

A-Engrossed
House Bill 2739

Ordered by the House May 1
Including House Amendments dated May 1

Sponsored by Representative ESQUIVEL

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies motor vehicle inventory for which dealer may be allowed fair and reasonable compensation upon termination, cancellation, nonrenewal or discontinuance of franchise.
Increases amount of damage to new motor vehicle requiring disclosure to prospective purchaser.

A BILL FOR AN ACT

1
2 Relating to motor vehicle dealerships; creating new provisions; and amending ORS 650.145 and
3 650.155.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 650.145 is amended to read:

6 650.145. (1) As used in subsection (2) of this section, "fair and reasonable compensation" means
7 the amount originally paid by the dealer minus any incentive payments, model close-out allowances
8 or any other programs applicable to the vehicles.

9 (2) Upon the termination, cancellation, nonrenewal or discontinuance of any franchise, the
10 dealer shall be allowed fair and reasonable compensation by the manufacturer, distributor or
11 importer for the following:

12 (a) All new [*current model year*] **vehicles manufactured in the current calendar year and**
13 **any subsequent calendar year in the** motor vehicle inventory [*with a gross vehicle weight rating*
14 *of less than 8,500 pounds*] purchased from the manufacturer, distributor or importer that [*has*] **have**
15 not been materially altered, substantially damaged or driven for more than 300 miles;

16 (b) All new **vehicles in the** motor vehicle inventory that [*has*] **have** not been materially altered
17 or substantially damaged, provided that the vehicles:

18 (A) If motor vehicles with a gross vehicle weight rating of less than 8,500 pounds, were not
19 driven for more than 300 miles, were purchased directly from the manufacturer, distributor or
20 importer within 120 days of the effective date of the termination, cancellation, nonrenewal or dis-
21 continuance and were either paid for or drafted on the dealer's financing source; or

22 (B) If motor vehicles with a gross vehicle weight rating of 8,500 pounds or more, were not driven
23 more than [*4,000*] **3,500** miles, were purchased directly from the manufacturer, distributor or
24 importer within one year of the effective date of the termination, cancellation, nonrenewal or dis-
25 continuance and were either paid for or drafted on the dealer's financing source;

26 (c) Supplies and parts inventory purchased from the manufacturer, distributor or importer and
27 listed in the manufacturer's, distributor's or importer's current parts catalog;

28 (d) Equipment, furnishings and signs purchased from the manufacturer, distributor or importer

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 and required by the manufacturer, distributor or importer that have not been materially altered, or
2 substantially damaged or depreciated over 50 percent of the original value; and

3 (e) Special tools purchased from the manufacturer, distributor or importer within three years
4 of the date of termination, cancellation, nonrenewal or discontinuance and required by the man-
5 ufacturer that have not been materially altered, or substantially damaged or depreciated over 50
6 percent of the original value.

7 (3) Nothing in this section is intended to modify the manufacturer's, distributor's or importer's
8 contractual right of setoff.

9 (4) Upon the termination, cancellation, nonrenewal or discontinuance of a franchise, the man-
10 ufacturer, distributor or importer shall also pay to the dealer a sum equal to the current, fair rental
11 value of the dealer's established place of business for a period of one year from the effective date
12 of termination, cancellation, nonrenewal or discontinuance or the remaining period of any lease,
13 whichever is less.

14 (5) Subsection (4) of this section shall apply only to the extent that the dealer's established place
15 of business is used for performance of sales and service obligations under the manufacturer's, dis-
16 tributor's or importer's franchise agreement.

17 (6) In the event that termination is by the dealer, the payment required by subsection (4) of this
18 section is not required.

19 (7) This section shall not relieve a new motor vehicle dealer, lessor or other owner of an es-
20 tablished place of business from the obligation of mitigating damages.

21 **SECTION 2.** ORS 650.155 is amended to read:

22 650.155. (1) Notwithstanding the terms of any franchise, the manufacturer is liable for any and
23 all damage to new motor vehicles before delivery to a carrier or transporter.

24 (2) Whenever a new motor vehicle is damaged in transit, the dealer shall:

25 (a) Notify the manufacturer of the damage within three business days from the date of delivery
26 to the dealer or within any additional time as specified in the franchise; and

27 (b) Request from the manufacturer authorization to replace the components, parts and accesso-
28 ries damaged or to otherwise repair the damage.

29 (3) If the manufacturer refuses or fails to authorize repair of any damage within 10 days after
30 receipt of notification under subsection (2) of this section, or within any additional time as specified
31 in the franchise, ownership of the new motor vehicle shall revert to the manufacturer, and the new
32 motor vehicle dealer shall have no obligation, financial or otherwise, with respect to the motor ve-
33 hicle.

34 (4) A manufacturer shall disclose in writing to a dealer, at the time of delivery of a new motor
35 vehicle, the nature and extent of any and all damage and post-manufacturing repairs.

36 (5) If the total value of repairs to a new motor vehicle by the manufacturer's authorized agent
37 and a dealer equals or exceeds the amount specified under subsection (6) of this section, the man-
38 ufacturer may either repurchase the motor vehicle from the dealer, or provide reasonable and ade-
39 quate compensation to the dealer to assist in sale or disposition of the new motor vehicle, as long
40 as the dealer has complied with all other contractual agreements with regard to damaged vehicles.
41 If the manufacturer repurchases the motor vehicle, the dealer shall have no obligation, financial or
42 otherwise, with respect to the motor vehicle.

43 (6) A dealer shall disclose, in writing, to a purchaser of the new motor vehicle prior to entering
44 into a sales contract that the new motor vehicle has been damaged and repaired if the damage to
45 the new motor vehicle exceeds [\$500] **\$1,000**, as calculated at the rate of the dealer's authorized

1 warranty rate for labor and parts. Replacement of glass, tires, bumpers or any comparable
2 nonwelded component is not considered damage and repair for purposes of this section. For purposes
3 of this subsection, “comparable nonwelded component” does not include a fender, hood, trunk lid
4 or door.

5 **SECTION 3. The amendments to ORS 650.145 and 650.155 by sections 1 and 2 of this 2009**
6 **Act apply to motor vehicle transactions occurring on or after the effective date of this 2009**
7 **Act.**

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