

Executive Summary

CarMax, the nation's largest retailer of used vehicles, is selling recalled vehicles that contain dangerous safety defects.

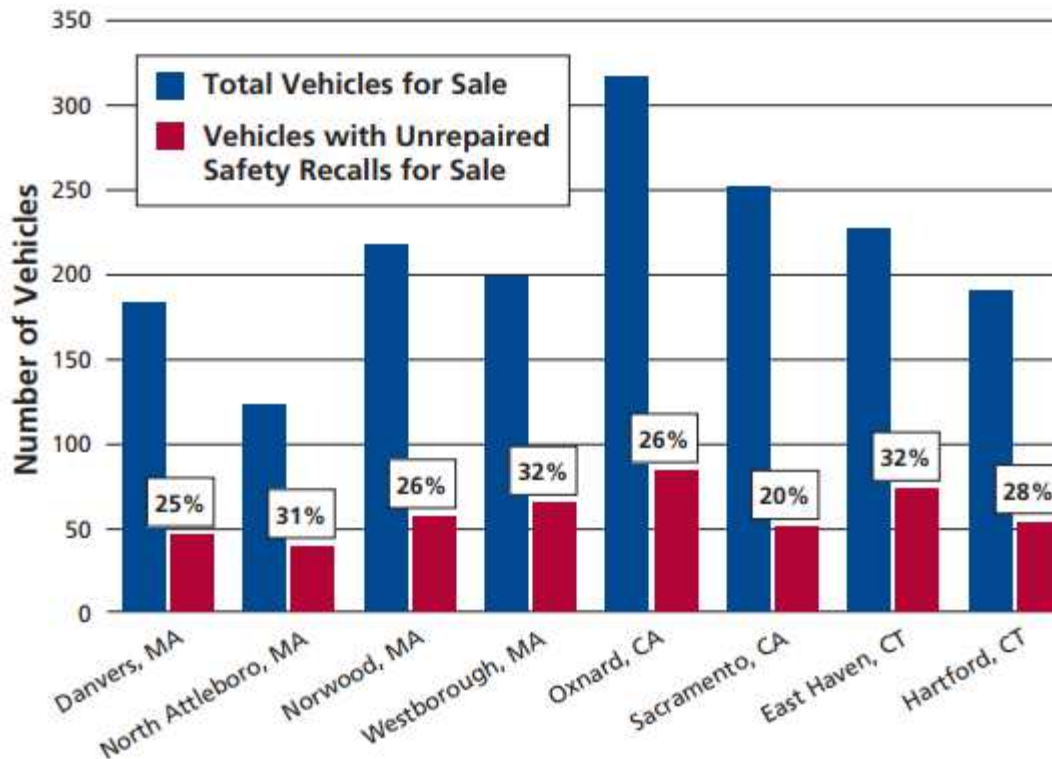
In a survey of nearly 1,700 vehicles for sale at eight CarMax locations – four in Massachusetts, two in California, and two in Connecticut – more than one in four vehicles (27 percent) were found to contain unrepaired safety recalls.

Those vehicles are potentially hazardous, not only to the people who buy them but also to their passengers and everyone else who shares the roads. Vehicles with defects subject to safety recalls – including Takata airbags, and General Motors ignition switches – have been responsible for thousands of injuries and dozens of deaths.

All eight CarMax locations were found to have numerous vehicles for sale that contained unrepaired safety recalls.

- Researchers surveyed vehicles for sale at all four CarMax locations in Massachusetts (Danvers, North Attleboro, Norwood, and Westborough), two locations in California (Oxnard and Sacramento), and two in Connecticut (East Haven and Hartford). Out of 1,699 vehicles surveyed, 461 contained unrepaired safety recalls.
- At every single location, at least 20 percent of vehicles for sale contained at least one unrepaired safety recall.
- At North Attleboro, Westborough and East Haven, more than 30 percent of vehicles for sale contained at least one unrepaired safety recall.
- The percentage of vehicles with unrepaired safety recalls for sale has more than doubled on average since 2015 at the five locations surveyed in both years.
- In 2015, for example, 10 percent of vehicles sold at the Hartford CarMax location contained open recalls. In this survey, 28 percent of vehicles at the same location contained recalls, an increase of 180 percent. In North Attleboro, the percentage of vehicles with unrepaired safety recalls rose from 17 to 31 percent.
- The survey found 86 vehicles containing more than one unrepaired safety recall; 19 vehicles contained three or more unrepaired safety recalls, including one GMC Sierra Light-Duty Pickup Truck for sale in Westborough with six unrepaired safety recalls.

