

BOARD OF VEHICLES ACT - VEHICLE RECALLS, UNLAWFUL ACTS BY  
MANUFACTURERS OR DISTRIBUTORS AND LICENSING COST

Act of Jun. 28, 2018, P.L. 420, No. 59

Cl. 75

Session of 2018

No. 2018-59

HB 1898

AN ACT

Amending the act of December 22, 1983 (P.L.306, No.84), entitled "An act providing for the State Board of Vehicle Manufacturers, Dealers and Salespersons; and providing penalties," further providing for definitions; providing for vehicle recalls; and further providing for unlawful acts by manufacturers or distributors, for application for license and for licensing cost.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2 of the act of December 22, 1983 (P.L.306, No.84), known as the Board of Vehicles Act, is amended by adding definitions to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

**"Do-not-drive order."** A notification provided to the owner of an affected vehicle by a manufacturer or by the National Highway Traffic Safety Administration unconditionally instructing the owner to stop driving the vehicle until the noncompliance or defect remedy is performed.

\* \* \*

**"Significantly modify facilities."** An alteration that has a major impact on the architectural features, characteristics, appearance or integrity of a structure or lot. The term does not include routine maintenance, such as interior painting, reasonably necessary to maintain a dealership facility in attractive condition.

\* \* \*

**"Stop-sale order."** A notification issued by a manufacturer to its new vehicle dealers stating that certain used vehicles in inventory shall not be sold or leased, at retail or wholesale, due to a Federal safety recall for a defect or a noncompliance or a Federal or California emissions recall.

\* \* \*

Section 2. The act is amended by adding a section to read:  
Section 9.1. Vehicle recalls.

(a) General rule.--A manufacturer shall compensate its new vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs shall be in the same manner as warranty parts and labor compensation under section 9. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a new vehicle dealer of the same line-make within 30 days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a stop-sale order or a do-not-drive order on the vehicle, the manufacturer shall compensate the dealer at a prorated rate of

at least 1.5% of the value of the vehicle per month, beginning on the date that is 30 days after the date on which the stop-sale order or do-not-drive order was provided to the dealer, until the earlier of the date the recall or remedy parts are made available or the date the dealer sells, trades or otherwise disposes of the affected used vehicle. The following shall apply:

(1) The value of a used vehicle shall be the average trade-in value for used vehicles as indicated in an independent third-party guide for the year, make, model and mileage of the recalled vehicle at the time of the announcement of the stop-sale order or the do-not-drive order.

(2) This section shall only apply to used vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with Federal law and regulations and where a stop-sale order or a do-not-drive order has been issued. Further, this section shall only apply to new vehicle dealers holding used vehicles for sale that are a line-make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs:

(i) in inventory at the time the stop-sale order or do-not-drive order was issued; or

(ii) which were taken into the used vehicle inventory of the dealer as a lease return vehicle or consumer trade-in incident to the purchase of a new vehicle from the dealer after the stop-sale order or do-not-drive order was issued.

(3) 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 paragraph (1).

(b) Violation.--It is a violation of this section for a manufacturer to reduce the amount of compensation otherwise owed to a new vehicle dealer because the new vehicle dealer has submitted a claim for reimbursement under this section or was otherwise compensated for a vehicle subject to a recall where a stop-sale order or a do-not-drive order has been issued. This subsection applies regardless of whether the reduction in the amount of compensation owed to a new vehicle dealer is through a chargeback, removal from an incentive program, reduction in amount owed under an incentive program or any other means.

(c) Procedure.--A reimbursement claim made by new vehicle dealers under this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the used vehicle is subject to a stop-sale order or a do-not-drive order, shall be subject to the same limitations and requirements as a warranty reimbursement claim made under section 9. A claim shall be either approved or disapproved within 30 days after the claim is submitted to the manufacturer in the manner and on the forms the manufacturer reasonably prescribes. A claim shall be paid within 30 days of approval of the claim by the manufacturer. A claim not specifically disapproved in writing within 30 days after the manufacturer receives a submitted claim shall be deemed to be approved.

(d) Alternative compensation.--As an alternative to the compensation provided for under subsection (a):

(1) a manufacturer may compensate its new vehicle dealers under a national recall compensation program if the compensation under the program is equal to or greater than that provided under subsection (a); or

(2) the manufacturer and dealer otherwise agree to equal or greater compensation than that provided under subsection (a).

(e) Exclusive remedy.--Any compensation provided to a new vehicle dealer pursuant to this section is exclusive and may not be combined with any other Federal or State recall compensation remedy.

