



Consumer Federation of America

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

Subcommittee on Commerce, Trade, and Consumer Protection

Energy and Commerce Committee

U.S. House of Representatives

March 1, 2006

Testimony of

Rachel Weintraub

Director of Product Safety and Senior Counsel

Consumer Federation of America

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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.

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 privity issues.

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.

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

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>

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.

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

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

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.

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 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.

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.

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.

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:

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

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.

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.

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.

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.

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 IAAI 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.

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

²⁰ Source: National Association of Attorneys General

²¹ Carfax, many news reports

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:

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

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.

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.







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There are 560 Flood Vehicles to display.


















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	<p>1999 CHEVROLET LUMINA on sale now at our branch in Dallas/Ft. Worth</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>TITLE:</td><td>LA-SALVAGE</td></tr> <tr><td>DAMAGE:</td><td>FLOOD</td></tr> <tr><td>ODOMETER:</td><td>43293 (NOT ACTUAL)</td></tr> <tr><td>VIN:</td><td>2G1WL52M4X9000000</td></tr> </table>	TITLE:	LA-SALVAGE	DAMAGE:	FLOOD	ODOMETER:	43293 (NOT ACTUAL)	VIN:	2G1WL52M4X9000000
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	<p>2002 CHEVROLET ASTRO VAN on sale now at our branch in Dallas/Ft. Worth</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>TITLE:</td><td>LA-SALVAGE</td></tr> <tr><td>DAMAGE:</td><td>FLOOD</td></tr> <tr><td>ODOMETER:</td><td>25 (NOT ACTUAL)</td></tr> <tr><td>VIN:</td><td>1GCDM19X72B000000</td></tr> </table>	TITLE:	LA-SALVAGE	DAMAGE:	FLOOD	ODOMETER:	25 (NOT ACTUAL)	VIN:	1GCDM19X72B000000
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	<p>2004 CHEVROLET SILVERADO on sale now at our branch in Dallas/Ft. Worth</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>TITLE:</td><td>TX-SAL-TITLE(VTR 441)</td></tr> <tr><td>DAMAGE:</td><td>FLOOD</td></tr> <tr><td>ODOMETER:</td><td>6730 (ACTUAL)</td></tr> <tr><td>VIN:</td><td>1GCEC14V14Z000000</td></tr> </table>	TITLE:	TX-SAL-TITLE(VTR 441)	DAMAGE:	FLOOD	ODOMETER:	6730 (ACTUAL)	VIN:	1GCEC14V14Z000000
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	<p>2002 DODGE STRATUS on sale now at our branch in Phoenix</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>TITLE:</td><td>AZ-SALVAGE</td></tr> <tr><td>DAMAGE:</td><td>FRESH WATER</td></tr> <tr><td>ODOMETER:</td><td>(INOPERABLE DIGITAL DASH)</td></tr> <tr><td>VIN:</td><td>1B3EL46R92N000000</td></tr> </table>	TITLE:	AZ-SALVAGE	DAMAGE:	FRESH WATER	ODOMETER:	(INOPERABLE DIGITAL DASH)	VIN:	1B3EL46R92N000000
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	<p>1998 FORD RANGER on sale now at our branch in Dallas/Ft. Worth</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>TITLE:</td><td>LA-SALVAGE</td></tr> <tr><td>DAMAGE:</td><td>FLOOD</td></tr> <tr><td>ODOMETER:</td><td>12 (NOT ACTUAL)</td></tr> <tr><td>VIN:</td><td>1FTYR10C8WP000000</td></tr> </table>	TITLE:	LA-SALVAGE	DAMAGE:	FLOOD	ODOMETER:	12 (NOT ACTUAL)	VIN:	1FTYR10C8WP000000
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DAMAGE:	FLOOD								
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	<p>1999 FORD WINDSTAR on sale now at our branch in Dallas/Ft. Worth</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>TITLE:</td><td>LA-SALVAGE</td></tr> <tr><td>DAMAGE:</td><td>FLOOD</td></tr> <tr><td>ODOMETER:</td><td>71255 (NOT ACTUAL)</td></tr> <tr><td>VIN:</td><td>2FMZA5142XB000000</td></tr> </table>	TITLE:	LA-SALVAGE	DAMAGE:	FLOOD	ODOMETER:	71255 (NOT ACTUAL)	VIN:	2FMZA5142XB000000
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	2001 FORD F150 on sale now at our branch in Dallas/Ft. Worth
	TITLE: TX-DISMANTLER/COA
	DAMAGE: FRONT END
	ODOMETER: (NOT REQUIRED/EXEMPT)
	VIN: 3FTZF17201M000000
	2002 FORD ESCORT on sale now at our branch in Dallas/Ft. Worth
	TITLE: LA-SALVAGE
	DAMAGE: FLOOD
	ODOMETER: 27094 (NOT ACTUAL)
	VIN: 3FAFP13P52R000000
	2003 FORD SRW SUPER DUTY on sale now at our branch in Phoenix
	TITLE: AZ-SALVAGE
	DAMAGE: FRONT END
	ODOMETER: 119307 (ACTUAL)
	VIN: 1FTNF21L63E000000
	2005 GMC SIERRA on sale now at our branch in Dallas/Ft. Worth
	TITLE: TX-SAL-TITLE(VTR 441)
	DAMAGE: FLOOD
	ODOMETER: 3379 (ACTUAL)
	VIN: 2GTEC13T151000000
	2005 GMC YUKON on sale now at our branch in Dallas/Ft. Worth
	TITLE: TX-SAL-TITLE(VTR 441)
	DAMAGE: FLOOD
	ODOMETER: 12455 (NOT ACTUAL)
	VIN: 1GKEK63U55J000000
	2002 INFINITI G20 on sale now at our branch in Dallas/Ft. Worth
	TITLE: LA-SALVAGE
	DAMAGE: FLOOD
	ODOMETER: 13500 (NOT ACTUAL)
	VIN: JNKCP11A12T000000
	2004 INFINITI G35 on sale now at our branch in Dallas/Ft. Worth
	TITLE: LA-SALVAGE
	DAMAGE: FLOOD
	ODOMETER: 16377 (NOT ACTUAL)
	VIN: JNKCV51E94M000000
	2003 OLDSMOBILE ALERO on sale now at our branch in Phoenix
	TITLE: AZ-SALVAGE
	DAMAGE: FRESH WATER
	ODOMETER: 30524 (ACTUAL)
	VIN: 1G3NL52F53C000000
	2005 VOLKSWAGEN NEW JETTA on sale now at our branch in Phoenix
	TITLE: AZ-SALVAGE
	DAMAGE: FRESH WATER
	ODOMETER: 4392 (ACTUAL)
	VIN: 3VWSF71K25M000000

