

By Senator Braynon

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1                   A bill to be entitled  
2       An act relating to vehicle recalls; amending s.  
3       320.64, F.S.; prohibiting a licensee from violating  
4       the Consumer Automotive Recall Safety Act and rules  
5       adopted pursuant to the act; amending s. 320.696,  
6       F.S.; requiring a licensee to compensate a motor  
7       vehicle dealer for certain recall repairs and costs  
8       directly associated with the disposal of certain  
9       hazardous materials; creating s. 320.92, F.S.;  
10      providing a short title; defining terms; prohibiting  
11      certain motor vehicle dealers or rental car companies  
12      to loan, rent, or offer for loan or rent a vehicle  
13      subject to recalls under certain circumstances;  
14      authorizing the motor vehicle dealer or rental car  
15      company, after completing certain temporary repairs,  
16      to loan or rent the vehicle under certain  
17      circumstances; requiring repairs to recalled vehicles  
18      once the remedy becomes available to the motor vehicle  
19      dealer or rental car company; requiring the Department  
20      of Highway Safety and Motor Vehicles to include a  
21      specified recall disclosure statement on each vehicle  
22      registration renewal notice; providing for  
23      construction; providing an effective date.

24  
25           WHEREAS, the Legislature recognizes that over the past 5  
26   years, automakers and the National Highway Traffic Safety  
27   Administration have issued more recalls on new and used motor  
28   vehicles than ever before, and

29           WHEREAS, in 2014, more than 63.8 million vehicles were

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30 recalled, and

31 WHEREAS, the rate of vehicle recalls has grown  
32 exponentially during the past 5 years as 51 million recalls were  
33 issued in 2015, 22 million recalls were issued in 2013, and 16.2  
34 million were issued in 2012, and

35 WHEREAS, the number of recalls in 2014 is a 190 percent  
36 increase from 2013 and a 293.8 percent increase from 2012, and

37 WHEREAS, while federal motor vehicle safety standards are  
38 more demanding now than ever before and new vehicles sold today  
39 are the safest in history, the exponential growth of recalls  
40 issued on motor vehicles has caused confusion and apathy for far  
41 too many motor vehicle owners, and

42 WHEREAS, according to the National Highway Traffic Safety  
43 Administration and others, about one-third of all recalled  
44 vehicles are never repaired by their owners, and

45 WHEREAS, federal regulations now require most vehicle  
46 manufacturers to provide motor vehicle safety recall information  
47 applicable to the vehicles they manufacture on the Internet and  
48 to the public, and

49 WHEREAS, it is the intent of the Legislature to increase  
50 consumer awareness of recall notices on their cars and to ensure  
51 that the cars that consumers loan or rent that are subject to  
52 recalls have been repaired, and

53 WHEREAS, the Legislature further recognizes that the  
54 distribution, sale, and service of new motor vehicles in the  
55 state vitally affects the state economy and the public welfare,  
56 and

57 WHEREAS, the motor vehicle franchise system assures the  
58 consuming public of a well-organized distribution system for the

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59 availability and sale of new motor vehicles throughout the  
60 state, provides a network of quality warranty, recall, and  
61 repair facilities to maintain those vehicles, and creates a  
62 cost-effective method for the state to police those systems  
63 through the licensing and regulation of private sector  
64 franchisors and franchisees, and

65 WHEREAS, state franchise laws require manufacturers to  
66 provide reasonable reimbursement to dealers for warranty and  
67 recall work, but fail to establish guidelines for compensating  
68 franchisee disposal costs associated with hazardous waste  
69 generated by repairs on recalled vehicles, and

70 WHEREAS, it is the intent of the Legislature to ensure that  
71 motor vehicle dealer franchisees are treated fairly by their  
72 franchisors and that motor vehicle dealer franchisees are  
73 reasonably compensated for repairs on recalled vehicles, NOW,  
74 THEREFORE,

75

76 Be It Enacted by the Legislature of the State of Florida:

77

78 Section 1. Subsection (41) is added to section 320.64,  
79 Florida Statutes, to read:

80 320.64 Denial, suspension, or revocation of license;  
81 grounds.—A license of a licensee under s. 320.61 may be denied,  
82 suspended, or revoked within the entire state or at any specific  
83 location or locations within the state at which the applicant or  
84 licensee engages or proposes to engage in business, upon proof  
85 that the section was violated with sufficient frequency to  
86 establish a pattern of wrongdoing, and a licensee or applicant  
87 shall be liable for claims and remedies provided in ss. 320.695

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88 and 320.697 for any violation of any of the following  
 89 provisions. A licensee is prohibited from committing the  
 90 following acts:

91 (41) Violating the Consumer Automotive Recall Safety Act  
 92 under s. 320.92 or any rule adopted pursuant to the act.

93  
 94 A motor vehicle dealer who can demonstrate that a violation of,  
 95 or failure to comply with, any of the preceding provisions by an  
 96 applicant or licensee will or can adversely and pecuniarily  
 97 affect the complaining dealer, shall be entitled to pursue all  
 98 of the remedies, procedures, and rights of recovery available  
 99 under ss. 320.695 and 320.697.

