

1 HB190
2 182252-1
3 By Representative Johnson (R)
4 RFD: Commerce and Small Business
5 First Read: 14-FEB-17

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8 SYNOPSIS: Under existing law, the Motor Vehicle
9 Franchise Act regulates dealings between
10 manufacturers and distributors or wholesalers of
11 new motor vehicles and their dealers. Existing law
12 governs warranty repairs required under a
13 manufacturer's warranty, but does not cover recall
14 repairs.

15 This bill would specify provisions for the
16 payment of new motor vehicle dealers for recall
17 repairs, including costs associated with a recall
18 when a vehicle is held in a dealer's used car
19 inventory and parts are not reasonably available to
20 perform a recall repair.

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22 A BILL
23 TO BE ENTITLED
24 AN ACT

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26 To add Section 8-20-7.1 to the Code of Alabama 1975,
27 relating to the Motor Vehicle Franchise Act, to specify the

1 payment of recall repairs by manufacturers and distributors or
2 wholesalers of new motor vehicles to their dealers.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 8-20-7.1 is added to the Code of
5 Alabama 1975, to read as follows:

6 §8-20-7.1.

7 (a) For the purposes of this section, the following
8 words have the following meanings:

9 (1) MANUFACTURER. A manufacturer, distributor or
10 wholesaler, factory branch, factory representative,
11 distributor branch, or distributor representative.

12 (2) STOP-SALE ORDER. A notification issued by a
13 manufacturer to its franchised new motor vehicle dealer
14 stating that certain used vehicles in inventory should not be
15 sold or leased, at either retail or wholesale, due to a
16 federal safety recall for a defect or a noncompliance, or a
17 federal or California emissions recall.

18 (b) A manufacturer shall compensate its new motor
19 vehicle dealers for all labor and parts required by the
20 manufacturer to perform recall repairs. Compensation for
21 recall repairs shall be reasonable. If parts or a remedy are
22 not reasonably available to perform a recall service or repair
23 on a used vehicle held for sale by a dealer authorized to sell
24 new vehicles of the same line make within 15 days of the
25 manufacturer issuing the initial notice of recall, and the
26 manufacturer has issued a Stop-Sale or Do-Not-Drive order on
27 the vehicle, the manufacturer shall compensate the dealer at a

1 rate of at least 1.75 percent of the value of the vehicle per
2 month, or portion of a month, while the recall or remedy parts
3 are unavailable and the Stop-Sale or Do-Not-Drive order
4 remains in effect.

5 (c) The value of a used vehicle shall be the average
6 trade-in value for used vehicles as indicated in an
7 independent third party guide for the year, make, model, and
8 mileage of the recalled vehicle.

9 (d) This section shall apply only to used vehicles
10 subject to safety or emissions recalls pursuant to and
11 recalled in accordance with federal law and regulations
12 adopted thereunder and where a Stop-Sale or Do-Not-Drive order
13 has been issued. This section further shall apply only to new
14 motor vehicle dealers holding used vehicles for sale that are
15 a line make that the dealer is franchised to sell or on which
16 the dealer is authorized to perform recall repairs.

17 (e) It shall be a violation of this section for a
18 manufacturer to reduce the amount of compensation otherwise
19 owed to a new motor vehicle dealer, whether through a
20 chargeback, removal from an incentive program, reduction in
21 amount owed under an incentive program, or any other means,
22 because the new motor vehicle dealer has submitted a claim for
23 reimbursement under this section or was otherwise compensated
24 for a vehicle subject to a recall where a Stop-Sale or
25 Do-Not-Drive order has been issued.

26 (f) All reimbursement claims made by new motor
27 vehicle dealers pursuant to this section for recall remedies

1 or repairs, or for compensation where no part or repair is
2 reasonably available and the vehicle is subject to a Stop-Sale
3 or Do-Not-Drive order shall be subject to the same limitations
4 and requirements as a warranty reimbursement claim made under
5 subsection (d) of Section 8-20-7. In the alternative, a
6 manufacturer may compensate its franchised dealers under a
7 national recall compensation program provided the compensation
8 under the program is equal to or greater than that provided
9 under subsection (b) or the manufacturer and dealer otherwise
10 agree.

11 Section 2. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.