



Recall FAQs

What does the VSA tell consumers about recalls on new and used vehicles?

A recall on a vehicle is a product quality or warranty issue between the consumer and the manufacturer. However, it's important to remember that for consumers, an uncorrected recall on a vehicle is likely a *material fact*, particularly if it is safety related. Therefore, failing to advise a consumer of an uncorrected recall or providing incorrect information about recalls may be a deceptive act under the *Business Practices and Consumer Protection Act* (BPCPA). An allegation of a deceptive act regarding a recall may be within the jurisdiction of the VSA.

What is the VSA telling consumers about the recent VW announcements?

Consumers with questions about the recent VW announcements are told to check www.vw.com/owners-recalls/ regularly. VW has indicated they will have a website with information for Canadian owners and dealers very soon.

Dealers with affected vehicles in inventory are encouraged to "park" these vehicles until the full extent of the issue and the remedies are known. However, if dealers wish to sell them, consumers must be clearly advised of the concerns with these vehicles. The VSA highly recommends that the disclosure be in writing and signed by the consumer. This may not be sufficient to completely limit a dealer's liability, but is a best practice.

Can I sell a vehicle with an outstanding recall?

Dealers may sell a vehicle with an outstanding recall unless a 'stop sale' or 'stop driving' order applies. However, dealers must use due diligence to identify outstanding safety recalls utilizing readily available resources. Outstanding recalls for serious safety issues are material facts that, where possible, should be disclosed in writing on the bill of sale or lease contract. If a recall would make a vehicle non-compliant with the *Motor Vehicle Act*, then it cannot be sold until corrected or otherwise sold as "not suitable for transportation" with the related disclosures on the vehicle, purchase agreement and in the advertising. Clearly and carefully document a "not suitable for transportation" sale.

Who decides if a recall is *material*?

While the answer to this question could ultimately rest with the courts, the position of the VSA is that if the manufacturer deems the problem serious enough to issue a safety recall, that problem is likely to be a *material fact* to a consumer.

What are the *best practices* with regard to buying or selling vehicles with recalls?

- Due diligence, full disclosure and good documentation are advised
- Know where the recall was made, as a recall in the United States may not be a recall in Canada
- Know the full scope of the recall, as the recall may apply only to certain vehicles of the same model and year. Check with the manufacturer using the VIN.
- Go online. Although they are imperfect, resources include:
 - Government of Canada's [general recall website](#)
 - The US National Highway and Traffic Safety Authority [VIN specific limited recall look up](#)
 - CARFAX [recall check by VIN](#) includes the majority of Canadian recalls
 - [CarProof Vehicle History Reports](#) also provide some recall information