

1 AN ACT in relation to business transactions.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Motor Vehicle Franchise Act is amended by  
5 changing Section 5 as follows:

6 (815 ILCS 710/5) (from Ch. 121 1/2, par. 755)

7 Sec. 5. Delivery and preparation obligations; damage  
8 disclosures. Every manufacturer shall specify in writing to  
9 the dealer the delivery and preparation obligations of its  
10 motor vehicle dealers prior to delivery of new motor vehicles  
11 to retail buyers. A copy of the delivery and preparation  
12 obligations of its motor vehicle dealers and a schedule of  
13 the compensation to be paid to its motor vehicle dealers for  
14 the work and services they shall be required to perform in  
15 connection with such delivery and preparation obligations  
16 shall be presented to the dealer and the obligations  
17 specified therein shall constitute any such dealer's only  
18 predelivery obligations as between such dealer and such  
19 manufacturer. The compensation as set forth on said schedule  
20 shall be reasonable.

21 A manufacturer, factory branch, distributor, distributor  
22 branch, or wholesaler of new motor vehicles sold or  
23 transferred to a motor vehicle dealer in this State shall  
24 disclose to the motor vehicle dealer, in writing, before  
25 delivery of a vehicle to the motor vehicle dealer all  
26 in-transit, post-manufacture, or other damage to the vehicle  
27 that was sustained or incurred by the motor vehicle at any  
28 time after the manufacturing process was complete but before  
29 delivery of the vehicle to the dealer. This disclosure is  
30 not required when the cost to repair does not exceed 6% of  
31 the manufacturer's suggested retail price of the vehicle

1 based upon the dealer's actual retail repair cost, including  
2 labor, parts, and materials if the damage is repaired or  
3 retail estimate to repair if the vehicle is not repaired. New  
4 motor vehicles that are repaired may be sold as new and shall  
5 be fully warranted by the manufacturer.

6 For purposes of this Section, "manufacturer's suggested  
7 retail price" means the retail price of the new motor vehicle  
8 suggested by the manufacturer including the retail delivered  
9 price suggested by the manufacturer for each separately  
10 priced accessory or item of optional equipment physically  
11 attached to the new motor vehicle at the time of delivery.

12 Whenever a new motor vehicle sustains or incurs any  
13 in-transit, post-manufacture, or other damage at any time  
14 after the manufacturing process is complete, but before  
15 delivery of the vehicle to the motor vehicle dealer, the  
16 dealer may within a reasonable period of time after delivery  
17 of the motor vehicle notify the manufacturer or distributor  
18 of that damage and either:

19 (1) revoke acceptance of the delivery of the new  
20 motor vehicle whereby ownership of the motor vehicle  
21 shall revert to the manufacturer, and the dealer shall  
22 incur no obligations, financial, or otherwise for that  
23 new motor vehicle; or

24 (2) request authorization from the manufacturer to  
25 repair the damage sustained or incurred by the new motor  
26 vehicle. If the manufacturer refuses or fails to  
27 authorize repair of the damage within 3 days of the  
28 request by the dealer, the dealer may then revoke  
29 acceptance of the delivery of the new motor vehicle;  
30 ownership shall revert to the manufacturer; and the  
31 dealer shall incur no obligations, financial, or  
32 otherwise for that new motor vehicle.

33 A motor vehicle dealer shall disclose to the purchaser  
34 before delivery of the new motor vehicle, in writing, any

1 damage that the dealer has actual knowledge was sustained or  
2 incurred by the motor vehicle at any time after the  
3 manufacturing process was complete but before delivery of the  
4 vehicle to the purchaser. This disclosure is not required  
5 when the cost to repair does not exceed 6% of the  
6 manufacturer's suggested retail price of the vehicle based  
7 upon the dealer's actual retail repair cost, including labor,  
8 parts, and materials if the damage is repaired or the retail  
9 estimate to repair the vehicle if it is not repaired.

10 Damage to glass, tires, bumpers, video and telephonic  
11 components, and in-dash audio equipment is not to be  
12 considered in determining the cost of repair if replaced with  
13 the manufacturer's original equipment.

14 If disclosure is not required under this Section, a  
15 purchaser may not revoke or rescind a sales contract due to  
16 the fact the new vehicle was damaged and repaired before  
17 completion of the sale. In that circumstance, nondisclosure  
18 does not constitute a misrepresentation or omission of fact.

19 A manufacturer, factory branch, distributor, distributor  
20 branch, or wholesaler of new motor vehicles shall,  
21 notwithstanding the terms of any franchise agreement,  
22 indemnify and hold harmless the motor vehicle dealer  
23 obtaining a new motor vehicle from the manufacturer, factory  
24 branch, distributor, distributor branch, or wholesaler from  
25 and against any liability, including reasonable attorney's  
26 fees, expert witness fees, court costs, and other expenses  
27 incurred in the litigation, so long as such fees and costs  
28 are reasonable, that the motor vehicle dealer may be  
29 subjected to by the purchaser of the vehicle because of  
30 damage to the motor vehicle that occurred before delivery of  
31 the vehicle to the dealer and that was not disclosed in  
32 writing to the dealer prior to delivery of the vehicle. This  
33 indemnity obligation of the manufacturer, factory branch,  
34 distributor, distributor branch, or wholesaler applies

1 regardless of whether the damage falls below the 6% threshold  
2 under this Section. The failure of the manufacturer, factory  
3 branch, distributor, distributor branch, or wholesaler to  
4 indemnify and hold harmless the motor vehicle dealer is a  
5 violation of this Section.

6 (Source: P.A. 91-485, eff. 1-1-00.)