Figure ES-1. Vehicles with Unrepaired Safety Recalls for Sale at CarMax Locations



CarMax sells vehicles with unrepaired safety recalls linked to deaths and injuries, and many vehicles with outstanding recalls do not yet have repairs available.

- All vehicle safety recalls should be taken seriously, and vehicles should be repaired before sale to consumers for use on the roads. Some victims have been killed within hours of when a dealer handed them the key to an unsafe car.
- At least 45 of the 1,699 vehicles surveyed contain recalled Takata airbags that have been linked to 16 deaths and 180 injuries globally. Exploding shrapnel from defective airbags has caused blindness and brain injury, as well as death from blood loss. Because of the scale of the recall, some customers who purchase a vehicle containing a defective Takata airbag may have to wait years for a replacement airbag or a repair.
- Of the vehicles surveyed, 41 (9 percent of recalled vehicles) have an unrepaired safety recall for which no remedy is yet available. Consumers who purchase such a vehicle may have to wait months or years before their unsafe recalled vehicle can be repaired.

The CarMax website implies that its vehicles are safe.

- CarMax advertises that all vehicles it sells are “CarMax Quality Certified.” On the webpage describing its car certification process, CarMax includes the large text headers “We select the best” and “We renew each car.”
- Although the CarMax website states that vehicles *may* contain unrepaired safety recalls, those vehicles are not differentiated, there is no indication of recalled vehicles’ specific defects, and consumers must typically leave the website to find out whether a car contains an unrepaired safety recall.

- CarMax provides an “AutoCheck” report that it promotes by telling customers “you can rely on the clear history documentation provided by an AutoCheck report to help learn the history of a vehicle you’re considering for purchase.” However, the AutoCheck report does not always indicate whether a car contains a safety recall – and since some AutoCheck reports do indicate safety recalls, these can be especially confusing for customers.
- CarMax states that, at the point of sale, “your sales consultant will review with you an AutoCheck report and VIN-specific safety recall look-up results from the NHTSA website.” Yet, by the time a customer receives such a report, they will have already invested significant time and energy in traveling to the CarMax site and assessing a vehicle, and may be on the verge of committing to a purchase. The customer may have also already signed a contract to purchase the vehicle before they are presented with a written notice that mentions a recall – too late in the transaction to be effective as a disclosure.

Selling vehicles with unrepaired safety recalls may be illegal.

- Laws in all 50 states prohibit licensed dealers, including those that sell used vehicles, from engaging in various practices such as bait and switch, false advertising, unfair and deceptive acts and practices, and fraud and deception. CarMax's practices – particularly its failure to highlight which specific vehicles contain recalls, and its implication that vehicles sold are of high quality and are “CarMax Quality Certified” – may violate those provisions.
- CarMax’s sale of vehicles containing open recalls may also violate implied warranties that their products are “merchantable” and fit for the purpose for which they are intended.

Consumers should not be sold vehicles containing unrepaired safety recalls. To address the risks posed by CarMax's sales of unsafe recalled vehicles to consumers:

- The federal court should overturn the recent Federal Trade Commission’s consent orders with GM and with CarMax, Lithia, Koons, West-Herr, and Asbury automotive dealership chains. As a result, GM and these dealers are now allowed to advertise that unsafe vehicles with unrepaired safety recalls are "safe", "subject to inspections", "repaired for safety", and "certified", as long as they merely disclose that the vehicles *may* have an open safety recall.
- State attorneys general should investigate CarMax and other dealers who engage in such practices, and enforce existing state laws that prohibit them from selling unsafe, unrepaired recalled vehicles to the motoring public.
- Consumers should consider shopping – including trading in their vehicles – at dealerships that don't sell unsafe recalled vehicles.