

STATE OF NEW YORK

3114

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. PHEFFER AMATO, DILAN, NORRIS -- Multi-Sponsored
by -- M. of A. EPSTEIN -- read once and referred to the Committee on
Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to safety recalls
on used motor vehicles

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

Section 1. The general business law is amended by adding a new section
198-d to read as follows:

§ 198-d. Used motor vehicles; recalls. (a) For the purpose of this
section, the following terms shall have the following meanings:

(1) "dealer" shall have the same meaning as paragraph a of subdivision
one of section four hundred fifteen of the vehicle and traffic law.

(2) "used motor vehicle" shall have the same meaning as paragraph i of
subdivision one of section four hundred fifteen of the vehicle and traf-
fic law.

(3) "stop drive order" shall mean a notification issued under 49 USC
section 30118 which includes precautionary advice to stop driving a
motor vehicle (including the vehicle identification number for such
vehicle).

(b) Where a franchisor or manufacturer, as defined by section four
hundred sixty-two of the vehicle and traffic law, directly or indirectly
subjects any dealer to any financial or other penalties or otherwise
penalizes or prevents a dealer from selling or leasing any used motor
vehicle subject to recall, including where any such restrictions are
imposed by the manufacturer, either through the issuance of a "stop
sell" or any other communication that prevents or penalizes a dealer
from offering a vehicle for sale, or federal, state, or local law or
regulation:

(1) the franchisor or manufacturer shall, where parts or a remedy are
not reasonably available and a policy described in this subdivision is

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD04323-01-3

1 in effect, following fifteen days notice from a dealer that they are in
2 possession of a vehicle subject to the provisions of this section
3 provide to said dealer a payment of one and seventy-five hundredths
4 percent of the value of the used motor vehicle as determined by the
5 average "trade-in" value for a similar used vehicle as indicated in a
6 widely disseminated, publicly available, independent used motor vehicle
7 guide for the year, make, model, and mileage of the used motor vehicle
8 in the possession of the dealer for every thirty days, or portion of
9 thirty days, the dealer is unable to sell, offer to sell, or repair such
10 vehicle due to the inability to satisfy any recall issued for such vehi-
11 cle or due to a communication described in the opening paragraph of this
12 subdivision received from the manufacturer regarding the sale of such
13 vehicle; and

14 (2) all reimbursement claims made by a dealer pursuant to this subdi-
15 vision shall be subject to the procedure established under subdivisions
16 two through seven of section four hundred sixty-five of the vehicle and
17 traffic law.

18 (c) The manufacturer or franchisor may not retaliate against a dealer
19 who has submitted a claim for reimbursement under this section or who
20 was otherwise compensated for a vehicle subject to a recall. For the
21 purposes of this subdivision, retaliation shall include, but shall not
22 be limited to, reducing the amount of compensation otherwise owed to a
23 dealer, whether through a chargeback, removal from an incentive program,
24 reducing the amount owed under an incentive program, or any other means,
25 imposing additional requirements, withholding inventory, reducing allo-
26 cation, requiring any facility upgrade, or otherwise surcharging or
27 penalizing the dealer. A dealer may not, however, receive compensation
28 for the same vehicle under recall under this section, as well as under
29 another manufacturer program designed to mitigate dealer costs for the
30 holding of vehicles under recall, unless otherwise entitled to such
31 compensation, and such compensation is equal to or greater than that
32 provided under paragraph one of subdivision (b) of this section.

33 (d) The manufacturer or franchisor shall pay for any repairs performed
34 by the dealer to remedy any recall, pursuant to the provisions of
35 section four hundred sixty-five of the vehicle and traffic law. Any
36 replacement part provided for a recall repair shall be paid at the
37 existing retail reimbursement rate in existence at the time the repair
38 is performed.

39 § 2. This act shall take effect immediately, provided, however, that
40 subdivision (b) of section one hundred ninety-eight-d of the general
41 business law, as added by section one of this act, shall take effect on
42 the sixtieth day after this act shall have become a law.