

2017 -- S 0759 SUBSTITUTE A

LC002421/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- REGULATIONS OF BUSINESS PRACTICES AMONG MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS

Introduced By: Senators Lombardo, Archambault, Lombardi, and McCaffrey

Date Introduced: April 12, 2017

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 31-5.1 of the General Laws entitled "Regulation of Business
2 Practices Among Motor Vehicle Manufacturers, Distributors, and Dealers" is hereby amended by
3 adding thereto the following section:

4 **31-5.1-6.1. Obligations during recalls.**

5 (a) A manufacturer shall compensate its new motor vehicle dealers for all labor and parts
6 required by the manufacturer to perform recall repairs. Compensation for recall repairs shall be at
7 the dealer retail rate in effect at the time the recall repair work is performed. The dealer retail rate
8 for parts and labor shall be at the same rates as those provided for under §31-5.1-6. If parts or a
9 remedy are not reasonably available to perform a recall service or repair on a used vehicle held
10 for sale by the dealer authorized to sell new vehicles of the same line make within thirty (30) days
11 of the manufacturer issuing the initial notice of recall and the manufacturer has issued a "Stop-
12 Sale", or "Do-Not-Drive", order on the vehicle, the manufacturer shall compensate the dealer at a
13 rate of at least one and one-half percent (1.5%) of the value of the vehicle per month, or portion
14 of a month, while the recall or remedy parts are unavailable and the "Stop-Sale", or "Do-Not-
15 Drive", order remains in effect. A "Stop-Sale" shall be defined as a notification issued by a
16 vehicle manufacturer to its franchised dealerships stating that certain used vehicles in inventory
17 shall not be sold or leased, at retail and/or wholesale, due to a federal safety recall for a defect or
18 a noncompliance, or a federal or California emissions recall.

1 (b) The value of a used vehicle shall be the average trade-in value for used vehicles as
2 indicated in an independent third-party guide for the year, make, model, and mileage of the
3 recalled vehicle on the later of:

4 (1) The date the "Stop-Sale" or "Do-Not-Drive" order was issued; or

5 (2) The date the vehicle is taken in the used motor vehicle inventory.

6 (c) This section shall apply only to used vehicles subject to safety or emissions recalls
7 pursuant to and recalled in accordance with federal law and regulations adopted thereunder and
8 where a "Stop-Sale", or "Do-Not-Drive", order has been issued; provided, further, that this
9 section shall apply only to new motor vehicle dealers holding used vehicles for sale that are a
10 line-make that the dealer is franchised to sell or on which the dealer is authorized to perform
11 recall repairs. This section further shall apply only to new motor vehicle dealers holding an
12 affected used motor vehicle for sale that was:

13 (1) In inventory at the time the "Stop-Sale" or "Do-Not-Drive" order was issued;

14 (2) Taken in the used motor vehicle inventory of the new motor vehicle dealer as a
15 consumer trade-in incident to the purchase of a new motor vehicle before or after the "Stop-Sale"
16 or "Do-Not-Drive" order was issued;

17 (3) Properly taken in the used motor vehicle inventory of the new motor vehicle dealer as
18 a lease return vehicle returned to the new motor vehicle dealer before or after the "Stop-Sale" or
19 "Do-Not-Drive" order was issued in accordance with the terms of the applicable contract.

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

26 (e) All reimbursement claims made by new motor vehicle dealers pursuant to this section
27 for recall remedies or repairs, or for compensation where no part or repair is reasonably available
28 and the vehicle is subject to a "Stop-Sale", or "Do-Not-Drive", order, shall be subject to the same
29 limitations and requirements as a warranty reimbursement claim made under §31-5.1-6. Claims
30 shall be either approved or disapproved within thirty (30) days after they are submitted to the
31 manufacturer in the manner and on the forms the manufacturer reasonably prescribes. All claims
32 shall be paid within thirty (30) days of approval of the claim by the manufacturer. Any claim not
33 specifically disapproved in writing within thirty (30) days after the manufacturer receives a
34 properly submitted claim shall be deemed to be approved. In the alternative, a manufacturer may

1 compensate its franchised dealers under a national recall compensation program provided the
2 compensation under the program is equal to or greater than that provided under subsection (a) of
3 this section or the manufacturer and dealer otherwise agree.

4 (f) Nothing in this section shall require a manufacturer to provide total compensation to a
5 new motor vehicle dealer which would exceed the total average trade-in value of the affected
6 used motor vehicle as determined under §31-5.1-6.1(b).

7 (g) Any remedy provided to a dealer under this section is exclusive and may not be
8 combined with any other state recall compensation remedy.

9 SECTION 2. This act shall take effect upon passage.

=====
LC002421/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- REGULATIONS OF BUSINESS
PRACTICES AMONG MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND
DEALERS

1 This act would require manufacturers of motor vehicles to compensate its new motor
2 vehicle dealers for costs incurred while holding a vehicle for sale but are unable to sell it due to
3 unavailability in parts, remedy or performance of a recall service or repair, when the
4 manufacturer has issued a "Stop-Sale", or "Do-Not-Drive", order on the vehicle.

5 This act would take effect upon passage.

=====
LC002421/SUB A
=====