

testimony2023sb742ltr.pdf

Uploaded by: Franz Schneiderman

Position: FAV



Auto Consumer Alliance
13900 Laurel Lakes Avenue, Suite 100
Laurel, MD 20707

**Testimony to the Senate Judicial Proceedings Committee
SB 742: Vehicle Laws – Manufacturers and Dealers –
Allocation of Vehicles
Position: Favorable**

The Honorable Will Smith
Judicial Proceedings Committee
2 East, Miller Senate Building
Annapolis, MD 21401
cc: Members, Judicial Proceedings Committee

March 2, 2023

Dear Chairman Smith and Committee Members,

I'm a consumer advocate and Executive Director of Consumer Auto, a non-profit group that works for safety, transparency, and fair treatment for Maryland drivers and car buyers.

We support **SB 742** because it will make the way cars are supplied by manufacturers to dealers – and available to the consumers who shop at those dealers -- more equitable and help see to it that a better selection of vehicles reaches more markets and more car buyers across our state. That reform should help many consumers get better access to in-demand vehicles at more dealerships in their area – and boost the price competition that helps consumers get a good deal on the cars they need.

To protect both Maryland small business and consumers, MD law (like the laws of other states) regulates in some detail the way manufacturers distribute incentives, rebates, and other benefits through their dealerships. But under current rules there is little transparency – and no guarantee of fairness – in the ways cars are made available for purchase by dealers from the car manufacturers. As a result, dealers can't be sure they're getting a fair opportunity to purchase the vehicles they need and consumers can't consistently be confident that dealers in their area will have the cars they want.

Under the current system, more favored dealerships, perhaps in more lucrative markets, may get preferred access to in-demand vehicles. Consumers sometimes find that such vehicles are difficult to find in their area – and if they're in the market for environmentally friendly or other in-demand vehicles they may need to travel some distance to find them and may not benefit from price competition among dealers they can easily reach that stock the same (or similar) vehicles. Such regional shortages are particularly a problem when new cars are in relatively short supply, as they have been in recent years.

Requiring manufacturers to be able to show that their system for allocating new vehicles “is reasonable and fair for all dealers” would help see to it that all dealers have a fair opportunity to obtain the vehicles they need and consumers really want.

This standard indeed mirrors and extends the language that Maryland law already uses to regulate several other aspects of motor vehicle sales. Section 15-207 of the Transportation Code requires, for instance, that any “performance standard, sales objective or program for measuring dealership performance” that impacts



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access to any incentive or reimbursement program “Be fair, reasonable and equitable.” [MD Code 15-207(e)(i)(1)]. It also requires that such standards be “reasonable considering all existing circumstances.” [15-207(i)(2)].

Putting the burden of proof on the manufacturers to establish, if a dispute arises, that their system of allocation meets this “reasonable and fair” standard should give the rule the strength it needs to make a difference for Maryland dealers and drivers. Here again, that burden of proof mirrors the existing standards that give car makers the burden of proof to establish that the performance standards and assigned market areas that govern other benefits are fair and reasonable.

Pennsylvania law has long had a very similar standard – one which prohibits car manufacturers from using “a system for the allocation of new vehicles which is not reasonable or fair to a new vehicle dealer.” Virginia, New York, and Utah also have laws mandating an equitable allocation of vehicles to dealers.

SB 742 is simply about fairness and transparency in car supplies – and it advances those values in a way that will benefit both Maryland dealers and drivers.

We support SB 742 and ask you to give it a FAVORABLE report.

Sincerely,

Franz Schneiderman
Consumer Auto

SB742_Economic Action Maryland_FAV (2023).pdf

Uploaded by: Isadora Stern

Position: FAV



Testimony to the Senate Judicial Proceedings Committee
SB742: Vehicle Laws - Manufacturers and Dealers - Allocation of Vehicles
Position: Favorable

March 2, 2023

The Honorable Senator Smith, Chair
Senate Judicial Proceedings Committee
Second Floor, Miller Senate Office Building
Annapolis, Maryland 21401
cc: Members, Senate Judicial Proceedings

Honorable Chair Smith and Members of the Committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a people-centered movement to expand economic rights, housing justice, and community reinvestment for working families, low-income communities, and communities of color. Economic Action Maryland provides direct assistance today while passing legislation and regulations to create systemic change in the future.

We are writing in support of SB742. This bill promotes transparency and equity in the allocation of new cars among auto dealers. When manufacturers allocate a fair share of vehicles to each of their dealerships, large dealerships in more attractive markets are prevented from dominating the market. This provision will help smaller dealerships remain competitive while expanding consumer choice in all markets.

