

Automaker Report Card

**LOANER CAR
POLICIES FOR
CONSUMERS
AFFECTED BY
THE TAKATA
AIRBAG RECALL**



Staff Report for
Senators Richard Blumenthal and Edward J. Markey
March 2018

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EXECUTIVE SUMMARY

The number of vehicle recalls has steadily and rapidly increased in recent years. In 2016, there were 927 separate recalls affecting a record-breaking 53 million vehicles.¹ As the number of recalls mounts, the number of cars on U.S. roads and highways with unrepaired safety recalls has also skyrocketed. It is estimated that approximately 30 percent of the cars on U.S. roads and highways have unrepaired safety recalls.² This is an alarming and unacceptable statistic.

When the wait for available parts for a repair is too long, or a consumer is unable to give up their vehicle for a repair because they need it to go to work or school, a free loaner car from the dealer can make all the difference in whether a vehicle with an unrepaired defect stays off the road where it should be, or on the road—where it can endanger the driver, passengers, and other motorists.

To better understand the loaner car policies that automakers and their dealerships have implemented to reduce the risks to consumers when recalls cannot be completed because parts are not yet available, Senators Richard Blumenthal (D-CT) and Edward J. Markey (D-MA) launched an inquiry, using the Takata airbag recall as an example of a recall for which automakers should certainly be providing consumers with free loaner cars. Accordingly, they sent letters to the 17 automakers affected by the Takata airbag crisis.

Currently, more than 42 million cars in the U.S. contain at least one defective Takata airbag. These airbags contain inflators that are prone to exploding violently and sending shrapnel into the passengers whose very lives they are intended to save. They have already killed 15 and injured more than 180 people in the United States, while millions remain at risk every day.

The U.S. National Highway Traffic and Safety Administration (NHTSA) has ordered a recall—the largest and most complicated in history. But, because of its scale and complexity, it will take years for the recall to complete, as parts for the defective airbags are not yet available to repair all affected vehicles. This leaves many drivers with no option but to drive a car with a defective Takata airbag to get to school or work while they wait for replacement parts.

All 17 automakers responded to the Senators' inquiry. **Based on their responses, this report concludes that only six of the 17 automakers – BMW, Fiat Chrysler America, Honda, Nissan, Subaru, and Toyota – are providing satisfactory loaner policies.** The other eleven have not taken steps to protect consumers, putting their customers at risk of death or horrific injuries. Their responses provide the basis of this automaker report card, which aims to help consumers affected by the Takata airbag recall navigate their options for keeping themselves and their families safe.

This report concludes with several recommendations:

For Consumers

- Check your vehicle for open recalls using NHTSA's VIN search tool.
- Ask your dealer if they can provide a free loaner car.
- Make sure your loaner car is free of unrepaired recalls.

For Automakers

- Provide free loaner cars for consumers affected by safety recalls.
- Ensure all drivers of legal driving age are eligible for loaner vehicles.
- Make information about your loaner car policy easy to find.
- Loaner cars provided should be free of unrepaired recalls.

For NHTSA

- Require information regarding loaner car policies be included in recall notices.
- Create a repository of automakers' loaner car policies on NHTSA's website.
- Improve recall completion rates.
- Prioritize replacement parts for vehicles that may be difficult *to substitute*.

For Policymakers

- Support the Used Car Safety Recall Repair Act.

BACKGROUND

Takata Airbag Recall

The Takata airbag recall has been called the “the largest and most complex safety recall in U.S. history” by NHTSA. Through the November 3, 2015 Coordinated Remedy Order, NHTSA first began managing the recall and remedy schedule to ensure that vehicles with the greatest safety risk are prioritized for the limited supply of replacement parts.

In early 2016, NHTSA concluded, based on a review of findings from three independent research organizations, that “a combination of time, environmental moisture and cycling high temperatures” is the root cause for the degradation of the ammonium nitrate propellant in the defective Takata airbag inflators. Such degradation can cause the propellant to burn too quickly, rupturing the inflator module and sending shrapnel through the air bag and into the vehicle’s cabin. To date, these ruptures have been responsible for more than 180 reported injuries and 15 deaths in the United States.

Currently, there are 50 million defective Takata airbag inflators in an estimated 37 million vehicles in the United States.³ By December 2019, automakers will be required to recall additional inflators, ultimately affecting 65-70 million inflators in 42 million total recalled vehicles, across 19 vehicle manufacturers.⁴ This means almost one out of every four cars on the road may be affected by this recall.

“ALMOST ONE OUT OF EVERY FOUR CARS ON THE ROAD MAY BE AFFECTED BY THIS RECALL.”

On June 1, 2017, Senator Nelson released independent figures showing that nearly two-thirds of recalled Takata airbag inflators were still unrepaired, more than eight years after the first recall was announced – underscoring the number of motorists that are likely driving vehicles with an unrepaired safety defect.

