Good morning Chairman Mustio, Chairman Readshaw and members of the House Professional Licensure Committee. On behalf of the new vehicle dealers doing business in the Commonwealth, I appreciate very much appearing before you today to discuss HB 1898.

As you know, this legislation proposes some amendments to the state Board of Vehicles Act, most notably by requiring in law the written disclosure at time of sale the existence of any open, unremedied recalls. Our association feels strongly that such formal disclosure provides important information to vehicle purchasers and alerts them to the existence of a condition that the vehicle manufacturer, through their dealer network, will correct free of charge.

The vast majority of vehicle recalls are not especially critical, nor do they necessarily impose immediate safety threats. For example, some ‘recalls’ can merely require the correction of a misprint in the vehicle’s owners manual. Typically however, safety recalls identified by the manufacturer are remedied by the adjustment or installation of a particular part provided by the factory and installed by the dealer.

Because of the relatively minor nature of most recalls, we often find that, even when notified of a recall, many vehicle owners do not take the affected vehicle to the dealer and have the necessary correction performed. Should the owner service the vehicle at a new vehicle dealership, outstanding recalls are routinely identified and addressed during regular maintenance visits or while having its annual safety inspection. For those vehicles serviced outside the franchised dealer network however, often corrective recall services are not performed before the vehicle is traded in.
Should the vehicle not have its outstanding recall corrected, we believe the perfect opportunity to determine its recall status is at the time of sale. By simply taking the vehicles VIN number and accessing a national data base, safercars.gov, the dealer can produce a report that presents the recall status for that vehicle. As provided for in HB 1898, this report would be shared with the prospective purchaser at the time of sale.

The preparation of vehicle history reports are a routine practice associated with pre-owned vehicle sales, and the inclusion of an outstanding recall report from our perspective is not overly burdensome to the dealer and provides a clear and important benefit to the prospective purchaser.

We have been recommending recall disclosures to our members for a long time as a responsible business practice. Requiring all dealers to provide this important information to purchasers when selling a vehicle will ensure that the consumer is protected in every vehicle dealer sale in the Commonwealth. The Pennsylvania Automotive Association supports and encourages this legislative proposal.

As I mentioned, most vehicle recalls are relatively minor in nature. Occasionally however, the problem identified by the factory is serious enough that the manufacturer imposes a ‘stop sale’ order on a particular vehicle instructing their dealers to suspend the sale of the vehicle until a corrective remedy is established. These orders are similar to, but not to be confused with, the much more serious ‘do not drive’ orders that the National Highway Traffic Safety Administration is authorized to issue.

Manufacturer ‘stop sale’ orders only apply to their franchisees because they have no authority or formalized relationship with unaffiliated used car dealers. These dealers can therefore, if they so elect, sell such vehicles.

In contrast, franchised new vehicle dealers are contractually obligated to respect the safety recall designation policies of their manufacturers, and therefore honor ‘stop sale’ orders they issue. These vehicles are held by the dealer until corrective remedies are developed by the manufacturer and replacement parts are made available.

Unfortunately, sometimes the recall remedy is unavailable to the dealer for extended periods of time. And because every vehicle in a dealer’s inventory has been purchased by the dealer, in this case he or she has paid for and must bear the inventory cost for a vehicle that the manufacturer is prohibiting them from selling.

To address this situation, other states are enacting legislation that require vehicle manufacturers to reimburse their franchised dealers for some of the costs incurred when vehicles they have manufactured are designated to be unavailable for sale by their dealers.
Dealer reimbursements are restricted solely to in-brand used vehicles being held for resale by the franchised dealer.

Such reimbursement mechanisms established in other states are triggered by a designated number of days after a ‘stop sale’ order is issued by the manufacturer and corrective parts remain unprovided. Consistent with a federal law that provides for a manufacturer/dealer recall reimbursement mechanism for new vehicles in similar circumstances, the reimbursement rate for used vehicles provided for in HB 1898 is calculated based on a percentage of the value of the used vehicle and is only imposed until the recall remedy parts are available to the dealer.

