

HOUSE BILL 525

R4

6lr1947
CF SB 730

By: **Delegates Beidle, Flanagan, Fraser-Hidalgo, Frush, Lam, McCray, Stein, and Szeliga**

Introduced and read first time: February 1, 2016

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 18, 2016

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Manufacturers and Dealers**

3 FOR the purpose of ~~prohibiting a motor vehicle manufacturer, distributor, or factory branch~~
4 ~~from prohibiting or taking certain punitive action against a motor vehicle dealer for~~
5 ~~providing certain notice to a customer or performing certain repairs on a motor~~
6 ~~vehicle under certain circumstances; requiring a dealer that sells at retail a used~~
7 ~~motor vehicle that is subject to a recall under federal law to provide to the buyer~~
8 ~~under certain circumstances a certain disclosure in a certain manner~~ prohibiting a
9 motor vehicle manufacturer, distributor, or factory branch from taking certain action
10 against a motor vehicle dealer for the provision of certain notice, documents, or
11 information to certain persons; prohibiting a manufacturer from taking certain
12 action against a dealer for performing certain repairs on a vehicle under certain
13 circumstances; prohibiting a dealer from sending certain notice to a person that
14 states or implies that certain circumstances exist based on certain information;
15 requiring a manufacturer to provide certain compensation to certain dealers under
16 certain circumstances; providing for the construction of certain provisions of this Act;
17 and generally relating to motor vehicle manufacturers and dealers.

18 BY repealing and reenacting, without amendments,
19 Article – Transportation
20 Section 15–212(c)(1) and (11)
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
2 Article – Transportation
3 Section 15–212(c)(12), (13), (14), and (15)
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2015 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Transportation
8 Section 15–311
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2015 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Transportation**

14 15–212.

15 (c) (1) A licensee shall specify in writing to each of its motor vehicle dealers
16 licensed in the State:

17 (i) The dealer’s obligation for vehicle preparation, delivery,
18 warranties, and recalls on its products;

19 (ii) The schedule of compensation to be paid to the dealers for parts,
20 including parts assemblies, and labor, including diagnostic labor and associated
21 administrative requirements, in connection with the service obligations established under
22 item (i) of this paragraph; and

23 (iii) A time allowance for the performance of labor described in this
24 paragraph that is reasonable and adequate.

25 (11) (i) If a claim filed under this section is shown by the manufacturer
26 or distributor to be false or unsubstantiated, the manufacturer or distributor may charge
27 back the claim within 9 months from the date the claim was paid or credit issued.

28 (ii) This paragraph does not limit the right of a manufacturer or
29 distributor to:

30 1. Conduct an audit of any claim filed under this section; or

31 2. Charge back for any claim that is proven to be fraudulent.

32 (iii) An audit under this paragraph shall be conducted according to
33 generally accepted accounting principles.

~~(12) A LICENSEE MAY NOT PROHIBIT, RETALIATE AGAINST A DEALER OR EMPLOYEE OF A DEALER FOR, DENY A CLAIM OR INCENTIVE FOR, REDUCE THE AMOUNT OF COMPENSATION TO A DEALER FOR, OR PROCESS A CHARGE BACK TO A DEALER FOR;~~

~~(i) THE PROVISION OF NOTICE BY A DEALER TO A CUSTOMER RELATING TO THE EXISTENCE OF ANY RECALL REMEDY, TECHNICAL SERVICE BULLETIN, OR ANY OTHER INSTRUCTIONS FROM A LICENSEE TO A DEALER TO RESOLVE A CONDITION; OR~~

~~(ii) PERFORMING REPAIRS ON A MOTOR VEHICLE, WHETHER THE NEED FOR REPAIRS WAS DISCOVERED BY THE DEALER DURING THE COURSE OF A SEPARATE REPAIR REQUESTED BY THE CUSTOMER OR AN INSPECTION OF THE MOTOR VEHICLE BY THE DEALER, OR PROMPTED BY A DEALER NOTICE OF A RECALL REMEDY, TECHNICAL SERVICE BULLETIN, OR OTHER INSTRUCTIONS FROM A LICENSEE TO A DEALER TO:~~