Loaner Cars

Members on the Senate Committee on Commerce, Science, and Transportation have long called for automakers to provide loaner vehicles or rental cars to consumers who could not get their vehicles immediately fixed due to the unavailability of replacement parts.

At a press conference before the Commerce Committee’s first hearing regarding defective Takata airbags on November 20, 2014, Senator Blumenthal said, “There ought to be loaners for every car owner that needs repair.”⁵ During the hearing, then-Chairman Nelson called on automakers to provide this option to its customers. In his opening statement, he said, “I think it is absolutely imperative, in view of the fear that has gripped the public by virtue of what has already been said and what will be state in this hearing today, that a loaner or a rental car would be provided for someone if they cannot get their replacement of their defective airbag on the recall list done immediately.”

This sentiment has also been echoed by NHTSA itself. As reported in *The New York Times*, “Lawmakers, along with the safety agency [NHTSA] itself, are urging wider availability of loaner cars, so consumers will not have to choose between safety and mobility. But many automakers have been uneven in their willingness to provide loaners.”⁶

“LAWMAKERS, ALONG WITH THE SAFETY AGENCY [NHTSA] ITSELF, ARE URGING WIDER AVAILABILITY OF LOANER CARS, SO CONSUMERS WILL NOT HAVE TO CHOOSE BETWEEN SAFETY AND MOBILITY.”

During a speech in October 2015, former NHTSA Administrator Mark Rosekind also explained, “While NHTSA does not have the authority to order loaner vehicles, it would be appropriate for manufacturers to consider doing so.”⁷

In a joint letter to NHTSA on May 5, 2016, Senators Blumenthal and Markey called on NHTSA “to ensure that loaner cars are available to those who are unable to get their vehicle repaired promptly.”⁸

Honda is perhaps the first automaker to clearly implement a satisfactory loaner car policy for consumers affected by the Takata airbag crisis, and to most aggressively advertise this pro-consumer policy. At the first hearing on the Takata airbag defect in November 2015, Rick Schostek, Executive Vice President at Honda North America said, “Customers with affected vehicles who desire alternative transportation until

their car is fixed have access to loaner cars and rental vehicles at no cost to the customer.”

In March 2015, Honda launched a multi-million dollar advertising campaign to urge owners of vehicles affected by the Takata airbag recalls to get their vehicles fixed. The advertisements also instructed customers that they could obtain a loaner or rental vehicle “free-of-charge,” if there is a delay in repairing the vehicle.⁹

METHODOLOGY

Senators Blumenthal and Markey wrote to the 17 major automakers affected by the Takata airbag recall, listed below, and requested information on their policies for providing loaner or rental cars to consumers who have a car with an unrepaired safety defect for which parts are not yet available:

- BMW of North America
- Daimler Trucks North America
- Daimler Vans USA
- Ferrari North America
- Fiat Chrysler Automobiles (Chrysler, Dodge, and Jeep)
- Ford Motor Company (Ford and Lincoln)
- General Motors Company (Cadillac, Chevrolet, GMC Pontiac, and Saturn)
- Honda North America (Honda and Acura)
- Jaguar Land Rover North America (Land Rover and Jaguar)
- Mazda USA
- Mercedes-Benz USA
- Mitsubishi Motors North America
- Nissan Group of North America (Nissan and Infiniti)
- Subaru
- Tesla
- Toyota Motor North America (Toyota, Lexus, and Scion)
- Volkswagen Group of America (Volkswagen and Audi).

The Senators sent these letters after hearing directly from a number of constituents. As explained in the letter, “We have heard from countless constituents expressing their unease at having no choice but to drive a car with a potential time bomb to get to school or work. Many of these constituents would like to use alternate transportation until their vehicles are repaired, but they have faced repeated obstacles and confusion in trying to determine whether they are, in fact, entitled to loaner or rental cars as they wait for replacement parts.”

In addition to asking whether customers were entitled to loaner vehicles or alternative transportation when parts are not yet available, the letters of inquiry sent by Senators Blumenthal and Markey also asked automakers whether policies were uniform across dealers and if there were any limitations – i.e. age requirements or duration constraints – on customers

While Honda can certainly be applauded for these efforts, Honda is also responsible for the largest percentage of vehicles under the Takata airbag recall and its vehicles have been involved in most of the U.S. Takata airbag fatalities. In fact, laboratory testing data released by NHTSA in June 2016 identified certain 2001-2003 Honda and Acura vehicles as experiencing rupture rates as high as 50 percent in a crash.

requesting a loaner vehicle.

