Katrina database, State Farm is one of the major contributors. And so this settlement that you are speaking of, I think if there were a national database issue here, title washing and some of these things would go away, and certainly it would be a financial benefit to the industry and certainly to the public.

MS. SCHAKOWSKY. Well, how would it be a financial benefit to the industry? It seems like the industry has a financial advantage in actually engaging in this kind of practice.

MR. BRYANT. Well, I think if title washing, selling cars, cloning, and some of these issues were eliminated, I think that would be to the advantage of the public and to the industry.

MS. SCHAKOWSKY. Ms. Weintraub, can you give us examples of some of the differences in State laws that make it difficult currently to police this kind of practice?

MS. WEINTRAUB. Sure. Well, some States have different definitions of what salvage is, which vary by the percentage of the total loss of the vehicle. For example, some States may say a car is totaled if 80 percent of the value of the car has been damaged, and States vary. I think there is one State that has 65 percent and it goes up, up the scale from there. There are also different actually definitions of junked, salvaged, and severely damaged, so those differences in actual definitions mean that a car in one State that would, let us say, have a 75 percent threshold, it would go to a State that has a different threshold.

MS. SCHAKOWSKY. Does it make sense to have some differences, for example, if the body is really damaged by hail, for example, and it looks totally trashed, but in fact could be improved to run. I mean, are those differences including in definitions?

MS. WEINTRAUB. Well, I think it has to do with the actual value. For example, air bags are very expensive, so a car may be in a collision and the most expensive damage may actually be to the air bags, but because they are so expensive and they are such a large percentage of the value of

the vehicle, then it would be totaled. Also because of the differences between new cars and older cars, you know, the percentage would have a very big significance.

MS. SCHAKOWSKY. There is value and safety always the same thing? Do you know what I am saying?

MS. WEINTRAUB. Right. It is a very interesting question and I think it is a complicated equation.

MS. SCHAKOWSKY. Thank you.

MR. STEARNS. The genteladys time has expired. Mr. Barton?

MR. BARTON. Thank you, Mr. Chairman. How many of you think that the Congress should act in this issue? Just raise your hand. So nobody thinks that we should leave it to the States? Now, I think--yes, sir. Did you want to say something?

MR. WATSON. Mr. Barton, to comment on that, the State is the problem and that is why we are in this mess to begin with now. There is no consistency. There is a patchwork of inconsistent laws and rules, and these thieves and fraudsters are finding ways to circumvent the rules. The State Farm issue, a perfect example. There is law in place. They circumvented the law. It has to be Federal. We have to act now. And because the States cannot do it, because they have had ample opportunity, it is the responsibility of the Federal Government to step in.

MR. BARTON. Okay. My opening statement indicated that as many as 600,000 vehicles have been totaled. Is that a good number, totaled in Hurricane's Katrina and Rita?

MR. WATSON. The last number I saw was 570,000 total loss.

MR. BARTON. We are pretty close.

MR. WATSON. Yes, sir.

MR. BARTON. Okay. One of you suggested that we create an entire new database for totaled vehicles. Do the others agree with that? No. The gentleman who shook his head no, why do you not agree with that?

MR. TURNER. Glenn Turner representing AAMVA from the State of Florida. Basically because the NMVTIS system will handle that now with that information going into it. Right now there is no rule from this governing body that would require that information to be put in the NMVTIS system.

MR. BARTON. Okay. The gentleman who suggested it, what is your response to that?

MR. REGAN. Yes, sir, Mr. Chairman. Our problem with the current NMVTIS system is that it may provide information between title clerks, but we cannot get the information that the title clerks have.

MR. BARTON. Who is "we"?

MR. REGAN. Dealers, consumers, anybody in the private sector. We just don't have access to that information now. And unless and until that

information can be packaged and marketed to the general public in an effective way, then the NMVTIS program just doesn't work, because the DMVs document transactions after the fact. We want to totally reconfigure this model so that purchasers have available information before they make a purchase decision.

MR. BARTON. Mr. Turner, what is your response to that?

MR. TURNER. Of course, do understand, this is a love fest down here. We all work closely together and help each other out. Basically, the--

MR. BARTON. Like us in Congress.

MR. TURNER. Absolutely. Yes, sir.

MR. BARTON. The same principle.

MR. TURNER. The issue here, of course, is that the NMVTIS system, and AAMVA with 52 percent of the data available now, and with the four States, bringing them on and having 81 percent, we are pushing out new efforts to be able to put this system out to the public and to the dealers. We have talked with Mr. Regan many times. We know the value that this information would have to our dealers nationwide.

MR. REGAN. Mr. Chairman, one additional point. We have worked long and hard with AAMVA to try to make this happen, but the States are creatures of statute. The DMVs are executive branch agencies. They can only act pursuant to legislative grants of authority, and they have very strict limits in some States on how they can market this data in general.

MR. BARTON. Well, if we accepted your concept of creating this brand new database, who would manage it? Where would it go? Who would be the repository, the overseer of that?

MR. REGAN. There are two ways to do that. One, you could put it in a national registry that would be accessible.

MR. BARTON. But somebody has to manage it. Somebody has to actually monitor it, control it, upgrade it.

MR. REGAN. Absolutely. And we think that the vigorously competitive private sector information industry is fully capable of doing that today.

MR. BARTON. But who? Do you want me to do it?

MR. FUGLESTAD. Mr. Chairman, Mr. Chairman?

MR. BARTON. Or do you want the young lady down at the end to do it? Do you want Chairman Stearns--

MR. FUGLESTAD. Mr. Chairman?

MR. BARTON. --Mrs. Schakowsky? I mean, just somebody has got to actually be responsible.

MR. FUGLESTAD. Representing private industry, I think what Mr. Regan is alluding to is companies like Experian that have this kind of experience. I mean, we do right now host a national database of vehicle

information. The NMVTIS system, there are differences. We have worked with AAMVA in trying to supplement--

MR. BARTON. But now you are a for-profit operation, right?

