

# HOUSE BILL 525

R4

(6lr1947)

## ENROLLED BILL

— Environment and Transportation/Judicial Proceedings —

Introduced by **Delegates Beidle, Flanagan, Fraser-Hidalgo, Frush, Lam, McCray, Stein, and Szeliga**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 Vehicle Laws – Manufacturers and Dealers

3 FOR the purpose of altering the conditions under which a motor vehicle dealer's failure to  
4 comply with certain requirements constitutes grounds for denial of a certain claim or  
5 reduction of the amount of certain compensation; prohibiting a motor vehicle  
6 manufacturer, distributor, or factory branch from prohibiting or taking certain  
7 punitive action against a motor vehicle dealer for providing certain notice to a  
8 customer or performing certain repairs on a motor vehicle under certain  
9 circumstances; requiring a dealer that sells at retail a used motor vehicle that is  
10 subject to a recall under federal law to provide to the buyer under certain  
11 circumstances a certain disclosure in a certain manner prohibiting a motor vehicle  
12 manufacturer, distributor, or factory branch from taking certain action against a  
13 motor vehicle dealer for the provision of certain notice, documents, or information to  
14 certain persons; specifying that a dealer may provide certain information only to a

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 certain customer; prohibiting a manufacturer from taking certain action against a  
 2 dealer for performing certain repairs on a vehicle under certain circumstances;  
 3 prohibiting a dealer from sending certain notice to a person that states or implies  
 4 that certain circumstances exist based on certain information; requiring a  
 5 manufacturer to provide certain compensation to certain dealers under certain  
 6 circumstances; ~~defining a certain term;~~ providing for the construction of certain  
 7 provisions of this Act; and generally relating to motor vehicle manufacturers and  
 8 dealers.

9 BY renumbering

10 Article – Transportation

11 Section ~~15-101(e) through (g), respectively~~

12 to be Section 15-101(d) through (h), respectively

13 Annotated Code of Maryland

14 (2012 Replacement Volume and 2015 Supplement)

15 BY repealing and reenacting, without amendments,

16 Article – Transportation

17 Section ~~15-101(a) and~~ 15-212(c)(1) and (11)

18 Annotated Code of Maryland

19 (2012 Replacement Volume and 2015 Supplement)

20 BY adding to

21 Article – Transportation

22 Section ~~15-101(e) and~~ 15-212(c)(12), (13), ~~and (14), and (15)~~

23 Annotated Code of Maryland

24 (2012 Replacement Volume and 2015 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Transportation

27 Section ~~15-212(e)(10) and~~ 15-311

28 Annotated Code of Maryland

29 (2012 Replacement Volume and 2015 Supplement)

30 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,~~

31 ~~That Section(s) 15-101(e) through (g), respectively, of Article – Transportation of the~~

32 ~~Annotated Code of Maryland be renumbered to be Section(s) 15-101(d) through (h),~~

33 ~~respectively.~~

34 SECTION ~~1. 2. AND~~ 1. BE IT ~~FURTHER~~ ENACTED BY THE GENERAL  
 35 ASSEMBLY OF MARYLAND ~~BY THE GENERAL ASSEMBLY OF MARYLAND~~, That the  
 36 Laws of Maryland read as follows:

37 **Article – Transportation**

38 ~~15-101.~~

1 ~~(a) In this title the following words have the meanings indicated.~~

2 ~~(c) "ADVERSE ACTION" MEANS:~~

3 ~~(1) WITHHOLDING ANY CONSIDERATION RECEIVED BY A DEALER~~  
4 ~~FROM A LICENSEE;~~

5 ~~(2) WITHHOLDING A CONSUMER BENEFIT THROUGH A DEALER; OR~~

6 ~~(3) APPOINTING OR THREATENING TO APPOINT AN ADDITIONAL~~  
7 ~~DEALER WITHIN THE MARKET AREA ASSIGNED TO THE DEALER AGAINST WHOM THE~~  
8 ~~ADVERSE ACTION IS TAKEN WITHOUT A COMPELLING BUSINESS JUSTIFICATION.~~

9 15-212.

