



Colorado Automobile Dealers Association

*** * * IMPORTANT DEALER ALERT * * ***

Toyota Safety Recall – Affects ALL Dealers

TO: CADA Members → SENT VIA FAX
FROM: Tim Jackson
RE: Toyota safety recall: issues for all Colorado dealers who may have affected used Toyotas in inventory OR have customers trying to trade-in
DATE: Thursday, January 28, 2010

On Tuesday, Toyota issued a “stop delivery” order to address a safety-related defect associated with a significant percentage of its new vehicle fleet. While Toyota dealers are under specific legal prohibitions from selling new cars affected by the recalls, there are serious liability concerns related to affected used cars for all dealerships.

ALL dealers should suspend sale of recalled Toyota vehicles, including used cars, immediately!

1. See the attached January 26, 2010 Stop Delivery notice from Toyota affects the **CTS Accelerator Pedal Safety Recall**. This memo has more details on the specific models and cars included; not all cars of the models affected are included in this recall.
 - a. Vehicles built in Japan (VIN starting with “JT”) are not affected.
 - b. From the Toyota web site, also **NOT affected** are:
 - i. No Lexus Division or Scion vehicles are affected by these actions. Also not affected are Toyota Prius, Tacoma, Sienna, Venza, Solara, Yaris, 4Runner, FJ Cruiser, Land Cruiser, Highlander hybrids and select Camry models, including all Camry hybrids, which will remain for sale.
 - c. Visit <http://pressroom.toyota.com> for more FAQ’s and advice for consumers.
2. The underlying issue of “sticking accelerators” is not trivial, and could result in life-threatening injury. Even if actual occurrences have been very limited in number, the potential for personal injury and harm are real. Any dealer selling an affected car (NEW OR USED) that had a defect “it knew or should have known was subject to recall” could result in far-reaching liability.
3. All dealers should do the following:
 - a. Any recall notification material you receive should be forwarded to the sales department, to the parts department, and to the service department.
 - b. In the sales department, the management should determine whether the dealership stocks any Toyota vehicles – new or used -- subject to the recall. Halt sales of those vehicles until the recall repairs are performed according to the directions of Toyota.
 - i. liability for selling a vehicle with an unrepaired recall that is later in an accident involving death or serious injury could be devastating to a dealer

- c. In the parts department, determine whether affected accelerator pedals are in inventory. They should be immediately removed from sale.
- d. In the service department, a procedure must be implemented to carefully and appropriately handle customer requests for performance of recall repairs and to handle repairs of dealer inventory.

Given the broad reach of this recall and the intense public / media scrutiny surrounding it, below is a summary of key federal requirements and advice all dealerships should review.

Summary / Background on Federal Requirements

Sale of affected New Vehicles. It is a violation of federal law to sell a **new** motor vehicle on which recall replacements and repairs have not been done. NHTSA has made clear that it is not appropriate to deliver a vehicle with a promise to repair it when the customer can return. A new vehicle subject to recall, but not yet sold to a consumer, should be removed from sale as quickly as possible. Federal law makes clear that a recalled product cannot be sold until remedied.

Parts. Replacement motor vehicle equipment in a dealer's parts inventory is under the same rule. If there is a recall affecting parts - in this case accelerator pedals -- in the inventory of a dealer, those parts must be removed from sale.

Used Cars. Sales of Toyota used cars subject to recall pose a potential problem for ALL dealers. While the law does not specifically penalize sale of a used car subject to a recall as it does sale of a new car, a dealer who sells a used car that has an unremedied recall defect runs the risk of significant liability. If there is an accident related to the unremedied defect, the dealer is likely to see a lawsuit for negligence for selling the vehicle with a defect it knew or should have known was subject to recall. Dealers franchised for the affected brand may be held to a higher standard, but in a recall this broad and this highly publicized, all dealers are impacted.

In publications, NHTSA has advised manufacturers that they should "encourage" their franchised dealers to ensure that the used vehicles of the manufacturer brand have all applicable recall work completed before resale to the public.

There are many unresolved questions related to this recall, for dealers, consumers, and for Toyota. As more information becomes available, we will continue to provide updates.

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Disclaimer: *CADA is not authorized to dispense legal or tax advice. Dealers and consumers are always advised to seek professional legal counsel.*

Wayne Hutchinson / TMS Toyota Customer Services
 Quality Compliance
 January 26, 2010
 Approved By: Bob Waltz

To: All Toyota Dealers
 From: Toyota Customer Services

Stop Delivery of Vehicles Involved in CTS Accelerator Pedal Safety Recall
 *****URGENT*****

As communicated on January 21, 2010, Toyota filed a Defect Information Report (DIR) with the National Highway Traffic Safety Administration (NHTSA) informing the agency of our intent to conduct a voluntary Safety Recall on certain accelerator pedal assemblies manufactured by CTS. This action is separate from the on-going recall of approximately 4.2 million Toyota and Lexus vehicles to reduce the risk of pedal entrapment by incorrect or out of place accessory floor mats.

A Stop delivery will be implemented on all involved vehicles in dealership inventory.

Immediate Action

- As required by Federal law, dealers are not to deliver any new vehicle acquired in their inventory, which is involved in this safety recall, until the necessary remedy has been performed. Toyota is currently developing the remedy and will provide additional information as it becomes available.
- Please utilize the attached instructions to determine if a vehicle is equipped with a subject CTS accelerator pedal.
- To assist dealerships, the TIS system is being loaded with new vehicles that we believe to be in dealership inventory. Additional information will be posted on TIS shortly.

Involved Vehicles

- Please verify vehicle involvement prior to customer delivery on all potentially involved vehicles.
- Only vehicles manufactured in North America are involved. Vehicles manufactured in North America can be identified by the first three characters (WMI) in the Vehicle Identification Number (VIN).
- Accelerator pedals installed on Camry vehicles manufactured in North America will need to be inspected to determine if they are CTS pedals.

Model	Model Year	WMI	Pedal type	Remarks
Avalon	2005, 2006, 2007, 2008, 2009, 2010	4T1	CTS	Hold vehicles in dealership inventory
Matrix	2009, 2010	2T1		
Tundra	2007, 2008	5TB		
	2007, 2008, 2009, 2010	5TF		
Sequoia	2008, 2009, 2010	5TD		
Camry*	2007, 2008, 2009, 2010	4T1	Inspect Pedal	Need to inspect. If equipped with CTS pedal hold vehicle in dealership inventory.
		4T4**	CTS	
Corolla*	2009, 2010	1NX	CTS	Hold vehicles in dealership inventory
		2T1		
Highlander*	2010	5TD	CTS	
RAV4*	2009, 2010	2T3	CTS	

*Vehicles built in Japan (VIN starting with "JT") are not involved

**Camrys built at SIA (VIN starting with "4T4") are equipped with CTS pedals