



Warranty Statutes Labor at Retail

All 50 states

ALABAMA

§ 8-20-7. Warranty obligations to dealers.

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- (c) In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work, service, labor, and parts. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In no event shall such compensation of a dealer for warranty services including labor and parts, be less than the rates or prices charged by such dealer for like service to retail customers for nonwarranty service, repairs and parts, provided that such prices and rates are not unreasonable. This subsection does not apply to compensation for parts, systems, fixtures, appliances, furnishings, accessories, and features of a motor home that are designed, used and maintained primarily for non-vehicular residential purposes, or parts related to motorcycle repairs.
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ALASKA

§ 45.25.210. Rates for warranty and other work.

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- (a) A manufacturer shall provide each of its new motor vehicle dealers with the schedule of compensation that the manufacturer shall pay to the new motor vehicle dealer for warranty work that the manufacturer requires the new motor vehicle dealer to perform for the manufacturer's products.
- (b) The schedule of compensation must include compensation for parts and labor and must comply with this section. The compensation for parts must include the average retail percentage markup that the new motor vehicle dealer charges.

- (c) Unless otherwise agreed to by the manufacturer and the new motor vehicle dealer, the rates in the schedule of compensation may not be less than the rates that the new motor vehicle dealer charges retail customers for similar nonwarranty service work.
- (d) To establish the retail percentage markup, the new motor vehicle dealer shall submit to the manufacturer 100 sequential chronologically issued retail service repair orders paid by customers for warranty-like repairs, or 90 consecutive days of retail service repair orders paid by customers for warranty-like repairs, whichever number of retail service repair orders is less. The retail service repair orders that the new motor vehicle dealer submits must cover retail repairs that the new motor vehicle dealer made less than 180 days before the new motor vehicle dealer submits them to the manufacturer.
- (e) A manufacturer may not require a new motor vehicle dealer to establish the retail percentage markup by a method other than the method required by (d) of this section. When establishing the retail percentage markup, a manufacturer may not require the new motor vehicle dealer to provide information that is unduly burdensome or time consuming to provide, including part-by-part or transaction-by-transaction calculations.
- (f) A manufacturer may not include in the calculation of the rates in the schedule of compensation
 - (1) repairs for manufacturer special events, manufacturer specials, or manufacturer promotional discounts;
 - (2) parts sold at wholesale;
 - (3) routine maintenance not covered under warranty, including the replacement of fluids, filters, and belts, unless the new motor vehicle dealer provides the routine maintenance in the course of making a repair;
 - (4) nuts, bolts, fasteners, and similar items that do not have an individual part number;
 - (5) tires, batteries, and light bulbs;
 - (6) vehicle reconditioning; and
 - (7) repair orders for motor vehicle body repairs if an insurer pays for the repairs.
- (g) The retail percentage markup calculated under (d) of this section may not take effect more than 30 days after the manufacturer approves the dealer's proposed rate, or after the manufacturer is considered to have approved the dealer's proposed rate under this section. If a manufacturer does not disapprove the dealer's proposed rate within 30 days after the new motor vehicle dealer submits the rate application, then the dealer's proposed rate shall be considered approved.
- (h) A manufacturer may disapprove a rate proposed by the new motor vehicle dealer under this section if the manufacturer demonstrates that the proposed rate is materially miscalculated or unreasonable compared to other similarly situated new motor vehicle dealers in this state.
 - (i) A new motor vehicle dealer may not receive more than one rate increase under this section in a calendar year.

ARIZONA

§ 28-4451. Product liability; audits.

- D. The compensation that the manufacturer or distributor pays to a new motor vehicle dealer for diagnostic work, repair service and labor shall be fair and reasonable and, at the option of the new motor vehicle dealer, may be determined pursuant to subsection E of this section. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work or services to be performed. The compensation that the manufacturer or distributor pays to the new motor vehicle dealer for parts used in warranty or recall related service shall be fair and reasonable and, at the option of the new motor vehicle dealer, may be determined pursuant to subsection E of this section.



