

ASSEMBLY BILL NO. 410—ASSEMBLYWOMAN  
BUSTAMANTE ADAMS

MARCH 27, 2017

Referred to Committee on Transportation

SUMMARY—Authorizing a new vehicle dealer to file a claim for compensation with a manufacturer of motor vehicles under certain circumstances. (BDR 43-1024)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to new vehicle dealers; authorizing a new vehicle dealer to file, under certain circumstances, a claim for compensation with a manufacturer of motor vehicles relating to a used vehicle held by the new vehicle dealer which is subject to a stop-sale or do-not-drive notification; requiring a manufacturer of motor vehicles to provide compensation to a new vehicle dealer for the used vehicle under certain circumstances; establishing a rate for that compensation; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, certain acts or practices by a manufacturer of motor  
2 vehicles toward a new vehicle dealer are considered unfair acts or practices. (NRS  
3 482.36371-482.36395) For example, it is an unfair act or practice for a  
4 manufacturer to fail to compensate a dealer fairly for labor, parts and other  
5 expenses incurred by the dealer under the manufacturer’s warranty agreements.  
6 (NRS 482.36385) Under federal law, if a new motor vehicle is subject to a recall  
7 for a defect related to safety or noncompliance with certain safety standards  
8 after the manufacturer has sold the vehicle to a new vehicle dealer, the  
9 manufacturer must repurchase the vehicle from the dealer, and pay the dealer  
10 reasonable reimbursement of at least 1 percent of the purchase price for each  
11 month, or portion thereof, the dealer possessed the car after the recall notice was  
12 issued. (49 U.S.C. § 30116)

13 **Section 1** of this bill authorizes a new vehicle dealer to apply to a manufacturer  
14 for compensation for each month, or portion thereof, that the dealer possesses a  
15 used vehicle, manufactured by the manufacturer, that is subject to a stop-sale  
16 notification or do-not-drive notification. **Section 1** requires the new vehicle dealer



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17 to file a claim for compensation with the manufacturer, and requires the  
18 manufacturer to approve the claim if the claim meets certain requirements.  
19 Compensation for a claim filed pursuant to the provisions of this bill must be  
20 calculated at a rate of 2.43 percent of the value of the used vehicle for each month,  
21 or portion thereof. Finally, **section 1** prohibits a manufacturer from taking certain  
22 actions to: (1) offset or reduce the amount of compensation owed to the dealer; or  
23 (2) retaliate against the dealer for filing the claim. **Section 4** of this bill adds a  
24 violation of **section 1** to provisions in existing law that authorize a person who is  
25 aggrieved by certain violations to seek injunctive relief, and that authorize a person  
26 who is injured in his or her business by such a violation to bring an action to  
27 recover certain monetary damages. (NRS 482.36423) **Section 5** of this bill adds a  
28 willful violation of **section 1** to the list of violations in existing law for which a  
29 civil penalty may apply, and for which the Attorney General may seek injunctive  
30 relief. (NRS 482.36425) **Sections 2 and 3** of this bill make conforming changes.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 482 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. A new vehicle dealer which has in its inventory a used*  
4 *vehicle which is subject to a stop-sale notification or a do-not-*  
5 *drive notification may file a claim for compensation with the*  
6 *manufacturer of the vehicle as provided in this section. The new*  
7 *vehicle dealer is entitled to compensation from the manufacturer*  
8 *for each month, or portion thereof, that the used vehicle:*

9 *(a) Remains in the inventory of the new vehicle dealer; and*

10 *(b) Is subject to a stop-sale notification or a do-not-drive*  
11 *notification.*

12 *2. A new vehicle dealer must file a claim for compensation*  
13 *pursuant to this section on a form prescribed and made available*  
14 *by the manufacturer.*

15 *3. Upon receipt of a claim for compensation filed pursuant to*  
16 *subsection 2 a manufacturer must:*

17 *(a) Approve or deny the claim within 30 days after receipt of*  
18 *the claim. A claim that is not denied by the manufacturer within*  
19 *30 days after receipt of the claim shall be deemed approved.*

20 *(b) Approve a claim that meets the requirements of this*  
21 *section.*

22 *(c) Provide the claimant a reason and basis for the denial of*  
23 *any claim by the manufacturer.*

24 *4. Compensation from a manufacturer to a new vehicle*  
25 *dealer pursuant to this section must be calculated at a rate of 2.43*  
26 *percent of the value of the used vehicle which is subject to a stop-*  
27 *sale notification or a do-not-drive notification for each month, or*  
28 *portion thereof, pursuant to subsection 1. The value of the vehicle*  
29 *must be established using the pricing information and tools*



1 *created by National Appraisal Guides, Inc., or its successor, that is*  
2 *current at the time for which compensation pursuant to this*  
3 *section is sought.*

4 5. *A manufacturer may not take any action to:*

5 (a) *Offset or reduce the amount of compensation owed to a*  
6 *new vehicle dealer pursuant to this section, including, without*  
7 *limitation, through a chargeback program or any reduction in an*  
8 *amount owed to the new vehicle dealer under an incentive*  
9 *program; or*

