



MEMORANDUM

TO: Members of the Assembly Consumer Affairs Committee
FROM: Alida Kass, Chief Counsel
SUBJECT: Assembly Bill 1892
DATE: October 23, 2014

The New Jersey Civil Justice Institute is a statewide, bipartisan coalition of the state's largest employers, small businesses, and leading trade associations advocating for a fair and predictable civil justice system in New Jersey. On behalf of our members, **we respectfully seek amendments to A-1892.**

While we certainly appreciate the sponsor's concern over potential safety risk of rental cars subject to safety recalls, we are concerned that as currently drafted, the bill would go beyond the appropriate regulatory measures and generate unnecessary litigation.

The core of this bill is a regulatory provision that would prohibit rental car companies from renting cars subject to safety recalls. That provision alone would establish the appropriate standard of care. It would also ensure that if a rental agency violates the act and rents a car under recall, and a customer suffers injury as result of the recalled defect, they will be held responsible.

So the concern is not with providing a remedy where there has been actual harm. Passing this law without any penalty at all would create that standard.

The more relevant scenario is: when someone rents a car that is subject to a recall and drives around for a day. And nothing bad happens. The question is how much litigation do we want to incentivize over that?

A statutory penalty and - as is already included in this bill – a right to exchange the car without penalty, would be appropriate additional remedies. A statutory penalty could be collected in small claims court and the consumer wouldn't even have to hire an attorney to do it.

Placing the regulatory provision under the Consumer Fraud Act, on the other hand, means treble damages, attorney fees, and another cottage industry of class action litigation.

We respectfully seek amendments **on A-1892.**