The letters asked a series of numbered questions and recipients were asked to reply with respect to each of their subsidiary brands. Recipients were advised, “Please note that we intend any information you provide in response to be made public, as we believe consumers deserve straightforward and transparent information regarding your company’s policies for ensuring their safety.” The letters’ questions included the following:

1. What is your company’s policy for providing loaner or rental cars to consumers who have a car with an unrepaired safety defect for which parts are not yet available?
 - a. Is there a separate policy for consumers affected by the Takata recalls? If yes, please describe.
 - b. Provide a copy of your company’s policies and describe when and how you make these available to your dealers and customers.
2. Do loaner or rental car policies vary by dealers? If yes, please explain the range of loaner or rental car policies among your company’s dealers.
 - a. What role does your company, as the manufacturer, have in outlining your dealers’ loaner or rental car policies?
3. Do consumers need to be a certain age in order to be eligible for a loaner or rental car? If yes, what age?
4. Is there any limitation on how long a consumer can have a loaner or rental car? In the case of a rental car, are there any specific reimbursement limits? If so, please describe.
5. Is there anything else you would like to add regarding steps your company has taken to ease consumer apprehension when one of your dealers is unable to repair a car with an open defect?

The Senators received responses from all 17 automakers that received letters. Their responses provide the basis of this automaker report card. This report card aims to help consumers affected by the Takata airbag recall navigate their options for keeping themselves and their families safe. The Senators believe consumers deserve straightforward and transparent information regarding automakers' policies for ensuring their safety. This report card endeavors to fill in gaps in the public's understanding of different automakers' loaner car policies.

After reviewing each automakers' response, we filled in certain gaps in our understanding of automakers' responses with follow-up questions via e-mail, in person, or through independent research. We then gave each automaker either a thumbs up or thumbs down, based on their stated policy for providing loaner or rental cars to customers who request alternative transportation while waiting for replacement parts.

Some automakers explained in their response that they evaluate whether to provide loaner or rental vehicles to customers on a case-by-case basis, depending on the safety recall. For these automakers, we gave them a thumbs up or down based on whether they provide customers affected by the Takata airbag recall with alternative transportation. Considering the Takata airbag defect's serious risk to life and that the defect, especially for defective driver-side airbags, cannot be mitigated, we believe that these automakers should provide customers who don't feel comfortable driving a defective vehicle with an alternative.

Our "thumbs up" or "thumbs down" ratings only take into account whether an automaker provides loaner or rental car policies to customers affected by the Takata airbag recall and does not factor in other details, such as the quality of the vehicle provided, ease of reimbursement, actual customer service, etc.

AUTOMAKER REPORT CARDS

A summary of each automaker's response is provided in this section, through "automaker report cards." Responses have been divided into "thumbs up" or "thumbs down" based on their alternative transportation policies. Any language in quotes is taken from automakers' responses or any attachments or enclosures automakers also chose to share – except otherwise indicated in footnotes, allowing automakers to speak for themselves. Any emphasis in quotes is added.

"Thumbs Up" —



BMW North America

<i>Loaner Car Policy</i>	"Offering our customers loaners or rental cars is standard practice for BMW NA. Customers with vehicles subject to the Takata recall are no exception... Loaner and rental vehicle program is the same across the United States except when local laws dictate differences."
<i>Age Restrictions?</i>	"Based on applicable state laws, contractual obligations, or dealer insurance requirements."
<i>Duration Restrictions?</i>	"We currently do not have limits on the duration a customer uses a loaner or rental during this recall."



Fiat Chrysler Automobiles (Chrysler, Dodge, and Jeep)

<i>Loaner Car Policy</i>	"Any customers that expresses concern with the safety of their vehicle can be offered alternate transportation until recall parts and/or repair is available. . . FCA US encourages its dealers to participate in the [Courtesy Transportation Program (CTP)] or make similar alternative loaner programs available. Under CTP, FCA US provides incentives to its dealers to accommodate and be responsible to our customers' convenience."
<i>Age Restrictions?</i>	"Dealers would set the terms for their own loaner programs. For CTP, where FCA negotiates the insurance on behalf of our participating dealers, the insurance provider has required that the consumer be at least 21 years of age."
<i>Duration Restrictions?</i>	FCA's response directed us to review the company's Warranty Bulletin (D-15-15) dated July 2015. According to that bulletin, the CTP "Allows the designated dealer management person the ability to authorize up to 10 calendar days of Alternate Transportation without Area Manager or corporate pre-approval." After that, "Additional days may be customer pay or submitted under Warranty goodwill." Those days would require "pre-authorization."



