

AMENDMENTS TO SENATE BILL NO. 764

Sponsor: SENATOR GORDNER

Printer's No. 1829

1 Amend Bill, page 1, line 11, by inserting after "audits,"
2 for vehicle recalls,

3 Amend Bill, page 19, lines 17 through 20, by striking out all
4 of said lines and inserting

5 Section 7. Sections 6, 7, 8, 9(a)(4) and (e)(3)(ii) of the
6 act are amended and section 9 is amended by adding a subsection
7 to read:

8 Amend Bill, page 24, by inserting between lines 6 and 7

9 Section 7.1. Section 9.1 of the act, added June 28, 2018,
10 (P.L., No.59), is amended to read:

11 Section [9.1] 307.1. Vehicle recalls.

12 (a) General rule.--A manufacturer shall compensate its new
13 vehicle dealers for all labor and parts required by the
14 manufacturer to perform recall repairs. Compensation for recall
15 repairs shall be in the same manner as warranty parts and labor
16 compensation under section [9] 307. If parts or a remedy are not
17 reasonably available to perform a recall service or repair on a
18 used vehicle held for sale by a new vehicle dealer of the same
19 line-make within 30 days of the manufacturer issuing the initial
20 notice of recall, and the manufacturer has issued a stop-sale
21 order or a do-not-drive order on the vehicle, the manufacturer
22 shall compensate the dealer at a prorated rate of at least 1.5%
23 of the value of the vehicle per month, beginning on the date
24 that is 30 days after the date on which the stop-sale or do-not-
25 drive order was provided to the dealer, until the earlier of the
26 date the recall or remedy parts are made available or the date
27 the dealer sells, trades or otherwise disposes of the affected
28 used vehicle. The following shall apply:

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

35 (2) This section shall only apply to used vehicles

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

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

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

15 (3) Nothing in this section shall require a manufacturer
16 to provide total compensation to a dealer which would exceed
17 the total average trade-in value of the affected used motor
18 vehicle as originally determined under paragraph (1).

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

29 (c) Procedure.--A reimbursement claim made by new vehicle
30 dealers under this section for recall remedies or repairs, or
31 for compensation where no part or repair is reasonably available
32 and the used vehicle is subject to a stop-sale order or a do-
33 not-drive order, shall be subject to the same limitations and
34 requirements as a warranty reimbursement claim made under
35 section [9] 307. A claim shall be either approved or disapproved
36 within 30 days after the claim is submitted to the manufacturer
37 in the manner and on the forms the manufacturer reasonably
38 prescribes. A claim shall be paid within 30 days of approval of
39 the claim by the manufacturer. A claim not specifically
40 disapproved in writing within 30 days after the manufacturer
41 receives a submitted claim shall be deemed to be approved.

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

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

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

51 (e) Exclusive remedy.--Any compensation provided to a new

1 vehicle dealer pursuant to this section is exclusive and may not
2 be combined with any other Federal or State recall compensation
3 remedy.

4 (f) Disclosure.--

5 (1) A new or used vehicle dealer shall disclose in
6 writing to used vehicle retail purchasers at the time of sale
7 the existence of any open, unremedied recalls. By providing
8 to the used vehicle retail purchaser a report obtained from
9 the publicly accessible Internet website safercar.gov, or a
10 successor website, based on a vehicle identification number
11 search, the dealer shall be deemed to have complied with the
12 disclosure requirement under this subsection. For the purpose
13 of this subsection, failure to provide disclosures to
14 multiple vehicle retail purchasers at the time of sale in
15 violation of this subsection constitutes a single offense
16 with a maximum fine of \$1,000 under section [28(a)] 328(a).

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

20 Section 7.2. Sections 10 and 11 of the act are amended to
21 read:

22 Amend Bill, page 27, by inserting between lines 17 and 18

23 Section 7.3. Section 12 of the act, amended June 28, 2018
24 (P.L., No.59), is amended to read:

25 Amend Bill, page 32, line 8, by inserting after "facilities"

26 before a date that is ten years after the date of the
27 construction of the facility or the alteration or remodeling
28 at that location was completed and

29 Amend Bill, page 32, line 12, by inserting after

30 "conditions."

31 This paragraph shall not apply if the expansion,
32 construction or significant modification is necessary to
33 comply with a health or safety law or to comply with a
34 technology requirement, which is necessary to sell or service
35 a vehicle that the new vehicle dealer is licensed by the
36 manufacturer to sell or service. This section shall apply to
37 any successor dealer provided the dealer has been designated
38 and approved by the manufacturer in the franchise agreement
39 and the construction, alteration or remodeling substantially
40 complied with the manufacturer's brand image standards or
41 plans that the manufacturer provided at the time the
42 construction, alteration or remodeling was completed. Nothing
43 in this paragraph shall prohibit a manufacturer from:

44 (i) Continuing a facility improvement program that
45 is in effect as of the effective date of this
46 subparagraph with more than one new vehicle dealer in

1 this Commonwealth or to renewing or modifying the
2 facility improvement program.

3 (ii) Providing lump sum or regularly scheduled
4 payments to assist a new vehicle dealer in making a
5 facility improvement, including construction, alteration
6 or remodeling or installing signage or an image element.

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

13 Amend Bill, page 46, by inserting between lines 17 and 18

14 Section 7.4. Sections 12.1, 13, 14, 15, 16, 17, 18, 19, 20
15 and 21 of the act are amended to read:

16 Amend Bill, page 68, by inserting between lines 13 and 14

17 Section 7.5. Section 22 of the act, amended June 28, 2018
18 (P.L., No.59), is amended to read:

19 Amend Bill, page 69, line 16, by inserting after "regulation"

20 , except as provided in subsection (a.1)

21 Amend Bill, page 69, by inserting between lines 16 and 17

22 (a.1) Temporary permit for new vehicle dealers.--Upon
23 receipt of a complete and accurate new vehicle dealer
24 application or new vehicle dealer change of address application,
25 the board shall issue a new vehicle dealer license immediately.
26 If the new vehicle dealer does not have the franchise approval
27 letter, the telephone business line information, the certificate
28 of occupancy or the lease or deed for the property available
29 when the application has been submitted, the new vehicle dealer
30 shall receive a temporary permit that expires at the end of 45
31 days from the date of closing. The new vehicle dealer shall
32 submit the franchise approval letter, the telephone business
33 line information, the certificate of occupancy and the lease or
34 deed for the property prior to the expiration of the temporary
35 permit. Upon receipt of the franchise approval letter, the
36 telephone business line information, the certificate of
37 occupancy and the lease or deed for the property, the board
38 shall issue a new vehicle dealer license immediately.

39 Amend Bill, page 71, by inserting between lines 21 and 22

40 Section 8. Sections 23, 24, 25, 26 and 27 of the act are
41 amended to read:

42 Amend Bill, page 79, by inserting between lines 24 and 25

43 Section 9. Section 27.1 of the act, amended June 28, 2018

1 (P.L., No.59), is amended to read:

2 Amend Bill, page 80, by inserting between lines 16 and 17

3 (iv) Complying with Federal and State laws and
4 regulations relating to the privacy and safeguarding of
5 customer information requirements, providing financial
6 services to the customer and preparation and retrieval of
7 documents.

8 Amend Bill, page 81, by inserting between lines 11 and 12

9 Section 9.1. Sections 28, 29, 30, 31, 32, 32.1 and 33 of the
10 act are amended to read:

11 Amend Bill, page 89, lines 27 through 29, by striking out all
12 of said lines

13 Amend Bill, page 108, line 22, by striking out "renumbered"

14 and inserting

15 amended