

A-Engrossed
Senate Bill 980

Ordered by the Senate April 21
Including Senate Amendments dated April 21

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires motor vehicle manufacturers, distributors and importers to reimburse dealers for service related to vehicle recall at same rate as warranty work. Specifies that if dealer is subject to prohibition on selling or driving motor vehicle that is subject to recall and manufacturer, distributor or importer does not have remedy for defect that led to recall or parts to remedy defect, manufacturer, distributor or importer must compensate dealer at specified rate for time during which remedy or parts are not available and motor vehicle remains subject to prohibition.]

[Prohibits manufacturer, distributor or importer from recovering costs from dealer's claim for service in connection with vehicle recall by reducing payments from incentive program or removing dealer from incentive program or other means.]

[Requires dealer to disclose in writing to person that purchases used motor vehicle all manufacturer recalls to which used motor vehicle remains subject for defects that have not been remedied. Provides that dealer may make disclosure by printing and providing to person report for used motor vehicle from federal governmental database that lists by vehicle identification number motor vehicles that are subject to manufacturer's recall.]

Requires manufacturer to compensate manufacturer's franchisee for all labor and parts manufacturer requires franchisees to use to perform repairs on vehicles that are subject to recall.

Requires manufacturer to compensate dealer at prorated rate of at least 1.5 percent of valuation of used vehicle that is subject to recall during each month in which dealer holds vehicle for sale while awaiting parts or remedy that is necessary to repair or service vehicle. Specifies conditions for compensation and period during which manufacturer is required to pay compensation.

Prohibits manufacturer from reducing compensation that manufacturer owes to franchisee solely because franchisee submitted claim for or received compensation under Act.

A BILL FOR AN ACT

Relating to service in connection with recalled motor vehicles.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 650.120 to 650.170.

SECTION 2. (1) As used in this section:

(a) "Do not drive order" means a notice in which a manufacturer advises owners of a vehicle not to drive the vehicle until the owner has obtained a repair for a safety defect in the vehicle.

(b) "Stop sale order" means a notice in which a manufacturer prohibits a franchisee from leasing or selling at wholesale or retail a used vehicle in the franchisee's inventory because of a federal recall for a safety defect or a failure to comply with a federal safety standard or a federal emissions standard.

(c) "Valuation" means the average trade-in value shown in an independent third-party

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **guide for the year, make and model of a used vehicle.**

2 **(2) A manufacturer shall compensate the manufacturer's franchisees for all labor and**
3 **parts the manufacturer requires the franchisees to use to perform repairs on vehicles that**
4 **are subject to a recall. The manufacturer shall compensate franchisees in accordance with**
5 **the standards and process for compensation set forth in ORS 650.158.**

6 **(3)(a) Subject to the conditions set forth in paragraphs (b) and (c) of this subsection, a**
7 **manufacturer shall compensate a dealer at a prorated rate of least 1.5 percent of the valu-**
8 **ation of a used vehicle that is subject to a recall during each month in which the dealer holds**
9 **the vehicle for sale while awaiting parts or a remedy that is necessary to repair or service**
10 **the vehicle.**

11 **(b) The manufacturer shall pay the compensation described in paragraph (a) of this sub-**
12 **section:**

13 **(A) If the used vehicle is subject to a federal recall for a safety defect or a failure to**
14 **comply with a federal safety standard or a federal emissions standard;**

15 **(B) If the manufacturer issued a do not drive order or stop sale order for the used ve-**
16 **hicle;**

17 **(C) If the manufacturer has authorized the dealer to sell and service new vehicles of the**
18 **same line-make as the used vehicle that is subject to the recall;**

19 **(D) If the dealer had the used vehicle in the dealer's inventory at the time the man-**
20 **ufacturer issued the do not drive order or stop sale order or if the dealer received the used**
21 **vehicle as a trade-in as part of a consumer's purchase of a new vehicle after the manufac-**
22 **turer issued the do not drive order or stop sale order;**

23 **(E) If a part or remedy necessary to repair or service the used vehicle is not reasonably**
24 **available within 30 days after the manufacturer issued an initial recall notice; and**

25 **(F) For a period that begins 30 days after the date on which the manufacturer issued the**
26 **do not drive order or stop sale order and that ends on the earlier of the following dates:**

27 **(i) The date on which the manufacturer makes available to the dealer a part or remedy**
28 **that is necessary to repair the used vehicle that is subject to the recall; or**

29 **(ii) The date on which the dealer sells, trades or otherwise disposes of the used vehicle**
30 **that is subject to the recall.**

31 **(c) A manufacturer may direct the manner and method by which a dealer must demon-**
32 **strate that the dealer had a used vehicle that was subject to a recall in the dealer's inventory**
33 **as required under paragraph (b)(D) of this subsection. The manufacturer may not require a**
34 **demonstration that is unreasonable or unduly burdensome or require information that is**
35 **unreasonably or unduly burdensome for the dealer to provide.**

36 **(d) This subsection does not require a manufacturer to provide total compensation to a**
37 **dealer that exceeds the valuation of a used vehicle that is subject to a recall.**

38 **(4) A claim for compensation that a franchisee makes under subsection (2) of this section**
39 **or that a dealer makes under subsection (3) of this section is subject to the same require-**
40 **ments and limitations to which a claim for compensation under ORS 650.158 is subject unless:**

41 **(a) The manufacturer compensates the franchisee or the dealer under a national program**
42 **that provides compensation for recall service or repairs that is equal to or greater than the**
43 **compensation the manufacturer would provide under subsection (3) of this section; or**

44 **(b) The manufacturer and franchisee or dealer agree to different compensation.**

45 **(5)(a) A manufacturer may not reduce compensation that the manufacturer owes to a**

1 franchisee by means of a chargeback, reducing the amount the manufacturer owes a
2 franchisee under or removing a franchisee from an incentive program or any other means
3 solely because the franchisee submitted a claim for or received compensation under this
4 section.

5 (b) This subsection does not prohibit a manufacturer from modifying or discontinuing an
6 incentive program or other program prospectively or from making ordinary business deci-
7 sions.

8 (c) A franchisee may contest the amount of compensation a manufacturer provides under
9 this section in accordance with the procedures set forth in ORS 650.158.

10 (6) A remedy that a dealer obtains under this section is exclusive and may not be com-
11 bined with other compensation or remedies that are available under state or federal law or
12 state or federal compensation programs.

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