MR. FUGLESTAD. Correct.

MR. BARTON. So you would charge a fee to do it.

MR. FUGLESTAD. Well, we would have additional trade-offs and such on information that would supplement what we currently have. But yes, we are a for-profit organization.

MR. BARTON. Ms. Weintraub, you have got a comment?

MS. WEINTRAUB. Yes, I do. Thank you, Mr. Barton. We believe that the Department of Transportation should manage a separate database. While the private sector has gone a long way in providing information, there are a lot of loopholes, but we think that the private sector, Experian, CARFAX, as well as States and insurers, should report this information to a publicly available, accessible, and affordable database.

MR. BARTON. Mr. Regan, do you oppose that?

MR. REGAN. Our concern is, how soon can a consumer get the information; how soon can a dealer get the information? If we were dependent upon a Federal agency, we are not going to get it as fast as if the private sector is allowed to leverage that information, manage it, interpret it, and send it back out. The private sector's business is just that. Again, the NMVTIS system, as originally intended, is not a system that would give this information to consumers. It was originally intended that a private sector partner would leverage that information and sell it at a cost-effective rate to the private sector.

MR. BARTON. My time has expired. Mr. Chairman, could I ask one more question?

MR. STEARNS. Absolutely. Go ahead.

MR. BARTON. You folks are all for some sort of a federalization of this issue. Who is not here that would oppose it? There is bound to be somebody.

MR. WATSON. The insurance companies.

MR. BARTON. The insurance companies. Why would they oppose it?

MR. WATSON. Money.

MR. REGAN. Right.

MR. WATSON. They get more money if they can mask the identity of the vehicle. It has been testified here already that a vehicle that does not have a brand is worth more than a vehicle that does have the brand. So if the vehicle does not have a brand and you know, witnessed also by State Farm Insurance Company selling vehicles with no brands. They are fraudulent selling these vehicles.

MR. BARTON. Ms. Weintraub, do you agree with that?

MS. WEINTRAUB. In large part, yes. Also the insurers have their own databases. There is one called Clue, for example, that consumers do not have access to. I think some other private entities do. So the information already exists, but it is not being leveraged. The insurance industry has not provided information to NMVTIS yet, and it is in large part because DOJ hasn't written the rules yet to figure out how to ask and how to obtain that information.

MR. BARTON. Well, Mr. Chairman, my time has expired and I appreciate your hospitality. I would encourage you to work with Mrs. Schakowsky. I will touch base with Mr. Dingell, and I think we maybe should pursue a legislative draft and put it out for review. It looks like this is an issue that something needs to be done on.

MR. STEARNS. I thank the Chairman.

MR. BARTON. I thank the committee and I thank the witnesses.

MR. STEARNS. I think the point is well taken that at least a database, at the very minimum, should be established so that we can have an understanding of what the problem is, and that is what you are suggesting. The gentleman from Texas, Mr. Green.

MR. GREEN. Thank you, Mr. Chairman, and I am glad the Chairman and--well, thank you and the Ranking Member for holding this hearing. We let the Chairman talk about some type of legislation, because I have a district that I represent in Houston and Texas really didn't change our State law until after the Allison experience, and that was mostly in the district I represent, but now we have a half a million vehicles flooded with Katrina and Rita, and both Mr. Barton's district and those of us in Texas and I guess Alabama and Georgia will also see those vehicles. That is why I am glad everyone voted and that we will see some legislation, because that is important.

Mr. Bryant, in your testimony you mentioned that Congress should identify impediments implementing the National Motor Vehicle Title System. What are some of the impediments you see in your work with the National Insurance Crime Bureau? Is it mainly the States not cooperating?

MR. BRYANT. Well, you have 51 different systems and--

MR. GREEN. Yes.

MR. BRYANT. --frankly, when you have a good titling system in some States and some they are not, and it is just that some are very lax, and so this encourages a criminal to wash titles or cars or whatever. I mean, just the inconsistency is the harm here.

MR. GREEN. Mr. Turner, your website says there is 27 States that participate in the National Motor Vehicle Title Information System?

MR. TURNER. Yes, sir. Actually, that is just updated to 28. And I think it is important to know how those 28 or when those 28 came on. There is somewhat of a stigma out there that in 1992, the funding began and it has been a 14-year process and not many people have gotten on board. But understand that the funding came in in 1996, and then the database was built by 1998. We had a GAO audit after that for some kind of efficiency that stopped it. Then we had Y2K, which I know Texas, because my friends out there, we all stopped doing anything a year and a half before Y2K, and then after that it was 9/11. So if you look at 2001 and 2002, when we only had seven jurisdictions on board, and we have gone from seven to 28 jurisdictions in just four years, the actual time frame in which this has been done has been very quick. The States are really excited about this and want to come on board, but it does take some funding.

MR. GREEN. Well, I notice, and unless it is updated, 17 States are participating right online information and 10 provide batch information, so it looks like you have, if 28 only out of the 50 or 51, I guess, we still have a ways to go even though, you know, you had problems with Y2K that everyone had.

MR. TURNER. Well, could I interject something?

MR. GREEN. Sure.

MR. TURNER. As one thing we have said, we are working closely with Illinois, Michigan, New York and California. Bringing those four States on will bring us up to 81 percent of the Nation's data on that system.

MR. GREEN. Okay.

MR. TURNER. And it just--

MR. GREEN. Yes. I was going to ask you how many urban States and population, because that is important. And I know Texas is one of those is that is the batch State where they provide it. In your testimony you mentioned salvage companies and insurance companies should provide information to the information system. Would this prevent title washing?

