

SENATE BILL 438

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R4

2003 Regular Session
(3lr2105)

ENROLLED BILL
-- Judicial Proceedings/Environmental Matters --

Introduced by **Senator Giannetti**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 249

1 AN ACT concerning

2 **Vehicle Laws - Dealer Processing and Freight Charges ~~Standards and~~**
3 **Requirements**

4 FOR the purpose of increasing to a certain amount the maximum dealer processing
5 charge for a vehicle sale; requiring a dealer processing charge to be reasonable
6 and to reflect certain expenses; expanding the scope of dealer processing charges
7 to include charges for certain services; requiring a dealer on request to provide a
8 written disclosure of services included in a dealer processing charge; creating a
9 certain exception to the requirement that the dealer processing charge be
10 included in the advertised price of a vehicle; requiring certain disclosure of a
11 freight charge for a vehicle sale; altering a certain definition; repealing the
12 requirement that a certain disclosure be preprinted on a contract for sale for a
13 vehicle; altering certain definitions; including a dealer processing charge in the
14 definition of a motor vehicle's total purchase price for purposes of imposing a
15 vehicle excise tax; and generally relating to dealer processing and freight
16 charges for vehicles.

17 BY repealing and reenacting, with amendments,

1 Article - Transportation
 2 Section 15-311.1
 3 Annotated Code of Maryland
 4 (2002 Replacement Volume)

5 BY repealing and reenacting, with amendments,

6 Article - Transportation
 7 Section 13-809(a)
 8 Annotated Code of Maryland
 9 (2002 Replacement Volume)

10 BY repealing and reenacting, without amendments,

11 Article - Transportation
 12 Section 13-809(c)
 13 Annotated Code of Maryland
 14 (2002 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article - Transportation
 17 Section 13-809(a)
 18 Annotated Code of Maryland
 19 (2002 Replacement Volume)
 20 (As enacted by Chapters 361 and 362 of the Acts of the General Assembly of
 21 2001)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Transportation**

25 15-311.1.

26 (a) (1) In this section, "dealer processing charge" includes an amount
 27 charged by a dealer for:

- 28 (i) The preparation of written documentation of the transaction;
 29 (ii) Obtaining the title and license plates for the vehicle;
 30 (iii) Obtaining a release of lien;
 31 (iv) Filing title documents with the Administration; [or]
 32 (v) RETAINING DOCUMENTATION AND RECORDS OF THE
 33 TRANSACTION;
 34 (VI) COMPLYING WITH FEDERAL OR STATE PRIVACY LAWS; OR

1 (VII) Other administrative services concerning the sale of the vehicle.

2 (2) "Dealer processing charge" does not include a charge to purchase or
3 install tangible personal property on or in the vehicle, or to perform mechanical
4 service on the vehicle.

5 (b) (1) If a dealer charges a dealer processing charge, the charge [may not
6 exceed \$25]:

7 (I) SHALL BE REASONABLE;

8 (II) MAY NOT EXCEED ~~\$100~~ \$75 \$100; AND

9 (III) SHALL REFLECT DEALER EXPENSES GENERALLY INCURRED
10 FOR THE SERVICES IDENTIFIED IN SUBSECTION (A)(1) OF THIS SECTION.

11 (2) A DEALER SHALL PROVIDE A WRITTEN DISCLOSURE OF THE
12 SERVICES INCLUDED IN THE DEALER PROCESSING CHARGE ON REQUEST BY THE
13 PURCHASER.

14 (c) Any dealer processing charge OR FREIGHT CHARGE shall be disclosed to a
15 purchaser as provided in this section.

16 (d) A contract for the sale of a vehicle shall contain a statement, in 12 point
17 type or larger, [preprinted] on the contract form as follows:

18 "Dealer processing charge (not required by law): \$....".

19 "FREIGHT CHARGE: \$".

20 (e) If a dealer advertises the price of a vehicle, the amount of ~~the~~ ANY dealer
21 processing charge AND FREIGHT CHARGE shall be included in the advertised price
22 UNLESS THE DEALER CLEARLY AND CONSPICUOUSLY DISCLOSES THE AMOUNT OF
23 THE DEALER PROCESSING CHARGE AND FREIGHT CHARGE IN AT LEAST 10 POINT
24 AND BOLD FONT ~~ON THE ADVERTISEMENT~~ WITHIN REASONABLE PROXIMITY TO THE
25 ADVERTISED PRICE.

26 (f) The dealer shall attach its price statement to a window of the vehicle, next
27 to any other price disclosure required by law. The dealer's price statement shall state
28 the total price for which the dealer is offering to sell the vehicle. The total price stated
29 shall include any dealer processing charge, which shall be disclosed above the total
30 price in at least 10 point type as "dealer processing charge (not required by law):
31 \$....". The total price may exclude only the taxes and title fees payable to the State.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
33 read as follows:

1 Article - Transportation

2 13-809.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Fair market value" means:

5 (i) Except as provided in item (iv) of this paragraph, as to the sale
6 of any new or used vehicle by a licensed dealer, the total purchase price, as certified
7 by the dealer:

8 (ii) As to a used vehicle that is sold by any person other than a
9 licensed dealer and that has a designated model year that is 7 years old or older, the
10 greater of:

11 1. The total purchase price; or

12 2. \$640;

