

February 11, 2021

The Honorable Dereck E. Davis  
Chair, House Economic Matters Committee  
House Office Building  
Annapolis, Maryland 21401

## **HB 659: Vehicle Laws - Manufacturers and Dealers – Advertisements**

### **Position: Unfavorable**

Chair Davis:

The Alliance for Automotive Innovation<sup>1</sup> opposes HB 659, which seeks to regulate automobile advertising. HB 659 would make advertising through local marketing associations more difficult and less useful while also causing confusion for consumers. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S.

Manufacturers and dealers often have regional advertising associations in which the manufacturer and the local dealers pool their advertising dollars to buy advertising that benefits all of them. For example, commercials that say, “See your Baltimore area dealer for great deals on....” Those commercials may include price examples for models of vehicles to attract consumers. Those prices are not necessarily final prices, they may be designed by marketers to leave room for dealers and customers to negotiate, as is the custom in automobile purchasing. HB 659 would make those types of joint advertising commercials vulnerable to legal challenges.

HB 659 says that a manufacturer may not prohibit a dealer from advertising a “purchase price” on its website. The problem is that HB 659 goes beyond that. It says that a manufacturer may not “coerce” a dealer to list a different price on its website. § 15-207 is unusual in that it broadly

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<sup>1</sup> The Alliance for Automotive Innovation is the singular, authoritative and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S. The organization, a combination of the Association of Global Automakers and the Alliance of Automobile Manufacturers, is directly involved in regulatory and policy matters impacting the light-duty vehicle market across the country. Members include motor vehicle manufacturers, original equipment suppliers, technology and other automotive-related companies and trade associations. The Alliance for Automotive Innovation is headquartered in Washington, DC, with offices in Detroit, MI and Sacramento, CA. For more information, visit our website <http://www.autosinnovate.org>.

defines “coerce” to include the loss of an incentive or benefit available to other dealers.<sup>2</sup> Thus HB 659 means that if manufacturers contribute money either directly to dealers or through a regional advertising association to advertise in a uniform way, the manufacturer will still have to pay even if a dealer refused to go along with the advertising program. Regional advertising associations that receive contributions from the manufacturer could not use an advertised price based around the traditional negotiation process of buying a car if one dealer wanted to advertise a final purchase price instead.

Similarly, HB 659 prohibits “adverse action” against a dealer that advertises a vehicle for sale at a particular price on its website. This term is needlessly broad. It raises the possibility that a manufacturer would violate Maryland law if it tried to enforce the terms of an incentive program that included an advertising component.

Advertising in the Mid-Atlantic can be expensive. Automobile manufacturers and dealers pooling their resources to jointly advertise their products is a well-established and commonly used practice that allows more advertising to reach more consumers in a competitive marketplace. HB 659 would make regional advertising associations difficult or even impossible to use and cause such advertising to contain less useful information.

The Alliance for Automotive Innovation respectfully asks the members of the Economics Matters Committee to report the bill as unfavorable. For more information, please contact our local representative, Bill Kress, at (410) 375-8548.

Sincerely,



Josh Fisher  
Director, State Affairs  
Alliance for Automotive Innovation

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<sup>2</sup> The definition of “coerce” can be found on Page 2, Line 1 of the bill.