

SENATE BILL 587

I3, R4

5lr2730
CF 5lr0469

By: **Senator Middleton**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Consumer Protection – Motor Vehicle Manufacturers,**
3 **Distributors, and Factory Branches**

4 FOR the purpose of prohibiting a motor vehicle manufacturer, distributor, or factory branch
5 from committing certain acts relating to motor vehicle pricing; requiring a
6 manufacturer, distributor, or factory branch to ensure that any advertisement it
7 directs to consumers relating to rebate and sales incentive claims meets certain
8 requirements; prohibiting a manufacturer, distributor, or factory branch from
9 retaliating against certain persons because of the enactment of legislation that
10 regulates the franchise relationship; prohibiting a manufacturer, distributor, or
11 factory branch from sanctioning or denying benefits to a dealer because of certain
12 speech used by the dealer; limiting the amount that a manufacturer may charge a
13 dealer for a sales incentive the dealer gives to a consumer under certain
14 circumstances; providing that a violation of this Act is an unfair or deceptive trade
15 practice under the Maryland Consumer Protection Act and is subject to certain
16 enforcement and penalty provisions; defining certain terms; and generally relating
17 to consumer protection and motor vehicle manufacturers, distributors, and factory
18 branches.

19 BY adding to

20 Article – Commercial Law

21 Section 14–4101 through 14–4107 to be under the new subtitle “Subtitle 41. Motor
22 Vehicle Manufacturers, Distributors, and Factory Branches”

23 Annotated Code of Maryland

24 (2013 Replacement Volume and 2014 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

27 **Article – Commercial Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **SUBTITLE 41. MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND FACTORY**
2 **BRANCHES.**

3 **14-4101.**

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "CONSUMER" MEANS THE PURCHASER, OTHER THAN FOR PURPOSES OF
7 RESALE, OF A NEW MOTOR VEHICLE.

8 (C) "DEALER" HAS THE MEANING STATED IN § 15-101(C) OF THE
9 TRANSPORTATION ARTICLE.

10 (D) "MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH" HAS THE
11 MEANING STATED IN § 14-1501 OF THIS ARTICLE.

12 (E) "MOTOR VEHICLE" MEANS A VEHICLE THAT IS REGISTERED IN THE
13 STATE AS A:

14 (1) CLASS A (PASSENGER) VEHICLE;

15 (2) CLASS D (MOTORCYCLE) VEHICLE;

16 (3) CLASS E (TRUCK) VEHICLE WITH A 3/4 TON OR LESS
17 MANUFACTURER'S RATED CAPACITY; OR

18 (4) CLASS M (MULTIPURPOSE) VEHICLE.

19 (F) "REBATE" MEANS A PAYMENT FROM A MANUFACTURER, DISTRIBUTOR,
20 OR FACTORY BRANCH TO A CONSUMER FOR BUYING A SPECIFIC MAKE OF VEHICLE
21 DURING A CERTAIN TIME PERIOD.

22 (G) "SALES INCENTIVE" MEANS A PAYMENT FROM A MANUFACTURER,
23 DISTRIBUTOR, OR FACTORY BRANCH TO A DEALER FOR SELLING A SPECIFIC MAKE
24 OF VEHICLE DURING A CERTAIN TIME PERIOD.

25 **14-4102.**

26 A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT COMMIT
27 ANY ACT THAT DIRECTLY OR INDIRECTLY:

1 **(1) PREVENTS A CONSUMER FROM HAVING THE SAME OPPORTUNITY**
2 **TO NEGOTIATE A LOWER PRICE FOR A NEW MOTOR VEHICLE THAT IS AVAILABLE TO**
3 **ALL DEALERS OF THE SAME LINE MAKE; OR**

4 **(2) CAUSES A REDUCTION IN THE FINAL PRICE PAID FOR A NEW**
5 **MOTOR VEHICLE BY AT LEAST ONE DEALER BUT NOT ALL DEALERS OF THE SAME**
6 **LINE MAKE.**

7 **14-4103.**

8 **IN ANY ADVERTISEMENT IT DIRECTS TO CONSUMERS, A MANUFACTURER,**
9 **DISTRIBUTOR, OR FACTORY BRANCH SHALL ENSURE THAT:**

10 **(1) (I) THE PRICE OF A NEW MOTOR VEHICLE OR ANY SAVINGS**
11 **CLAIM INVOLVING A NEW MOTOR VEHICLE REFLECTS ONLY REBATES AND SALES**
12 **INCENTIVES AVAILABLE TO ALL CONSUMERS; AND**

13 **(II) ANY REBATE OR SALES INCENTIVE AMOUNT IS SHOWN IN**
14 **CLOSE PROXIMITY TO THE PRICE OR SAVINGS CLAIM;**

15 **(2) THE TIME PERIOD DURING WHICH A REBATE OR SALES INCENTIVE**
16 **IS IN EFFECT IS CLEARLY AND CONSPICUOUSLY STATED; AND**

17 **(3) A SAVINGS OR PRICE REDUCTION CLAIM INVOLVING A NEW**
18 **MOTOR VEHICLE FOR WHICH A REBATE OR SALES INCENTIVE IS AVAILABLE:**

19 **(I) INCLUDES A STATEMENT OF THE MINIMUM AND MAXIMUM**
20 **POSSIBLE SAVINGS; AND**

21 **(II) DOES NOT INCLUDE A MISLEADING DISPLAY OF THE**
22 **MAXIMUM POSSIBLE SAVINGS.**

23 **14-4104.**

24 **A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, WHETHER**
25 **DIRECTLY OR THROUGH AN AGENT, AN EMPLOYEE, AN AFFILIATE, OR A**
26 **REPRESENTATIVE, MAY NOT RETALIATE OR CONTINUE TO RETALIATE AGAINST A**
27 **DEALER, A DEALER'S EMPLOYEES, OR A DEALER'S CONSUMERS BECAUSE OF**
28 **LEGISLATION PASSED BY THE GENERAL ASSEMBLY AND ENACTED INTO LAW THAT**
29 **REGULATES THE FRANCHISE RELATIONSHIP.**

30 **14-4105.**

1 **A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT SANCTION**
2 **OR DENY BENEFITS TO A DEALER BECAUSE OF SPEECH USED BY THE DEALER IF THE**
3 **SPEECH IS LAWFUL AND NOT DECEPTIVE.**

4 **14-4106.**

5 **IF A DEALER CAN SHOW THAT A SALES INCENTIVE WAS GIVEN TO A CONSUMER**
6 **IN THE NORMAL COURSE OF THE DEALER'S BUSINESS AND THAT NO FRAUD WAS**
7 **INVOLVED, A MANUFACTURER MAY CHARGE A DEALER ONLY FOR THE PORTION OF**
8 **THE SALES INCENTIVE THAT EXCEEDS THE SALES INCENTIVE AMOUNT PAID TO**
9 **OTHER DEALERS IN THE STATE FOR VEHICLES OF THE SAME LINE MAKE.**

10 **14-4107.**

11 **A VIOLATION OF THIS SUBTITLE IS:**

12 **(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE**
13 **MEANING OF TITLE 13 OF THIS ARTICLE; AND**

14 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
15 **CONTAINED IN TITLE 13 OF THIS ARTICLE.**

16 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
17 **October 1, 2015.**