

SENATE BILL 566

R4

7lr1653

By: **Senators Lee, Benson, Feldman, Hough, Kagan, King, Madaleno, Manno, McFadden, Nathan-Pulliam, Pinsky, Ready, Robinson, Salling, Smith, Young, and Zucker**

Introduced and read first time: February 2, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Manufacturers and Dealers**

3 FOR the purpose of altering certain provisions of law governing the payment of warranty
4 claims made by vehicle manufacturers to vehicle dealers; altering the time periods
5 within which a vehicle manufacturer may charge back certain payments or credits
6 made to vehicle dealers under warranty, incentive, or reimbursement programs;
7 defining a certain term; and generally relating to motor vehicle manufacturers and
8 dealers.

9 BY repealing and reenacting, with amendments,
10 Article – Transportation
11 Section 15–201, 15–212(c)(10) and (11), and 15–212.1(c)(1)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2016 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Transportation
16 Section 15–212(c)(7) and (12)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2016 Supplement)

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

21 **Article – Transportation**

22 15–201.

23 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) “ADVERSE ACTION” INCLUDES:**

2 **(1) WITHHOLDING ANY CONSIDERATION RECEIVED BY A DEALER**
3 **FROM A LICENSEE;**

4 **(2) WITHHOLDING A CONSUMER BENEFIT THROUGH A DEALER; OR**

5 **(3) APPOINTING OR THREATENING TO APPOINT AN ADDITIONAL**
6 **DEALER WITHIN THE MARKET AREA ASSIGNED TO THE DEALER AGAINST WHOM THE**
7 **ADVERSE ACTION IS TAKEN WITHOUT A COMPELLING BUSINESS JUSTIFICATION.**

8 **[(b)] (C)** “Distributor” means a distributor who is authorized by the
9 manufacturer or the manufacturer’s authorized importer to enter into franchise
10 agreements with dealers of:

11 (1) New motor vehicles constructed or assembled outside of the United
12 States; or

13 (2) New two-stage vehicles completed outside of the United States by a
14 second-stage manufacturer.

15 **[(c)] (D)** “Factory branch” means a branch office of a manufacturer from which
16 the manufacturer:

17 (1) Sells or promotes the sale to dealers in this State of a particular brand
18 or make of new motor vehicles, or new completed two-stage vehicles;

19 (2) Directs and supervises its representatives in this State; or

20 (3) Supervises or contacts its dealers or prospective dealers in this State.

21 **[(d)] (E)** “License” means a manufacturer’s, distributor’s, or factory branch’s
22 license issued by the Administration under this subtitle.

23 **[(e)] (F)** “Manufacturer” means:

24 (1) A manufacturer of new motor vehicles constructed or assembled in the
25 United States;

26 (2) A second-stage manufacturer of new two-stage vehicles completed in
27 the United States; and

28 (3) In the case of trucks, a person engaged in the business of manufacturing
29 truck component parts.

1 ~~(f)~~ (G) “Second-stage manufacturer” has the meaning stated in § 13-113.2 of
2 this article.

3 15-212.

4 (c) (7) A licensee may not directly or indirectly:

5 (i) Calculate its own labor rate or parts mark-up percentage on a
6 warranty reimbursement rate submission by the licensee’s dealer under this section, or
7 require a dealer to calculate a labor rate or parts mark-up percentage, by any method not
8 required under this section, including a method that is unduly burdensome or
9 time-consuming or that requires information that is unduly burdensome or
10 time-consuming to provide such as:

11 1. A part-by-part or transaction-by-transaction
12 calculation; or

13 2. Presentation of information as to, or calculations based on,
14 the dealer’s or other dealers’ warranty compensation;

15 (ii) Establish or implement a special part or component number for
16 parts used in warranty fulfillment, if the special part or component number results in
17 reduced compensation for the dealer unless the part is used for specific, limited repair
18 situations;

19 (iii) Require or coerce a dealer to change the prices for which it sells
20 parts or labor for retail customer repairs;

21 (iv) Take adverse action against a dealer because the dealer seeks
22 compensation under this section, by:

23 1. Implementing a process that is inconsistent with the
24 licensee’s obligations to the dealer under this subtitle; or

25 2. Failing to act in good faith;

26 (v) Conduct any warranty or retail customer repair audit, or other
27 service-related audit, solely because the dealer makes a request for warranty
28 reimbursement at retail rates in the ordinary course of business; or

29 (vi) Establish, implement, enforce, or apply any policy, standard,
30 rule, program, or incentive regarding the compensation due under this section other than
31 in a uniform manner among the licensee’s dealers in the State.

32 (10) A dealer’s failure to comply with [a specific requirement] **THE**
33 **SPECIFIC REQUIREMENTS** of the manufacturer or distributor **FOR PROCESSING A**
34 **CLAIM** may not constitute grounds for denial of the claim or reduction of the amount of

1 compensation paid to the dealer if the dealer presents **REASONABLE** documentation or
2 other reasonable evidence to substantiate [that the repair and the claim were done
3 according to manufacturer warranty guidelines] **THE CLAIM**.

4 (11) (i) If a claim filed under this section is shown by the manufacturer
5 or distributor to be false or unsubstantiated, the manufacturer or distributor may charge
6 back the claim within [9 months] **90 DAYS** from the date the claim was paid or credit
7 issued.

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

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

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

14 (12) A licensee may not prohibit a dealer from, or take any adverse action
15 against a dealer for, providing to a customer information given to the dealer by a
16 manufacturer related to any condition that may substantially affect motor vehicle safety,
17 durability, reliability, or performance.

18 15-212.1.

19 (c) (1) If a claim filed under this section is shown by the manufacturer, factory
20 branch, or distributor to be false or unsubstantiated, the manufacturer, factory branch, or
21 distributor may charge back the claim within [6 months] **90 DAYS** from the payment of the
22 incentive or reimbursement.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2017.