

SENATE AMENDMENTS TO SENATE BILL 980

By COMMITTEE ON BUSINESS AND TRANSPORTATION

April 21

1 On page 1 of the printed bill, line 2, after “vehicles” insert a period and delete the rest of the
2 line and line 3.

3 Delete lines 5 through 24 and delete pages 2 through 4 and insert:

4 **“SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 650.120 to**
5 **650.170.**

6 **“SECTION 2. (1) As used in this section:**

7 **“(a) ‘Do not drive order’ means a notice in which a manufacturer advises owners of a**
8 **vehicle not to drive the vehicle until the owner has obtained a repair for a safety defect in**
9 **the vehicle.**

10 **“(b) ‘Stop sale order’ means a notice in which a manufacturer prohibits a franchisee from**
11 **leasing or selling at wholesale or retail a used vehicle in the franchisee’s inventory because**
12 **of a federal recall for a safety defect or a failure to comply with a federal safety standard**
13 **or a federal emissions standard.**

14 **“(c) ‘Valuation’ means the average trade-in value shown in an independent third-party**
15 **guide for the year, make and model of a used vehicle.**

16 **“(2) A manufacturer shall compensate the manufacturer’s franchisees for all labor and**
17 **parts the manufacturer requires the franchisees to use to perform repairs on vehicles that**
18 **are subject to a recall. The manufacturer shall compensate franchisees in accordance with**
19 **the standards and process for compensation set forth in ORS 650.158.**

20 **“(3)(a) Subject to the conditions set forth in paragraphs (b) and (c) of this subsection, a**
21 **manufacturer shall compensate a dealer at a prorated rate of least 1.5 percent of the valu-**
22 **ation of a used vehicle that is subject to a recall during each month in which the dealer holds**
23 **the vehicle for sale while awaiting parts or a remedy that is necessary to repair or service**
24 **the vehicle.**

25 **“(b) The manufacturer shall pay the compensation described in paragraph (a) of this**
26 **subsection:**

27 **“(A) If the used vehicle is subject to a federal recall for a safety defect or a failure to**
28 **comply with a federal safety standard or a federal emissions standard;**

29 **“(B) If the manufacturer issued a do not drive order or stop sale order for the used ve-**
30 **hicle;**

31 **“(C) If the manufacturer has authorized the dealer to sell and service new vehicles of the**
32 **same line-make as the used vehicle that is subject to the recall;**

33 **“(D) If the dealer had the used vehicle in the dealer’s inventory at the time the man-**
34 **ufacturer issued the do not drive order or stop sale order or if the dealer received the used**
35 **vehicle as a trade-in as part of a consumer’s purchase of a new vehicle after the manufac-**

1 turer issued the do not drive order or stop sale order;

2 “(E) If a part or remedy necessary to repair or service the used vehicle is not reasonably
3 available within 30 days after the manufacturer issued an initial recall notice; and

4 “(F) For a period that begins 30 days after the date on which the manufacturer issued
5 the do not drive order or stop sale order and that ends on the earlier of the following dates:

6 “(i) The date on which the manufacturer makes available to the dealer a part or remedy
7 that is necessary to repair the used vehicle that is subject to the recall; or

8 “(ii) The date on which the dealer sells, trades or otherwise disposes of the used vehicle
9 that is subject to the recall.

10 “(c) A manufacturer may direct the manner and method by which a dealer must dem-
11 onstrate that the dealer had a used vehicle that was subject to a recall in the dealer’s in-
12 ventory as required under paragraph (b)(D) of this subsection. The manufacturer may not
13 require a demonstration that is unreasonable or unduly burdensome or require information
14 that is unreasonably or unduly burdensome for the dealer to provide.

15 “(d) This subsection does not require a manufacturer to provide total compensation to a
16 dealer that exceeds the valuation of a used vehicle that is subject to a recall.

17 “(4) A claim for compensation that a franchisee makes under subsection (2) of this sec-
18 tion or that a dealer makes under subsection (3) of this section is subject to the same re-
19 quirements and limitations to which a claim for compensation under ORS 650.158 is subject
20 unless:

21 “(a) The manufacturer compensates the franchisee or the dealer under a national pro-
22 gram that provides compensation for recall service or repairs that is equal to or greater than
23 the compensation the manufacturer would provide under subsection (3) of this section; or

24 “(b) The manufacturer and franchisee or dealer agree to different compensation.

25 “(5)(a) A manufacturer may not reduce compensation that the manufacturer owes to a
26 franchisee by means of a chargeback, reducing the amount the manufacturer owes a
27 franchisee under or removing a franchisee from an incentive program or any other means
28 solely because the franchisee submitted a claim for or received compensation under this
29 section.

30 “(b) This subsection does not prohibit a manufacturer from modifying or discontinuing
31 an incentive program or other program prospectively or from making ordinary business de-
32 cisions.

33 “(c) A franchisee may contest the amount of compensation a manufacturer provides un-
34 der this section in accordance with the procedures set forth in ORS 650.158.

35 “(6) A remedy that a dealer obtains under this section is exclusive and may not be com-
36 bined with other compensation or remedies that are available under state or federal law or
37 state or federal compensation programs.”.

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