

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1898 Session of  
2017

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, PICKETT, JAMES, PYLE, DAVIS, STURLA, HEFFLEY AND GABLER, NOVEMBER 8, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 20, 2018

## 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

1 context clearly indicates otherwise:

2 \* \* \*

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

8 \* \* \*

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

15 \* \* \*

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

21 \* \* \*

22 Section 2. The act is amended by adding a section to read:

23 Section 9.1. Vehicle recalls.

24 (a) General rule.--A manufacturer shall compensate its new  
25 vehicle dealers for all labor and parts required by the  
26 manufacturer to perform recall repairs. Compensation for recall  
27 repairs shall be in the same manner as warranty parts and labor  
28 compensation under section 9. If parts or a remedy are not  
29 reasonably available to perform a recall service or repair on a  
30 used vehicle held for sale by a new vehicle dealer of the same

1 line-make within 30 days of the manufacturer issuing the initial  
2 notice of recall, and the manufacturer has issued a stop-sale  
3 order or a do-not-drive order on the vehicle, the manufacturer  
4 shall compensate the dealer at a prorated rate of at least 1.5%  
5 of the value of the vehicle per month, beginning on the date  
6 that is 30 days after the date on which the stop-sale or do-not-  
7 drive order was provided to the dealer, until the earlier of the  
8 date the recall or remedy parts are made available or the date  
9 the dealer sells, trades or otherwise disposes of the affected  
10 used vehicle. The following shall apply:

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

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

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

27 (ii) which were taken into the used vehicle  
28 inventory of the dealer as a lease return vehicle or  
29 consumer trade-in incident to the purchase of a new  
30 vehicle from the dealer after the stop-sale or do-not-

1 drive order was issued.

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

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

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

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

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

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

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

12 ~~(f) Disclosure. A new or used vehicle dealer shall disclose~~ <--  
13 ~~(F) DISCLOSURE.--~~ <--

14       (1) A NEW OR USED VEHICLE DEALER SHALL DISCLOSE in  
15 writing to used vehicle retail purchasers at the time of sale  
16 the existence of any open, unremedied recalls. By providing  
17 to the used vehicle retail purchaser a report obtained from  
18 the publicly accessible Internet website safercar.gov, or a  
19 successor website, based on a vehicle identification number  
20 search, the dealer shall be deemed to have complied with the  
21 disclosure requirement under this subsection. For the purpose  
22 of this subsection, failure to provide disclosures to  
23 multiple vehicle retail purchasers at the time of sale in  
24 violation of this subsection constitutes a single offense  
25 with a maximum fine of \$1,000 under section 28(a).

26       (2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO <--  
27 LIMIT ANY CIVIL ACTIONS OR REMEDIES AVAILABLE IN STATUTE OR  
28 COMMON LAW.

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 22 (A) (9) OF THE ACT IS <--  
15 AMENDED AND THE SECTION is amended by adding a subsection to  
16 read:

17 Section 22. Application for license.

18 (A) DEALER'S OR VEHICLE AUCTION'S LICENSE.--APPLICATION FOR <--  
19 LICENSE AS A DEALER OR VEHICLE AUCTION SHALL BE MADE IN WRITING  
20 TO THE BOARD, SIGNED BY THE APPLICANT, SETTING FORTH THE  
21 FOLLOWING:

22 \* \* \*

23 (9) A STATEMENT BY THE APPLICANT THAT HE HAS MET ALL  
24 FACILITY REQUIREMENTS AS NOTED HEREIN AND AS REQUIRED BY  
25 REGULATION, EXCEPT AS PROVIDED IN SUBSECTION (A.1).

26 ~~\* \* \*~~ <--

27 ~~(b.1) Temporary license (A.1) TEMPORARY PERMIT FOR NEW~~ <--  
28 VEHICLE DEALERS.--Upon receipt of a complete and accurate new  
29 vehicle dealer application or new vehicle dealer change of  
30 address application, the board shall issue a new vehicle dealer

1 license immediately. If the new vehicle dealer does not have the  
2 franchise approval letter, the telephone business line  
3 information, the certificate of occupancy or the lease or deed  
4 for the property available when the application has been  
5 submitted, the new vehicle dealer shall receive a temporary  
6 license PERMIT that expires at the end of 45 business days from <--  
7 the date of closing. The new vehicle dealer shall submit the  
8 franchise approval letter, the telephone business line  
9 information, the certificate of occupancy and the lease or deed  
10 for the property prior to the expiration of the temporary  
11 license PERMIT. Upon receipt of the franchise approval letter, <--  
12 the telephone business line information, the certificate of  
13 occupancy and the lease or deed for the property, the board  
14 shall issue a NEW VEHICLE DEALER license immediately. <--

15 \* \* \*

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

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

27 \* \* \*

28 (2) A documentary preparation charge for:  
29 (i) Preparation and completion of documents required  
30 to register and license the vehicle under 75 Pa.C.S.



1 (relating to vehicles).

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

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

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

11 \* \* \*

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