

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 860

Introduced by Friesen, 34.

Read first time January 05, 2018

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to the Motor Vehicle Industry Regulation Act;
2 to amend sections 60-1401 and 60-1401.02, Revised Statutes
3 Cumulative Supplement, 2016; to provide for compensation for recall
4 repairs and certain orders affecting used motor vehicles as
5 prescribed; to harmonize provisions; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-1401, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 60-1401 Sections 60-1401 to 60-1440 and sections 3 and 4 of this act
4 shall be known and may be cited as the Motor Vehicle Industry Regulation
5 Act.

6 Any amendments to the act shall apply to franchises subject to the
7 act which are entered into, amended, altered, modified, renewed, or
8 extended after the date of the amendments to the act except as otherwise
9 specifically provided in the act.

10 All amendments to the act shall apply upon the issuance or renewal
11 of a dealer's or manufacturer's license.

12 Sec. 2. Section 60-1401.02, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 60-1401.02 For purposes of the Motor Vehicle Industry Regulation
15 Act, the definitions found in sections 60-1401.03 to 60-1401.40 and
16 60-1401.42 and section 3 of this act apply.

17 Sec. 3. Stop-sale order means a notification issued by a
18 manufacturer, distributor, factory branch, or distributor branch to its
19 franchised new motor vehicle dealers stating that certain used motor
20 vehicles in inventory shall not be sold or leased, at either retail or
21 wholesale, due to a federal safety recall for a defect or a noncompliance
22 or due to a federal emissions recall.

23 Sec. 4. (1) A manufacturer, distributor, factory branch, or
24 distributor branch shall compensate its new motor vehicle dealers for all
25 labor and parts required by the manufacturer, distributor, factory
26 branch, or distributor branch to perform recall repairs on used motor
27 vehicles. Compensation for recall repairs shall be reasonable. If parts
28 or a remedy are not reasonably available to perform a recall service or
29 repair on a used motor vehicle held for sale by a new motor vehicle
30 dealer authorized to sell and service new motor vehicles of the same
31 line-make within thirty days after the initial notice of recall, and a

1 stop-sale or do-not-drive order has been issued on the motor vehicle, the
2 manufacturer, distributor, factory branch, or distributor branch shall
3 compensate the new motor vehicle dealer at a prorated rate of at least
4 one percent of the value of the used motor vehicle per month beginning on
5 the date that is thirty days after the date on which the stop-sale or do-
6 not-drive order was provided to the new motor vehicle dealer until the
7 earlier of either of the following:

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

9 (b) The date the new motor vehicle dealer sells, trades, or
10 otherwise disposes of the affected used motor vehicle.

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

14 (3) This section applies only to used motor vehicles subject to
15 safety or emissions recalls pursuant to and recalled in accordance with
16 federal law and regulations adopted thereunder and if a stop-sale or do-
17 not-drive order has been issued and repair parts or remedy remain
18 unavailable for thirty days or longer.

19 (4) This section applies only to new motor vehicle dealers holding
20 an affected used motor vehicle for sale:

21 (a)(i) In inventory at the time a stop-sale or do-not-drive order
22 was issued; or

23 (ii) Which was taken in the used motor vehicle inventory of the new
24 motor vehicle dealer as a consumer trade-in incident to the purchase of a
25 new motor vehicle from the new motor vehicle dealer after the stop-sale
26 or do-not-drive order was issued; and

27 (b) That is of a line-make which the new motor vehicle dealer is
28 franchised to sell or on which the new motor vehicle dealer is authorized
29 to perform recall repairs.

30 (5) Subject to the audit provisions of subsection (5) of section
31 60-1438, it shall be a violation of this section for a manufacturer,

1 distributor, factory branch, or distributor branch to reduce the amount
2 of compensation otherwise owed to an individual new motor vehicle dealer,
3 whether through a chargeback, removal of the individual new motor vehicle
4 dealer from an incentive program, or reduction in amount owed under an
5 incentive program solely because the new motor vehicle dealer has
6 submitted a claim for reimbursement under this section. This subsection
7 does not apply to an action by a manufacturer, distributor, factory
8 branch, or distributor branch that is applied uniformly among all new
9 motor vehicle dealers of the same line-make in the state.

10 (6) Any reimbursement claim made by a new motor vehicle dealer
11 pursuant to this section for recall remedies or repairs, or for
12 compensation where no part or repair is reasonably available and the used
13 motor vehicle is subject to a stop-sale or do-not-drive order, shall be
14 subject to the same limitations and requirements as a warranty
15 reimbursement claim made under section 60-1438. In the alternative, a
16 manufacturer, distributor, factory branch, or distributor branch may
17 compensate its franchised new motor vehicle dealers under a national
18 recall compensation program if the compensation under the program is
19 equal to or greater than that provided under subsection (1) of this
20 section; or the new motor vehicle dealer and the manufacturer,
21 distributor, factory branch, or distributor branch otherwise agree.

22 (7) A manufacturer, distributor, factory branch, or distributor
23 branch may direct the manner and method in which a new motor vehicle
24 dealer demonstrates the inventory status of an affected used motor
25 vehicle in order to determine eligibility for compensation under this
26 section so long as the manner and method are not unduly burdensome and do
27 not require information that is unduly burdensome to provide.

28 (8) Nothing in this section shall require a manufacturer,
29 distributor, factory branch, or distributor branch to provide total
30 compensation to a new motor vehicle dealer which would exceed the total
31 average trade-in value of the affected used motor vehicle as originally

1 determined under subsection (2) of this section.

2 (9) Any remedy provided to a new motor vehicle dealer under this
3 section is exclusive and shall not be combined with any other state or
4 federal recall compensation remedy.

5 Sec. 5. Original sections 60-1401 and 60-1401.02, Revised Statutes
6 Cumulative Supplement, 2016, are repealed.