Honda North America (Honda and Acura)

<i>Loaner Car Policy</i>	<p>“Our policy in such a circumstance [in which parts are not yet available] remains that Honda Client Services would make a loaner car available.”¹⁰</p> <p>“Honda and Acura loaner car procedures... are the same for all dealers of the respective brand... Our role, as the manufacturer, is to outline for our dealers a loaner / rental policy that makes it easier for customers to have their vehicles serviced or repaired and leaves a positive impression by showing customers they are valued and important.”</p> <p>“We have also reinforced with our dealers Honda’s firm policy to provide affected customers with a loaner or rental car free of charge while their vehicle is being repaired or if they are waiting for a replacement part to be delivered. All dealers are authorized to make a vehicle available to a customer without prior approval from Honda.”¹¹</p>
<i>Age Restrictions?</i>	“For repairs pertaining to a safety recall (like the Takata airbag defect), teenage drivers as young as 16 years of age, who are titled owner of the vehicle may be provided a loaner or rental vehicle. For repairs other than safety recalls, drivers must be at least 25 years old to rent or borrow vehicles due to insurance policies.”
<i>Duration Restrictions?</i>	“Dealer-authorized loaner or rentals are limited to the first day of a recall repair. There is no pre-defined limit to duration of use of loaner and rental cars authorized by Honda Automobile Customer Service to customers awaiting parts in advance of repair or to those whom repairs are extended. Loaner and rental cars are required to be returned, however, to the dealer no later than the day following the day on which the recall repair was completed.”
<i>Miscellaneous</i>	“Honda routinely has made loaner cars available through its dealers not only to those customers who have vehicles subject to the Takata recall, but with respect to any safety recall. ”



Nissan Group of North America (Nissan and Infiniti)

<i>Loaner Car Policy</i>	“In rare instances where remedy parts are not available at a particular dealer, Nissan has authorized short-term and, and if necessary, long-term rental vehicles free of charge to the customer until the parts arrive. More specifically, Nissan and Infiniti announcements to dealers concerning Takata inflator recalls explain to dealers that rentals are authorized while parts are on order and dealers are provided with an expense code to use in seeking reimbursement from Nissan. This policy is set by Nissan and does not vary by dealer.”
<i>Age Restrictions?</i>	“There are no age restrictions set by Nissan.”
<i>Duration Restrictions?</i>	“Nissan has authorized short-term, and if necessary, long-term rental vehicles...”



Subaru

<i>Loaner Car Policy</i>	<p>“Subaru’s policy for alternate transportation... would include an unrepaired safety defect for which parts are not yet available.” For consumers affected by the Takata recalls, “we strongly encourage our retailers (dealers) to offer alternate transportation and we advise customers of this service in our Takata recall letters when parts are not yet available.”</p> <p>“The only variation [by dealers in loaner or rental car policies] would be where the retailer uses their own fleet (Subaru Service Loaner program) or provides a vehicle through a third party rental agency.”</p>
<i>Age Restrictions?</i>	“This would be subject to the customer’s insurance policy.”
<i>Duration Restrictions?</i>	“The limit of time is 15 days, but can be extended indefinitely until parts are available by a Subaru field representative authorization. Rental car reimbursement is at a maximum of \$50 per day.”
<i>Miscellaneous</i>	According to sample customer letters related to Takata airbag recalls, Subaru actively encourages customers to inquire about their options: “If you are unable to preclude passengers from riding in the front passenger seat, please be sure to ask your Subaru retailer about possible options for alternative transportation until your vehicle is repaired.”



Toyota Motor North America (Toyota, Lexus, and Scion)

<i>Loaner Car Policy</i>	Policy for providing loaner or rental vehicle when parts are not yet available is determined on a case-by-case basis, depending on the recall. "In the case of Takata recalls, if parts are not available to remedy a vehicle with an open recall, Toyota's current policy empowers dealers to meet our customers' needs for rental, loaner, or other alternative transportation and to resolve issues for our customers as quickly, conveniently, and safely as possible. Dealers are permitted to submit claims for reimbursement from Toyota under these recalls."
<i>Age Restrictions?</i>	"Vary based on local rental agency policies and practices."
<i>Duration Restrictions?</i>	"Rental coverage will be continuously provided until remedy parts are available...at no cost to the customer."
<i>Miscellaneous</i>	"If a dealer provided loaner or rental vehicle is not available due to [age restrictions], the customer may seek reimbursement for alternative, documented transportation costs including an alternate vehicle they obtain themselves, bus fare, cab fare, etc., of up to \$35 per day." "At this time, Toyota is reserving alternative transportation options to specifically support those customers with vehicles currently under recall [not vehicles that will be included in a future safety recall]."

"Thumbs Down" —



Daimler Trucks North America

<i>Loaner Car Policy</i>	"Loaner or rental vehicles are evaluated on a case by case basis. "
<i>Age Restrictions?</i>	No Response.
<i>Duration Restrictions?</i>	No Response.
<i>Miscellaneous</i>	"For the driver airbag recall we have sufficient supply of replacement parts readily available, and are currently working with FCA to establish replacement parts for the passenger airbag recall." "DTNA would like to draw your attention to the very small population of affected vehicles...0.004% of the affected population, and that these vehicles tend to be operated as commercial vehicles."



