

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

1 SB178

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4 ENGROSSED

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7 A BILL

8 TO BE ENTITLED

9 AN ACT

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

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 §8-20-7.1.

19 (a) For the purposes of this section, the following
20 words have the following meanings:

21 (1) MANUFACTURER. A manufacturer, distributor or
22 wholesaler, factory branch, or distributor branch.

23 (2) STOP-SALE ORDER. A notification issued by a
24 manufacturer to its franchised new motor vehicle ~~dealer~~
25 dealers stating that certain used vehicles in inventory shall
26 not be sold or leased, at either retail or wholesale, due to a

1 federal safety recall for a defect or a noncompliance, or a
2 federal emissions recall.

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

18 (1) The date the recall or remedy parts are made
19 available; or

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

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

26 (d) This section shall apply only to used vehicles
27 subject to safety or emissions recalls pursuant to and

recalled in accordance with federal law and regulations adopted thereunder and where a Stop-Sale or Do-Not-Drive order has been issued and repair parts or remedy remain unavailable for 30 days or longer. This section further shall apply only to new motor vehicle dealers holding an affected used vehicle for sale:

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

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

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

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

(f) All reimbursement claims made by new motor vehicle dealers pursuant to this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a Stop-Sale or Do-Not-Drive order shall be subject to the same limitations and requirements as a warranty reimbursement claim made under subsection (d) of Section 8-20-7. In the alternative, a manufacturer may compensate its franchised dealers under a national recall compensation program provided the compensation under the program is equal to or greater than that provided under subsection (b); or the manufacturer and dealer otherwise agree.

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

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

(i) Any remedy provided to a dealer under this section is exclusive and may not be combined with any other 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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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Transportation and Energy..... 14-FEB-17

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7 Read for the second time and placed on the calen-
8 dar with 1 substitute and 1 amendment..... 23-FEB-17

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10 Read for the third time and passed as amended 07-MAR-17

11 Yeas 30
12 Nays 0

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15 Patrick Harris
16 Secretary
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