~~1. RESOLVE A CONDITION THAT IS UNDER A WARRANTY OF THE LICENSEE;~~

~~2. REMEDY A CONDITION THAT CAUSED A RECALL; OR~~

~~3. PERFORM A SERVICE PRESCRIBED IN A TECHNICAL SERVICE BULLETIN OR OTHER INSTRUCTIONS FROM A LICENSEE TO A DEALER TO RESOLVE A CONDITION.~~

(12) A LICENSEE MAY NOT PROHIBIT A DEALER FROM, OR TAKE ANY ADVERSE ACTION AGAINST A DEALER FOR, PROVIDING:

(i) WRITTEN NOTICE TO A PERSON THAT CONTAINS INFORMATION RELATED ONLY TO A SAFETY-RELATED RECALL UNDER FEDERAL LAW;

(ii) A COPY OF A TECHNICAL SERVICE BULLETIN TO A CUSTOMER:

1. IN RESPONSE TO A REQUEST BY THE CUSTOMER REGARDING A SPECIFIC CONDITION TO WHICH THE TECHNICAL SERVICE BULLETIN APPLIES; OR

2. AFTER THE DEALER VERIFIES THAT THE VEHICLE IS SUBJECT TO THE CONDITION AND REQUIRES THE REPAIRS DESCRIBED IN THE TECHNICAL SERVICE BULLETIN; OR

1 (III) WRITTEN NOTICE TO A PERSON THAT MAKES THE PERSON
 2 AWARE OF INFORMATION AVAILABLE ON WWW.SAFERCAR.GOV.

3 (13) PARAGRAPH (12) OF THIS SUBSECTION MAY NOT BE CONSTRUED
 4 TO AUTHORIZE A DEALER TO MAIL OR OTHERWISE DISTRIBUTE A TECHNICAL
 5 SERVICE BULLETIN TO A PERSON OTHER THAN THE CUSTOMER WHILE THE
 6 CUSTOMER'S VEHICLE IS BEING REPAIRED BY THE DEALER.

7 (14) (I) A LICENSEE MAY NOT DENY A CLAIM, REDUCE THE AMOUNT
 8 OF COMPENSATION TO A DEALER, OR PROCESS A CHARGE BACK TO A DEALER FOR
 9 PERFORMING COVERED WARRANTY OR REQUIRED RECALL REPAIRS ON A VEHICLE:

10 1. FOR RESOLVING A CONDITION COVERED BY THE
 11 LICENSEE'S ORIGINAL WARRANTY;

12 2. FOR REMEDYING A SAFETY-RELATED DEFECT THAT
 13 IS SUBJECT TO AN OUTSTANDING RECALL UNDER FEDERAL LAW;

14 3. IF THE DEALER PROPERLY PERFORMED THE REPAIRS
 15 AND SUBMITTED THE CLAIMS; OR

16 4. IF THE DEALER DISCOVERED THE NEED FOR
 17 REPAIRS:

18 A. DURING THE COURSE OF A SEPARATE REPAIR
 19 REQUESTED BY THE CUSTOMER; OR

20 B. THROUGH NOTICE OF AN OUTSTANDING RECALL
 21 UNDER FEDERAL LAW FOR A SAFETY-RELATED DEFECT.

22 (15) NOTWITHSTANDING PARAGRAPHS (12) AND (13) OF THIS
 23 SUBSECTION, A DEALER MAY NOT SEND AN UNSOLICITED NOTICE TO A PERSON THAT
 24 STATES OR IMPLIES THAT REPAIRS ARE NEEDED ON THE PERSON'S VEHICLE OR
 25 THAT THE VEHICLE IS UNSAFE BASED SOLELY ON INFORMATION IN A TECHNICAL
 26 SERVICE BULLETIN.

27 15-311.

28 (a) A contract for the sale of a vehicle by a dealer shall contain a clear statement
 29 of:

30 (1) The principal amount charged for the vehicle;

31 (2) Any interest charged on the principal amount;

- 1 (3) Any fee charged under § 13-610 of this article;
- 2 (4) Any dealer processing charge, as defined in § 15-311.1 of this subtitle;
- 3 and
- 4 (5) Any other charge made in connection with the sale of the vehicle.

5 (b) In addition to the information required by subsection (a) of this section, a
6 contract for the sale of a new vehicle shall include:

- 7 (1) The base price of the vehicle;
- 8 (2) The manufacturer's code or stock number for the vehicle; and
- 9 (3) A clear and specific description of each extra item and each extra charge
10 not included in the base price of the vehicle ordered by the buyer.

