

1 SB178
2 182686-6
3 By Senator Scofield
4 RFD: Transportation and Energy
5 First Read: 14-FEB-17

1 SB178

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4 ENROLLED, An Act,

5 To add Section 8-20-7.1 to the Code of Alabama 1975,
6 relating to the Motor Vehicle Franchise Act, to specify the
7 payment of recall repairs by manufacturers and distributors or
8 wholesalers of new motor vehicles to their dealers.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 8-20-7.1 is added to the Code of
11 Alabama 1975, to read as follows:

12 §8-20-7.1.

13 (a) For the purposes of this section, the following
14 words have the following meanings:

15 (1) MANUFACTURER. A manufacturer, distributor or
16 wholesaler, factory branch, or distributor branch.

17 (2) STOP-SALE ORDER. A notification issued by a
18 manufacturer to its franchised new motor vehicle ~~dealer~~
19 dealers stating that certain used vehicles in inventory shall
20 not be sold or leased, at either retail or wholesale, due to a
21 federal safety recall for a defect or a noncompliance, or a
22 federal emissions recall.

23 (b) A manufacturer shall compensate its new motor
24 vehicle dealers for all labor and parts required by the
25 manufacturer to perform recall repairs. Compensation for

1 recall repairs shall be reasonable. If parts or a remedy are
2 not reasonably available to perform a recall service or repair
3 on a used vehicle held for sale by a dealer authorized to sell
4 and service new vehicles of the same line-make within 30 days
5 of the manufacturer issuing the initial notice of recall, and
6 the manufacturer has issued a Stop-Sale or Do-Not-Drive order
7 on the vehicle, the manufacturer shall compensate the dealer
8 at a prorated rate of at least one percent of the value of the
9 vehicle per month beginning on the date that is 30 days after
10 the date on which the Stop-Sale or Do-Not-Drive order was
11 provided to the dealer until the earlier of either of the
12 following:

13 (1) The date the recall or remedy parts are made
14 available; or

15 (2) The date the dealer sells, trades, or otherwise
16 disposes of the affected used motor vehicle.

17 (c) The value of a used vehicle shall be the average
18 trade-in value for used vehicles as indicated in an
19 independent third party guide for the year, make, and model,
20 of the recalled vehicle.

21 (d) This section shall apply only to used vehicles
22 subject to safety or emissions recalls pursuant to and
23 recalled in accordance with federal law and regulations
24 adopted thereunder and where a Stop-Sale or Do-Not-Drive order
25 has been issued and repair parts or remedy remain unavailable

1 for 30 days or longer. This section further shall apply only
2 to new motor vehicle dealers holding an affected used vehicle
3 for sale:

4 (1) In inventory at the time the Stop-Sale or
5 Do-Not-Drive order was issued; or

6 (2) Which was taken in the used vehicle inventory of
7 the dealer as a consumer trade-in incident to the purchase of
8 a new vehicle from the dealer after the Stop-Sale or
9 Do-Not-Drive order was issued; and

10 (3) That are a line-make that the dealer is
11 franchised to sell or on which the dealer is authorized to
12 perform recall repairs.

13 (e) Subject to the audit provisions of subsection
14 (d) of Section 8-20-7, it shall be a violation of this section
15 for a manufacturer to reduce the amount of compensation
16 otherwise owed to an individual new motor vehicle dealer,
17 whether through a chargeback, removal of the individual dealer
18 from an incentive program or reduction in amount owed under an
19 incentive program solely because the new motor vehicle dealer
20 has submitted a claim for reimbursement under this section.
21 This subsection shall not apply to an action by a manufacturer
22 that is applied uniformly among all dealers of the same
23 line-make in the state.

24 (f) All reimbursement claims made by new motor
25 vehicle dealers pursuant to this section for recall remedies

1 or repairs, or for compensation where no part or repair is
2 reasonably available and the vehicle is subject to a Stop-Sale
3 or Do-Not-Drive order shall be subject to the same limitations
4 and requirements as a warranty reimbursement claim made under
5 subsection (d) of Section 8-20-7. In the alternative, a
6 manufacturer may compensate its franchised dealers under a
7 national recall compensation program provided the compensation
8 under the program is equal to or greater than that provided
9 under subsection (b); or the manufacturer and dealer otherwise
10 agree.

11 (g) A manufacturer may direct the manner and method
12 in which a dealer must demonstrate the inventory status of an
13 affected used motor vehicle to determine eligibility under
14 this section, provided that the manner and method may not be
15 unduly burdensome and may not require information that is
16 unduly burdensome to provide.

17 (h) Nothing in this section shall require a
18 manufacturer to provide total compensation to a dealer which
19 would exceed the total average trade-in value of the affected
20 used motor vehicle as originally determined under subsection
21 (c).

22 (i) Any remedy provided to a dealer under this
23 section is exclusive and may not be combined with any other
24 state or federal recall compensation remedy.

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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President Pro Tempore and Presiding Officer of
the Senate

Speaker of the House of Representatives

SB178

Senate 07-MAR-17

I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 06-APR-17

By: Senator Scofield