(f) Disclosure.--

(1) A new or used vehicle dealer shall disclose in writing to used vehicle retail purchasers at the time of sale the existence of any open, unremedied recalls. By providing to the used vehicle retail purchaser a report obtained from the publicly accessible Internet website [safercar.gov](http://safercar.gov), or a successor website, based on a vehicle identification number search, the dealer shall be deemed to have complied with the disclosure requirement under this subsection. For the purpose of this subsection, failure to provide disclosures to multiple vehicle retail purchasers at the time of sale in violation of this subsection constitutes a single offense with a maximum fine of \$1,000 under section 28(a).

(2) Nothing in this subsection shall be construed to limit any civil actions or remedies available in statute or common law.

Section 3. Section 12(a)(8) of the act is amended to read: Section 12. Unlawful acts by manufacturers or distributors.

(a) Unlawful coercive acts.--It shall be a violation for any manufacturer, factory branch, distributor, field representative, officer, agent or any representative whatsoever of such manufacturer, factory branch or distributor licensed under this act to require, attempt to require, coerce or attempt to coerce any new vehicle dealer in this Commonwealth to:

\* \* \*

(8) Expand, construct or significantly modify facilities before a date that is ten years after the date of the construction of the facility or the alteration or remodeling at that location was completed and without assurances that the manufacturer or distributor will provide a reasonable supply of new vehicles within a reasonable time so as to justify such an expansion in light of the market and economic conditions. This paragraph shall not apply if the expansion, construction or significant modification is necessary to comply with a health or safety law or to comply with a technology requirement, which is necessary to sell or service a vehicle that the new vehicle dealer is licensed by the manufacturer to sell or service. This section shall apply to any successor dealer provided the dealer has been designated and approved by the manufacturer in the franchise agreement and the construction, alteration or remodeling substantially complied with the manufacturer's brand image standards or plans that the manufacturer provided at the time the construction, alteration or remodeling was completed. Nothing in this paragraph shall prohibit a manufacturer from:

(i) Continuing a facility improvement program that is in effect as of the effective date of this subparagraph with more than one new vehicle dealer in this Commonwealth or to renewing or modifying the facility improvement program.

(ii) Providing lump sum or regularly scheduled payments to assist a new vehicle dealer in making a

facility improvement, including construction, alteration or remodeling or installing signage or an image element.

(iii) Providing reimbursement to a new vehicle dealer on reasonable, written terms for a portion of the new vehicle dealer's cost of making a facility improvement, including construction, alteration or remodeling, the purchase of goods, building materials or services or installing signage or an image element.

\* \* \*

Section 4. Section 22(a)(9) of the act is amended and the section is amended by adding a subsection to read:

Section 22. Application for license.

(a) Dealer's or vehicle auction's license.--Application for license as a dealer or vehicle auction shall be made in writing to the board, signed by the applicant, setting forth the following:

\* \* \*

(9) A statement by the applicant that he has met all facility requirements as noted herein and as required by regulation, except as provided in subsection (a.1).

(a.1) Temporary permit for new vehicle dealers.--Upon receipt of a complete and accurate new vehicle dealer application or new vehicle dealer change of address application, the board shall issue a new vehicle dealer license immediately. If the new vehicle dealer does not have the franchise approval letter, the telephone business line information, the certificate of occupancy or the lease or deed for the property available when the application has been submitted, the new vehicle dealer shall receive a temporary permit that expires at the end of 45 days from the date of closing. The new vehicle dealer shall submit the franchise approval letter, the telephone business line information, the certificate of occupancy and the lease or deed for the property prior to the expiration of the temporary permit. Upon receipt of the franchise approval letter, the telephone business line information, the certificate of occupancy and the lease or deed for the property, the board shall issue a new vehicle dealer license immediately.

\* \* \*

Section 5. Section 27.1 heading and (a)(2) of the act is amended to read:

Section 27.1. Licensing cost.

(a) Licensing cost.--Subject to the limitations established under subsection (c), a licensed dealer who has a contract with the Department of Transportation pursuant to 75 Pa.C.S. § 7501 (relating to authorization of messenger and agent services) may charge the purchaser of a vehicle a licensing cost permissible under 75 Pa.C.S. Ch. 19 (relating to fees) and the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, and regulations promulgated thereunder, to include any of the following:

\* \* \*

(2) A documentary preparation charge for:

(i) Preparation and completion of documents required to register and license the vehicle under 75 Pa.C.S. (relating to vehicles).

(ii) Collection and submission of taxes payable by the purchaser.

(iii) Preparation of any other information associated with titling and registration of a vehicle.

(iv) Complying with Federal and State laws and regulations relating to the privacy and safeguarding of

**customer information requirements, providing financial  
services to the customer and preparation and retrieval  
of documents.**

\* \* \*

Section 6. This act shall take effect in 60 days.

APPROVED--The 28th day of June, A.D. 2018.

TOM WOLF