Furthermore, SB742 requires manufacturers to provide clear and transparent information about their allocation policies to their dealerships, which will help prevent unfair practices such as favoritism or discrimination. By ensuring that all dealerships have access to the same information and resources, this bill will create a level playing field that will benefit both consumers and dealerships. This more equitable distribution will also boost price competition that helps car buyers get a good deal.

Overall, SB742 will help protect the rights of consumers and promote economic equity in the vehicle industry. I urge you to support this bill and help ensure a fair and transparent market for all consumers and dealerships.

Best,

Isadora Stern
Policy Manager

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Uploaded by: Joshua Fisher

Position: UNF



February 28, 2023

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
Senate Office Building
Annapolis, Maryland 21401

**SB 742: Vehicle Laws - Manufacturers and Dealers - Allocation of Vehicles
Position: Unfavorable**

Dear Chair Smith:

The Alliance for Automotive Innovation opposes SB 742, which unnecessarily creates a presumption that a vehicle manufacturer is assumed to have violated Maryland law. From the manufacturers producing most vehicles sold in the U.S. to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers – Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million American jobs and five percent of the economy.

Automakers and dealers rely on each other for success. Typically, as issues arise, we seek to address dealer concerns short of legislation. This same legislation was introduced last session and rightfully rejected by the General Assembly. The proponents of this bill have not approached us following last session to discuss their concerns and attempt to address this issue.

Increased Litigation

SB 742 raises due process concerns with the final paragraph that essentially says a manufacturer is presumed to have violated the law based on nothing other than a dealer allegation without support. This provision will open the door to nuisance lawsuits from dealers that appears specifically designed for dealers to abuse the discovery process to seek information from automakers. We fail to see the corresponding public policy goal of this provision.

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

Sincerely,

A handwritten signature in black ink that reads "Josh Fisher".

Josh Fisher
Senior Director, State Affairs
Alliance for Automotive Innovation

1050 K Street, NW
Suite 650
Washington, DC 20001

AutosInnovate.org

MD HB 955-SB 742-2023-MIC.pdf

Uploaded by: Phillip Lighty

Position: UNF



February 27, 2023

The Honorable William C. Smith
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

The Honorable Pamela E. Queen
224 Lowe House Office Building
6 Bladen St.
Annapolis, MD 21401

Re: MIC opposes HB 955/SB 742

Dear Senator Smith and Delegate Queen:

The Motorcycle Industry Council (MIC) is a national, not-for-profit trade association representing several hundred manufacturers, distributors, dealers and retailers of motorcycles, scooters, motorcycle parts, accessories and related goods, and allied trades.

As written, MIC opposes HB 955/SB 742. We urge that it be amended to exclude motorcycles. This could possibly be done by adding a new subsection to 15–208(f) as follows:

(4) The provisions under 15–208(f) are not applicable to a motorcycle manufacturer, distributor, or factory branch or its affiliates.

HB 955/SB 742 was drafted to address automobile dealer concerns and should not apply to motorcycles. Without a compelling need from motorcycle dealers, the Legislature should not begin to consider implementing additional layers of regulation without specific rationale or impacts.

HB 955/SB 742 requires that any system operated by a manufacturer, etc. (“franchisor”), for the allocation of vehicles to dealers shall be reasonable and fair for all dealers. It additionally requires the franchisor to disclose the system upon a dealer’s request and would place the burden of proof on franchisors in any dispute regarding the allocation of vehicles.

The legislation’s “reasonable and fair” standard is undefined, which makes it difficult to identify how this standard could be fairly applied across the State. Franchisors may not be able to set higher operational requirements in markets possessing larger sales opportunity under these provisions. The likely outcome would be that dealerships in bigger cities would be shorted resources necessary to be effective and the needs of customers and franchisors would go unmet.

MIC also opposes requiring franchisors to provide information to dealers regarding its system of vehicle allocation. This is unreasonable because it would essentially require a franchisor to share sensitive business information about how it interacts with other dealers in the State beyond the original dealer who made the information request. This requirement would impede one of the basic tenets of business contracts.

Erecting more barriers through legislation only serves to create an environment for franchisors and dealers where options to respond to economic challenges are limited. Ultimately, when the cost of doing business increases, it hurts everyone – consumers, franchisors, and dealers.

Should you have any questions, please do not hesitate to contact me at sschloegel@MIC.org or 703-446-0444 x 3202.

Sincerely,



Scott P. Schloegel
Senior Vice President, Government Relations

Cc: Senate Committee on Judicial Proceedings
House Committee on Economic Matters