- E. The new motor vehicle dealer may declare the retail rates that it customarily charges for parts or labor or both parts and labor by submitting to the manufacturer or distributor the lesser of one hundred sequential, nonwarranty, customer-paid service repair orders or ninety consecutive days of customer-paid service repair orders for warranty-like repairs made not more than one hundred eighty days before the submission. The new motor vehicle dealer's retail labor rate shall be determined by dividing the amount of the dealer's total labor sales contained in the submitted repair orders by the total number of labor hours that generated those sales. The new motor vehicle dealer's retail rate for parts shall be a percentage determined by dividing the total sales for parts in the submitted repair orders by the new motor vehicle dealer's total cost for those parts, minus one, multiplied by one hundred to produce a percentage. Declared rates are presumed to be fair and reasonable except that a manufacturer or distributor, within thirty days after receiving the new motor vehicle dealer's submission, may rebut the presumption by reasonably substantiating that the rate or rates are inaccurate or unreasonable compared to other similarly situated same line-make new motor vehicle dealers in this state. The new motor vehicle dealer's declared parts, labor or both parts and labor rates shall go into effect thirty days following the manufacturer's or distributor's receipt of the declaration, unless the manufacturer or distributor timely sends a rebuttal of the declared rate or rates to the new motor vehicle dealer. If any of the declared rates are rebutted, the manufacturer or distributor shall propose an adjustment of the rebutted rate or rates within thirty days after receiving the new motor vehicle dealer's submission. If the new motor vehicle dealer does not agree with the proposed adjusted rate or rates, it may file a protest with the director within thirty days after receipt of the manufacturer's or distributor's proposal. If a protest is timely filed, the director shall inform the manufacturer or distributor that a timely protest has been filed and that a hearing will be held on the protest if any available manufacturer or distributor mediation opportunity has been used and was unsuccessful in reaching an agreement between the parties.
- F. In calculating the retail rate or rates that a new motor vehicle dealer customarily charges for parts or labor, the following work may not be included in the calculation:
1. Repairs for manufacturer or distributor special events, specials or promotional discounts for retail customer repairs.
 2. Parts sold at wholesale.
 3. Engine assemblies and transmission assemblies, if the new motor vehicle dealer agrees to be compensated for those assemblies with a handling charge instead of a retail parts markup.
 4. Routine maintenance not covered under any retail customer warranty, such as fluids, filters and belts not provided in the course of repairs.
 5. Nuts, bolts, fasteners and similar items that do not have individual part numbers.
 6. Vehicle reconditioning.

ARKANSAS

§ 23-112-310. Delivery, preparation, and warranty obligations.

- (d) (1) (A) A manufacturer, distributor, distributor branch or division, or factory or division branch pay to any of its motor vehicle dealers a labor rate per hour or parts price for warranty work less than that charged by the dealer to its retail customers provided the rate is reasonable compared to other same line-make dealers in the dealer's relevant market area or the dealer's competitive market area.
- (B) Conversely, a dealer shall not charge to its manufacturer, distributor, distributor branch or division, or factory branch or division a labor rate per hour or parts price in excess of the rate charged to its retail customers.



§ 23-112-313. Warranty agreements.

- (2) In the determination of what constitutes reasonable compensation for warranty or recall campaign work and service under this subsection subject to § 23-112-310(d)(1)(A), the principal factor to be considered is the labor rate per hour or parts rate that is charged by the motor vehicle dealer to the motor vehicle dealer's retail customers, exclusive of routine maintenance performed on a vehicle.
- (3) The compensation of a motor vehicle dealer for warranty or recall service shall not be less than the rates charged by the motor vehicle dealer for like service to retail customers for nonwarranty service and repairs provided the rate is comparable to the rate of other same line-make dealers in an economically similar area or the dealer's competitive market area.

CALIFORNIA

§ 3065.2. Franchisee establishment or modification of retail labor rate and retail parts rate; requirements and procedures; prohibited franchisor acts.