10 (c) (1) A licensee shall specify in writing to each of its motor vehicle dealers  
11 licensed in the State:

12 (i) The dealer's obligation for vehicle preparation, delivery,  
13 warranties, and recalls on its products;

14 (ii) The schedule of compensation to be paid to the dealers for parts,  
15 including parts assemblies, and labor, including diagnostic labor and associated  
16 administrative requirements, in connection with the service obligations established under  
17 item (i) of this paragraph; and

18 (iii) A time allowance for the performance of labor described in this  
19 paragraph that is reasonable and adequate.

20 ~~(10) A dealer's failure to comply with a [specific requirement of the~~  
21 ~~manufacturer] MANUFACTURER'S or [distributor] DISTRIBUTOR'S SPECIFIC~~  
22 ~~REQUIREMENTS FOR PROCESSING A CLAIM may not constitute grounds for denial of the~~  
23 ~~claim or reduction of the amount of compensation paid to the dealer if the dealer presents~~  
24 ~~REASONABLE documentation or other reasonable evidence to substantiate [that the repair~~  
25 ~~and] the claim [were done according to manufacturer warranty guidelines].~~

26 (11) (i) If a claim filed under this section is shown by the manufacturer  
27 or distributor to be false or unsubstantiated, the manufacturer or distributor may charge  
28 back the claim within 9 months from the date the claim was paid or credit issued.

29 (ii) This paragraph does not limit the right of a manufacturer or  
30 distributor to:

- 31 1. Conduct an audit of any claim filed under this section; or
- 32 2. Charge back for any claim that is proven to be fraudulent.

(iii) An audit under this paragraph shall be conducted according to generally accepted accounting principles.

~~(12) A LICENSEE MAY NOT PROHIBIT, RETALIATE AGAINST A DEALER OR EMPLOYEE OF A DEALER FOR, DENY A CLAIM OR INCENTIVE FOR, REDUCE THE AMOUNT OF COMPENSATION TO A DEALER FOR, OR PROCESS A CHARGE BACK TO A DEALER FOR;~~

~~(I) THE PROVISION OF NOTICE BY A DEALER TO A CUSTOMER RELATING TO THE EXISTENCE OF ANY RECALL REMEDY, TECHNICAL SERVICE BULLETIN, OR ANY OTHER INSTRUCTIONS FROM A LICENSEE TO A DEALER TO RESOLVE A CONDITION; OR~~

~~(II) PERFORMING REPAIRS ON A MOTOR VEHICLE, WHETHER THE NEED FOR REPAIRS WAS DISCOVERED BY THE DEALER DURING THE COURSE OF A SEPARATE REPAIR REQUESTED BY THE CUSTOMER OR AN INSPECTION OF THE MOTOR VEHICLE BY THE DEALER, OR PROMPTED BY A DEALER NOTICE OF A RECALL REMEDY, TECHNICAL SERVICE BULLETIN, OR OTHER INSTRUCTIONS FROM A LICENSEE TO A DEALER TO:~~

~~1. RESOLVE A CONDITION THAT IS UNDER A WARRANTY OF THE LICENSEE;~~

~~2. REMEDY A CONDITION THAT CAUSED A RECALL; OR~~

~~3. PERFORM A SERVICE PRESCRIBED IN A TECHNICAL SERVICE BULLETIN OR OTHER INSTRUCTIONS FROM A LICENSEE TO A DEALER TO RESOLVE A CONDITION.~~

(12) A LICENSEE MAY NOT PROHIBIT A DEALER FROM, OR TAKE ANY ADVERSE ACTION AGAINST A DEALER FOR, PROVIDING: TO A CUSTOMER INFORMATION GIVEN TO THE DEALER BY A MANUFACTURER RELATED TO ANY CONDITION THAT MAY SUBSTANTIALLY AFFECT MOTOR VEHICLE SAFETY, DURABILITY, RELIABILITY, OR PERFORMANCE