MR. TURNER. Well, this is what Mr. Regan was referring to. If there was a database to where insurance companies were reporting salvaged vehicles at the time that they declare it salvaged, and junkyards and salvage yards were reporting their data into the system, not only would we have other States' information, but we would have their information on a nationwide real-time online system.

MR. GREEN. And my last question is for Ms. Weintraub. I know the Chairman asked how would we force, or maybe the Chairman of the committee asked how would we force the States to do it. Congress has a history of saying to the States, since it is related to motor vehicles, either

you do this or you don't receive highway funds. And having served 20 years in the Texas legislature, typically, we didn't want to lose the hundreds of millions of dollars that we received, but I didn't like it as a legislator anymore than I like making it mandatory now as a Member of Congress, but I would hope there was a way to encourage States to do that. And you know, obviously, we have some voluntary compliance, but again, if we could get to the major States. But there is bound to be a way we can have a carrot and stick. So thank you, Mr. Chairman.

MR. STEARNS. Thank you. The gentleman from New Hampshire is next, Mr. Bass. Mr. Bass passes. Mr. Deal is recognized.

MR. DEAL. Thank you, Mr. Chairman. Mr. Chairman, after listening to the testimony and the questions and responses, I am very concerned that we have given a very distorted picture of what is going on out there and some very misleading information, and I would like to try to clear some of it up. First of all, with regard to the State Farm insurance lawsuit, my understanding is that State Farm did exactly what they were authorized to do. They settled their claim with their insured. What they were ultimately held responsible for was because somebody in the chain from that point forward did something improper to be able to clear the titles up. Now, State Farm, for example, does a very good job in my State. They will not allow claims to be rebuilt, titles to be issued for rebuilt cars. In many cases, they require that the cars that would otherwise be rebuildable under our law be classified as parts only, which is a classification. My State, I think, does a very good job. If somebody rebuilds a car in my State, the State department of revenue has State inspectors who go back and inspect and make sure that the vehicles is road worthy before it is put on the road and a title is issued showing that it is a rebuilt vehicle.

Mr. Regan, I am going to use your chart here. My concern is what is happening now with an insurance company who settles a claim with their insured and the insured elects to keep the vehicle and goes to one of your people and has it repaired. And it may have been a total loss claim that was paid, but if they go to your people and they don't go through the normal rebuilding channels, they go to one of your body shops and they have the automobile repaired, and then they sell it to an unsuspecting third party, does anything ever show up on that?

MR. REGAN. Under your example, the answer would be no, and that is why we are proposing that the minute that insurance company pays the total loss to the insured, they put that data in the database so that nobody can ever sell it without some public knowledge of that fact that it has occurred.

MR. DEAL. And I agree with you.

MR. REGAN. Nobody.

MR. DEAL. That is one of the big loopholes that is currently existing, even in States like mine that do, I think, a very good job of trying to keep a handle on the issue.

MR. REGAN. And if I could follow up. If this system had been in place five years ago, there would have been no State Farm settlement.

MR. DEAL. Well, with regards to the insurance company, once they settle with their insured and they dispose of the remaining vehicle through a salvage, parts only or whatever, and they comply with the law of the State in which that transaction takes place, I don't think they should be held responsible. Now, what happens in these class action lawsuits is that somebody disposes of that vehicle down the chain improperly and violates or has the title washed or whatever. And then, as we all know, in a class action lawsuit, you start going back up the chain to find the doctrine of the deepest pockets takes it effect.

MR. REGAN. And in that going back up the chain, the buck stops at my members' door. That is why we are here and that is why--

MR. DEAL. Right.

MR. REGAN. --we want the information out there. We are in the phonebook. Even if we never have seen the repair facility, we have no knowledge about this, but we inadvertently take that into inventory and resell it, we get burned.

MR. DEAL. And I have no problem whatsoever with disclosure. I think the disclosure factor is the part we all ought to be able to agree to. My concern is that if we go much further in Federal legislation, we begin to undo what States like mine who have done a very good job of monitoring it, and we will displace that with something that I think may very well be less effective. That is my real concern.

MR. REGAN. Our approach is disclosure-based. Our approach would leverage the good work that you are doing in Georgia. It would not circumvent that.

MR. DEAL. I agree with that and I would support that kind of approach. Mr. Watson?

MR. WATSON. Please. Thank you. In support of State Farm, in the State of Illinois, I have had discussions with State Farm estimators and they are actually applying for non-repairable titles on many vehicles that they are selling at auction, those vehicles which an individual can look at and say this vehicle should never go back on the road again. They are actively engaged in that. That is positive and it supports the activity of this committee. It also supports the fact that just because, in the State of Illinois, we have non-repairable title that the insurance company determined, it should not be put back on the road again. It should never be rebuilt. It should be parts only or scrap. The vehicle can leave the

State of Illinois or the vehicle may not even leave. The title document leaves.

MR. DEAL. Right.

MR. WATSON. It goes to another State and it is washed.

MR. DEAL. And that is where, once the insurance company has done what they are legally obligated and are authorized to do, they are still being held responsible for what somebody else further down the chain does illegally.

MR. WATSON. Yes, sir.

MR. DEAL. And that is not correct and that is not proper in my opinion. Yes, Mr. Turner.

MR. TURNER. Yes. If I can respond to that, too. Of course, being from Florida, we work close with our good friends in Georgia.

MR. DEAL. Right.

MR. TURNER. So the issue there is, I know, in Florida as in many States, when an insurance company declares it salvage, they basically have taken the title from that individual and they file that title with us. We brand it as salvage and that goes on the NMVTIS system.

MR. DEAL. Right. And I know I am over my time, but let me just conclude with this, and that is Mr. Regan's chart. That one arrow that goes up there where the owner retains it. What we are finding and hearing now in our State is, there are folks out there who are going to these insureds before the claim is settled and saying, hey, if you let the insurance company declare this a total loss and they take the vehicle and they dispose of it, you are not going to come out nearly as well. You settle with them, get what you can and we will buy your vehicle from you, and they thereby circumvent all of the branding of the title that takes place, and that is a dangerous thing that is happening, even in States like mine that are trying to do a good job.

