

# **FITZAUTO\_FAV\_SB813**

Uploaded by: Smith, Rob

Position: FAV

**Testimony to the Senate Judicial Proceedings Committee  
SB 813 -- Vehicle Laws – Manufacturers and Dealers  
Franchise Transfer & Warranty Reimbursement  
Position: Favorable**

February 27, 2020

The Honorable Will Smith  
Judicial Proceedings Committee  
2 East, Miller Senate Building  
Annapolis, MD 21401  
cc: Members, Judicial Proceedings Committee

**Dear Chairman Smith and Committee Members,**

I write in support of SB813 as the head of an auto dealership group based in Maryland with more than 1,200 employees in the state, 1,500 total.

We strongly support SB 178 because it will save jobs in Maryland by approving a transfer of a franchise within a reasonable time frame, and it will help consumers by reimbursing dealerships for warranty work performed on their vehicles, so dealers want to perform warranty work, and don't put it off.

In January 2019 we offered to purchase a dealership in Hagerstown Maryland that had been struggling. The widowed owner was in poor health and a series of challenges besieged them, limiting their access to capital. Customers were still coming to the dealership for service, even though sales had slowed and their inventory dwindled. The owner wanted to help her people stay employed and take care of her customers. Even though we were already an approved dealer in St. Mary's County Maryland for one brand, and Anne Arundel County and Frederick County for the other two, the manufacturers took more than six months to approve the sale of the franchise. The real estate was settled, but the franchise approval took so long some employees started to leave out of fear. Seven months to approve the transfer is unreasonable. For the employees, for the customers, and for the parties involved.

Dealerships are owned by individuals. The dealer owns the vehicles (they're not on consignment), the land, the buildings, the equipment and the parts in inventory. Dealers have a greater investment in the state of Maryland than any multinational franchise. Consumers and employees in Maryland deserve more certainty and sixty days is a reasonable time frame.

The other remaining pieces of SB813 clarify current law, closing loop holes some manufactureres have used to delay or avoid reimbursing dealers for warranty work done on behalf of consumers. Current law sets forth rules for manufacturer reimbursement of warranty repair work conducted by auto dealers passed by this committee in 2015.

Unfortunately, there are auto manufacturers that are defying the law and not properly reimbursing dealers for manufacturer warranty work service. SB 813 does four things to address this problem:

1. First (p. 3, line 33 to p. 4, line 6), the bill clarifies that the manufacturer would pay an hourly rate and time allowance for warranty work that the particular dealer charges to retail customers for the same work.
2. Second (p. 4, lines 9-12), the bill expressly states that repair orders submitted by a dealer shall be qualifying with certain exceptions. This clarifies the existing intent of the statute to exclude repairs for insurance, internal (the dealer's own vehicles), and non-warranty maintenance.
3. Third (p. 4, lines 20-23), the bill clarifies the exclusion of manufacturer's warranty or scheduled maintenance plans which are reimbursed at discounted rates below retail. Manufacturers now provide for such things and this language clarifies that dealers would be appropriately compensated by the manufacturer if offered by the manufacturer.
4. Fourth (p. 5, lines 14-16), the bill requires the manufacturer to provide (as part of its rebuttal to a request for warranty reimbursement by a dealer) the rate of payment that the manufacturer believes is the correct amount. Oftentimes, a manufacturer will reject a request for warranty reimbursement without providing information to the dealer with respect to what amount the manufacturer believes is the correct warranty reimbursement amount.

We strongly support SB813 and urge the committee to give it a FAVORABLE report.

Sincerely,

Rob Smith  
Fitzgerald Auto Mall

**Auto\_UNF\_SB 813**

Uploaded by: Kress, Bill

Position: UNF



February 27, 2020

The Honorable William Smith, Jr.  
Chair, Senate Judicial Proceedings Committee  
2 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

**SB 813: Vehicle Laws - Manufacturers and Dealers**  
**Position: Unfavorable**

Dear Chairman Smith:

On behalf of the Alliance for Automotive Innovation,<sup>1</sup> please accept the following comments in opposition to SB 813, which represents the latest in a litany of bills that are based on the incorrect premise that automobile dealers need special laws to protect them from their automakers. In actuality, car dealers and manufacturers are business partners that need each other in order to succeed.

