

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 525

(Delegate Beidle, *et al.*)

Environment and Transportation

Judicial Proceedings

Vehicle Laws - Manufacturers and Dealers

This bill establishes that a motor vehicle manufacturer, distributor, or factory branch (collectively known as licensees) may not prohibit a vehicle dealer from, or take any adverse action against a dealer for, providing to a customer information given to the dealer by a manufacturer related to any condition that may substantially affect motor vehicle safety, durability, reliability, or performance. However, a dealer may provide such information only to a customer that has either purchased the vehicle for which the information pertains from the dealer or had the vehicle for which the information pertains serviced by the dealer.

A licensee may not take specified actions related to the compensation of a dealer for performing covered warranty or required recall repairs on a vehicle under specified circumstances. In addition, the bill requires a dealer to be compensated under specified circumstances for holding vehicles on a lot under a stop sale directive.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill does not materially affect local finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A licensee may not deny a claim, reduce compensation, or process a charge back to a dealer for performing covered warranty or required recall repairs on a vehicle (1) to resolve a condition covered by the licensee's original warranty; (2) for

remedying a safety-related defect that is subject to an outstanding recall under federal law; (3) if the dealer properly performed the repairs and submitted the claims; or (4) if the dealer discovered the need for the repairs during the course of a separate repair requested by the customer or through notice of an outstanding recall under federal law for a safety-related defect.

If a “licensee” issues a stop sale directive applicable to a used vehicle manufactured by the licensee to a dealer that holds a franchise from the licensee and there are no remedies or parts available to fix the motor vehicle, the licensee must compensate the dealer. Compensation may be in one of two forms: (1) providing payment to the dealer at a rate of at least 1% – per month or portion of a month – of the value of the vehicle; or (2) under a national program applicable to all dealers holding a franchise from the licensee for their costs associated with the stop sale directive.

Current Law: A motor vehicle manufacturer, distributor, or factory branch must be licensed by the Motor Vehicle Administration (MVA) in order to, among other things, transfer new vehicles and conduct business in new vehicles in Maryland. Likewise, a person may not conduct the business of a dealer unless licensed by MVA. MVA may refuse to grant, suspend, revoke, or refuse to renew a license under specified circumstances. For a manufacturer, distributor, or factory branch, those circumstances include a finding that the person (1) made any material misrepresentation in transferring a vehicle or truck component to a dealer or distributor; (2) failed to comply with any written warranty agreement; or (3) failed to reasonably compensate any franchised dealer for specified work.

A manufacturer, distributor, or factory branch must specify in writing to each of its licensed vehicle dealers the dealer’s obligation for vehicle warranties and recalls on its products as well as the compensation to be paid to the dealer for work related to the dealer’s service obligations. “Reasonable compensation” may not be less than what the dealer would charge for equivalent labor or parts for the same nonwarranty repairs.

A manufacturer, distributor, or factory branch may not take adverse action against a dealer because the dealer seeks compensation by implementing a process that is inconsistent with its obligations to the dealer or by failing to act in good faith. A manufacturer, distributor, or factory branch is also prohibited from conducting any warranty or retail customer repair audit (or other service-related audit) solely because the dealer makes a request for warranty reimbursement at ordinary retail rates.

Small Business Effect: Vehicle dealerships that are small businesses may benefit from the bill’s prohibition against motor vehicle manufacturers, distributors, or factory branches taking adverse action against the dealerships for providing specified information to customers. Likewise, dealerships benefit from the bill’s prohibition against licensees taking certain actions related to compensation for dealerships performing covered warranty

or required recall repairs on a vehicle as well as the bill's requirement related to compensation from licensees that issue stop sale directives.

Additional Comments: Although the term is used in both current law and the bill, neither current law nor the bill defines "licensee." Within Title 15, Subtitle 2 of the Transportation Article, "license" is defined as a manufacturer's, distributor's, or factory branch's license issued by MVA under that subtitle. Thus, use of "licensee" within Subtitle 2 can readily be ascertained as applying to such an entity. Likewise, within Title 15, Subtitle 3 of the Transportation Article, "license" is defined as a dealer's license issued by MVA under that subtitle, and use of "licensee" within Subtitle 3 likely refers to such a dealer.

Nevertheless, under the bill's requirements related to compensation for stop sale directives (amended to be in Title 15, Subtitle 3 of the Transportation Article), "licensee," in context, appears to refer to a person licensed as a manufacturer, distributor, or factory branch under Subtitle 2. Accordingly, this fiscal and policy note assumes "licensee," in the context of issuing a stop sale directive and being required to compensate dealers for holding such vehicles on a lot, refers to a manufacturer, distributor, or factory branch.

Additional Information

Prior Introductions: None.

Cross File: SB 730 (Senator Norman) - Judicial Proceedings.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Maryland Department of Transportation, Department of Legislative Services

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