Daimler Vans USA

<i>Loaner Car Policy</i>	"Dealerships have full discretion to determine the circumstances under which they provide loaner vehicles to our customers. The dealerships make these decisions on a case-by-case basis in the course of their regular business operations. DVUSA is not involved in these activities nor do we have a policy compelling the dealers to provide rental or loaner vehicles to consumers with vehicles subject to a recall when replacement parts are not yet available. Not only does DVUSA not have the right to issue such a mandate to an independent dealer network, dealers and manufacturers are not required to provide loaner vehicles. Nevertheless, it is our expectation that our dealerships respond to customer requests a practically as possible."
<i>Age Restrictions?</i>	No Response.
<i>Duration Restrictions?</i>	No Response.
<i>Miscellaneous</i>	"DVUSA primarily distributes two vehicle models...both of which are typically used for either commercial purposes or as recreational vehicles. [These] are commonly customized by consumers to satisfy various personal and professional needs. For example, Sprinter Vans are often 'upfitted' (customized) as delivery vans, refrigerator vans, shuttle buses, limousines, and many other types of business applications, as well as RV's. As such, dealers are constrained from providing loaner vehicles to these customers who rely on specific vehicle designs to meet their business or individual needs and who are less inclined to leave their vehicles with dealers for extended periods. Our commercial customers depend on their vehicles for their livelihoods. These customers are therefore more likely to continue to drive their vehicles equipped with affected airbags where replacement parts are temporarily unavailable..."



Ferrari North America

<i>Loaner Car Policy</i>	"Ferrari North America, Inc. does not have a policy for providing loaner or rental cars to customers affected by recall campaigns, and that our dealers deal the requests of our customers in this respect on a case by case basis. "
<i>Age Restrictions?</i>	No response.
<i>Duration Restrictions?</i>	No response.



Ford Motor Company (Ford and Lincoln)

<i>Loaner Car Policy</i>	"Ford evaluates each safety recall on a case-by-case basis to determine whether rental car reimbursement is warranted. For the Takata inflator recall, when service parts are available and Ford has contacted owners to have their inflators replaced, Ford dealers are authorized to make service loaner vehicles available when requested." This policy "does not vary by dealer."
<i>Age Restrictions?</i>	"Ford does not have an age limit policy when offering rental car reimbursement."
<i>Duration Restrictions?</i>	For the Takata recall, Ford dealers are only authorized to make service loaner vehicles available during the repair process. "When Ford has offered rental car reimbursement for a safety recall without available service parts, the dealer is required to contact Ford every 30 days to reconfirm recall service parts continue to be unavailable."



General Motors Company (Cadillac, Chevrolet, GMC, Pontiac, and Saturn) and Saab¹²

<i>Loaner Car Policy</i>	"Under GM policy, GM dealers can provide courtesy transportation to customers on a case-by-cases basis when appropriate, and we have an escalation process for loaner vehicle requests where necessary. . . At present, GM does not have a courtesy transportation policy that is specific to the Takata airbag inflator recalls, and does not specifically require dealers to provide loaner or rental vehicles in connection with the Takata airbag inflator recalls." According to a clarification sent to dealers GM enclosed in their response, "At any time a dealer can within their own discretion provide courtesy transportation without reimbursement from GM."
<i>Age Restrictions?</i>	"Customers must be at least 21 years of age in order to be eligible for a loaner."
<i>Duration Restrictions?</i>	No Response.



Jaguar Land Rover North America (Jaguar and Land Rover)

<i>Loaner Car Policy</i>	"Our policies are complex and incorporate proprietary business information. . . Retailers have the right under their franchise agreements to tailor how these transportation options are delivered based on their unique business situations."
<i>Age Restrictions?</i>	"Age requirements are established by the individual retailers."
<i>Duration Restrictions?</i>	"JLRNA does not prescribe limitations on how long a consumer can have a loaner or rental vehicle."



Mazda USA

<i>Loaner Car Policy</i>	"Our Mazda Courtesy Vehicle Program is proprietary . . . Each franchised Mazda dealer is independently owned and operated and can establish their own policies. However, Mazda has established and provided our franchised dealers with the Mazda Courtesy Vehicle program to establish and set a common program with rules and guidelines across our dealers. In addition, Mazda has established set rental car policies for warranty/recalls for use as a supplement to the Mazda Courtesy Vehicle Program."
<i>Age Restrictions?</i>	"A potential Mazda Courtesy Vehicle customer must be at least 18 years old. Rental vehicle customers must adhere to the rental agency rental guidelines for age requirements"
<i>Duration Restrictions?</i>	"No, there is no time limit a Mazda Owner can utilize a Mazda Courtesy Vehicle. In the case of a rental vehicle, the reimbursement limit is managed between Mazda and the franchised Mazda dealership to the agreed reimbursement amounts per day and the time the vehicle was out of service waiting for repair completion."