MR. WATSON. True. In legislation that--

MR. DEAL. May she respond? My time is up.

MR. WATSON. The legislation that we have actually drafted and is part of the written record actually identifies that as one of the databases created to, when the insurance claim is paid, there is a record and that record is public.

MR. DEAL. I think that is important.

MR. STEARNS. Yes, I encourage the gentleman that we are going to have a second round if he wants--

MR. DEAL. Can she respond?

MR. STEARNS. Sure. Absolutely. Go ahead.

MS. WEINTRAUB. Thank you. Just one further point, that while the database which would definitely take consumers out of their current darkness with information is very important. Some are actually

destroying the vehicles and getting them out of the stream of commerce, because once the vehicles are out and destroyed, then all of the many steps and many levels of fraud that harm consumers in Georgia and Florida and everywhere in the country--

MR. DEAL. Well, that is a judgment the State makes. In my State it says three major components and that qualifies. Other States may go to judgments on that.

MR. TURNER. I know you are out of time, but can I respond to that? Mr. Chairman, basically, you know we brand these vehicles differently. If it is a salvaged vehicle and it is under 80 percent or whatever, it is salvage rebuildable and that goes on the NMVTIS system. If it is over 80 percent, it is a parts only salvage unrebuildable. So that is notified and consumers would be able to see it. And as I was saying, if Mr. Regan's shop gets it in Georgia to repair that vehicle, that title will have already been branded because the insurance company did send it in. Georgia did brand it. So anybody that tries to sell it will see that that is a branded vehicle.

MR. STEARNS. Yes.

MR. REGAN. And one clarification. Our members have gotten out of the collision business over the last several years because some of our members still are engaged in collision repair, but the body shop business is much more highly regulated and the equipment required to do it properly is much more capital-intensive today than it was several years ago. A lot of my members no longer even have collision facilities.

MR. STEARNS. I thank the gentleman. The gentelady from Tennessee.

MRS. BLACKBURN. Thank you and I apologize for being up and down during the hearing, and thank you all for being here and participating in this today. When I was listening in the back and listening to your answers to the questions, I want to address this to each one of you. I think that what I am hearing from you basically is, in order to get the States coordinated and freely willing to release this information, you feel like it is going to require Federal legislation. Am I understanding that right from each of you? Mr. Turner?

MR. TURNER. Basically, you know, many have already done that and they are willing to do it. The issue is funding for programming, to be able to program to be able to tie into the NMVTIS system.

MRS. BLACKBURN. Okay. So you consider it primarily a funding issue, from your perspective?

MR. TURNER. From our perspective it is a funding--

MRS. BLACKBURN. You think the reticence is funding.

MR. TURNER. Pardon?

MRS. BLACKBURN. You would say their hesitation is based on funding.

MR. TURNER. Hesitation is on funding and of course, as their legislators meet, there are other priorities to implement as well, so sometimes it is a timing issue as well.

MRS. BLACKBURN. Okay. All right. In preparation for the hearing, I went to our Tennessee website and I thought it was interesting. There is an icon. Click here to identify hurricane damaged vehicles, and I think that, Mr. Regan, what you are saying is once that title is branded, it would show up in an icon like this.

MR. REGAN. In a perfect world, we would like someone to sit at a computer desktop, or we would like a trade-in manager on our members' lot to have a handheld device where they could punch in a VIN and see on that screen that the vehicle had been declared a total loss, and also see on that screen what the title history of that vehicle is from Mr. Turner's members. That is what we want, pure and simple. And that is not available today because the insurance companies do not share total loss data separate and distinct from their reporting obligations under the State title branding laws. And the State title branding laws are confusing at best and incomplete at worse.

MRS. BLACKBURN. Okay. All right. So what you are saying is my Tennessee State website that clicks there to go to the National Insurance Crime Bureau, that it is incomplete?

MR. REGAN. That is the first time that the insurance industry has posted data on totaled vehicles to our knowledge.

MRS. BLACKBURN. Okay. Mr. Watson?

MR. REGAN. And those are specifically about the hurricane vehicles, but that does not cover the five million vehicles that were totaled last year--

MRS. BLACKBURN. All right.

MR. REGAN. --because they were wrecked.

MRS. BLACKBURN. Okay. Mr. Watson, you wanted to add--

MR. WATSON. We would hope, in our draft legislation that the Federal Government would require the insurance companies to report. Let the States continue doing what they do and do best, but let the insurance companies do their reporting to the Federal Government Department of Transportation or whoever you would like to manage that database. To report the VIN numbers of Katrina cars, that is inadequate. So all you are going to do is you are going to find consumers that could probably least afford these cars, that probably see it is a super great deal, only to find out a year or two or three down the road what they truly did buy, cars that the brake systems are destroyed, the electrical systems are falling apart, all the solder is corroded. You have to protect the

consumers now. You cannot just post the data in the hope that they buy it, because these are the people that can least afford it now.

MRS. BLACKBURN. Okay. Ms. Weintraub?

MS. WEINTRAUB. Thank you, Ms. Blackburn. There is a problem in that consumers often don't see the title of the vehicle they are purchasing until after it has been financed. Often, they will receive the title months and months after they actually purchase the vehicle. So what we are recommending is that the relevant information on the title be posted on the car itself. The Federal Trade Commission requires specific information which is set forth in their used buyers guide, and that is posted on the vehicles' windows before purchase. It is on the lots. And we think that this relevant information should also be posted right next to it.