100 Section 2. Paragraph (a) of subsection (1) of section  
 101 320.696, Florida Statutes, is amended to read:

102 320.696 Warranty responsibility.-

103 (1)(a) A licensee shall timely compensate a motor vehicle  
 104 dealer who performs work to:

105 1. Maintain or repair a licensee's product under a warranty  
 106 or maintenance plan, extended warranty, certified pre-owned  
 107 warranty, or a service contract, issued by the licensee or its  
 108 common entity, unless issued by a common entity that is not a  
 109 manufacturer; ~~to~~

110 2. Fulfill a licensee's delivery or preparation procedures;  
 111 ~~or to~~

112 3. Repair a motor vehicle as a result of a licensee's or  
 113 common entity's recall, or a recall conducted pursuant to 49  
 114 U.S.C. ss. 30118, 30119, and 30120, including any costs directly  
 115 associated with the disposal of hazardous materials that are  
 116 associated with a recall repair; or

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117 4. Repair a motor vehicle as a result of a licensee's or  
118 common entity's campaign service, authorized goodwill,  
119 directive, or bulletin.

120 Section 3. Section 320.92, Florida Statutes, is created to  
121 read:

122 320.92 Consumer Automotive Recall Safety Act.—

123 (1) This section may be known and cited as the "Consumer  
124 Automotive Recall Safety Act."

125 (2) As used in this section, the term:

126 (a)1. "Manufacturer's recall" means a recall conducted  
127 pursuant to 49 U.S.C. ss. 30118, 30119, and 30120.

128 2. A manufacturer's recall does not include a service  
129 campaign or emission recall when the vehicle manufacturer or the  
130 National Highway Traffic Safety Administration has not issued a  
131 recall notice to owners of affected vehicles, pursuant to 49  
132 U.S.C. s. 30118.

133 (b) "Motor vehicle dealer" has the same meaning as in s.  
134 320.27(1)(c).

135 (c)1. "Recall database" means a database from which an  
136 individual may obtain, using a vehicle identification number  
137 (VIN), the specific manufacturer recall information relevant to  
138 a particular vehicle.

139 2. For a vehicle manufacturer that is not subject to the  
140 regulations adopted pursuant to s. 31301 of the federal Moving  
141 Ahead for Progress in the 21st Century Act, Pub. L. No. 112-141,  
142 a recall database is one of the following:

143 a. The recall data on a vehicle manufacturer's website for  
144 a specific vehicle's line-make.

145 b. The recall data in a vehicle manufacturer's internal

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146 system that provides information to its franchisees on vehicles  
147 subject to recall.

148 c. The recall data in sub-subparagraph a. or sub-  
149 subparagraph b. that is contained in a commercially available  
150 vehicle history system.

151 3. For a vehicle manufacturer that is subject to the  
152 regulations adopted pursuant to s. 31301 of the federal Moving  
153 Ahead for Progress in the 21st Century Act, Pub. L. No. 112-141,  
154 a recall database must include, at a minimum, the recall  
155 information required pursuant to 49 C.F.R. s. 573.15.

156 (d) "Recall database report" means a report, specific to a  
157 vehicle that is identified by its VIN, containing information  
158 obtained from a recall database.

159 (e) "Rental car company" means a person or entity in the  
160 business of renting passenger vehicles to the public in this  
161 state.

162 (3) No later than 48 hours after receiving a notice of a  
163 manufacturer's recall, or sooner if practicable, a motor vehicle  
164 dealer or rental car company with a motor vehicle fleet of 34 or  
165 fewer loaner or rental vehicles may not loan, rent, or offer for  
166 loan or rent a vehicle subject to that recall until the recall  
167 repair has been made.

168 (4) If a recall notification indicates that the remedy for  
169 the recall is not immediately available and specifies actions to  
170 temporarily repair the vehicle in a manner to eliminate the  
171 safety risk that prompted the recall, the motor vehicle dealer  
172 or rental car company, after having the repairs completed, may  
173 loan or rent the vehicle. Once the remedy for the vehicle  
174 becomes available to the motor vehicle dealer or rental car

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175 company, the motor vehicle dealer or rental car company may not  
176 loan or rent the vehicle until the vehicle has been repaired.

177 (5) The department shall include the following recall  
178 disclosure statement on each vehicle registration renewal  
179 notice:

180  
181 NOTICE: MANY VEHICLES HAVE BEEN RECALLED RECENTLY FOR NEEDED  
182 REPAIRS. DID YOU KNOW YOU CAN CHECK TO SEE IF YOUR VEHICLE HAS  
183 AN UNREPAIRED MANUFACTURER'S SAFETY RECALL? FOR MOST VEHICLES,  
184 MANUFACTURER SAFETY RECALLS ARE REPAIRED FOR FREE. YOU CAN CHECK  
185 FOR ANY RECALLS AND HOW TO GET THE RECALL REPAIRED AT  
186 WWW.SAFERCAR.GOV.

187  
188 (6) This section may not be construed to create any legal  
189 duty of the motor vehicle dealer, rental car company, or  
190 department related to the accuracy, errors, or omissions  
191 contained in a recall database report or any legal duty to  
192 provide information added to a recall database after the motor  
193 vehicle dealer, rental car company, or department obtained the  
194 recall database report pursuant to subsections (3), (4), and  
195 (5).

196 (7) The rights and remedies provided by this section are  
197 cumulative and may not be construed as restricting any right or  
198 remedy that is otherwise available.

199 Section 4. This act shall take effect July 1, 2017.