

VIRGINIA ACTS OF ASSEMBLY -- 2005 RECONVENED SESSION

CHAPTER 906

An Act to amend and reenact § 46.2-1568 of the Code of Virginia, relating to prohibited coercion of retail motor vehicle dealer by manufacturer or distributor.

[H 1736]

Approved April 6, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1568 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1568. Coercion of retail dealer by manufacturer or distributor with respect to retail installment sales contracts, extended service contracts or extended maintenance plans, financing, or leasing prohibited; penalty.

A. It shall be unlawful for any manufacturer or distributor, or any officer, agent, or representative of either, to coerce or attempt to coerce any retail motor vehicle dealer or prospective retail motor vehicle dealer in the Commonwealth to *(i) offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed by, or sponsored by the manufacturer or distributor or (ii) sell, assign, or transfer any retail installment sales contract or lease obtained by the dealer in connection with the sale or lease by him in the Commonwealth of motor vehicles manufactured or sold by the manufacturer or distributor, to a specified finance company or class of finance companies, leasing company or class of leasing companies, or to any other specified persons by any of the following:*

1. By any statement, suggestion, promise, or threat that the manufacturer or distributor will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is express or implied or made directly or indirectly.

2. By any act that will benefit or injure the dealer.

3. By any contract, or any express or implied offer of contract, made directly or indirectly to the dealer, for handling the motor vehicle on the condition that the *dealer shall offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed by, or sponsored by the manufacturer or distributor or that the dealer sell, assign, or transfer his retail installment sales contract on or lease of the vehicle, in the Commonwealth, to a specified finance company or class of finance companies, leasing company or class of leasing companies, or to any other specified person.*

4. By any express or implied statement or representation made directly or indirectly that the dealer is under any obligation whatsoever to *offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed by, or sponsored by the manufacturer or distributor or to sell, assign, or transfer any of his retail sales contracts or leases in the Commonwealth on motor vehicles manufactured or sold by the manufacturer or distributor to a finance company or class of finance companies, leasing company or class of leasing companies, or other specified person, because of any relationship or affiliation between the manufacturer or distributor and the finance company or companies, leasing company or leasing companies, or the specified person or persons.*

B. Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition and are prohibited.

C. To further avoid any acts or practices, the effect of which may be to lessen or eliminate competition, it shall be unlawful for any manufacturer or distributor, or any officer, agent, or representative thereof, or any person or company affiliated therewith, to condition the provision of lead information to a dealer upon the agreement of the dealer to sell or lease a vehicle to the prospective customer only if the financing or leasing connected with the transaction is effected through a specified finance company or class of finance companies or leasing company or class of leasing companies. For the purposes of this section, "lead information" means information concerning a prospective customer who contacts or is contacted by the manufacturer or distributor or any person or company affiliated therewith concerning the manufacturer's or distributor's products. The provisions of this subsection, however, shall not prohibit a manufacturer or distributor from so conditioning the provision of lead information concerning any prospective customer who qualifies for any manufacturer-sponsored or distributor-sponsored factory employee, factory retiree, or factory vendor new vehicle purchase program.

D. Any person found guilty of violating any of the provisions of this section shall be guilty of a ~~Class 4 misdemeanor~~ **Class 4 misdemeanor** aggrieved by an action prohibited by this section may seek a hearing, pursuant to § 46.2-1573, against any manufacturer or distributor licensed under this title.

E. *Nothing contained in this section shall prohibit a manufacturer or distributor from offering or providing incentive benefits or bonus programs to a retail motor vehicle dealer or prospective retail motor vehicle dealer in the Commonwealth who makes the voluntary decision to offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed, or sponsored by the*

manufacturer or distributor or to sell, assign, or transfer any retail installment sale or lease by him in the Commonwealth of motor vehicles manufactured or sold by the manufacturer or distributor to a specified finance company or leasing company controlled by or affiliated with the manufacturer or distributor.