

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018
COMMITTEE STATEMENT
LB860

Hearing Date: Monday January 22, 2018
Committee On: Transportation and Telecommunications
Introducer: Friesen
One Liner: Provide for compensation for motor vehicle dealers affected by recalls and stop-sale orders

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye:	7	Senators Bostelman, Friesen, Geist, Hilgers, Hughes, Murante, Smith
Nay:		
Absent:	1	Senator Briese
Present Not Voting:		

Verbal Testimony:

Proponents:

Senator Curt Friesen
Loy Todd

Representing:

Legislative District 34
Nebraska New Car Dealers Association

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

This bill would amend and add new sections to the Motor Vehicle Industry Regulation Act. The bill deals with vehicle manufacturers who order their new vehicle franchisees to stop the sale or lease of certain used motor vehicles due to a federal safety recall for a defect or due to a federal emissions recall.

Section 3 of the bill provides the definition of stop-sale order. The order is defined as a notification issued by a manufacturer or other entity to its franchised new motor vehicle dealers stating that certain used motor vehicles in inventory shall not be sold or leased, due to a federal safety recall for a defect or a noncompliance or due to a federal emissions recall.

Section 4 is the meat of the bill. Subsection (1) provides for compensation by manufacturers of dealers for recall repairs. Compensation shall be reasonable, and if parts or a remedy are not available within thirty days after the initial notice of recall and a stop-sale or do-not-drive order has been issued, the manufacturer shall compensate the dealer at a prorated rate of at least one percent of the value of the used motor vehicle per month. That compensation will begin on the date that is thirty days after the date on which the stop-sale or a do-not-drive order was provided until: (a) the date parts to remedy the recall are made available; or (b) the date the dealer sells, trades, or otherwise disposes of the vehicle.

Subsection (2) fixes the value of the vehicle for purposes of compensation. The value shall be the average trade-in value for used vehicles as indicated in an independent third party guide.

Subsection (3) clarifies that the provisions of Section 4 apply only to those situations where a used motor vehicle is (a)

subject to a safety or emissions recall; (b) pursuant to and recalled in accordance with federal law; and (c) if a stop-sale or do-not-drive order has been issued and repair parts or remedy remain unavailable for thirty days or longer.

Subsection (4) provides that Section 4 only applies to new motor vehicle dealers who (a) hold an affected motor vehicle in inventory at the time a stop-sale or do-not-drive order was issued; or (b) when a vehicle was taken into inventory as a trade-in incident to the purchase of a new vehicle after the stop-sale or do-not-drive order was issued.

Subsection (5) provides that it shall be a violation for a manufacturer to reduce the amount of compensation through other dealer incentives to dealers because a dealer has submitted a claim for reimbursement under Section 4, unless the action is applied uniformly among all new motor dealers by that franchiser in the state.

Subsection (6) provides that reimbursement claims pursuant to Section 4 shall be subject to the same limitations as a warranty reimbursement claim made under Neb. Rev. Stat. Section 60-1438. As an alternative, the manufacturer may compensate the franchised dealers under a national recall compensation program if the compensation equals or exceeds the compensation provided in subsection (1). As another alternative, the manufacturer and franchised dealer may agree to a different compensation plan.

Subsection (7) allows the manufacturer to direct the manner and method by which the franchised dealer demonstrates the inventory status of the used vehicle to determine eligibility for the compensation.

Subsection (8) clarifies that nothing in Section 4 shall require a manufacturer to provide total compensation to a franchised dealer that would exceed to total average trade-in value of the affected used motor vehicle as determined under subsection (2).

Subsection (9) provides that a remedy under this bill is exclusive and shall not be combined with any other state or federal recall compensation remedy.

Curt Friesen, Chairperson