

ASSEMBLY, No. 4292

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 27, 2018

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

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.



1 AN ACT concerning new and used motor vehicle dealers and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

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

6

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

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

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

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

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

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

36 e. As used in this section:

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

45 (2) “motor vehicle franchisee” and “motor vehicle franchisor”
46 shall have the same meanings as set forth in section 1 of P.L.1977,
47 c.84 (C.56:10-13); and

1 (3) “open recall” refers to a safety or emissions recall on a
2 specific vehicle that has not been corrected or addressed.

3
4 2. a. Any person who suffers any ascertainable loss of moneys
5 or property, real or personal, as a result of the use or employment
6 by a dealer of any method, act, or practice declared unlawful under
7 P.L.1960, c.39 (56:8-1 et seq.) may bring an action or assert a
8 counterclaim therefor in any court of competent jurisdiction. In any
9 action under this section, the court shall award compensatory
10 damages sustained by any person in interest. In any action under
11 this section in which the court finds an egregious violation of
12 P.L.1960, c.39 (56:8-1 et seq.), the court may award threefold the
13 damages sustained by any person in interest. In all actions under
14 this section, including those brought by the Attorney General, the
15 court may also award reasonable attorneys' fees, in an amount of up
16 to \$1,000 or up to one third of the amount of damages awarded to
17 the person in interest, at the discretion of the court, as well as filing
18 fees and reasonable costs of suit.

19 b. There shall be a conclusive presumption pursuant to section
20 1 of P.L.1982, c.98 (C.56:8-2.22) that the consumer received a copy
21 of the signed contract documents related to an automobile purchase,
22 if the consumer acknowledged receipt of the signed contract
23 documents with the consumer's signature.

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

27
28 3. This act shall take effect on the first day of the seventh month
29 next following the date of enactment.

30

31

32

STATEMENT

33

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

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

1 a “stop sale” or “do not drive” or similar designation from the
2 NHTSA.

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

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

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

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

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

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