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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1898 Session of  
2017

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INTRODUCED BY SANTORA, MUSTIO, READSHAW, DAY, EMRICK, GILLESPIE, HELM, HICKERNELL, MAHER, MENTZER, M. QUINN, SONNEY, BRIGGS, D. COSTA, DEASY, J. HARRIS, KORTZ, McCLINTON, RAVENSTAHL, CHARLTON, PASHINSKI, DRISCOLL, GALLOWAY, MATZIE, SNYDER, CORBIN, NESBIT, SAINATO, SCHLOSSBERG, PETRARCA, GOODMAN, CARROLL, MARKOSEK, MILLARD, DUNBAR, PEIFER, KEEFER, HARKINS, LONGIETTI, DeLUCA, TAYLOR, MASSER, MARSHALL, STEPHENS, NEILSON, FARRY, SCHWEYER, TOPPER, BARRAR, WHITE, WATSON, MARSICO, REESE, FLYNN, BENNINGHOFF, KIM, HENNESSEY AND PICKETT, NOVEMBER 8, 2017

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,  
NOVEMBER 8, 2017

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AN ACT

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

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

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

13 Section 2. Definitions.

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

1 \* \* \*

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

8 \* \* \*

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

14 \* \* \*

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

17 (a) General rule.--A manufacturer shall compensate its new  
18 vehicle dealers for all labor and parts required by the  
19 manufacturer to perform recall repairs. Compensation for recall  
20 repairs shall be in the same manner as warranty parts and labor  
21 compensation under section 9. If parts or a remedy are not  
22 reasonably available to perform a recall service or repair on a  
23 used vehicle held for sale by a new vehicle dealer of the same  
24 line-make within 15 days of the manufacturer issuing the initial  
25 notice of recall, and the manufacturer has issued a stop-sale  
26 order or a do-not-drive or similar notification order on the  
27 vehicle, the manufacturer shall compensate the dealer at a rate  
28 of at least 1.75% of the value of the vehicle per month, or  
29 portion of a month, while the recall or remedy parts are  
30 unavailable and the stop-sale order or the do-not-drive or

1 similar notification order remains in effect. The following  
2 shall apply:

3 (1) The value of a used vehicle shall be the average  
4 trade-in value for used vehicles as indicated in an  
5 independent third-party guide for the year, make, model and  
6 mileage of the recalled vehicle prior to the announcement of  
7 the stop-sale order or the do-not-drive or similar  
8 notification order.

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

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

28 (c) Procedure.--A reimbursement claim made by new vehicle  
29 dealers under this section for recall remedies or repairs, or  
30 for compensation where no part or repair is reasonably available

1 and the used vehicle is subject to a stop-sale order or a do-  
2 not-drive or similar notification order, shall be subject to the  
3 same limitations and requirements as a warranty reimbursement  
4 claim made under section 9. A claim shall be either approved or  
5 disapproved within 30 days after the claim is submitted to the  
6 manufacturer in the manner and on the forms the manufacturer  
7 reasonably prescribes. A claim shall be paid within 30 days of  
8 approval of the claim by the manufacturer. A claim not  
9 specifically disapproved in writing within 30 days after the  
10 manufacturer receives a submitted claim shall be deemed to be  
11 approved.

12 (d) Alternative compensation.--As an alternative to the  
13 compensation provided for under subsection (a), a manufacturer  
14 may compensate its new vehicle dealers under a national recall  
15 compensation program if the compensation under the program is  
16 equal to or greater than that provided under subsection (a) or  
17 the manufacturer and dealer otherwise agree.

18 (e) Disclosure.--A new or used vehicle dealer shall disclose  
19 in writing to used vehicle purchasers the existence of any open,  
20 unremedied recalls. By providing to the used vehicle purchaser a  
21 report obtained from the publicly accessible Internet website  
22 safercar.gov, or a successor website, based on a vehicle  
23 identification number search, the dealer shall be deemed to have  
24 complied with the disclosure requirement under this subsection.  
25 For the purpose of this subsection, failure to provide  
26 disclosures to multiple vehicle purchasers in violation of this  
27 subsection constitutes a single offense with a maximum fine of  
28 \$1,000 under section 28(a).

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

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

7 \* \* \*

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

28 (i) Continuing a facility improvement program that  
29 is in effect as of the effective date of this  
30 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 \* \* \*

14 Section 4. Section 22 of the act is amended by adding a  
15 subsection to read:

16 Section 22. Application for license.

17 \* \* \*

18 (b.1) Temporary license.--Upon receipt of a complete and  
19 accurate new vehicle dealer application or new vehicle dealer  
20 change of address application with manufacturer letter of  
21 intent, and prior to proof of compliance with 49 Pa. Code §  
22 19.18 (relating to established place of business for dealers),  
23 the board shall issue a new vehicle dealer license and approval  
24 letter immediately. In the interim, at such time as the board  
25 processes and reviews the application, the new vehicle dealer  
26 shall maintain a copy of the application sent to the board as  
27 its temporary license pending receipt of its approval letter and  
28 new vehicle dealer license. The temporary license shall expire  
29 at the end of 60 days from the date on the application. If a new  
30 vehicle dealer has submitted an application and proof of

1 compliance with 49 Pa. Code § 19.18 during the 60-day time  
2 period and has not received an approval or denial from the  
3 department, the temporary license shall be extended until the  
4 approval or denial is received by the new vehicle dealer.

5 \* \* \*

6 Section 5. Section 27.1(a)(2) of the act is amended to read:  
7 Section 27.1. Licensing cost.

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

17 \* \* \*

18 (2) A documentary preparation charge for:

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

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

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

26 (iv) Complying with Federal and State laws and  
27 regulations, including privacy and safeguarding of  
28 customer information requirements.

29 \* \* \*

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