13 (iii) As to any other used vehicle that is sold by any person other
14 than a licensed dealer:

15 1. The total purchase price, if the total purchase price is less
16 than \$500 below the retail value of the vehicle as shown in a national publication of
17 used car values adopted for use by the Department; or

18 2. If the total purchase price is \$500 or more below the retail
19 value of the vehicle as shown in a national publication of used car values adopted for
20 use by the Department:

21 A. The total purchase price, if verified to the satisfaction of
22 the Administration by a notarized bill of sale submitted in accordance with subsection
23 (d)(2) of this section; or

24 B. The valuation shown in the national publication of used
25 car values, if the Administration finds that the documentation submitted under
26 subsection (d)(2) of this section fails to verify the total purchase price;

27 (iv) As to the sale of any new or used motor home or travel trailer by
28 a licensed dealer, or a dealer licensed by another state or a foreign country, the total
29 purchase price, as defined in paragraph (4)(ii) of this subsection, as certified by the
30 dealer on a form acceptable to the Administration; and

31 (v) In any other case, the valuation shown in a national publication
32 of used car values adopted for use by the Department.

33 (3) "Motor home" has the meaning stated in § 11-134.3 of this article.

34 (4) "Total purchase price" means:

1 (i) Except as provided in item (ii) of this paragraph, the price of a
2 vehicle agreed on by the buyer and the seller, INCLUDING ANY DEALER
3 PROCESSING CHARGE, with no allowance for trade-in or other nonmonetary
4 consideration; and

5 (ii) In the case of a motor home or travel trailer, the price of the
6 motor home or travel trailer agreed on by the buyer and the seller less the value, not
7 to exceed the value shown in a national publication of used motor home and travel
8 trailer values adopted for use by the Department, of any motor home or travel trailer
9 that is traded in as part of the consideration of the sale.

10 (5) "Travel trailer" has the meaning stated in § 11-170 of this article.

11 (c) (1) Except as provided in subsection (b)(2) of this section, the tax
12 imposed by this section is 5 percent of the fair market value of the vehicle.

13 (2) If the vehicle formerly was a vehicle exempt from the tax imposed by
14 this section, the tax shall be reduced by any amount previously paid by the present
15 owner as a sales and use tax on the vehicle under Title 11 of the Tax - General Article.

16 (3) (i) If the vehicle was formerly titled and registered in another state
17 and the present owner has not been a Maryland resident for more than 60 days and
18 has paid a sales or excise tax to that state at a rate less than that imposed by this
19 State, then the tax imposed shall apply but at a rate measured by the difference only
20 between the tax rate paid to the other state and the tax rate imposed by this section.

21 (ii) If the vehicle was formerly titled and registered in another state
22 and the present owner requests to transfer the vehicle in accordance with §
23 13-810(c)(1) of this subtitle, the Administration shall change or correct the names
24 contained in the certificate of title:

25 1. At the time the excise tax that is credited or imposed
26 under this section is paid and a new title is issued; and

27 2. Without issuing multiple certificates of title or charging
28 additional fees.

29 (iii) Except as provided in subsection (b)(2) of this section, the
30 minimum tax imposed under this section shall be \$100.

31 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
32 read as follows:

33 **Article - Transportation**

34 13-809.

35 (a) (1) In this section the following words have the meanings indicated.

36 (2) "Fair market value" means:

1 (i) As to the sale of any new or used vehicle by a licensed dealer,
 2 the total purchase price, as certified by the dealer;

3 (ii) As to a used vehicle that is sold by any person other than a
 4 licensed dealer and that has a designated model year that is 7 years old or older, the
 5 greater of:

6 1. The total purchase price; or

7 2. \$640;

8 (iii) As to any other used vehicle that is sold by any person other
 9 than a licensed dealer:

10 1. The total purchase price, if the total purchase price is less
 11 than \$500 below the retail value of the vehicle as shown in a national publication of
 12 used car values adopted for use by the Department; or

13 2. If the total purchase price is \$500 or more below the retail
 14 value of the vehicle as shown in a national publication of used car values adopted for
 15 use by the Department;

16 A. The total purchase price, if verified to the satisfaction of
 17 the Administration by a notarized bill of sale submitted in accordance with subsection
 18 (d)(2) of this section; or

19 B. The valuation shown in the national publication of used
 20 car values, if the Administration finds that the documentation submitted under
 21 subsection (d)(2) of this section fails to verify the total purchase price; and

22 (iv) In any other case, the valuation shown in a national publication
 23 of used car values adopted for use by the Department.

24 (3) "Total purchase price" means the price of a vehicle agreed on by the
 25 buyer and the seller, INCLUDING ANY DEALER PROCESSING CHARGE, with no
 26 allowance for trade-in or other nonmonetary consideration.

27 SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
 28 take effect on the taking effect of the termination provision specified in Section 5 of
 29 Chapters 361 and 362 of the Acts of the General Assembly of 2001. If that termination
 30 provision takes effect, Section 2 of this Act shall be abrogated and of no further force
 31 and effect. This Act may not be interpreted to have any effect on that termination
 32 provision.

33 SECTION 2. 5. AND BE IT FURTHER ENACTED, That, subject to the
 34 provisions of Section 4 of this Act, this Act shall take effect ~~October~~ July 1, 2003.

