

January 22, 2020

The Honorable William Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

**SB178: Vehicle Laws - Manufacturers and Dealers – Advertisements
Position: Unfavorable**

Dear Chairman Smith:

The Alliance for Automotive Innovation¹ opposes SB 178, which seeks to regulate automobile advertising. SB 178 would make advertising through local marketing associations more difficult and less useful while also causing confusion for consumers. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S.

Harms Regional Advertising Associations

Manufacturers and dealers often have regional advertising associations in which the manufacturer and the local dealers pool their advertising dollars to buy advertising that benefits all them. For example, commercials that say, “See your Baltimore area dealer for great deals on....” Those commercials may include price examples for models of vehicles to attract consumers. Those prices are not necessarily final prices, they may be designed by marketers to leave room for dealers and customers to negotiate, as is the custom in automobile purchasing. SB 178 would make those types of commercials vulnerable to legal challenges.

¹ Formed in 2020, the Alliance for Automotive Innovation is the singular, authoritative and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S. The newly established organization, a combination of Global Automakers and Alliance of Automobile Manufacturers, will be directly involved in regulatory and policy matters impacting the light-duty vehicle market across the country. Members include motor vehicle manufacturers, original equipment suppliers, technology and other automotive-related companies and trade associations. The Alliance for Automotive Innovation is headquartered in Washington, DC, with offices in Detroit, MI and Sacramento, CA. For more information, visit our website <http://www.autosinnovate.org>.

SB 178 says that a manufacturer may not prohibit a dealer from advertising a “purchase price” defined to mean the full delivered price.² The problem is that SB 178 also says that a manufacturer may not “coerce” a dealer to change the medium in which it advertises that price. § 15-207 is unusual in that it broadly defines “coerce” to include the loss of an incentive or benefit available to other dealers.³ That means that regional advertising associations that receive contributions from the manufacturer could not use an advertised price based around the traditional negotiation process of buying a car if one dealer wanted to advertise a final purchase price instead. Thus SB 178 would make regional advertising more difficult to use and cause it to contain less useful information.

Causes Confusion in Sale Contracts

SB 178 could also cause confusion for consumers at the time of purchase. It requires the sale contract to clearly state the “manufacturer’s minimum advertised price” next to the words “not the final price available to consumers.” The first problem with this is that consumers are generally familiar with the term Manufacturer Suggested Retail Price (MSRP), but they will most likely be unfamiliar with the term manufacturer’s minimum advertised price (MMAP). Oftentimes, a car may not even have a MMAP, which would make it impossible to disclose it on a sale contract as this bill requires. MMAP, when it is used, is not a component of the sale of the vehicle, and the amount may even vary by region.

MMAP is an advertising tool. It allows vehicles to be advertised on television in a way that gives dealers negotiating room—recognizing that dealers are independent businesses that are free to sell their inventory at any price they wish, not simply delivering them to consumers at a price set by the manufacturer. SB 178’s requirement that a final sale contract list an advertising price that may not even exist will not be beneficial to consumers.

SB 178 would undermine regional advertising efforts while sowing consumer confusion in sales contracts. The Alliance for Automotive Innovation respectfully asks the members of the Judicial Proceedings Committee to report the bill unfavorable. For more information, please contact our local representative, Bill Kress, at (410) 375-8548.

Sincerely,



Josh Fisher
Director, State Affairs
Alliance for Automotive Innovation

² SB 178’s definition of “purchase price” also allows a dealer to not include the processing fees set by the dealer (which state law allows to be up to \$300) and freight fees which can be hundreds of dollars as well.

³ The definition of “coerce” can be found on Page 1, Line 24 of the bill.