10 (b) *Retaliate against a new vehicle dealer for filing a claim for*  
11 *compensation pursuant to this section by taking any action that*  
12 *adversely affects the new vehicle dealer, including, without*  
13 *limitation, the removal of the new vehicle dealer from an incentive*  
14 *program, if such action is taken, in whole or in part, because the*  
15 *new vehicle dealer filed a claim for compensation pursuant to this*  
16 *section.*

17 6. *The provisions of this section do not apply to the extent*  
18 *preempted by federal law.*

19 7. *As used in this section:*

20 (a) *“Do-not-drive notification” means a notification from a*  
21 *manufacturer pursuant to 49 C.F.R. § 577.5 or the National*  
22 *Highway Traffic Safety Administration pursuant to 49 C.F.R. §*  
23 *577.6 which has the effect of forbidding the operation of a specific*  
24 *model of vehicle until the defect or noncompliance which is the*  
25 *subject of the notification is remedied.*

26 (b) *“Stop-sale notification” means a notification from a*  
27 *manufacturer pursuant to 49 C.F.R. § 577.5 or the National*  
28 *Highway Traffic Safety Administration pursuant to 49 C.F.R. §*  
29 *577.6 which has the effect of prohibiting the sale of a specific*  
30 *model of vehicle by a new vehicle dealer until the defect or*  
31 *noncompliance which is the subject of the notification is remedied.*

32 **Sec. 2.** NRS 482.36311 is hereby amended to read as follows:

33 482.36311 As used in NRS 482.36311 to 482.36425, inclusive,  
34 *and section 1 of this act*, unless the context otherwise requires, the  
35 words and terms defined in NRS 482.36318 to 482.36348, inclusive,  
36 have the meanings ascribed to them in those sections.

37 **Sec. 3.** NRS 482.36349 is hereby amended to read as follows:

38 482.36349 A manufacturer is not subject to the provisions of  
39 NRS 482.36311 to 482.36425, inclusive, *and section 1 of this act* if  
40 the manufacturer:

41 1. Only manufactures passenger cars powered solely by one or  
42 more electric motors;

43 2. Only sells at retail new or new and used passenger cars that  
44 it manufactures; and



1 3. Was selling such passenger cars at retail in this State on or  
2 before January 1, 2016.

3 **Sec. 4.** NRS 482.36423 is hereby amended to read as follows:

4 482.36423 1. Whenever it appears that a person has violated,  
5 is violating or is threatening to violate any provision of NRS  
6 482.36311 to 482.36425, inclusive, *and section 1 of this act*, any  
7 person aggrieved thereby may apply to the district court in the  
8 county where the defendant resides, or in the county where the  
9 violation or threat of violation occurs, for injunctive relief to restrain  
10 the person from continuing the violation or threat of violation.

11 2. In addition to any other judicial relief, any dealer or person  
12 who assumes the operation of a franchise pursuant to NRS  
13 482.36396 to 482.36414, inclusive, who is injured in his or her  
14 business or property by reason of a violation of NRS 482.36311 to  
15 482.36425, inclusive, *and section 1 of this act* may bring an action  
16 in the district court in which the dealership is located, and may  
17 recover three times the pecuniary loss sustained by the dealer or  
18 person, and the cost of suit, including a reasonable attorney's fee.  
19 The amount of pecuniary loss sustained by a dealer, pursuant to  
20 subsection 7 of NRS 482.3638, is the fair market value of the  
21 franchised dealership at the time of notification of termination,  
22 refusal to continue or unilateral modification of a franchise.

23 3. Any artificial person created and existing under the laws of  
24 any other state, territory, foreign government or the government of  
25 the United States, or any person residing outside the State, who  
26 grants a franchise to any dealer in this State may be served with any  
27 legal process in any action for injunctive relief or civil damages in  
28 the following manner:

29 (a) By delivering a copy of the process to the Director; and

30 (b) By mailing to the last known address of the manufacturer or  
31 distributor, by certified mail, return receipt requested, a copy of the  
32 summons and a copy of the complaint, together with copies of any  
33 petition or order for injunctive relief.

34 4. The defendant has 30 days, exclusive of the day of service,  
35 within which to answer or plead.

36 5. The method of service provided in this section is cumulative  
37 and may be utilized with, after or independently of all other methods  
38 of service.

39 **Sec. 5.** NRS 482.36425 is hereby amended to read as follows:

40 482.36425 1. Any manufacturer or distributor who willfully  
41 violates any provision of NRS 482.36311 to 482.36425, inclusive,  
42 *and section 1 of this act* is subject to a civil penalty of not less than  
43 \$50 nor more than \$1,000 for each day of violation and for each act  
44 of violation. All civil penalties recovered must be paid to the State  
45 of Nevada.



1        2. Whenever it appears that a manufacturer or distributor has  
2 violated, is violating or is threatening to violate any provision of  
3 NRS 482.36311 to 482.36425, inclusive, *and section 1 of this act*,  
4 the Attorney General may institute a civil suit in any district court of  
5 this State for injunctive relief to restrain the violation or threat of  
6 violation or, if the violation or threat is willful, for the assessment  
7 and recovery of the civil penalty, or both.

8        **Sec. 6.** This act becomes effective upon passage and approval.

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