~~(I) WRITTEN NOTICE TO A PERSON THAT CONTAINS INFORMATION RELATED ONLY TO A SAFETY RELATED RECALL UNDER FEDERAL LAW;~~

~~(II) A COPY OF A TECHNICAL SERVICE BULLETIN TO A CUSTOMER;~~

~~1. IN RESPONSE TO A REQUEST BY THE CUSTOMER REGARDING A SPECIFIC CONDITION TO WHICH THE TECHNICAL SERVICE BULLETIN APPLIES; OR~~

~~2. AFTER THE DEALER VERIFIES THAT THE VEHICLE IS SUBJECT TO THE CONDITION AND REQUIRES THE REPAIRS DESCRIBED IN THE TECHNICAL SERVICE BULLETIN; OR~~

~~(III) WRITTEN NOTICE TO A PERSON THAT MAKES THE PERSON AWARE OF INFORMATION AVAILABLE ON WWW.SAFERCAR.GOV.~~

~~(13) PARAGRAPH (12) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO AUTHORIZE A DEALER TO MAIL OR OTHERWISE DISTRIBUTE A TECHNICAL SERVICE BULLETIN TO A PERSON OTHER THAN THE CUSTOMER WHILE THE CUSTOMER'S VEHICLE IS BEING REPAIRED BY THE DEALER. A DEALER MAY PROVIDE THE INFORMATION SPECIFIED IN PARAGRAPH (12) OF THIS SUBSECTION ONLY TO A CUSTOMER THAT HAS:~~

~~(I) PURCHASED THE VEHICLE FOR WHICH THE INFORMATION PERTAINS FROM THE DEALER; OR~~

~~(II) HAD THE VEHICLE FOR WHICH THE INFORMATION PERTAINS SERVICED BY THE DEALER.~~

~~(14) (I) A LICENSEE MAY NOT DENY A CLAIM, REDUCE THE AMOUNT OF COMPENSATION TO A DEALER, OR PROCESS A CHARGE BACK TO A DEALER FOR PERFORMING COVERED WARRANTY OR REQUIRED RECALL REPAIRS ON A VEHICLE:~~

~~1. FOR RESOLVING A CONDITION COVERED BY THE LICENSEE'S ORIGINAL WARRANTY;~~

~~2. FOR REMEDYING A SAFETY-RELATED DEFECT THAT IS SUBJECT TO AN OUTSTANDING RECALL UNDER FEDERAL LAW;~~

~~3. IF THE DEALER PROPERLY PERFORMED THE REPAIRS AND SUBMITTED THE CLAIMS; OR~~

~~4. IF THE DEALER DISCOVERED THE NEED FOR REPAIRS:~~

~~A. DURING THE COURSE OF A SEPARATE REPAIR REQUESTED BY THE CUSTOMER; OR~~

**B. THROUGH NOTICE OF AN OUTSTANDING RECALL UNDER FEDERAL LAW FOR A SAFETY-RELATED DEFECT.**

~~(15) NOTWITHSTANDING PARAGRAPHS (12) AND (13) OF THIS SUBSECTION, A DEALER MAY NOT SEND AN UNSOLICITED NOTICE TO A PERSON THAT STATES OR IMPLIES THAT REPAIRS ARE NEEDED ON THE PERSON'S VEHICLE OR THAT THE VEHICLE IS UNSAFE BASED SOLELY ON INFORMATION IN A TECHNICAL SERVICE BULLETIN.~~

15-311.

(a) A contract for the sale of a vehicle by a dealer shall contain a clear statement of:

- (1) The principal amount charged for the vehicle;
  - (2) Any interest charged on the principal amount;
  - (3) Any fee charged under § 13-610 of this article;
  - (4) Any dealer processing charge, as defined in § 15-311.1 of this subtitle;
- and
- (5) Any other charge made in connection with the sale of the vehicle.

(b) In addition to the information required by subsection (a) of this section, a contract for the sale of a new vehicle shall include:

- (1) The base price of the vehicle;
- (2) The manufacturer's code or stock number for the vehicle; and
- (3) A clear and specific description of each extra item and each extra charge not included in the base price of the vehicle ordered by the buyer.