SB 813 seeks to use state law to mandate even higher profit margins for car dealers, which would necessarily create unreasonable costs on automobile consumers and manufacturers. There is no public policy reason for the state to involve itself in this area. The state should not overrule business-to-business contracts to favor one party's profits over another's. What's more, dealers are already enjoying healthy profits and do not need state intervention. The National Automobile Dealers Association reports that the average dealers' pretax net profit in 2019 was \$1,423,848 which was a 4.8% increase over 2018.<sup>2</sup>

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<sup>1</sup> Formed in 2020, the Alliance for Automotive Innovation is the singular, authoritative and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S. The newly established organization, a combination of Global Automakers and Alliance of Automobile Manufacturers, will be directly involved in regulatory and policy matters impacting the light-duty vehicle market across the country. Members include motor vehicle manufacturers, original equipment suppliers, technology and other automotive-related companies and trade associations. The Alliance for Automotive Innovation is headquartered in Washington, DC, with offices in Detroit, MI and Sacramento, CA. For more information, visit our website <http://www.autosinnovate.org>.

<sup>2</sup> [www.nada.org/WorkArea/DownloadAsset.aspx?id=21474859932](http://www.nada.org/WorkArea/DownloadAsset.aspx?id=21474859932)

SB 813 focuses on how manufacturers honor the warranty on vehicles that they produce. Manufacturers rely on car dealers to perform repairs covered by the warranty, and the manufacturer then reimburses the dealer for its costs and pays a profit markup. According to state law, that profit markup rate is the same that retail customers pay for non-warranty repairs (which means that the manufacturer gets no volume discounts despite being a steady, volume customer). The state law also provides dealers with a cause of action for a lawsuit if the dealer and manufacturer disagree about those reimbursement rates.<sup>3</sup>

SB 813 exacerbates the already flawed law by requiring a manufacturer pay a dealer for an inaccurately high number of hours of repair work. Manufacturers produce time guides that are meant for use in warranty repairs. Those time guides are rigorously developed time studies created under conditions favorable to dealers. SB 813 allows dealers to demand to be paid using third party time guides or even no time guide. Third party time guides are intended for non-warranty work at independent repair shops. In other words: for work performed by mechanics that do not have specific training on a make of vehicle, and for work performed on older vehicles with factors such as rust, dirt, and stripped fasteners that make repairs more difficult. Those third party time guides are not based on time studies but instead opinions and estimates of how long an independent repair shop would need for a non-warranty repair.

Take for example a repair such as a replacement of a water pump that is covered under warranty. If this bill were enacted in law, the dealer would now be permitted to charge the automaker for more time than what is called for in the automaker time guide. The automaker would have to pay the dealer the inflated number of hours allocated in the third party time guide multiplied by the dealer's labor rate.

Additionally, because the manufacturer is the dealer's largest customer and because the manufacturer must pay based on the hours that the dealer charges retail customers, that encourages dealers to charge car owners whose car is no longer covered by warranty the higher number for hours to complete the job set in the third party time guide *regardless of the time it actually took to make the repair*.

In the end, car owners would pay for this legislation either directly on non-warranty repairs or indirectly through the higher costs under which automakers will be forced to operate. SB 813 is both an unnecessary bill and an unreasonable bill. The Alliance for Automotive Innovation respectfully asks you to vote against this bill. For more information, please contact our local representative, Bill Kress, at (410) 375-8548.

Sincerely,



Josh Fisher  
Director, State Affairs  
Alliance for Automotive Innovation

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<sup>3</sup> MD. CODE ANN., TRANSP. § 15-212.