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SENATE BILL NO. 1182

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 1, 2001)

(Patron Prior to Substitute—Senator Norment)

A *BILL* to amend the Code of Virginia by adding a section numbered 46.2-1568.1, relating to discrimination against motor vehicle dealers.

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 46.2-1568.1 as follows:**

§ 46.2-1568.1. *Discrimination by manufacturers or distributors prohibited.*

No manufacturer or distributor, or any officer, agent, or representative of either, shall discriminate against a dealer holding a franchise of the manufacturer or distributor in favor of another dealer or other dealers of the same line-make in the Commonwealth by:

1. Selling or offering to sell a new motor vehicle to a dealer at a lower actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is available to another dealer in the Commonwealth during a similar time period;

2. Using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor vehicle to the dealer or later, that results in the sale or offer to sell a new motor vehicle to a dealer at a lower price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is available to another dealer in the Commonwealth during a similar time period. This subdivision shall not prohibit a promotional or incentive program that is functionally available to competing dealers of the same line-make in the Commonwealth on substantially comparable terms;

3. Providing lead information to a dealer when the address provided by the prospective customer (or the preferred contact address, if more than one address is provided) is in the relevant market area of another dealer or other dealers of the same line-make without providing or offering to provide the same information on equal terms to the dealer or dealers of the same line-make in whose relevant market area the prospective customer's address (or preferred contact address, if more than one address is provided) is located. The foregoing requirement of this subdivision shall not apply if (i) the lead information is generated under any program administered by an entity in which one or more dealers, together with the manufacturer or distributor, hold an ownership interest, where the program is designed to facilitate sales of motor vehicles through dealers participating in the program, provided that ownership or the right to participate in the entity has been made available to all dealers of the same line-make in the Commonwealth on substantially comparable terms or (ii) the prospective customer requests that the lead information be forwarded to a particular dealer or (iii) the lead information is the result of the prospective customer's request for a specific type of vehicle when the specific type of vehicle in the color and with the equipment desired by the prospective customer is not available at a dealer or dealers of the same line-make in whose relevant market the prospective customer's address (or preferred contact address, if more than one address is provided) is located. For purposes of this subsection, "lead information" is information concerning a prospective customer (i) who contacts the manufacturer or distributor in response to an advertisement, a solicitation, or a message broadcast, distributed, or made available to the public by the manufacturer or distributor or (ii) who is contacted by the manufacturer or distributor, and (iii) such contact is in relation to the sale of, service on, or parts or accessories for new or used motor vehicles. This subdivision shall not be construed to permit provision of or access to customer information that is otherwise protected from disclosure by law or by agreement between a dealer and a manufacturer or distributor.