~~(c) IN ADDITION TO THE INFORMATION REQUIRED BY SUBSECTION (A) OF THIS SECTION, A DEALER THAT SELLS AT RETAIL A USED MOTOR VEHICLE THAT IS SUBJECT TO A CONDITION THAT CAUSED A RECALL UNDER FEDERAL LAW AND IS NOT REMEDIED SHALL PROVIDE TO THE BUYER OF THE MOTOR VEHICLE, IN THE BUYER'S ORDER OR IN A SEPARATE WRITTEN DOCUMENT, A DISCLOSURE THAT:~~

~~(1) IF THE USED MOTOR VEHICLE IS A LINE MAKE THAT THE DEALER HOLDS A FRANCHISE TO SELL AS NEW AND TO SERVICE;~~

1 ~~(I) THERE IS A REMEDY FOR THE CONDITION THAT CAUSED~~  
 2 ~~THE RECALL AND THE BUYER MAY RETURN THE MOTOR VEHICLE TO HAVE THE~~  
 3 ~~DEALER PROVIDE THE REMEDY; OR~~

4 ~~(H) THERE IS NOT AT THE TIME OF SALE A REMEDY FOR THE~~  
 5 ~~CONDITION THAT CAUSED THE RECALL AND THE BUYER MAY RETURN THE MOTOR~~  
 6 ~~VEHICLE TO HAVE THE DEALER PROVIDE THE REMEDY WHEN THE BUYER LEARNS~~  
 7 ~~OR HAS NOTICE THAT A REMEDY IS AVAILABLE; OR~~

8 ~~(2) IF THE USED MOTOR VEHICLE IS A LINE MAKE THAT THE DEALER~~  
 9 ~~DOES NOT HOLD A FRANCHISE TO SELL AS NEW AND TO SERVICE:~~

10 ~~(I) THERE IS A REMEDY FOR THE CONDITION THAT CAUSED~~  
 11 ~~THE RECALL AND THE BUYER MAY CONTACT A DEALER OF THE LINE MAKE FOR~~  
 12 ~~PROVISION OF THE REMEDY; OR~~

13 ~~(H) THERE IS NOT A REMEDY AT THE TIME OF SALE FOR THE~~  
 14 ~~CONDITION THAT CAUSED THE RECALL AND THE BUYER MAY CONTACT A DEALER OF~~  
 15 ~~THE LINE MAKE FOR PROVISION OF THE REMEDY WHEN THE BUYER LEARNS OR HAS~~  
 16 ~~NOTICE THAT A REMEDY IS AVAILABLE~~ IF A LICENSEE ISSUES A STOP SALE  
 17 DIRECTIVE APPLICABLE TO A USED VEHICLE MANUFACTURED BY THE LICENSEE TO  
 18 A DEALER THAT HOLDS A FRANCHISE FROM THE LICENSEE AND THERE ARE NO  
 19 REMEDIES OR PARTS AVAILABLE TO FIX THE MOTOR VEHICLE, THE LICENSEE SHALL  
 20 COMPENSATE THE DEALER BY:

21 (1) PROVIDING PAYMENT TO THE DEALER AT A RATE OF AT LEAST 1%  
 22 PER MONTH OR PORTION OF A MONTH OF THE VALUE OF THE VEHICLE, PLUS THE  
 23 COST OF REPAIRS AND RECONDITIONING INCURRED BY THE DEALER; OR

24 (2) COMPENSATING THE DEALER UNDER A NATIONAL PROGRAM  
 25 THAT IS APPLICABLE TO ALL DEALERS HOLDING A FRANCHISE FROM THE LICENSEE  
 26 FOR THE DEALER'S COSTS ASSOCIATED WITH THE STOP SALE DIRECTIVE.

27 (D) When a vehicle arrives for delivery, the dealer shall advise the buyer of any  
 28 extra items ordered by the buyer that are not on the vehicle.

29 [(d)] (E) When a vehicle arrives for delivery, the dealer shall advise the buyer of  
 30 any extra items on the vehicle that the buyer did not order.

31 [(e)] (F) When a vehicle arrives for delivery, the dealer shall advise the buyer of  
 32 the cost of extra items described under subsections [(c) and] (d) AND (E) of this section.

33 SECTION ~~2~~ 2 AND BE IT FURTHER ENACTED, That this Act shall take effect  
 34 October 1, 2016.