MRS. BLACKBURN. Okay, thank you. Mr. Bryant, let me come down to you. Since you are there with the Insurance Crime Bureau, you mentioned that we need to identify the impediments that have delayed the implementation of the Vehicle Title Information System. So what would you say are those impediments? Do you have a list of five? Do you feel like you know some that we don't know or we need to know as we look at this? Do you want to--

MR. BRYANT. Well, the first one is the Department of Transportation and then the Department of Justice has had responsibility for this statute which was passed 14 years ago. And the other issue is that it has not come to fruition. The issue there is, I think, as Mr. Turner points out, is money. There are a lot of legacy systems and there are 51 different systems with different types of computers and that type of thing. And so I would say the impediment I would suggest to you is money.

MRS. BLACKBURN. Okay. Well, it seems like, Mr. Chairman, we repeatedly hear the same thing. It is an overgrown bureaucracy that doesn't work and doesn't respond and they always want more money to solve their problems. So with that, I will yield back.

MR. STEARNS. I thank the gentlelady. Let us see, Mr. Otter was here. I guess he has stepped out. I will continue with the question. Yes, Mr. Turner. Sure.

MR. TURNER. May I respond to that?

MR. STEARNS. Sure. Go ahead.

MR. TURNER. I know that is the nature of the beast, but you know, one of the things we would say is that we know that this system will be totally self-sufficient in 2011, and with a little bit more funding to be able to do that and to be able to see in the more recent years how the majority of the States have come on board, we have seen success, are seeing success, and everybody knows the problem and we want to go there as quickly as possible.

MR. REGAN. If I could jump in there one minute.

MR. STEARNS. Sure. Go ahead.

MR. REGAN. What we would like to see happen is for the shareholders of companies, like Mr. Fuglestad, bear the risk of building out this system, not the taxpayers. We think that is possible. We think the technology is in the private sector today. We think the capital is in the private sector today. We think the ingenuity is in the private sector today. We would like that leveraged with the data that they collect to document transactions after the fact.

MR. FUGLESTAD. Can I respond, too?

MR. STEARNS. Sure. Go ahead.

MR. FUGLESTAD. Thank you, Chairman. And you know, we are talking about a national database. There is a lot of discussion on who should host this and what is this national database. Frankly, in order for it to be national, in my estimation, it needs to be fed from all the different jurisdictions. So we have a ways to go on that. We know that. We are doing that today. Now, it is not real-time data, but we do have the broad scope of data in our database and it is being hosted today. There is another difference on how we process or manage this data versus what the NMVTIS system is doing, is basically, we are accepting data, I will say, as is from the different State DMV organizations, meaning, we are going to take that data, standardize it, interpret it, analyze it, validate it and put it into a form that can be used in these common reporting services, if you will.

And the other comment that was made here is that we are a for-profit organization. Yes, we are. However, there are creative ways of partnering with companies or organizations, such as AAMVA, in the creation of a robust data set. I mean, some of the objectives of NMVTIS are very important to our clients, customers, and consumers in general. So if we can supplement these rich data sources, if we can start supplementing what we have to our clients and consumers, in exchange for providing the broad depth of data that we have to an organization like AAMVA and to use their NMVTIS system, there is not necessarily heavy funding associated with that. So there are creative ways of looking at this other than just, you know, charging consumers for these reports in the end.

MR. STEARNS. I thank--the gentlelady?

MRS. BLACKBURN. Mr. Chairman--

MR. STEARNS. Sure. Go ahead.

MRS. BLACKBURN. --that was going to be in my second round. If I can, I will just finish with my second round now with Mr. Fuglestad. So do you think it is necessary to have a legislative fix, or do you think the private sector and the demand for this information, with the knowledge

that the technology to do this is available, do you think that the public demand for it will drive the fix or that it needs a legislative fix?

MR. FUGLESTAD. I think there are certain areas that need a legislative fix.

MRS. BLACKBURN. Right.

MR. FUGLESTAD. We are talking about the insurance data, which isn't available--

MRS. BLACKBURN. Okay.

MR. FUGLESTAD. --to us today, or the NMVTIS system. There are differences when we talk about State DMV data. As I have stated, we do have it. I know AAMVA is looking for funding to pursue the remaining States and such for NMVTIS. However, like I say, we do have that data today; it is not real time. So that is the benefit that a system like NMVTIS will bring on. It takes approximately four to six weeks for a transaction, a titling or registration or a branding transaction when it hits the State DMV organization, to get it to us and in our data repository. So there is a timing issue and there is no doubt that fraudulent activity could happen in the interim. So that is one of the major differences or major benefits we see for a system like NMVTIS. And then supplementing our data broad and deep repository with some real-time data I think would be very valuable to our customers. So there are some areas that legislative--

MRS. BLACKBURN. And how long would it take you to get a system like that in place?

MR. FUGLESTAD. We have a system today. We have our national vehicle database in place today that supports our AutoCheck vehicle history reporting. So we can provide vehicle history reports based on data from all 51 DMV jurisdictions. Today we can do that.

MRS. BLACKBURN. Okay, thank you.

MR. TURNER. May I respond to that?

MR. STEARNS. Sure. Go ahead.

MR. TURNER. We are working and have worked with Experian and other companies who have these databases to be able to do that. And what he is saying, it is true and the crooks know it, too, that they are three or four weeks out from getting the data, where NMVTIS is real-time online and it is instant, within seconds of entering it into the system. And this is an issue that we have been trying to figure out different ways. The beast just had its hand out. We basically reduced our cost and will continue to reduce them by a couple of million dollars over the next year and a half. We have gone to the jurisdictions that are online and they have agreed to pay full fees starting 2008, even though there is not 100 percent of the data there. Several efforts are going on within the States to try to help and fund. We have agreed to send programmers or whoever we need to send to those States that aren't online to be able to

help them program and do whatever we can. So we are not just standing with our hands out. We are working very fervently to make this happen no matter what.

