

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 126

2018 Regular Session

Martiny

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

MOTOR VEHICLES. Provides for recall repairs of motor vehicles. (8/1/18)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Adds provisions regarding when the 45 day time period within which compensation is to begin.
2. Removes provisions excluding application of proposed law when repair parts or a remedy is unavailable for 45 days or longer.
3. Removes language relative to 45 day reimbursement requirement to clarify the intent of proposed law with respect to a new motor vehicle dealer in possession of an affected used vehicle.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

Present law provides for additional licensing and compliance requirements for motor vehicle and recreational product dealers. Requires that an applicant furnish satisfactory evidence that it maintains adequate space in the building or structure wherein the applicant's established business is conducted for the display of new motor vehicles or recreational products, together with adequate facilities for the repair and servicing of motor vehicles or recreational products and the storage of new parts and accessories for the repair and servicing.

Proposed law requires that notwithstanding current law and subject to the written approval by the franchisor, adequate facilities for the repair and servicing of motor vehicles may be physically located in a building directly across a dedicated municipal street, but not more than one thousand feet from the applicant's established place of business.

Proposed law, relative to recall repairs, defines the following terms:

- (1) "Stop sale order" means a notification issued by a manufacturer, distributor, factory branch, or distributor branch to its franchised new motor vehicle dealers stating that certain used vehicles in inventory shall not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or a noncompliance, or a federal emissions recall.
- (2) "Do not drive order" means a notification issued by a manufacturer, distributor, factory branch, or distributor branch stating that certain used vehicles shall not be driven due to a federal safety recall for a defect or a noncompliance, or a federal emissions recall. This notification shall include an unconditional instruction to the recipient not to drive the vehicle until the remedy for the recall is complete.

Proposed law requires a manufacturer to compensate its new motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs and that the compensation for recall repairs be reasonable.

Provides that if parts or a remedy are not reasonably available to perform a recall service or repair on an affected used vehicle held for sale by a dealer authorized to sell and service new vehicles of the same line-make or authorized to perform recall work on an affected vehicle within 45 days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a stop sale order or do not drive order on the vehicle, then requires that the manufacturer compensate the dealer at a prorated rate of at least 1.25% per month of the value of the vehicle

Provides that when a stop sale order or do not drive order has been issued and repair parts or remedy remain unavailable on an affected used vehicle, then requires that compensation begin 45 days after either of the following occurrences:

(aa) The date on which the stop sale order or do not drive order was provided to the dealer, if the affected used vehicle is in the dealer's inventory at the time the stop sale or do not drive order was issued to the dealer.

(bb) The date on which the dealer takes the affected used vehicle into the dealer's inventory as a trade-in incident to the customer's purchase of a new vehicle.

Requires that compensation ceases when one of the following events occurs:

(aa) The date the recall remedy or parts are made available.

(bb) The date the stop sale order or do not drive order is withdrawn.

(cc) The date the dealer disposes of the affected used vehicle.

Requires that for purposes of proposed law, the value of a used vehicle is be the average trade-in value for used vehicles as indicated in an independent third-party guide for the year, make, and model of the recalled vehicle.

Proposed law provides that for purposes of auditing dealer records for warranty and compensation, it is a violation of proposed law for a manufacturer to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer solely because the new motor vehicle dealer has submitted a claim for reimbursement under proposed law. Requires that this prohibition includes reduction through a chargeback, surcharge, removal of the individual dealer from an incentive program, or reduction in amount owed under an incentive program.

Proposed law does not apply to an action by a manufacturer to any prospective change, modification, cancellation, or elimination of any incentive program that is applied uniformly among all dealers of the same line-make in the state.

Requires that all reimbursement claims made by new motor vehicle dealers for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a stop sale order or do not drive order are subject to the same limitations and requirements as a warranty reimbursement claim made under current law. However, a manufacturer may compensate its franchised dealers under a national recall compensation program provided the compensation under the program is equal to or greater than the compensation provided in proposed law as otherwise agreed between the manufacturer and dealer.

Proposed law authorizes a manufacturer to direct the manner and method in which a dealer shall demonstrate the inventory status of an affected used motor vehicle to determine eligibility under proposed law, provided the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to provide.

Proposed law shall not require a manufacturer to provide total compensation to a dealer that would exceed the total average trade-in value of an affected used motor vehicle as originally determined under proposed law.

Provides that remedies to a dealer under proposed law are is exclusive and shall not be combined with any other state or federal recall compensation remedy or other federal law.

Effective August 1, 2018.

(Amends R.S. 32:1254(E)(5); adds R.S. 32:1264.2)

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