

Maryland SB 968 - Standing.pdf

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March 5, 2024

The Honorable Will Smith
Chair, Senate Judicial Proceedings
Annapolis, Maryland 21401

**SB 968:
Vehicle Laws - Manufacturers and Dealers - Standing of Dealer Associations
Position: Unfavorable**

Chair Smith:

The Alliance for Automotive Innovation¹ (Auto Innovators) appreciates the opportunity to provide the following comments on SB 968 and to request an Unfavorable report.

We respectfully oppose SB 968 because the bill would upend fifty years of caselaw in the state on associational standing to providing a “special” litigant status to motor vehicle dealer associations that is provided to no other trade organization in the state. There is simply no need to take such drastic action when the substantial remedies already available under the Act provide more than enough inducement for motor vehicle dealers to enforce its provisions.

The concept of “associational standing” has been recognized and well-settled in Maryland for many years. In essence, Maryland law allows a group or association to bring litigation for damages or judicial review on behalf of its members in those cases where the association itself has an aggrieved property interest that is “separate and distinct from [the Association’s] members.” (*Medical Waste Associates, Inc. v. Medical Waste Coalition, Inc.*, 612 A.2d 241 (Md. 1992)). This ensures that associations can bring appropriate litigation where their involvement is necessary as an aggrieved party, but not where its individual members would serve as the more appropriate plaintiff. There is no reason why the existing law – applicable to every trade association that exists in Maryland – should be revised to add a specific exclusion solely for a Maryland automobile dealer association, especially where the current language of the Maryland Code already provides more than adequate remedies for motor vehicle dealers to redress any grievances they may have with a motor vehicle manufacturer.

The statute that would be amended by this bill (Transportation § 15-213) already allows **any** person who “suffers financial injury or other damage” resulting from violations of its entire subtitle to “recover damages and reasonable attorneys’ fees in any court of competent jurisdiction.” Given the ability to recover attorneys’ fees in addition to damages, any dealer, individual, or other party injured by a violation of the Act already has sufficient inducement to enforce its provisions. The Act also

¹ From the manufacturers producing most vehicles sold in the U.S. to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers – Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million American jobs and five percent of the economy. Active in Washington, D.C. and all 50 states, the association is committed to a cleaner, safer and smarter personal transportation future.
www.autosinnovate.org.

specifically permits the Maryland Motor Vehicle Administration to fine a licensee for any violation and to compensate a person for any financial injury or other damages (Transportation § 15-212). There is no need to add another layer of litigation on top of this by allowing an automobile dealer association to sue on behalf of “itself, a dealer or a group of dealers.” Notably, the bill would also allow a dealer association to “recover damages,” even when suing on behalf of a dealer or a group of dealers. It is not clear if these damages are in addition to damages the dealer or group of dealers could recover themselves, or if the association would be required to pay the amounts to such dealer(s). By allowing multiple parties the option to recover the same damages, this bill is likely to lead to further confusion and litigation instead of allowing for the streamlining of dealer-manufacturer disputes, as the Act envisions.

Put simply, the Alliance of Automotive Innovation strongly opposes SB 968, as the bill reflects a solution in search of a problem and lays the groundwork for a flood of similar “carve out” requests from any and all industries with trade associations in Maryland. Auto Innovators hopes this committee will protect the integrity of existing statutes and judicial precedent and report SB 968 unfavorably.

Thank you for your consideration of our position. For more information, please contact our local representative, Bill Kress, at (410) 375-8548.

Sincerely,

A handwritten signature in black ink that reads "Josh Fisher". The signature is written in a cursive, slightly slanted style.

Josh Fisher
Senior Director
Alliance for Automotive Innovation

[MD] SB 968_TechNet_pdf.pdf

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March 5, 2024

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

*RE: SB 968 – (Waldstreicher) - Vehicle Laws - Manufacturers and Dealers -
Standing of Dealer Associations.*

Dear Chair Smith and Members of the Committee,

On behalf of TechNet, I'm writing to offer comments on SB 968 related to the standing of dealer associations.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, and Washington, D.C.

TechNet is vigilant against vague, overbroad, unnecessary, harmful, or hostile laws and regulations that stifle innovation. The requirements outlined in SB 968 are concerning and TechNet and its members are opposed to the bill for several reasons.

As drafted, SB 968 permits dealer associations to use standing to sue to stop policies of automakers they may not align with. Trade associations are currently able to file lawsuits on behalf of their members, as per *Hunt v. Washington State Apple Advertising Commission*. However, SB 968 would remove the requirement for associations to prove standing under *Hunt*, leading to unfair business practices. For example, SB 968 would allow associations to collect damages even though its members were the ones harmed, not the association.

Furthermore, this bill lacks transparency as Maryland's dealer associations could sue manufacturers on behalf of dealers whose identities would be unknown. Additionally, this bill could lead to costly litigation for manufacturers, dealer associations, and dealers, ultimately negatively impacting the consumer who may experience higher prices due to the costs of litigation.

TechNet seeks to encourage, enable, and advance American leadership in innovation. For the reasons stated above, TechNet is opposed to SB 968. Thank you for your consideration and please don't hesitate to reach out should you have any questions.

Sincerely,

Margaret Durkin

Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic

ACI_Comments_SB968.pdf

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Miller Senate Office Building
11 Bladen St
Annapolis, MD 21401

Dear Maryland Legislature,

The American Consumer Institute (ACI) is a nonprofit 501(c)(3) education and research organization. Its mission is to identify, analyze, and protect the interests of consumers in legislative and rulemaking proceedings in a range of policy matters.

As it applies to vehicles, ACI works to promote policies that will lower costs, improve access, or enhance the quality of the products consumers purchase. For these reasons, ACI opposes SB 968, as we believe it would unfairly grant special standing rights to automobile dealer trade associations and ultimately harm consumers through higher prices.¹

Generally, individual vehicle dealers already can sue if necessary. This bill would lead to needless litigation and create conflict between all involved parties.

The manufacturer costs of these lawsuits will likely in part be passed to consumers. A 2018 ACI study found that state laws like SB 968 which are crafted to benefit car dealerships collectively cost American car buyers \$47.5 billion annually.² In this case, SB 968 would only serve to enrich a dealer association at the expense of its customers at a time when average new car prices have increased about \$10,000 since September 2020.³

Diverting manufacturers' resources to manage a potentially increasing number of lawsuits will harm their ability to reinvest in their company, inhibiting opportunities to enhance products and services. ACI opposes SB 968 because it would be detrimental to the automobile industry and consumers.

Thank you for your consideration,

Tirzah Duren
Vice President of Policy and Research

¹ Vehicle Laws - Manufacturers and Dealers - Standing of Dealer Associations, SB 968, 2024, <https://legiscan.com/MD/text/SB968/2024>

² Steve Pociask, "Corporate Welfare: How Automobile Dealership Franchise Regulations Cost Consumers an Additional \$48 Billion Annually," *American Consumer Institute*, March 2018. <https://www.theamericanconsumer.org/wp-content/uploads/2018/03/ConsumerGram-2018-FINAL-1.pdf>

³ Jeff Bartlett, "Cars are Expensive. Here's Why and What You Can Do About It," *Consumer Reports*, September 13, 2023. <https://www.consumerreports.org/cars/buying-a-car/people-spending-more-on-new-cars-but-prices-not-necessarily-rising-a3134608893/>