

SENATE BILL NO. 126

BY SENATOR MARTINY

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AN ACT

To amend and reenact R.S. 32:1254(E)(5) and to enact R.S. 32:1264.2, relative to recall repairs; to provide for definitions; to provide for reimbursement claims; to provide for compensation to a dealer under certain circumstances; to provide for motor vehicle repair and servicing facilities; to provide for terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:1254(E)(5) is hereby amended and reenacted and R.S. 32:1264.2 is hereby enacted to read as follows:

§1254. Application for license; requirements for licensure; contents; licenses; franchise filings; exceptions

\* \* \*

E. Additional licensing and compliance requirements for motor vehicle and recreational products dealers.

\* \* \*

(5)(a) The applicant must also furnish satisfactory evidence that the applicant 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 ~~same~~ **the repair and servicing.**

**(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph and subject to 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.**

\* \* \*

§1264.2. Recall repairs; compensation

A. As used in this Section:

(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. Such notification shall include an unconditional instruction to the recipient not to drive the vehicle until the remedy for the recall is complete.

B.(1)(a) A manufacturer shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs shall be reasonable.

(b) 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 forty-five 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, the manufacturer shall compensate the dealer at a prorated rate of at least one and one-quarter percent of the value of the vehicle per month.

(i) 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, compensation shall begin forty-five days after either of the following occurrences:

(aa) The date on which the stop sale order or do not drive order was

1 provided to the dealer, if the affected used vehicle is in the dealer's inventory at  
2 the time the stop sale or do not drive order was issued to the dealer.

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

6 (ii) Compensation shall cease when one of the following events occurs:

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

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

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

10 (2) For the purposes of this Section, the value of a used vehicle shall be  
11 the average trade-in value for used vehicles as indicated in an independent  
12 third-party guide for the year, make, and model of the recalled vehicle.

13 C.(1) Subject to the audit provisions of R.S. 32:1262, it shall be a  
14 violation of this Section for a manufacturer to reduce the amount of  
15 compensation otherwise owed to an individual new motor vehicle dealer solely  
16 because the new motor vehicle dealer has submitted a claim for reimbursement  
17 under this Section. This prohibition shall include reduction through a  
18 chargeback, surcharge, removal of the individual dealer from an incentive  
19 program, or reduction in amount owed under an incentive program.

20 (2) This Subsection shall not apply to an action by a manufacturer to any  
21 prospective change, modification, cancellation, or elimination of any incentive  
22 program that is applied uniformly among all dealers of the same line-make in  
23 the state.

24 D. Pursuant to the provisions of this Section, all reimbursement claims  
25 made by new motor vehicle dealers for recall remedies or repairs, or for  
26 compensation where no part or repair is reasonably available and the vehicle  
27 is subject to a stop sale order or do not drive order shall be subject to the same  
28 limitations and requirements as a warranty reimbursement claim made under  
29 R.S. 32:1262. However, a manufacturer may compensate its franchised dealers  
30 under a national recall compensation program provided the compensation

1 under the program is equal to or greater than the compensation provided in  
2 Paragraph (B)(1) of this Section or as the manufacturer and dealer otherwise  
3 agree.

4 E. A manufacturer may direct the manner and method in which a dealer  
5 shall demonstrate the inventory status of an affected used motor vehicle to  
6 determine eligibility under this Section, provided such manner and method may  
7 not be unduly burdensome and may not require information that is unduly  
8 burdensome to provide.

9 F. Nothing in this Section shall require a manufacturer to provide total  
10 compensation to a dealer that would exceed the total average trade-in value of  
11 an affected used motor vehicle as originally determined in Paragraph (B)(2) of  
12 this Section.

13 G. Any remedy provided to a dealer under this Section is exclusive and  
14 shall not be combined with any other state or federal recall compensation  
15 remedy or other federal law.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_