SENATE BILL 1004

R4 7lr2156 CF HB 1120

By: Senators Hough, Lee, and Ready

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 2017

CHAPTER

1 AN ACT concerning

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Vehicle Laws - Dealers - Performance Standards

- 3 FOR the purpose of repealing a certain provision of law prohibiting vehicle manufacturers from requiring or coercing a dealer to adhere to performance standards that are not 4 applied uniformly to other similarly situated dealers establishing that certain 5 6 provisions of State law governing performance standards for vehicle dealers apply to 7 vehicle manufacturers notwithstanding certain other agreements; requiring that the assignment of a dealer's market area meet certain standards; requiring vehicle 8 9 manufacturers to consider certain factors in assigning a market area and applying 10 performance standards, sales objectives, or programs for measuring dealer 11 performance; making certain conforming changes; altering certain definitions; and 12 generally relating to market areas and performance standards for vehicle dealers.
- 13 BY repealing and reenacting, with amendments,
- 14 Article Transportation
- 15 Section 15–207(a) and (e)
- 16 Annotated Code of Maryland
- 17 (2012 Replacement Volume and 2016 Supplement)
- 18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 19 That the Laws of Maryland read as follows:

Article – Transportation

21 15–207.

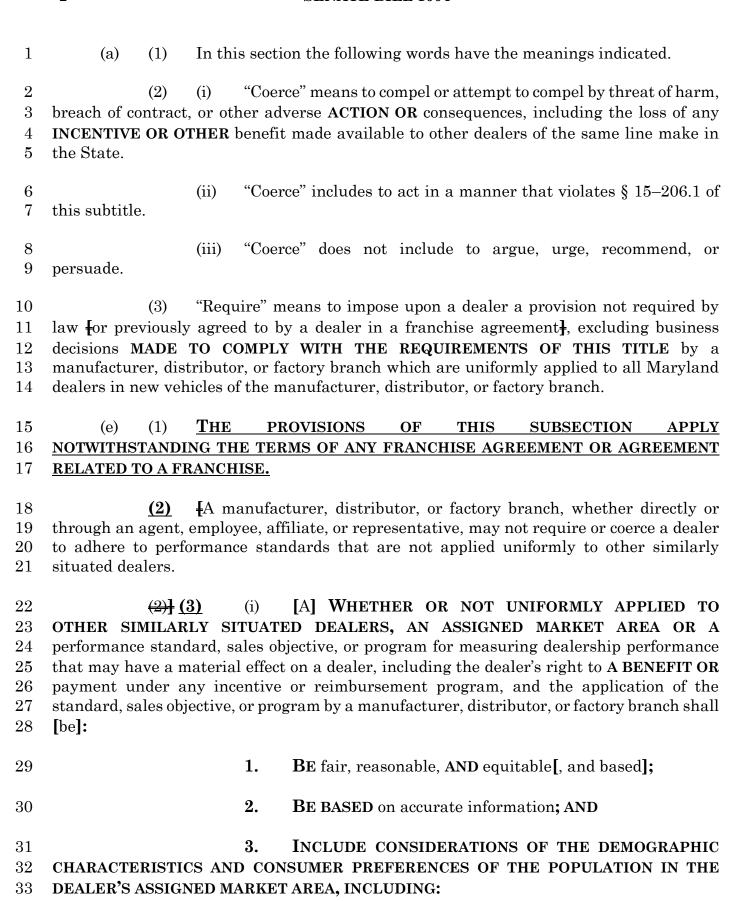
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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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



$\frac{1}{2}$	A. CAR AND TRUCK BRAND PREFERENCES OF CONSUMERS; AND
3 4 5	B. Geographic characteristics, such as natural boundaries, road conditions, and terrain, that affect car and truck shopping patterns.
6 7 8 9 10 11 12 13 14 15 16	OR application of a performance standard, sales objective, or program for measuring dealership performance is unfair or unreasonable due to the MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH FAILING TO REASONABLY CONSIDER demographic characteristics of the population in the dealer's assigned market area, including car and truck BRAND preferences of consumers, or due to the geographic characteristics, SUCH AS NATURAL BOUNDARIES, ROAD CONDITIONS, AND TERRAIN, that affect car and truck shopping patterns in the dealer's assigned marketing area, may file a claim in a court of competent jurisdiction to determine whether the DESIGN OF THE ASSIGNED MARKET AREA OR THE application of the performance standard, SALES OBJECTIVE, or program is unfair or unreasonable under this paragraph.
17 18 19 20	(iii) A manufacturer, distributor, or factory branch has the burden of proving that the DESIGN OF THE ASSIGNED MARKET AREA , <u>OR THE</u> performance standard, sales objective, or program for measuring dealership performance is fair and reasonable under this paragraph.
21 22	[(3)] (2) (4) (i) If the performance standard is based on a survey, it must be shown that:
23	1. The survey was designed with experts;
24	2. The proper universe was examined;
25	3. A representative sample was chosen; and
26	4. The data was accurately reported.
27 28 29	(ii) The manufacturer, distributor, or factory branch shall establish the objectivity of the survey process and provide this information to any dealer of the same line make covered by the survey on request.
30 31	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.