

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 566

(Senator Lee, *et al.*)

Judicial Proceedings

Vehicle Laws - Manufacturers and Dealers

This bill reduces the time periods within which a vehicle manufacturer or distributor (and as appropriate, factory branch) may charge back payment or credits made to vehicle dealers under warranty, incentive, or reimbursement programs. The bill also clarifies the meaning of “adverse action” with respect to warranty claims made by vehicle dealers.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Under the bill, “adverse action” includes (1) withholding any consideration received by a dealer from a licensee; (2) withholding a consumer benefit through a dealer; or (3) appointing or threatening to appoint an additional dealer within the market area assigned to the dealer against whom the adverse action is taken without a compelling business justification.

The bill also clarifies that a dealer’s failure to comply with specific requirements of the manufacturer or distributor for processing a claim may not constitute grounds for denial of the claim or reduction of the amount of compensation paid to the dealer if the dealer presents reasonable documentation or other reasonable evidence to substantiate the claim.

If a dealer's claim for performing covered warranty or required recall repairs on a vehicle is shown by the manufacturer or distributor to be false or unsubstantiated, the manufacturer or distributor may charge back the claim within 90 days (rather than nine months) from the date the claim was paid or credit issued.

If a dealer's claim for an incentive or reimbursement program is shown by the manufacturer, factory branch, or distributor to be false or unsubstantiated, the manufacturer, factory branch, or distributor may charge back the claim within 90 days (rather than six months) from the payment of the incentive or reimbursement.

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 dealer's failure to comply with a specific requirement of the manufacturer or distributor may not constitute grounds for denial of a claim or reduction of the amount of compensation paid to the dealer if the dealer presents documentation or other reasonable evidence to substantiate that the repair and the claim were done according to manufacturer warranty guidelines.

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: Any vehicle dealerships that qualify as small businesses may benefit from the reduced time period within which manufacturers or distributors (or factory branches, as appropriate) are allowed to charge back payments or credits. However, any

impact to such businesses depends on the extent to which they are currently charging back payments or credits after 90 days. If such chargebacks are not a common occurrence, then the effect on small business dealerships is likely minimal. On the other hand, if chargebacks are a common practice in the industry, the bill's effect is likely more meaningful.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation; Department of Legislative Services

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