Mercedes-Benz USA

<i>Loaner Car Policy</i>	“Authorized Mercedes-Benz dealerships have full discretion to determine the circumstances under which they provide loaner vehicles to Mercedes-Benz customers. The dealerships make these decisions on a case-by-case basis in the course of their regular business operations. MBUSA is not involved in these activities nor do we have a policy compelling our authorized dealers to provide rental or loaner vehicles to consumers with vehicles subject to a recall when replacement parts are not yet available. Not only does MBUSA not have the right to issue such a mandate to its independent dealer networks, dealers and manufacturers are not required to provide loaner vehicles. Nevertheless, it is our expectation that our dealerships respond to customer requests as practically as possible.”
<i>Age Restrictions?</i>	No response.
<i>Duration Restrictions?</i>	No response.



Mitsubishi Motors North America

<i>Loaner Car Policy</i>	“In general, MMNA provides rental/loaner vehicles to customers with a car subject to recall on a case-by-case basis, depending on the recall issue. For those owners subject to the Takata recall, upon request, MMNA is providing loaner cars for the day while their vehicle is being repaired.”
<i>Age Restrictions?</i>	No response.
<i>Duration Restrictions?</i>	“For the day while their vehicle is being repaired.”



Tesla

<i>Loaner Car Policy</i>	“Tesla will make a loaner vehicle available to the customer while the customer’s vehicle is being serviced. ”
<i>Age Restrictions?</i>	“A customer who rents a vehicle under Tesla’s rental program with two rental car companies, Hertz and Enterprise, must be 21 years or older. If the customer rents a large passenger van, under the rental program, he must be 25 years or older. Exact terms and conditions may vary depending on local law or other express agreements.”
<i>Duration Restrictions?</i>	“While the customer’s vehicle is being serviced.”



Volkswagen Group of America (Volkswagen and Audi)

<i>Loaner Car Policy</i>	“Volkswagen Group of America, Inc. (“VWGoA”) does not provide loaner or rental vehicles to consumers with vehicles subject to a safety recall and/or campaign program when replacement parts are not yet available for the repair action. . . Participation by dealerships in these VWGoA programs is voluntary. As an independent business, a dealership is also free to offer at their own expense any further support to customers.”
<i>Age Restrictions?</i>	“For insurance purposes, the VWGoA mobility fleet vehicles, provided within the VWGoA programs described above, require the driver to be at least 21 years old. ”
<i>Duration Restrictions?</i>	“For the time necessary to complete the service on the customer’s vehicle.”

DISCUSSION AND ANALYSIS

As revealed by the automaker report cards above, loaner car policies can vary greatly. Most automakers that were rated with a “thumbs down” said in their response that their loaner car programs were voluntary by dealer, and that dealers had full discretion in how they support customers. However, as is evident by the significant number of automakers that do appear to put customers first in setting their dealers’ loaner car policies, automakers clearly do have the authority and ability to set dealership policies or incentivize dealers to provide loaner or rental vehicles to customers awaiting replacement parts.

“AUTOMAKERS CLEARLY DO HAVE THE AUTHORITY AND ABILITY TO SET DEALERSHIP POLICIES OR INCENTIVIZE DEALERS TO PROVIDE LOANER OR RENTAL VEHICLES TO CUSTOMERS AWAITING REPLACEMENT PARTS.”

Responses from a number of automakers that provide loaner or rental cars demonstrate how automakers can reimburse dealers who provide loaner or rental vehicles to customers. For example, Fiat Chrysler assures its dealers in its “Warranty Bulletin” that “Providing Alternate transportation (rentals, loaners, Dealer Service Loaner Program vehicles) to customers does not have any impact to a dealer’s DAZE score.” In this way, automakers are fully able to set the policy and standards at the top, and it appears to be just a matter of whether they want to do so. Nissan, Subaru, and Toyota also provided detailed information on how they communicate to their dealers that they will be reimbursed for providing customers with alternative transportation.

Of the six automakers that say they provide alternative transportation as standard practice to customers affected by the Takata airbag recall, only two automakers — Honda and Subaru — seem to actively inform their customers of this option based on responses provided. In March 2015, Honda launched a multi-million dollar advertising campaign in both English and Spanish informing customers, “We will provide a free-of-charge rental car or loaner vehicle if there is a delay while getting your car repaired.” Similarly, Subaru’s letters to affected customers say, “Please be sure to ask your Subaru retailer about possible options for alternative transportation until your vehicle is repaired.”

In January 2018, NHTSA announced that certain 2006 Ford Rangers and Mazda B-Series trucks have a higher risk of rupturing in the event of a crash than other recalled Takata inflators. Like certain higher risk Honda vehicles, these vehicles were given the rare “do not drive” instruction by NHTSA. For owners of these higher risk vehicles, Ford now advertises that it will provide “a free interim loaner vehicle, if necessary.”¹³ While NHTSA’s press release announced that Mazda will also provide affected owners loaner vehicles free of charge, this information is not currently readily available on Mazda’s website or press releases.¹⁴

Based on responses, most automakers appeared to only communicate *to dealers* the availability of reimbursement for loaner or rental vehicles — leaving it up to the discretion of the individual dealership whether or not to reiterate or amplify the policies to their customers, when approached. We recommend automakers proactively communicate to customers that loaner or rental vehicles are available at no charge, when they have such policies. Otherwise, such policies advantage only informed or more aggressive customers.