There is another provision in the legislation you are considering today that is modeled after similar legislation being enacted in other states. As you have probably observed, new vehicle dealerships have been devoting substantial resources to their appearance and have been upgrading and updating their facilities to accommodate the expectations of their customers. The manufacturer also imposes specific dealership facility requirements to create uniformity within their franchise network.

The cost to franchised dealers of such manufacturer-imposed facility upgrades can be as much as a million dollars, and compliance with their requirements when constructing new facilities can be ten times that. Our dealers recognize the importance of branding to a nationwide retail operation, and routinely invest in their facilities to keep pace with manufacturer image concepts.

There are certain circumstances however when a manufacturer requires significant facility alterations by its dealer within a couple of years after they completed the last facility upgrade required by the manufacturer. Sometimes they are not done paying for one significant upgrade when the next one is imposed. Often these facility alterations, while imposing significant cost to the dealer, are cosmetic in nature and appear, to the dealer at least, to be unreasonably expected.

As with other states, HB 1898 prohibits manufacturers from requiring their franchisee dealers to significantly modify their dealership facilities within ten years after the construction or major renovation of the facility that was previously conducted by the dealer in accordance with the manufacturer's facility requirements at the time.

The final two provisions of HB 1898 are administrative in nature. The first establishes the availability of a temporary license for franchised dealers applying for a new dealer license from the Department of State. Our association and its new dealer members fully respect the Department’s dealership licensure requirements set forth in state law and regulation and the bill’s language does absolutely nothing to change those requirements or exempt new dealer applicants from them.
We also respect however the enormous workload of the dedicated and capable staff of the Department’s Bureau of Professional and Occupational Affairs who process all of the license applications for each of the numerous state health and business licensing boards. The handling of such application volumes understandably can result in taking several weeks to review and approve new dealer license applications which, in contrast to routine professional licensure applications, have numerous components and must satisfy a variety of requirements.

A new vehicle dealer licensing application requires certain components (such as a franchise agreement letter provided to the dealer by the manufacturer) that are only available for the dealer to provide to the Department on the day the deal for acquiring the franchised dealership is closed. And because Department review of a license application cannot typically commence until all application components are received, the new vehicle dealer who just invested millions of dollars acquiring a franchise point – and a dealership facility that has already met the rigorous requirements of a manufacturer that are more onerous and complex than anything that could be conceived by the state – must wait several weeks until he or she can operate and sell cars. With perhaps over 80 employees waiting to go to work as well.

Even the Commonwealth is being disserved by such a situation because the tax revenue generated by vehicle sales are denied while the dealership waits for a license to be issued.

I'm happy to report that the Department of State is aware of this unusual circumstance facing new vehicle dealers and we’ve been working cooperatively to address the situation. The issuance of temporary licenses by the Department is not unprecedented, and a process through which it can issue such a license to new dealer applicants while certain of the required paperwork ‘catches up’ to the application is being worked on as we speak. The enactment of HB 1898 would provide specific authority to the Department of State to issue such a temporary new dealer license to do business without compromising its important regulatory oversight responsibilities.

Finally, HB 1898 amends the Board of Vehicles Act’s definition of ‘documentary preparation charge’ by making it more reflective of the current regulatory compliance environment and the expanded administrative burdens associated with compliance. An example would be the advent of increasingly stringent consumer privacy protection measures that necessitate dealer record keeping and government reporting requirements similar to the titling and vehicle registration paperwork that are currently provided for in the act.

It is very important to note that this definitional modernization would in no way raise the documentary fee permitted to be charged to vehicle purchasers in Pennsylvania.
Thank you once again for your interest in this timely legislative initiative. At this time I'm glad to provide the Committee with any additional background information on HB 1898's proposals or answer any questions you might have.