

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 178

(Senator Hough, *et al.*)

Judicial Proceedings

Economic Matters

Vehicle Laws – Manufacturers and Dealers – Prices Listed on Dealer Websites

This bill establishes that a manufacturer, distributor, or factory branch may not (1) prohibit a dealer from listing a vehicle for sale or lease on the dealer’s website at the purchase price; (2) coerce or require a dealer to list a price on the dealer’s website that is different from the purchase price of a vehicle; or (3) take an adverse action against a dealer for listing a vehicle for sale at a particular price on the dealer’s website. This provision of the bill does not apply to situations in which a dealer violates existing prohibitions related to deceptive advertising practices, advertising vehicles without intent to sell as advertised, or a State or local law intended to protect the public. A manufacturer, distributor, or factory branch may still require all dealers to include freight or dealer processing charges in the prices listed on the dealer’s website.

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines “purchase price” as the full delivered price of a vehicle (excluding only taxes, title fees, and any freight or dealer processing charges disclosed in accordance with State law).

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.

Coercion of Vehicle Dealers

In general, a manufacturer, distributor, or factory branch (whether directly or through an agent, employee, affiliate, or representative) may not coerce any dealer to make any agreement with the manufacturer, distributor, or factory branch (or their agent, employee, affiliate, or representative). “Coerce” means to compel (or attempt to compel) by threat of harm, breach of contract, or other adverse action or consequences (including the loss of any incentive or other benefit made available to other dealers of the same line make in the State). “Coerce” also includes to act in a manner that violates the general requirement that a manufacturer, distributor, or factory branch (whether directly or through an agent, employee, or representative) act in good faith. However, “coerce” does not encompass arguing, urging, recommending, or persuading.

Equal Offering of Incentives to Dealers of Same Line Make

Any consumer rebates, dealer incentives, price or interest rate reductions, or finance terms that a manufacturer, distributor, or factory branch offers or advertises, or allows its dealer to offer or advertise, must be offered to all dealers of the same line make. Any manufacturer, distributor, or factory branch that denies these benefits to a dealer on the basis that the dealer failed to comply with performance standards has the burden of proving that the performance standards comply with State law.

Unless a dealer violates a State or local law intended to protect the public, a manufacturer, distributor, or factory branch may not (1) require a dealer to alter or replace an existing dealership facility or (2) deny (or threaten to deny) any benefit generally available to all dealers for a dealer’s failure to alter or replace an existing dealership facility.

A manufacturer, distributor, or factory branch may not reduce the price of a motor vehicle charged to a dealer or provide different financing terms to a dealer in exchange for the dealer’s agreement to (1) maintain an exclusive sales or service facility; (2) build or alter a sales or service facility; or (3) participate in a floor plan or other financing agreement.

Prohibited Advertising Practices

A dealer (or an agent or employee of a dealer) may not (1) use any advertisement that is in any way false, deceptive, or misleading or (2) advertise or offer by any means to the public any vehicle without intent to sell it as advertised or offered. A person convicted of violating

these requirements is subject to imprisonment for up to two months and/or a fine of up to \$500.

Additional Information

Prior Introductions: SB 526 of 2019, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 610, received an unfavorable report from the House Economic Matters Committee.

Designated Cross File: HB 212 (Delegate Qi, *et al.*) - Economic Matters.

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

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