

SENATE BILL 730

R4

6lr3510
CF HB 525

By: **Senator Norman**

Introduced and read first time: February 5, 2016

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 3, 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~~ altering the
9 conditions under which a motor vehicle dealer's failure to comply with certain
10 requirements constitutes grounds for denial of a certain claim or reduction of the
11 amount of certain compensation; prohibiting a motor vehicle manufacturer,
12 distributor, or factory branch from taking certain action against a dealer for the
13 provision of certain information to certain persons; specifying that a dealer may
14 provide certain information only to a certain customer; prohibiting a manufacturer
15 from taking certain action against a dealer for performing certain repairs on a vehicle
16 under certain circumstances; requiring a manufacturer to provide certain
17 compensation to certain dealers under certain circumstances; ~~defining a certain~~
18 ~~term;~~ providing for the construction of certain provisions of this Act; and generally
19 relating to motor vehicle manufacturers and dealers.

20 ~~BY renumbering~~

21 ~~Article — Transportation~~

22 ~~Section 15–101(e) through (g), respectively~~

23 ~~to be Section 15–101(d) through (h), respectively~~

24 ~~Annotated Code of Maryland~~

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 ~~(2012 Replacement Volume and 2015 Supplement)~~

2 BY repealing and reenacting, without amendments,
 3 Article – Transportation
 4 Section ~~15-101(a) and~~ 15-212(c)(1) and (11)
 5 Annotated Code of Maryland
 6 (2012 Replacement Volume and 2015 Supplement)

7 BY adding to
 8 Article – Transportation
 9 Section ~~15-101(e) and~~ 15-212(c)(12), (13), and (14)
 10 Annotated Code of Maryland
 11 (2012 Replacement Volume and 2015 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article – Transportation
 14 Section 15-212(c)(10) and 15-311
 15 Annotated Code of Maryland
 16 (2012 Replacement Volume and 2015 Supplement)

17 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 18 That Section(s) 15-101(e) through (g), respectively, of Article – Transportation of the
 19 Annotated Code of Maryland be renumbered to be Section(s) 15-101(d) through (h),
 20 respectively.~~

21 SECTION ~~1. 2. AND~~ 1. BE IT ~~FURTHER~~ ENACTED BY THE GENERAL
 22 ASSEMBLY OF MARYLAND BY THE GENERAL ASSEMBLY OF MARYLAND, That the
 23 Laws of Maryland read as follows:

24 Article – Transportation

25 ~~15-101.~~

26 ~~(a) In this title the following words have the meanings indicated.~~

27 ~~(c) “ADVERSE ACTION” MEANS:~~

28 ~~(1) WITHHOLDING ANY CONSIDERATION RECEIVED BY A DEALER
 29 FROM A LICENSEE;~~

30 ~~(2) WITHHOLDING A CONSUMER BENEFIT THROUGH A DEALER; OR~~

31 ~~(3) APPOINTING OR THREATENING TO APPOINT AN ADDITIONAL
 32 DEALER WITHIN THE MARKET AREA ASSIGNED TO THE DEALER AGAINST WHOM THE
 33 ADVERSE ACTION IS TAKEN WITHOUT A COMPELLING BUSINESS JUSTIFICATION.~~

1 15-212.

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

4 (i) The dealer's obligation for vehicle preparation, delivery,
5 warranties, and recalls on its products;

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

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

12 (10) A dealer's failure to comply with a [specific requirement of the
13 manufacturer] MANUFACTURER'S or [distributor] DISTRIBUTOR'S SPECIFIC
14 REQUIREMENTS FOR PROCESSING A CLAIM may not constitute grounds for denial of the
15 claim or reduction of the amount of compensation paid to the dealer if the dealer presents
16 REASONABLE documentation or other reasonable evidence to substantiate [that the repair
17 and] the claim [were done according to manufacturer warranty guidelines].

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

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

- 23 1. Conduct an audit of any claim filed under this section; or
- 24 2. Charge back for any claim that is proven to be fraudulent.

