

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0943.01 Jery Payne x2157

SENATE BILL 17-210

SENATE SPONSORSHIP

Scott,

HOUSE SPONSORSHIP

(None),

Senate Committees

Transportation

House Committees

A BILL FOR AN ACT

101 CONCERNING A DUTY TO REIMBURSE MOTOR VEHICLE DEALERS WHEN
102 ISSUING A STOP-SALE DIRECTIVE DUE TO A SAFETY DEFECT
103 AFFECTING A USED MOTOR VEHICLE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the manufacturer or distributor to reimburse a motor vehicle dealer for any stop-sale directive from 90 days after the directive is issued until the vehicle is sold or a repair solution is provided. The reimbursement rate is one percent of the wholesale value per month. The duty to reimburse occurs when:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! The motor vehicle is a used motor vehicle;
- ! The motor vehicle dealer holds an active sales, service, and parts agreement with the manufacturer or distributor for the line-make of the used motor vehicle;
- ! The motor vehicle is in the motor vehicle dealer's inventory when the stop-sale directive is issued; and
- ! The manufacturer or distributor does not provide a remedy procedure or make a part available to repair the used motor vehicle for more than 90 days after the stop-sale directive is issued.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-6-132 as
3 follows:

4 **12-6-132. Stop-sale directives - used motor vehicles -**
5 **definitions.** (1) FOR THE PURPOSES OF THIS SECTION:

6 (a) "STOP-SALE DIRECTIVE" MEANS AN UNCONDITIONAL DIRECTIVE
7 FROM A MANUFACTURER OR DISTRIBUTOR TO A MOTOR VEHICLE DEALER
8 TO NOT SELL A TYPE OF MOTOR VEHICLE MANUFACTURED BY THE
9 MANUFACTURER OR DISTRIBUTED BY THE DISTRIBUTOR BECAUSE OF A
10 SAFETY DEFECT.

11 (b) "WHOLESALE VALUE" MEANS THE VALUE OF A USED MOTOR
12 VEHICLE AS ESTABLISHED BY A GENERALLY ACCEPTED, PUBLISHED,
13 THIRD-PARTY USED VEHICLE RESOURCE.

14 (2) A MANUFACTURER OR DISTRIBUTER SHALL REIMBURSE A
15 MOTOR VEHICLE DEALER IN ACCORDANCE WITH SUBSECTION (3) OF THIS
16 SECTION IF:

17 (a) THE MANUFACTURER OR DISTRIBUTOR ISSUES A STOP-SALE
18 DIRECTIVE FOR A MOTOR VEHICLE MANUFACTURED OR DISTRIBUTED BY
19 THE ISSUER OF THE STOP-SALE DIRECTIVE;

20 (b) THE MOTOR VEHICLE DEALER HOLDS AN ACTIVE SALES,

1 SERVICE, AND PARTS AGREEMENT WITH THE MANUFACTURER OR
2 DISTRIBUTOR FOR THE LINE-MAKE OF THE USED MOTOR VEHICLE COVERED
3 BY THE STOP-SALE DIRECTIVE;

4 (c) THE USED MOTOR VEHICLE COVERED BY THE STOP-SALE
5 DIRECTIVE IS HELD IN THE INVENTORY OF THE MOTOR VEHICLE DEALER ON
6 THE DATE THE STOP-SALE DIRECTIVE IS ISSUED; AND

7 (d) THE MANUFACTURER OR DISTRIBUTOR HAS NOT PROVIDED A
8 REMEDY PROCEDURE OR MADE PARTS AVAILABLE TO REPAIR THE USED
9 MOTOR VEHICLE FOR MORE THAN NINETY DAYS AFTER THE STOP-SALE
10 DIRECTIVE IS ISSUED.

11 (3) IF THE CONDITIONS IN SUBSECTION (2) OF THIS SECTION ARE
12 MET, THE MANUFACTURER OR DISTRIBUTOR SHALL, UPON APPLICATION BY
13 THE MOTOR VEHICLE DEALER, PAY OR CREDIT THE DEALER ONE PERCENT
14 PER MONTH OF THE AVERAGE WHOLESALE VALUE OF THE USED MOTOR
15 VEHICLE'S MODEL PRORATED FROM NINETY DAYS AFTER THE STOP-SALE
16 DIRECTIVE WAS ISSUED TO THE EARLIER OF:

17 (a) THE DATE WHEN THE MANUFACTURER OR DISTRIBUTOR
18 PROVIDES THE MOTOR VEHICLE DEALER WITH A REMEDY PROCEDURE AND
19 ANY NECESSARY PARTS FOR ORDERING TO REPAIR THE USED MOTOR
20 VEHICLE; OR

21 (b) THE DATE THE MOTOR VEHICLE DEALER TRANSFERS THE
22 MOTOR VEHICLE.

23 (4) A MANUFACTURER OR DISTRIBUTOR MAY DETERMINE THE
24 MANNER AND METHOD REQUIRED FOR A MOTOR VEHICLE DEALER TO
25 DEMONSTRATE THE INVENTORY STATUS OF A USED MOTOR VEHICLE TO
26 DETERMINE ELIGIBILITY FOR REIMBURSEMENT.

27 (5) (a) THIS SECTION APPLIES ONLY TO USED MOTOR VEHICLES.

1 (b) THIS SECTION IS NOT INTENDED TO PREVENT A MANUFACTURER
2 OR DISTRIBUTOR FROM REQUIRING THAT A MOTOR VEHICLE NOT BE
3 SUBJECT TO AN OPEN RECALL OR STOP-SALE DIRECTIVE FOR THE MOTOR
4 VEHICLE TO BE QUALIFIED OR SOLD AS A CERTIFIED PREOWNED VEHICLE OR
5 SUBSTANTIALLY SIMILAR DESIGNATION.

6 (c) THIS SECTION DOES NOT REQUIRE A MANUFACTURER OR
7 DISTRIBUTOR TO PROVIDE TOTAL COMPENSATION TO A MOTOR VEHICLE
8 DEALER THAT WOULD EXCEED THE TOTAL AVERAGE WHOLESALE
9 VALUATION OF THE AFFECTED USED MOTOR VEHICLE.

10 (d) THIS SECTION DOES NOT PRECLUDE A MOTOR VEHICLE DEALER
11 AND A MANUFACTURER OR DISTRIBUTOR FROM AGREEING TO
12 REIMBURSEMENT TERMS THAT DIFFER FROM THOSE SPECIFIED IN THIS
13 SECTION.

14 (e) A REMEDY PROVIDED TO A MOTOR VEHICLE DEALER UNDER
15 THIS SECTION IS EXCLUSIVE AND MAY NOT BE COMBINED WITH ANY OTHER
16 REMEDY UNDER STATE OR FEDERAL LAW.

17 **SECTION 2. Act subject to petition - effective date -**
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
19 the expiration of the ninety-day period after final adjournment of the
20 general assembly (August 9, 2017, if adjournment sine die is on May 10,
21 2017); except that, if a referendum petition is filed pursuant to section 1
22 (3) of article V of the state constitution against this act or an item, section,
23 or part of this act within such period, then the act, item, section, or part
24 will not take effect unless approved by the people at the general election
25 to be held in November 2018 and, in such case, will take effect on the
26 date of the official declaration of the vote thereon by the governor.

1 (2) This act applies to stop-sale directives issued on or after the
2 applicable effective date of this act.