11 (c) ~~IN ADDITION TO THE INFORMATION REQUIRED BY SUBSECTION (A) OF~~
12 ~~THIS SECTION, A DEALER THAT SELLS AT RETAIL A USED MOTOR VEHICLE THAT IS~~
13 ~~SUBJECT TO A CONDITION THAT CAUSED A RECALL UNDER FEDERAL LAW AND IS~~
14 ~~NOT REMEDIED SHALL PROVIDE TO THE BUYER OF THE MOTOR VEHICLE, IN THE~~
15 ~~BUYER'S ORDER OR IN A SEPARATE WRITTEN DOCUMENT, A DISCLOSURE THAT:~~

16 ~~(1) IF THE USED MOTOR VEHICLE IS A LINE MAKE THAT THE DEALER~~
17 ~~HOLDS A FRANCHISE TO SELL AS NEW AND TO SERVICE:~~

18 ~~(i) THERE IS A REMEDY FOR THE CONDITION THAT CAUSED~~
19 ~~THE RECALL AND THE BUYER MAY RETURN THE MOTOR VEHICLE TO HAVE THE~~
20 ~~DEALER PROVIDE THE REMEDY; OR~~

21 ~~(ii) THERE IS NOT AT THE TIME OF SALE A REMEDY FOR THE~~
22 ~~CONDITION THAT CAUSED THE RECALL AND THE BUYER MAY RETURN THE MOTOR~~
23 ~~VEHICLE TO HAVE THE DEALER PROVIDE THE REMEDY WHEN THE BUYER LEARNS~~
24 ~~OR HAS NOTICE THAT A REMEDY IS AVAILABLE; OR~~

25 ~~(2) IF THE USED MOTOR VEHICLE IS A LINE MAKE THAT THE DEALER~~
26 ~~DOES NOT HOLD A FRANCHISE TO SELL AS NEW AND TO SERVICE:~~

27 ~~(i) THERE IS A REMEDY FOR THE CONDITION THAT CAUSED~~
28 ~~THE RECALL AND THE BUYER MAY CONTACT A DEALER OF THE LINE MAKE FOR~~
29 ~~PROVISION OF THE REMEDY; OR~~

30 ~~(ii) THERE IS NOT A REMEDY AT THE TIME OF SALE FOR THE~~
31 ~~CONDITION THAT CAUSED THE RECALL AND THE BUYER MAY CONTACT A DEALER OF~~
32 ~~THE LINE MAKE FOR PROVISION OF THE REMEDY WHEN THE BUYER LEARNS OR HAS~~

~~NOTICE THAT A REMEDY IS AVAILABLE~~ **IF A LICENSEE ISSUES A STOP SALE DIRECTIVE APPLICABLE TO A USED VEHICLE MANUFACTURED BY THE LICENSEE TO A DEALER THAT HOLDS A FRANCHISE FROM THE LICENSEE AND THERE ARE NO REMEDIES OR PARTS AVAILABLE TO FIX THE MOTOR VEHICLE, THE LICENSEE SHALL COMPENSATE THE DEALER BY:**

(1) PROVIDING PAYMENT TO THE DEALER AT A RATE OF AT LEAST 1% PER MONTH OR PORTION OF A MONTH OF THE VALUE OF THE VEHICLE, ~~PLUS THE COST OF REPAIRS AND RECONDITIONING INCURRED BY THE DEALER;~~ OR

(2) COMPENSATING THE DEALER UNDER A NATIONAL PROGRAM THAT IS APPLICABLE TO ALL DEALERS HOLDING A FRANCHISE FROM THE LICENSEE FOR THE DEALER'S COSTS ASSOCIATED WITH THE STOP SALE DIRECTIVE.

(D) When a vehicle arrives for delivery, the dealer shall advise the buyer of any extra items ordered by the buyer that are not on the vehicle.

[(d)] (E) When a vehicle arrives for delivery, the dealer shall advise the buyer of any extra items on the vehicle that the buyer did not order.

[(e)] (F) When a vehicle arrives for delivery, the dealer shall advise the buyer of the cost of extra items described under subsections **[(c) and] (d) AND (E)** of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.