MR. REGAN. One other comment, if I could add, Mr. Chairman. The four to six-week delay is critical. That is a critical part of the problem, because that is how long it takes our members under the best circumstances. If a total loss vehicle is branded with a title, it goes to Mr. Turner's office and then it goes to Mr. Fuglestad's office before it ever gets to us. That four to six weeks is a window of opportunity for fraud, to rebuild and to put that vehicle back in the market. If, on the day the total loss is declared, the insurance company would simply say total loss and put that information on day one into the public domain, then there is no window of opportunity for fraud.

MR. STEARNS. I will start the second round here. We won't keep you too long here. Mr. Bryant, when a car is totaled and the insurance company says, we will give you a check, they take the car. You can't keep the car and get a check, too, can you?

MR. BRYANT. There is such a thing as owner-retained salvage, and wherein there is a certain payment made and it is the value of the vehicle, the salvage value is deducted from the amount of the payment. And so in the case we talked about earlier, the owner-retained salvage is an issue.

MR. STEARNS. So, Mr. and Mrs. John Public has a car and it is totaled, the insurance company says, we will give you X dollars for it, you can still keep the car?

MR. BRYANT. You have to pay back what the salvage value is.

MR. STEARNS. And what percent of that generally is that?

MR. BRYANT. Well, it just depends. I mean--

MR. STEARNS. Is it much of an incentive for them to keep the car?

MR. BRYANT. I actually must yield to Mr. Regan on that.

MR. STEARNS. Yes, Mr. Regan.

MR. REGAN. I mean my knowledge is anecdotal on this.

MR. STEARNS. Yes.

MR. REGAN. But my impression is, this varies State to State, depending on what the law of the State titling laws are. Some States have attempted to address this problem. I understand, in Ohio, they have instituted a requirement recently, that in order for a consumer to retain a salvage vehicle, before they can receive the payment from the insurance company, they have to demonstrate that they have obtained a salvage title for that vehicle.

MR. STEARNS. Mr. Turner, what do we do in Florida?

MR. TURNER. Well, you know, one of the things in addressing this issue that we found, and I get the calls quite often from individuals that

want to keep the car, even though the insurance company has bought that vehicle, generally, these are vehicles of low value.

MR. STEARNS. Right.

MR. TURNER. And so by getting that money back, the \$1500 for the vehicle, it was better for them to keep the vehicle, get it repaired and keep driving it. It was far more costly for those individuals to go get another car.

MR. STEARNS. Yes. Something from the get-go that I should have asked: we keep talking about the serious problem here, but do we have any statistics of how many people have been killed because of vehicles that came through flood damage or vehicles that were totaled and then rebuilt? I mean, do we have any firm statistics on this to know how big this problem is, or it is just a problem that we think is a problem?

MR. TURNER. Well, I don't think there are any statistics out there to break it down that far. I do know that in looking at Florida's statistics, that in 2004 we had 78,000 auto thefts. In, you know, 2003 we had 81.5. In 2002 we had 89. So there was an 11 percent difference by being on a NMVTIS system that brought the theft down. So when you start taking the bad vehicles off of the market, it has got to help put the better vehicles on the road.

MR. STEARNS. So if a person steals a vehicle, it doesn't necessarily mean that that vehicle is not going to be safe?

MR. TURNER. It does not necessarily mean that.

MR. STEARNS. So your statistics don't imply that there is any danger to the public because they lost the vehicle, but the fact that they resell them to somebody else and they still work.

MR. TURNER. Really, the only point is, is that the NMVTIS system is working.

MR. STEARNS. Okay.

MR. TURNER. So it is taking those vehicles--

MR. STEARNS. But there is no one here on the panel who can say to me, including you, that so many people are dying per year because of cars that have been salvaged from a flood or cars that have been totaled and have been fixed and the air bags don't work. So we don't even know how serious a problem it is. Is that true?

MR. TURNER. That is true. I think one of the issues that we are seeing more and have most statistics on is also that the individuals are complaining about having a bad vehicle and paid a higher price for it, so it is a consumer protection issue as much as maybe a safety issue, but no figures either way.

MR. STEARNS. You know, depending upon the mechanic, if I gave him a car from New Orleans and it was in a flood, this guy might be

pretty apt. He might get the car back in pretty good shape. So you know, I am just trying to understand.

MR. TURNER. There are some very good mechanics out there and body rebuilders. There is no doubt about that. It is always the few. It is the ones that replace the rubber cover on the brake--

MR. STEARNS. Yes. It gives us a level of safety and security if we know all this information and we are sure that the salvaged vehicle or the totaled vehicle is not resold, but then again, depending upon who repairs it, I have seen a lot of repair people do excellent jobs, you know. Yes.

MR. REGAN. Excuse me, Mr. Chairman. On the safety-related issue, I think we need some more statistics on air bags and the extent to which the deployment of an air bag triggers a total loss. It is very expensive to replace air bags. That factors into the economic equation that the insurance companies engage in to determine whether or not to declare a total loss. That is separate and distinct from whether you get a branded title. But when the air bags are deployed and those vehicles are sold as salvage, that provides a fraudulent rebuilder with an economic incentive for future profit if you buy the vehicle and instead of repairing the air bag, you just cap it. It is very difficult to determine if an air bag has been deployed, or it is expensive to determine whether an air bag has been deployed or not.

MR. STEARNS. Yes.

MR. REGAN. And as more of these vehicles get into market with the air bags, I think the safety-related issues are going to become much more important.

MR. STEARNS. Yes, I would think, here in Washington, we should try to get better statistics on this, too. My last question--

MS. WEINTRAUB. If I may?

MR. STEARNS. Yes.

