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SYNOPSIS
Requires dealerships to notify buyers of recalls on used motor vehicles for sales; limits attorneys' fees in certain consumer actions.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning new and used motor vehicle dealers and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. A dealer shall not sell or transfer a used motor vehicle without first contacting or accessing information provided by the National Highway Traffic Safety Administration to determine whether there are any open recalls on the specific vehicle. In the event that an open recall is discovered, the dealer shall inform a prospective purchaser about the recall and provide the prospective purchaser with a printed copy of the recall information from the National Highway Traffic Safety Administration Internet website.

b. A dealer shall not sell or transfer a used motor vehicle that is subject to a “stop sale” or “do not drive” or similar designation from the National Highway Traffic Safety Administration.

c. There shall be a conclusive presumption that a dealer had no knowledge of the existence of an open recall on a used vehicle if that dealer accessed the National Highway Traffic Safety Administration’s Internet website and, after the dealer input the specific vehicle identification number, the website indicated no open recalls for that used vehicle. This subsection shall not:

(1) create any legal duty upon a dealer related to the accuracy, errors, or omissions of the National Highway Traffic Safety Administration’s website; or

(2) require a dealer to provide a prospective purchaser with any recall information that may be added to the National Highway Traffic Safety Administration’s Internet website, after the dealer has printed a copy of the recall information and provided it to the prospective purchaser of the used vehicle.

d. Nothing in this section shall limit the legal duty or standard of care of a dealer related to the sale of a motor vehicle subject to an open recall in the event that the failure to repair causes personal injury or death.

e. As used in this section:

(1) “dealer” means a person who is actively engaged in the business of buying, selling or exchanging new or used motor vehicles at retail. For the purposes of this definition, “at retail” shall not include wholesale sales, sales between dealers, and sales to owners or operators of motor vehicle junk businesses or motor vehicle junk yards, as defined in R.S.39:11-2, or any other persons or entities engaged in the business of dismantling, destroying or recycling motor vehicles;

(2) “motor vehicle franchisee” and “motor vehicle franchisor” shall have the same meanings as set forth in section 1 of P.L.1977, c.84 (C.56:10-13); and
(3) “open recall” refers to a safety or emissions recall on a specific vehicle that has not been corrected or addressed.

2. a. Any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of the use or employment by a dealer of any method, act, or practice declared unlawful under P.L.1960, c.39 (56:8-1 et seq.) may bring an action or assert a counterclaim therefor in any court of competent jurisdiction. In any action under this section, the court shall award compensatory damages sustained by any person in interest. In any action under this section in which the court finds an egregious violation of P.L.1960, c.39 (56:8-1 et seq.), the court may award threefold the damages sustained by any person in interest. In all actions under this section, including those brought by the Attorney General, the court may also award reasonable attorneys’ fees, in an amount of up to $1,000 or up to one third of the amount of damages awarded to the person in interest, at the discretion of the court, as well as filing fees and reasonable costs of suit.

b. There shall be a conclusive presumption pursuant to section 1 of P.L.1982, c.98 (C.56:8-2.22) that the consumer received a copy of the signed contract documents related to an automobile purchase, if the consumer acknowledged receipt of the signed contract documents with the consumer’s signature.

c. The damages provided in this section shall be the exclusive remedy for a person bringing an action or counterclaim against a dealer pursuant to P.L.1960, c.39 (56:8-1 et seq.).

3. This act shall take effect on the first day of the seventh month next following the date of enactment.

STATEMENT

This bill requires a car dealer to provide information to any potential buyer of a used motor vehicle with outstanding recalls. The bill also limits the attorneys’ fees available in certain consumer actions.

The bill makes it an unlawful practice under the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), for a dealer to sell a used vehicle without first contacting, or accessing information provided by, the vehicle manufacturer or the National Highway Traffic Safety Administration (NHTSA) to determine if there are any recalls on the used vehicle which have not been corrected or addressed. In the event that a recall is discovered, the dealer would inform the prospective purchaser about the recall, and whether the recall work for that particular vehicle was resolved, if known, prior to finalizing the sale of the vehicle. The bill also provides that a dealer may not sell or transfer a used motor vehicle that is subject to
a “stop sale” or “do not drive” or similar designation from the NHTSA.

Additionally, the bill provides that there is a conclusive presumption that a dealer has no knowledge of the existence of a prior recall on a used vehicle if that dealer accessed the NHTSA website and, after the dealer input the specific vehicle identification number (VIN), the website indicated that no open recall existed for that particular vehicle. This provision would not: (1) create any legal duty upon a dealer related to the accuracy, errors, or omissions of the NHTSA website; or (2) require a dealer to provide the prospective purchaser with any recall information that may be added to the NHTSA website after the dealer prints a copy of the recall information and provides it to the prospective purchaser of the used vehicle.

The bill provides that nothing in the bill limits the legal duty or standard of care of a dealer related to the sale of a motor vehicle subject to an open recall in the event that the failure to repair causes personal injury or death.

The bill defines a motor vehicle “dealer” as a person who is actively engaged in the business of buying, selling or exchanging new or used motor vehicles at retail. For the purposes of the bill, “at retail” does not include wholesale sales, sales between dealers, and sales to owners or operators of motor vehicle junk businesses or motor vehicle junk yards, or any other persons or entities engaged in the business of dismantling, destroying, or recycling motor vehicles.

Under the bill, any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of the use or employment by a dealer of any method, act, or practice declared unlawful under the consumer fraud act may bring an action or assert a counterclaim therefor in any court of competent jurisdiction. In any action under the bill, the court shall award compensatory damages sustained by any person in interest. In any action under the bill in which the court finds an egregious violation of the consumer fraud act the court may award treble the damages sustained by any person in interest. In all actions under the bill, including those brought by the Attorney General, the court may also award reasonable attorneys’ fees, in an amount of up to $1,000 or up to one third of the amount of damages awarded to the person in interest, at the discretion of the court, as well as filing fees and reasonable costs of suit.

The bill creates a conclusive presumption that the consumer received a copy of the signed contract documents related to an automobile purchase, if the consumer acknowledged receipt of the signed contract documents with the consumer’s signature.

The bill provides that these damages are the exclusive remedy for a person bringing an action or counterclaim against a dealer pursuant to the consumer fraud act.