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3 SENATE TRANSPORTATION & ENERGY COMMITTEE SUBSTITUTE FOR SB178  
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8 SYNOPSIS: Under existing law, the Motor Vehicle  
9 Franchise Act regulates dealings between  
10 manufacturers and distributors or wholesalers of  
11 new motor vehicles and their dealers. Existing law  
12 governs warranty repairs required under a  
13 manufacturer's warranty, but does not cover recall  
14 repairs.

15 This bill would specify provisions for the  
16 payment of new motor vehicle dealers for recall  
17 repairs, including costs associated with a recall  
18 when a vehicle is held in a dealer's used car  
19 inventory and parts are not reasonably available to  
20 perform a recall repair.  
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22 A BILL  
23 TO BE ENTITLED  
24 AN ACT  
25

1           To add Section 8-20-7.1 to the Code of Alabama 1975,  
2 relating to the Motor Vehicle Franchise Act, to specify the  
3 payment of recall repairs by manufacturers and distributors or  
4 wholesalers of new motor vehicles to their dealers.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6           Section 1. Section 8-20-7.1 is added to the Code of  
7 Alabama 1975, to read as follows:

8           §8-20-7.1.

9           (a) For the purposes of this section, the following  
10 words have the following meanings:

11           (1) MANUFACTURER. A manufacturer, distributor or  
12 wholesaler, or distributor branch.

13           (2) STOP-SALE ORDER. A notification issued by a  
14 manufacturer to its franchised new motor vehicle dealer  
15 stating that certain used vehicles in inventory shall not be  
16 sold or leased, at either retail or wholesale, due to a  
17 federal safety recall for a defect or a noncompliance, or a  
18 federal emissions recall.

19           (b) A manufacturer shall compensate its new motor  
20 vehicle dealers for all labor and parts required by the  
21 manufacturer to perform recall repairs. Compensation for  
22 recall repairs shall be reasonable. If parts or a remedy are  
23 not reasonably available to perform a recall service or repair  
24 on a used vehicle held for sale by a dealer authorized to sell  
25 and service new vehicles of the same line-make within 30 days  
26 of the manufacturer issuing the initial notice of recall, and

1 the manufacturer has issued a Stop-Sale or Do-Not-Drive order  
2 on the vehicle, the manufacturer shall compensate the dealer  
3 at a prorated rate of at least one percent of the value of the  
4 vehicle per month beginning on the date that is 30 days after  
5 the date on which the Stop-Sale or Do-Not-Drive order was  
6 provided to the dealer until the earlier of either of the  
7 following:

8 (1) The date the recall or remedy parts are made  
9 available; or

10 (2) The date the dealer sells, trades, or otherwise  
11 disposes of the affected used motor vehicle.

12 (c) The value of a used vehicle shall be the average  
13 trade-in value for used vehicles as indicated in an  
14 independent third party guide for the year, make, and model,  
15 of the recalled vehicle.

16 (d) This section shall apply only to used vehicles  
17 subject to safety or emissions recalls pursuant to and  
18 recalled in accordance with federal law and regulations  
19 adopted thereunder and where a Stop-Sale or Do-Not-Drive order  
20 has been issued and repair parts or remedy remain unavailable  
21 for 30 days or longer. This section further shall apply only  
22 to new motor vehicle dealers holding an affected used vehicle  
23 for sale:

24 (1) In inventory at the time the Stop-Sale or  
25 Do-Not-Drive order was issued; or

1           (2) Which was taken in the used vehicle inventory of  
2 the dealer as a consumer trade-in incident to the purchase of  
3 a new vehicle from the dealer after the Stop-Sale or  
4 Do-Not-Drive order was issued; and

5           (3) That are a line-make that the dealer is  
6 franchised to sell or on which the dealer is authorized to  
7 perform recall repairs.

8           (e) Subject to the audit provisions of subsection  
9 (d) of Section 8-20-7, it shall be a violation of this section  
10 for a manufacturer to reduce the amount of compensation  
11 otherwise owed to an individual new motor vehicle dealer,  
12 whether through a chargeback, removal of the individual dealer  
13 from an incentive program or reduction in amount owed under an  
14 incentive program solely because the new motor vehicle dealer  
15 has submitted a claim for reimbursement under this section.  
16 This subsection shall not apply to an action by a manufacturer  
17 that is applied uniformly among all dealers of the same  
18 line-make in the state.

19           (f) All reimbursement claims made by new motor  
20 vehicle dealers pursuant to this section for recall remedies  
21 or repairs, or for compensation where no part or repair is  
22 reasonably available and the vehicle is subject to a Stop-Sale  
23 or Do-Not-Drive order shall be subject to the same limitations  
24 and requirements as a warranty reimbursement claim made under  
25 subsection (d) of Section 8-20-7. In the alternative, a  
26 manufacturer may compensate its franchised dealers under a

1 national recall compensation program provided the compensation  
2 under the program is equal to or greater than that provided  
3 under subsection (b) or the manufacturer and dealer otherwise  
4 agree.

5 (g) A manufacturer may direct the manner and method  
6 in which a dealer must demonstrate the inventory status of an  
7 affected used motor vehicle to determine eligibility under  
8 this section, provided that the manner and method may not be  
9 unduly burdensome and may not require information that is  
10 unduly burdensome to provide.

11 (h) Nothing in this section shall require a  
12 manufacturer to provide total compensation to a dealer which  
13 would exceed the total average trade-in value of the affected  
14 used motor vehicle as originally determined under subsection  
15 (c).

16 (i) Any remedy provided to a dealer under this  
17 section is exclusive and may not be combined with any other  
18 state or federal recall compensation remedy.

19 Section 2. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.