



AUTO ALLIANCE

DRIVING INNOVATION™

December 5, 2017

Hon. Mark Mustio, Chairman
House Committee on Professional Licensure
416 Irvis Office Building
PO Box 202044
Harrisburg, PA 17120-2044

RE: House Bill 1898

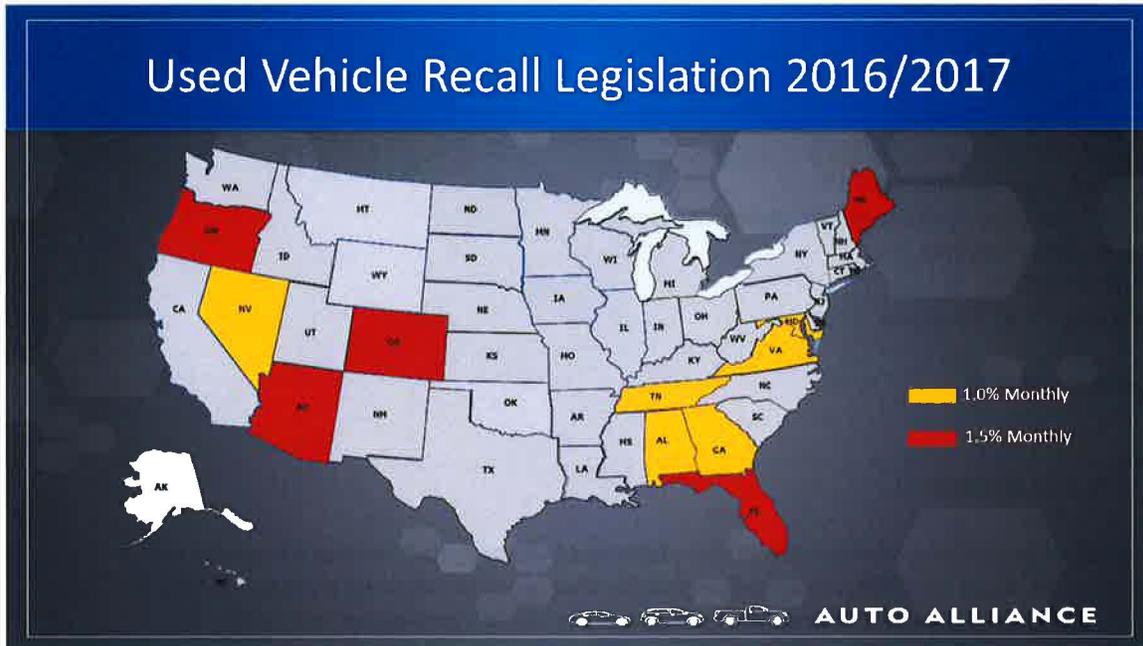
Dear Chairman Mustio:

On behalf of the Alliance of Automobile Manufacturers (Alliance), I am writing to express our opposition to House Bill 1898, as drafted, legislation that is out of step with national trends. The Alliance is a trade association representing twelve of the world's leading car and light truck manufacturers, and is comprised of BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars North America, Toyota, Volkswagen Group of America, and Volvo Car USA.

As you may know, automakers already voluntarily provide financial support to their dealers to ensure that our joint customers have the very best sales and service experience. Section 2, of House Bill 1898, is based upon the faulty premise that state law must compel automakers to make extra payments to dealers for used vehicles under a "stop sale" order, lest the dealers suffer grave financial harm. The actual state of the industry, however, does not support that premise or the proposition that legislation in this area is necessary. To further illustrate this point, numerous automakers have already voluntarily implemented added programs to compensate dealers for costs associated with recalls affecting used vehicles in their inventory if those used vehicles cannot be fixed because parts or a remedy are not yet available.

As drafted, House Bill 1898 would require reimbursement payments be made by automobile manufacturers to dealers when the manufacturer issues a "stop-sale" directive on a used vehicle under recall. The bill calls for an excessive payment at an annualized rate of 21% (1.75% monthly) of vehicle value to compensate a dealer for storing a vehicle until the repair can be made. Stop-sale directives are about consumer safety; they should not be about creating additional revenue for car dealers. It should be noted that this bill only applies to used vehicles under recall because an existing federal statute already addresses new vehicles under recall. According to USC Title 49 Sec 30116, automakers pay dealers an annualized rate of 12% (1% monthly) for new vehicles not able to be sold due to an open recall. There is no credible justification for a state law to require payments on used vehicles that would differ so dramatically from the federal law on new vehicles.

Over the past 2 years, 12 states have sought to address this perceived issue with new state mandates. Of these 12 states, 6 adopted laws calling for monthly payments of 1.0% and 6 adopted laws calling for 1.5%. There is simply no justification for Pennsylvania dealers to receive an annualized rate of 21% of vehicle value that is called for in HB 1898. The map below highlights the actions taken by other states.



Additionally, House Bill 1898 seeks to establish a grace period before which payments must be made that is extremely short, at only 15 days. The intent of any payment by a manufacturer to a dealer for vehicles under a stop-sale order is to reimburse a dealer for costs that are incurred for a vehicle that otherwise may have been sold. In the course of retail automobile sales, however, there is a natural turnover period—a time when the vehicle is in the possession of a dealer, but not yet sold. During this time, the vehicle is transported or received, inspected and reconditioned, advertised, and ultimately placed on the lot to wait to be sold. There is no defensible reason that a state should obligate a manufacturer to make such payments to a dealer, when the dealer would have likely not sold the vehicle that quickly in the absences of the stop-sale directive. While obviously subject to a range of variables, it is common for used vehicles to remain on a dealer’s lot for 45 days or more. Any legislation in this area should at least recognize this industry reality. I should note that, when it comes to the grace period before which payments begin, 10 of 12 states adopted a 30-days window – double the 15-day window called for in this bill.

I would also like to make a brief comment on the new language added by Section 3 of the bill. This section would prohibit a manufacturer from requiring a dealer to update its store within 10 years of the last required upgrade. The distribution system of automobile franchising is rather unique in the business world, with manufacturers being required under law to sell their vehicles through a 3rd party dealership. For the privilege of being this exclusive retailer of a manufacturer’s product, however, auto dealers agree to uphold that manufacturer’s brand and image to the customer. Showroom facility requirements are part of this agreement. It is through these obligations that manufacturers can ensure their customers receive an optimal retail experience. We simply believe that a 10-year window is too long to prohibit a manufacturer from controlling its brand. Imagine a showroom in 2000 that was last updated in 1990; a lot can change in a decade. As the consumer is the one who suffers from outdated facilities, we believe a 7-year window is much more appropriate time period for this bill to consider.

Over the course of the last 12 months, we have seen legislation similar to HB 1898 appear in a number of states. In each instance, the Alliance and its members have engaged in negotiations with the local dealer association representatives in an attempt to work out a compromise. We appreciate that forcing legislators to pick winners and losers between competing business interests is not ideal, and have worked to avoid that outcome in many locations. Last week, we were able to meet with the Pennsylvania Automotive Association to discuss this bill. While the initial meeting was positive, we have not yet come to an agreement on a compromise. We would ask that the Committee consider providing us some additional time to talk, and not consider further action on this legislation until these negotiations have reached their natural conclusion one way or the other.

I appreciate the opportunity to provide the Alliance's views on this legislation. Please do not hesitate to contact me directly if I can provide any additional information or answer any questions.

Respectfully submitted,



Wayne Weikel
Senior Director, State Government Affairs