

SENATE BILL 178

R4
SB 526/19 – JPR

0lr1725
CF HB 212

By: **Senators Hough, Lee, Ready, Smith, and Waldstreicher**

Introduced and read first time: January 13, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 13, 2020

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Manufacturers and Dealers – ~~Advertisements~~ Prices Listed on**
3 **Dealer Websites**

4 FOR the purpose of providing that a manufacturer, distributor, or factory branch may not
5 prohibit a dealer from listing on the dealer's website ~~advertising~~ a vehicle for sale or
6 lease at a certain price or coerce or require a dealer to ~~change the advertising medium~~
7 ~~for a certain price~~ list a certain price on the dealer's website or take an adverse action
8 against a dealer for listing a certain price on the dealer's website; requiring a
9 ~~contract for the sale of a vehicle by a dealer to contain a certain statement;~~ defining
10 a certain term; and generally relating to advertising for the sale or lease of vehicles.

11 BY repealing and reenacting, with amendments,
12 Article – Transportation
13 Section 15–207(a) and (h) ~~and 15–311(a)~~
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Transportation
18 Section 15–313(a) and (b)
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Transportation

15–207.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Coerce” means to compel or attempt to compel by threat of harm, breach of contract, or other adverse action or consequences, including the loss of any incentive or other benefit made available to other dealers of the same line make in the State.

(ii) “Coerce” includes to act in a manner that violates § 15–206.1 of this subtitle.

(iii) “Coerce” does not include to argue, urge, recommend, or persuade.

(3) **“PURCHASE PRICE” MEANS THE FULL DELIVERED PRICE OF A VEHICLE, EXCLUDING ONLY TAXES, TITLE FEES, AND ANY FREIGHT OR DEALER PROCESSING CHARGE DISCLOSED IN ACCORDANCE WITH § 15–311.1 OF THIS TITLE.**

(4) “Require” means to impose upon a dealer a provision not required by law or previously agreed to by a dealer in a franchise agreement, excluding business decisions made to comply with the requirements of this title by a manufacturer, distributor, or factory branch which are uniformly applied to all Maryland dealers in new vehicles of the manufacturer, distributor, or factory branch.

(h) (1) (i) Any consumer rebates, dealer incentives, price or interest rate reductions, or finance terms that a manufacturer, distributor, or factory branch offers or advertises, or allows its dealers to offer or advertise, shall be offered to all dealers of the same line make.

(ii) Any manufacturer, distributor, or factory branch that denies the benefit of any consumer rebates, dealer incentives, price or interest rate reductions, or finance terms to a dealer on the basis that the dealer failed to comply with performance standards has the burden of proving that the performance standards comply with the provisions of this section.

(2) Unless a dealer violates a State or local law intended to protect the public, a manufacturer, distributor, or factory branch may not:

(i) Require a dealer to alter or replace an existing dealership facility; or

(ii) Deny, or threaten to deny, any benefit generally available to all dealers for a dealer’s failure to alter or replace an existing dealership facility.

(3) UNLESS A DEALER VIOLATES § 15-313(A) OR (B) OF THIS TITLE OR A STATE OR LOCAL LAW INTENDED TO PROTECT THE PUBLIC, A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT:

(I) PROHIBIT A DEALER FROM ~~ADVERTISING~~ LISTING A VEHICLE FOR SALE OR LEASE ON THE DEALER'S WEBSITE AT THE PURCHASE PRICE; ~~OR~~

(II) COERCE OR REQUIRE A DEALER TO ~~CHANGE THE MEDIUM FOR ADVERTISEMENT OF THE PURCHASE PRICE~~ LIST A PRICE ON THE DEALER'S WEBSITE THAT IS DIFFERENT FROM THE PURCHASE PRICE OF A VEHICLE; OR

(III) TAKE AN ADVERSE ACTION AGAINST A DEALER FOR LISTING A VEHICLE FOR SALE AT A PARTICULAR PRICE ON THE DEALER'S WEBSITE.

[(3)] (4) A manufacturer, distributor, or factory branch may not reduce the price of a motor vehicle charged to a dealer or provide different financing terms to a dealer in exchange for the dealer's agreement to:

(i) Maintain an exclusive sales or service facility;

(ii) Build or alter a sales or service facility; or

(iii) Participate in a floor plan or other financing arrangement.

(5) NOTHING IN THIS SUBSECTION PROHIBITS A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH FROM REQUIRING ALL DEALERS TO INCLUDE FREIGHT OR DEALER PROCESSING CHARGES IN THE PRICES LISTED ON A DEALER'S WEBSITE.

~~15-311.~~

~~(a) A contract for the sale of a vehicle by a dealer shall contain a clear statement of:~~

~~(1) The principal amount charged for the vehicle;~~

~~(2) Any interest charged on the principal amount;~~

~~(3) Any fee charged under § 13-610 of this article;~~

~~(4) Any dealer processing charge, as defined in § 15-311.1 of this subtitle;~~

~~[and]~~

~~(5) THE MANUFACTURER'S MINIMUM ADVERTISED PRICE, PLACED
ADJACENT TO THE WORDS "NOT THE FINAL PRICE AVAILABLE TO CONSUMERS", ALL
TO BE TYPED IN A 10 POINT FONT SIZE OR GREATER; AND~~

~~(6) Any other charge made in connection with the sale of the vehicle.~~

15-313.

(a) A dealer or an agent or employee of a dealer may not use any advertisement that is in any way false, deceptive, or misleading.

(b) A dealer or an agent or employee of a dealer may not by any means advertise or offer to the public any vehicle without intent to sell it as advertised or offered.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.