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

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

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

~~(H) 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 TO A CUSTOMER INFORMATION GIVEN TO THE DEALER BY A MANUFACTURER RELATED TO ANY CONDITION THAT MAY SUBSTANTIALLY AFFECT MOTOR VEHICLE SAFETY, DURABILITY, RELIABILITY, OR PERFORMANCE.

(13) A DEALER MAY PROVIDE THE INFORMATION SPECIFIED IN PARAGRAPH (12) OF THIS SUBSECTION ONLY TO A CUSTOMER THAT HAS:

(i) PURCHASED THE VEHICLE FOR WHICH THE INFORMATION PERTAINS FROM THE DEALER; OR

(ii) HAD THE VEHICLE FOR WHICH THE INFORMATION PERTAINS SERVICED BY THE DEALER.

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

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

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

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

1 **4. IF THE DEALER DISCOVERED THE NEED FOR**
 2 **REPAIRS:**

3 **A. DURING THE COURSE OF A SEPARATE REPAIR**
 4 **REQUESTED BY THE CUSTOMER; OR**

5 **B. THROUGH NOTICE OF AN OUTSTANDING RECALL**
 6 **UNDER FEDERAL LAW FOR A SAFETY-RELATED DEFECT.**

7 15-311.

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

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

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

12 (3) Any fee charged under § 13-610 of this article;

13 (4) Any dealer processing charge, as defined in § 15-311.1 of this subtitle;

14 and

15 (5) Any other charge made in connection with the sale of the vehicle.

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

18 (1) The base price of the vehicle;

19 (2) The manufacturer's code or stock number for the vehicle; and

20 (3) A clear and specific description of each extra item and each extra charge
 21 not included in the base price of the vehicle ordered by the buyer.

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

27 ~~(1) IF THE USED MOTOR VEHICLE IS A LINE MAKE THAT THE DEALER~~
 28 ~~HOLDS A FRANCHISE TO SELL AS NEW AND TO SERVICE;~~

1 ~~(I) THERE IS A REMEDY FOR THE CONDITION THAT CAUSED~~
 2 ~~THE RECALL AND THE BUYER MAY RETURN THE MOTOR VEHICLE TO HAVE THE~~
 3 ~~DEALER PROVIDE THE REMEDY; OR~~

4 ~~(H) THERE IS NOT AT THE TIME OF SALE A REMEDY FOR THE~~
 5 ~~CONDITION THAT CAUSED THE RECALL AND THE BUYER MAY RETURN THE MOTOR~~
 6 ~~VEHICLE TO HAVE THE DEALER PROVIDE THE REMEDY WHEN THE BUYER LEARNS~~
 7 ~~OR HAS NOTICE THAT A REMEDY IS AVAILABLE; OR~~

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

10 ~~(I) THERE IS A REMEDY FOR THE CONDITION THAT CAUSED~~
 11 ~~THE RECALL AND THE BUYER MAY CONTACT A DEALER OF THE LINE MAKE FOR~~
 12 ~~PROVISION OF THE REMEDY; OR~~

13 ~~(H) THERE IS NOT A REMEDY AT THE TIME OF SALE FOR THE~~
 14 ~~CONDITION THAT CAUSED THE RECALL AND THE BUYER MAY CONTACT A DEALER OF~~
 15 ~~THE LINE MAKE FOR PROVISION OF THE REMEDY WHEN THE BUYER LEARNS OR HAS~~
 16 ~~NOTICE THAT A REMEDY IS AVAILABLE~~ IF A LICENSEE ISSUES A STOP SALE
 17 DIRECTIVE APPLICABLE TO A USED VEHICLE MANUFACTURED BY THE LICENSEE TO
 18 A DEALER THAT HOLDS A FRANCHISE FROM THE LICENSEE AND THERE ARE NO
 19 REMEDIES OR PARTS AVAILABLE TO FIX THE MOTOR VEHICLE, THE LICENSEE SHALL
 20 COMPENSATE THE DEALER BY:

21 (1) PROVIDING PAYMENT TO THE DEALER AT A RATE OF AT LEAST 1%
 22 PER MONTH OR PORTION OF A MONTH OF THE VALUE OF THE VEHICLE; OR

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

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

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

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

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