MS. WEINTRAUB. In terms of safety, while we don't have accurate statistics about the number of crashes and collisions that have occurred because of cars being a rebuilt wreck or salvage, it is unmistakable that cars that have been salvaged and then rebuilt do not have the same integrity as a car that doesn't, and there are many, many instances, whether it is a flood car that literally will rot from the inside out, with electronic components completely failing to work or with the failure of air bags. There are vast safety implications. But I think, because everyone is under such a huge veil of ignorance, that consumers may not know whether the car that they just crashed in and hopefully weren't killed in but could be seriously injured in, they may not know whether that car was salvaged. I think that is one of the main reasons why we don't have that type of data.

MR. STEARNS. The statistics.

MS. WEINTRAUB. And also because of the different variations in State laws as well. But it is, I think, undisputed that cars that have been declared a total loss and salvaged do have--

MR. STEARNS. Well, I think that is--

MS. WEINTRAUB. --safety implications.

MR. STEARNS. --absolutely true. But the question is, if you have the database, then no one would get hurt because everybody would know they are buying a car that was totaled or salvaged or was in a flood. But right now we just don't know how many people are buying these and how many people are getting hurt or injured because of it.

Mr. Fuglestad, I guess what I am hearing is that the insurance companies have a pretty good database, or at least they seem to have a better database than perhaps other folks, but the question we have is this database is not public. And so what do you think of the idea of making some of this public?

MR. FUGLESTAD. Yes. And first off, I am here representing Experian Information Solutions Company.

MR. STEARNS. Yes.

MR. FUGLESTAD. Mr. Chairman, you are right on. We have talked about creative ways of how we can make this data available through a system like NMVTIS with AAMVA. So there are opportunities where we can exchange data or provide the vast data that we have too.

MR. STEARNS. I mean, the Justice Department could work with you and maybe get an idea of what your database looks like, but would you work with the Justice Department on this?

MR. FUGLESTAD. Sure we would.

MR. STEARNS. Yes.

MR. FUGLESTAD. And the other thing that I would like to mention, I have said it a couple of times, but the data management I think is key to this. The variety of different implementations, the differences in technology and how data formats are transmitted, it is extreme out there. It is tough to get all of this together. That is what we do. That is what we interpret. We get all of this together in a standard common format versus publishing a standard. We don't have that luxury with the State DMVs to say this is what you must abide by. We take the data from them as is and we translate it, we interpret it and get into these standard formats. It is a big impediment, I would think, for getting this common national database together which we have today.

MR. STEARNS. My time has expired. The gentlelady--

MS. SCHAKOWSKY. I wanted to go back, just for a moment, to the State Farm settlement, because it was said that it was a good one, a proper one, but I wanted to ask Mr. Regan, I know that in that settlement, to get settlement money, consumers had to first agree not to sue State

Farm, but it doesn't protect, my understanding is, car dealers who bought the wrecks and you still would be subject to lawsuit, is that true?

MR. REGAN. That is correct. Some of our members have been sued. After State Farm notified the ultimate consumer that the vehicle that they had purchased had in fact been totaled, some of those consumers are now suing the dealers who unknowingly sold them those vehicles. And I might add also that we understand through press accounts that the original negotiations with the AGs, or those original negotiations with State Farm were triggered when a dealer notified the AG of the problem.

MS. SCHAKOWSKY. I wanted to ask about this Clue database. I don't know if that is what you were referring to before, Mr. Fuglestad. I don't know, but you had mentioned that, Ms. Weintraub, that there actually is this database that insurers use. Who has access to it other than insurers right now? Does anybody know?

MS. WEINTRAUB. I don't know.

MR. FUGLESTAD. That is not our database. That is the insurance industry database. We have a national vehicle database of vehicle title and registration and brand information.

MS. SCHAKOWSKY. Okay. This internal insurance industry database, I mean, it is really too bad we don't have a representative of the insurance industry here to help us with this. I mean, so many things go back to them and start with them, end with them, but I am just wondering, if there does exist the kind of database of total loss that we are talking about and it is just a matter of making it a public one, and also then wanted to ask Ms. Weintraub--

MR. STEARNS. Would the gentlewoman yield just for a second? I would point out that we invited the insurance company.

MS. SCHAKOWSKY. Right.

MR. STEARNS. They declined.

MS. SCHAKOWSKY. It is becoming more obvious why. I am just wondering, though, if there is in existence such a database and if that is essentially what we would want for dealers and consumers to have access to. Do you know that, Mr. Bryant?

MR. BRYANT. I am not sure. There is an all claims database, but I don't think there is a total loss database, but I am a little unsure.

MS. SCHAKOWSKY. Okay.

MR. TURNER. Can I respond?

MS. SCHAKOWSKY. Yes.

MR. TURNER. That was the purpose for requesting the rule. And basically, if the insurance companies were to report the total loss to the NMVTIS system, which is online real time, then we would have national information available for anybody to look at right now, if they started reporting today.

MS. SCHAKOWSKY. Okay. So we know, obviously, they do have that, but is it compiled in a data system that is available to them? No?

MR. TURNER. No, I don't think so.

MS. WEINTRAUB. The insurance industry has not reported to NMVTIS.

MS. SCHAKOWSKY. No, I know that.

MS. WEINTRAUB. Yes.

MS. SCHAKOWSKY. But they have it available internally.

MS. WEINTRAUB. Yes.

MR. REGAN. The question is, do they share the data among themselves, and if they do, for what purpose? We would appreciate the committee's inquiry of them on those variations.

MS. SCHAKOWSKY. Okay, so we don't know that. All right. I wanted to ask Ms. Weintraub, though, the advantage of a system that is publicly administered by NTSA or the FTC or somebody, as opposed to a private sector database.

MS. WEINTRAUB. Sure. Well, I think there are inherent benefits to a public versus a private database. First of all, with a public database that would be created through Federal legislation, there would be many things that could be controlled by its authorizing statute, which would be beneficial that we may not be able to control if there is a private database. Also, in terms of accessibility and affordability, and really the integrity of the data if, I think, there is a public domain for this information, it could be much more beneficial to consumers. Also, I mean, my sort of question is, if there is this idea to do this privately, why hasn't it happened now? And unfortunately there are limitations to existing private databases such as CARFAX and Experian, which by far do help consumers in a very large measure, but there are limitations. So I think, in order to pull all of the best data together, the best way to leverage that would be with a public database.

