

111TH CONGRESS
1ST SESSION

S. 1253

To address reimbursement of certain costs to automobile dealers.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2009

Mr. CORKER (for himself, Mr. NELSON of Florida, Mrs. SHAHEEN, Ms. SNOWE, Mr. ISAKSON, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To address reimbursement of certain costs to automobile dealers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Automobile Dealers
5 Assistance Act of 2009”.

6 **SEC. 2. REIMBURSEMENT OF AUTOMOBILE DISTRIBUTORS.**

7 (a) IN GENERAL.—Notwithstanding any other provi-
8 sion of law, any funds provided by the United States Gov-
9 ernment, or any agency, department, or subdivision there-
10 of, to an automobile manufacturer or a distributor thereof

1 as credit, loans, financing, advances, or by any other
2 agreement in connection with such automobile manufac-
3 turer's or distributor's proceeding as a debtor under title
4 11, United States Code, shall be conditioned upon use of
5 such funds to fully reimburse all dealers of such auto-
6 mobile manufacturer or manufacturer's distributor for—

7 (1) the cost incurred by such dealers during the
8 9-month period preceding the date on which the pro-
9 ceeding under title 11, United States Code, by or
10 against the automobile manufacturer or manufactur-
11 er's distributor is commenced, in acquisition of all
12 parts and inventory in the dealer's possession on on
13 the same basis as if the dealers were terminating
14 pursuant to existing franchise agreements or dealer
15 agreements; and

16 (2) all other obligations owed by such auto-
17 mobile manufacturer or manufacturer's distributor
18 under any other agreement between the dealers and
19 the automobile manufacturer or manufacturer's dis-
20 tributor arising during that 9-month period, includ-
21 ing, without limitation, franchise agreement or deal-
22 er agreements.

23 (b) INCLUSION IN TERMS.—Any note, security agree-
24 ment, loan agreement, or other agreement between an
25 automobile manufacturer or manufacturer's distributor

1 and the Government (or any agency, department, or sub-
2 division thereof) shall expressly provide for the use of such
3 funds as required by this section. A bankruptcy court may
4 not authorize the automobile manufacturer or manufac-
5 turer's distributor to obtain credit under section 364 of
6 title 11, United States Code, unless the credit agreement
7 or agreements expressly provided for the use of funds as
8 required by this section.

9 (c) EFFECTIVENESS OF REJECTION.—Notwith-
10 standing any other provision of law, any rejection by an
11 automobile manufacturer or manufacturer's distributor
12 that is a debtor in a proceeding under title 11, United
13 States Code, of a franchise agreement or dealer agreement
14 pursuant to section 365 of that title, shall not be effective
15 until at least 180 days after the date on which such rejec-
16 tion is otherwise approved by a bankruptcy court.

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