Responses also revealed that certain “higher end” brands like Mercedes-Benz and Ferrari are not a reliable indicator of better customer service, as one might expect, in terms of providing loaner vehicles to customers who do not want to drive their vehicle with an unrepaired safety defect.

This report further finds that the main driving factor behind any age restrictions on rental vehicles seems to be negotiations between the dealer and the insurance agency. Accordingly, for dealers who have age restrictions (other than minimum legal driving age) for their rental vehicle, it’s apparent they could

“RESPONSES ALSO REVEALED THAT CERTAIN “HIGHER END” BRANDS LIKE MERCEDES-BENZ AND FERRARI ARE NOT A RELIABLE INDICATOR OF BETTER CUSTOMER SERVICE, AS ONE MIGHT EXPECT, IN TERMS OF PROVIDING LOANER VEHICLES TO CUSTOMERS WHO DO NOT WANT TO DRIVE THEIR VEHICLE WITH AN UNREPAIRED SAFETY DEFECT.”

renegotiate their policies to allow for teenage drivers to also be protected by their loaner or rental car policies. Considering a disproportionate number of the U.S. Takata airbag fatalities involved teenagers or minors (we know of at least three fatalities that involved teenagers), we call on automakers to ensure all drivers of legal driving age are protected by alternative transportation policies.

Finally, we noticed that there may be a subset of consumers affected by the Takata airbag recall who may particularly be at risk: drivers of Daimler Vans. As explained by Daimler Vans

USA, their vehicles “are commonly customized by consumers to satisfy various personal and professional needs. For example, Sprinter Vans are often ‘upfitted’ (customized) as delivery vans, refrigerator vans, shuttle buses, limousines, and many other types of business applications, as well as RV’s.” Since these customers depend on their vehicles for their livelihood and these vehicles cannot be easily substituted, they may be particularly at risk and unable to find an alternative transportation option if replacement parts are not immediately available. We recommend NHTSA consider prioritizing replacement parts for these vehicles.

RECOMMENDATIONS

For Consumers

- **Check your vehicle for open recalls using NHTSA’s VIN search tool.** If you’re not sure whether your vehicle has an open recall, check your VIN here: <https://www.nhtsa.gov/recalls>.
- **Ask your dealer if they can provide a free loaner car.** While this report provides consumers affected by the Takata airbag defect with some more clarity regarding their alternative transportation options, it still doesn’t hurt to ask your dealer if they can provide a loaner vehicle. They may be able to evaluate your situation on a case-by-case basis.

Consumer Reports echoes this recommendation: “Asking your dealer whether they will provide [a rental car], or a loaner vehicle might be worth a try if it accomplishes nothing else than putting some pressure on the manufacturer.”¹⁵

NHTSA’s website also currently advises customers, “If you feel uncomfortable continuing to drive your vehicle before the recall repair has been performed on your vehicle, you should contact your dealer and ask for a loaner until an interim or a final repair is completed. Dealers and manufacturers are not required to provide you a loaner car, but it can never hurt to ask.”¹⁶

- **Make sure your loaner car is free of unrepairs recalls.** Automakers don’t necessarily have a policy of making sure that your loaner car is free of unrepairs recalls, so consumers should always ask and/or check the VIN of their loaner car with NHTSA’s VIN search tool.

For Automakers

- **Provide free loaner cars for consumers affected by safety recalls.** Considering the high stakes of the Takata airbag defect – death and serious injury – this report recommends that all automakers should voluntarily agree to provide loaner vehicles or an alternative form of transportation for customers who did not want to drive their defective vehicles. This remedy should not be limited to only affected owners whose vehicles are considered “higher risk” and have been given the “do not drive” instruction by NHTSA.
- **Ensure all drivers of legal driving age are eligible for loaner vehicles.** Considering a disproportionate number of the U.S. Takata airbag fatalities involved teenagers or minors (we know of at least three fatalities involving teenagers), we call on automakers to ensure all drivers of legal driving age are protected by alternative transportation policies.
- **Make information about your loaner car policies easy to find.** We further recommend automakers proactively publicize and notify consumers affected by the Takata airbag recall that they are entitled to alternative transportation at no cost, if they aren’t already doing so. Information regarding loaner car policies should be a standard part of recall notices consumers receive. Loaner car policies should also be readily available on automakers’ websites.
- **Loaner cars provided should be free of unrepairs recalls.** Automakers should institute as a policy that it will not loan out vehicles with unrepairs safety defects.