MS. SCHAKOWSKY. Let me just say for the record that it seems to me that it is very important for individual consumers themselves to be able to access this information in addition to anyone else up the line. You know, if we are going to make consumers be aware, then that information has to be available. And if I could ask one more question, Mr. Chairman. But beyond that, which everyone seems to agree with however it is formulated, the existence of a national database, Ms. Weintraub, I wonder if you had other suggestions.

MS. WEINTRAUB. We did.

MS. SCHAKOWSKY. And I wonder if you could just briefly review those.

MS. WEINTRAUB. Sure. Well, first we think--and I have tried to mention this a few times--that in order to really quash this fraud that is

harming consumers financially and in terms of public health, these vehicles which pose vast threats need to be taken off the market and destroyed in a responsible way so as not to harm the environment. There are ways to responsibly dispose of these vehicles.

MS. SCHAKOWSKY. And just a follow-up on what the Chairman has said. Mr. and Mrs. Jones, who get a settlement, they could, in fact, also try and resell that car.

MS. WEINTRAUB. Exactly. Now they could.

MS. SCHAKOWSKY. Yes.

MS. WEINTRAUB. And with the Chairman's paradigm, my concern is less with the individual, though an individual may be a bad actor, but it is more with what the insurer then does. We don't know exactly what they do, but we know from the State Farm case that there are unscrupulous insurers and unscrupulous entities throughout the line which create this chart and you know, we sort of formulated a verbal or a written flow chart as well. So the question is if the insurer does declare these vehicles a total loss, and I don't know the exact number, but I would think the vast majority of them, the consumer does not retain the vehicles. What does the insurer then do with the vehicles? If the vehicles are destroyed, it would really eliminate many avenues for fraud, deception, ill-gotten profits and harm, both financial and economic, to consumers.

MS. SCHAKOWSKY. Those are the two things.

MS. WEINTRAUB. That is two. And we also agree that there should be a publicly accessible national electronic database. We also think that licensed dealers must provide a copy of the title to consumers before consummating a car deal. Because, as I mentioned as well, consumers don't see the title, so a title as a source of information is not very useful, because consumers don't see it until after the transaction or the leasing agreement or the financial agreement has actually taken place.

We also think that public disclosure, because of the failure of the title to act as the source of information for consumers, public disclosure is very important, and we already have a very good model with the FTC user/buyer guide, and that on the window of vehicles that consumers purchase, there is a whole bunch of information. I think we are all familiar with what that looks like. We may not realize that the FTC required that. But we think that this information should be right next to that, because consumers have been sort of socialized to look for relevant information there.

We also think that the information should be placed indelibly affixed on the car itself so that, you know, if the car is in a transaction that is not with a licensed dealer, for example, that information can be tracked with the car. And the other aspect of Federal legislation is remedies, which we think should track the Federal Odometer Act.

MS. SCHAKOWSKY. Thank you.

MR. TURNER. Could I give a point of clarification?

MR. STEARNS. Sure. Go ahead, Mr. Turner.

MR. TURNER. Just as far as when a vehicle is determined unbuildable and salvage, basically it is good for parts only. When we brand that title, all you can do is sell it for parts if you want to keep it, so it does go away. It no longer can be used as a single vehicle. It can no longer be registered or receive a license plate in a State for doing that. And also, just to reiterate again, AAMVA--

MS. SCHAKOWSKY. That is in Florida.

MR. TURNER. That is in Florida and in most States. I mean, once it is unbuildable, it is parts only. Now, we brand differently. That is where we need some uniformity in our rules, but we brand a little differently. But NMVTIS does provide us the avenue that, say, when we get a title from Illinois, and Mr. Chairman, we are right at 700,000 individuals moving from other States into Florida a year, and Illinois is one of them, some of them, and I imagine we have some going to you, but when we get that title in and exchange that and turn that into a Florida title, if it has any kind of branding on it, we go to your statutes and we look at what your definition is. And because we were bounced off of your system, we saw it was salvage; we go and look at your law, then we brand it according to how our law that matches up with the Illinois law, and so there is a means out there. And also, I just wanted to say that AAMVA has a priority issue to make this available to the public, now that our volume of information is growing rapidly.

MR. STEARNS. I thank the gentlelady. I will conclude. I think we all know the story. Archimedes was in the tub and he said, eureka and had this great idea. I just had a great idea that would solve this problem. It is imaginative, innovative, and this is it. We all know what RFIDs are. They are little radio frequencies and they can give you an electronic readout of what happened to the car. You could set up an incentive program where the manufacturers of automobiles would put an RFID in every car so that if it got into an automobile wreck or if it was in a flood or it was stolen, it would have a record of this that you could read out and the automobile dealer would say, Cliff, if you want to buy this car, you got to pay a little more money for it, maybe \$100 or \$50. Then the incentive would go to the insurance company to get a lower rate, if that RFID could be read out and it was accurate.

Isn't it a possibility that the RFID would keep an electronic record of whether the water hit the car, whether it was in salvage, a wreck, or something like that? These RFIDs are being used today and we have had a hearing, I believe, didn't we counsel? We have had a hearing on this and they are being used. So now, the people who are concerned about

privacy are a little concerned about this, because their automobile then has a record that they had an automobile wreck somewhere, where they weren't supposed to be, perhaps, but that is another side of the story. But there is a technological solution to this and I leave you on that sort of a nice note. And with no further questions, I will conclude the hearing.

[Whereupon, at 11:58 a.m., the subcommittee was adjourned.]

