

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 927 (Senator Raskin, *et al.*)
Judicial Proceedings

Vehicle Laws - Manufacturers, Distributors, and Factory Branches - Retaliation
Against Dealers

This bill prohibits a manufacturer, distributor, or factory branch from retaliating against a vehicle dealer because of legislation that regulates the franchise relationship that is passed by the General Assembly and enacted. In any action alleging retaliation under the bill, a manufacturer, distributor, or factory branch has the burden of proving that the cancellation of, termination of, or failure to offer a bonus, incentive, or benefit program to a dealer is not retaliation if it occurred at any time within five years from the date of enactment of legislation regulating the franchise relationship.

Fiscal Summary

State Effect: The bill primarily regulates the activities of private entities. Any impact on the Motor Vehicle Administration (MVA) can likely be handled with existing budgeted resources. Transportation Trust Fund and general fund revenues may increase negligibly due to the application of existing penalties and due to the collection of additional restoration or reinstatement fees for licenses that are suspended or revoked under the bill.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: Chapter 747 of 2009, enacted June 1, 2009, generally added and clarified prohibitions for the protection of motor vehicle dealerships from

discriminatory or coercive business practices by manufacturers, distributors, and factory branches and otherwise strengthened various dealership franchise rights. Among several other provisions, Chapter 747 prohibits a manufacturer, distributor, or factory branch, or their agents or affiliates, from varying a price or incentive for new vehicles, or accessories or parts thereof, sold by a dealer on the basis of the dealer's lack of agreement to maintain an exclusive facility. Chapter 747 also prohibits a manufacturer, distributor, or factory branch from refusing to pay, or claim reimbursement from, a dealer due to a subsequent sale or export of the vehicle by the purchaser, unless it can be shown that the dealer knew or should have known of the purchaser's intentions.

The Maryland Vehicle Law contains a number of provisions that protect motor vehicle dealers from discriminatory or coercive business practices by manufacturers, distributors, and factory branches and that strengthen dealerships' franchise rights. Manufacturers, distributors, and factory branches are required to be licensed by MVA in order to transfer a motor vehicle or conduct business in the State. MVA may suspend or revoke the license of a manufacturer, distributor, or factory branch for violations of the Maryland Vehicle Law following an administrative hearing and subject to judicial review by a circuit court.

Small Business Effect: It is unknown how often motor vehicle dealers are subject to retaliation for enactment of Chapter 747 of 2009 or how many manufacturers, distributors, or factory branches would "retaliate" against dealers for enactment of legislation regulating franchise rights in the future. However, a small business dealer realizes a meaningful benefit to the extent that it would otherwise be subject to the prohibited actions in the absence of the bill. To the extent that any manufacturer, distributor, or factory branch is a small business entity, the bill creates additional prohibitions that subject business licenses to the suspension and revocation authority of MVA.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 29, 2012
mlm/ljm

Analysis by: Evan M. Isaacson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510