	2000 ACURA TL on sale now at our branch in East Bay
	TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: (INOPERABLE DIGITAL DASH) VIN: 19UUA5660YA000000
	2005 AUDI S4 on sale now at our branch in East Bay
	TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 4783 (ACTUAL) VIN: WAUPL68E75A000000
	2001 BUICK REGAL on sale now at our branch in Southern New Jersey
	TITLE: NJ-SALVAGE DAMAGE: FLOOD ODOMETER: 73867 (ACTUAL) VIN: 2G4WB55K011000000
	2002 CADILLAC SEVILLE on sale now at our branch in East Bay
	TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: (INOPERABLE DIGITAL DASH) VIN: 1G6KY54982U000000
	2003 CHEVROLET CAVALIER on sale now at our branch in Southern New Jersey
	TITLE: NJ-SALVAGE DAMAGE: SALT WATER ODOMETER: 51252 (ACTUAL) VIN: 1G1JC52F037000000
	2000 DODGE NEON on sale now at our branch in Wilmington
	TITLE: NC-PARTS ONLY - BILL OF SALE DAMAGE: FLOOD ODOMETER: 113509 (ACTUAL) VIN: 1B3ES46C1YD000000
	1998 FORD CROWN VICTORIA on sale now at our branch in Metro DC
	TITLE: MD-SALVAGE DAMAGE: FLOOD ODOMETER: 100962 (ACTUAL) VIN: 2FAFP74W5WX000000
	2000 FORD ESCORT on sale now at our branch in East Bay
	TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 88916 (ACTUAL) VIN: 3FAFP13P2YR000000
	2003 FORD MUSTANG on sale now at our branch in East Bay
	TITLE: CA-SALVAGE CERTIFICATE DAMAGE: FLOOD ODOMETER: 18455 (ACTUAL) VIN: 1FAFP404X3F000000

	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

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