For NHTSA

- **Require information regarding loaner car policies be included in recall notices.** We recommend NHTSA require automakers to include in their recall notices, express and clear notification to consumers about the company's loaner car policies.
- **Create a repository of automakers' loaner car policies on NHTSA's website.** In addition, NHTSA should assemble and publish automakers' loaner car policies on their website. It's important that this information is transparent and easily accessible to consumers.
- **Improve recall completion rates.** Considering most automakers do not provide customers with alternative transportation options, thus keeping deadly Takata airbags off the road, there remains an urgent need for NHTSA to accelerate the recall completion rate. For NHTSA to succeed in these efforts, there must be an Administrator leading NHTSA, with the strength and resolve to speed up this recall. Since former Administrator Rosekind left his position last January, there has been a leadership vacuum at NHTSA.
- **Prioritize replacement parts for vehicles that may be difficult to substitute.** We also encourage NHTSA to address the unique issues prioritizing replacement parts for vehicles that may be difficult to substitute, such as customized delivery vans, refrigerator vans, etc. Since these consumers depend on their vehicles for their livelihood and these vehicles cannot be easily substituted, they may be particularly at risk and unable to find an alternative transportation option if replacement parts are not immediately available.

For Policymakers

- **We Support the Used Car Safety Recall Repair Act.** We encourage lawmakers to support legislation to ensure all vehicles, including used vehicles containing recalled, unsafe parts, are repaired before being sold or leased. While manufacturers and new car dealers are prohibited from selling vehicles containing recalled parts, there is no federal law prohibiting used car dealers from selling or leasing vehicles containing dangerous parts. There may be various state laws that prohibit such conduct.

Legislation introduced by Senators Blumenthal and Markey, S. 1634, the Used Car Safety Recall Repair Act, would require all used car dealers to repair any outstanding safety recalls in used automobiles prior to selling or leasing. This critical legislation addresses the unacceptable gap in consumer protection that confuses car buyers who believe they are buying a product with safety assurances, and threatens the lives of everyone on our country's roadways. It will protect consumers and help reduce the number of unsafe cars on the road.

ABOUT THE AUTHORS

Since the U.S. National Highway Traffic Safety Administration (NHTSA) first began its investigation into faulty Takata airbag inflators in 2014, Senator Richard Blumenthal (D-CT), Ranking Member of the Senate Commerce Subcommittee on Consumer Protection, Product Safety, Data Security, and Insurance, and Senator Edward Markey (D-MA), Member of the Subcommittee, have led the call to accelerate recall completion efforts, protect affected motorists, and prevent additional deaths or injuries.

The Senators first expressed concerns with NHTSA's limited recalls and testing of Takata airbags in October 2014 in a letter to U.S. Secretary of Transportation Anthony Foxx. In the letter, they urged Foxx to direct NHTSA to provide clearer guidance to drivers with potentially-defective Takata airbags, and to immediately issue a nationwide recall on all affected cars, regardless of where the vehicle is registered. This letter further called on manufacturers to provide rental cars at no cost to consumers if vehicles cannot be fixed immediately due to lack of replacement parts.

In subsequent letters, the two Senators have also called on Takata to recall all vehicles with ammonium nitrate-based airbags, and expressed serious concern about the pace of Takata recalls and repairs. The Senators sent a letter urging President Obama to recall every vehicle with airbags using ammonium nitrate as their propellant, and to use "every tool at his disposal" to accelerate the repair of all vehicles with potentially-lethal Takata airbags. The Senators have been particularly critical of the pace of recall efforts, calling them "completely unacceptable and a massive disappointment" in a joint statement in December 2015. In May 2016, the Senators asked NHTSA to make publicly available the make, model, and year of all vehicles that contain Takata airbags that use an ammonium nitrate propellant. In July 2016, the Senators called on Honda to immediately issue a "do not drive" order to owners of certain vehicles, following reports that certain Honda and Acura vehicles have a 50 percent chance of explosive rupture in a crash.

The Senators have introduced several pieces of legislation aimed at protecting the driving public and keeping cars with open safety recalls off of roads and highways. They introduced the Used Car Safety Recall Repair Act, which would prohibit a dealer from selling or leasing a used passenger motor vehicle until a defect of the motor vehicle or motor vehicle equipment or noncompliance with a federal motor vehicle safety standard has been remedied. In the 114th Congress, they also introduced Repairing Every Car to Avoid Lost Lives Act or the RECALL Act – legislation that would require state DMVs inform vehicle owners of recalls to ensure timely repairs.

As Members of the Senate Committee on Commerce, Science, and Transportation, Senators Blumenthal and Markey have participated in two hearings on the Takata airbag recall, including the first hearing on Takata on November 20, 2014 titled, "Examining Takata Airbag Defects and the Vehicle Recall Process," and a follow-up hearing on June 23, 2015 titled, "Update on the Recalls of Defective Takata Air Bags and NHTSA's Vehicle Safety Efforts."

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