- (a) A franchisee seeking to establish or modify its retail labor rate, retail parts rate, or both, to determine a reasonable warranty reimbursement schedule shall, no more frequently than once per calendar year, complete the following requirements:
 - (1) The franchisor shall submit in writing to the franchisee whichever of the following is fewer in number:
 - (A) Any 100 consecutive qualified repair orders completed, including any nonqualified repair orders completed in the same period.
 - (B) All repair orders completed in any 90-consecutive-day period.
 - (2) A franchisor shall calculate its retail labor rate by determining the total charges for labor from the qualified repair orders submitted and dividing that amount by the total number of hours that generated those charges.
 - (3) The franchisee shall calculate its retail parts rate by determining the total charges for parts from the qualified repair orders submitted, dividing that amount by the franchisee's total cost of the purchase of those parts, subtracting one, and multiplying by 100 to produce a percentage.
 - (4) The franchisee shall provide notice to the franchisor of its retail labor rate and retail parts rate calculated in accordance with this subdivision.
- (b) For purposes of subdivision (a), qualified repair orders submitted under this subdivision shall be from a period occurring not more than 180 days before the submission. Repair orders submitted pursuant to this section may be transmitted electronically. A franchisee may submit either of the following:
 - (1) A single set of qualified repair orders for purposes of calculating both its retail labor rate and its retail parts rate.
 - (2) A set of qualified repair orders for purposes of calculating only its retail labor rate or only its retail parts rate.
- (c) Charges included in a repair order arising from any of the following shall be omitted in calculating the retail labor rate and retail parts rate under this section:



- (1) Manufacturer, manufacturer branch, distributor, or distributor branch special events, specials, or promotional discounts for retail customer repairs.
- (2) Parts sold, or repairs performed, at wholesale.
- (3) Routine maintenance, including, but not limited to, the replacement of bulbs, fluids, filters, batteries, and belts that are not provided in the course of, and related to, a repair.
- (4) Items that do not have individual part numbers including, but not limited to, nuts, bolts, and fasteners.
- (5) Vehicle reconditioning.
- (6) Accessories.
- (7) Repairs of conditions caused by a collision, a road hazard, the force of the elements, vandalism, theft, or owner, operational, or third-party negligence or deliberate act.
- (8) Parts sold or repairs performed for insurance carriers.
- (9) Vehicle emission inspections required by law.
- (10) Manufacturer-approved goodwill or policy repairs or replacements.
- (11) Repairs for government agencies or service contract providers.
- (12) Repairs with aftermarket parts, when calculating the retail parts rate, but not the retail labor rate.
- (13) Repairs on aftermarket parts.
- (14) Replacement of or work on tires, including front-end alignments and wheel or tire rotations.
- (15) Repairs of motor vehicles owned by the franchisee or an employee thereof at the time of the repair.

COLORADO

§ 44-20-141.5 Fulfillment and compensation for warranty and recall obligations – definitions

- (2) At a motor vehicle dealer's request, a manufacturer shall timely compensate the motor vehicle dealer at the retail labor rate and the retail parts markup percentage in accordance with subsection (3) of this section for all labor performed and parts used by the motor vehicle dealer for covered repairs performed in accordance with the warranty obligation, if the retail labor rate and retail parts markup percentage are reasonably consistent with the requirements of this section that concern the retail labor rate and parts markup percentage.
- (3) (a) A motor vehicle dealer may establish the retail labor rate and the retail parts markup percentage by submitting to the manufacturer either of the following as decided by the motor vehicle dealer:
 - (I) One hundred sequential repair orders containing nonwarranty repairs, which may include a nonwarranty repair that is included in a repair order with a warranty obligation repair, that have been paid by a consumer and closed by the time of submission; or
 - (II) All repair orders for nonwarranty repairs, which may include a nonwarranty repair that is included in a repair order with a warranty obligation repair, that have been paid by a consumer and closed by the time of submission for a period of ninety consecutive days.

- (b) A manufacturer shall not disqualify a repair order under this subsection (3) because the repair order contains both warranty and nonwarranty repairs, but only nonwarranty repairs are used in the calculation of the retail labor rate and the retail parts markup percentage.
 - (c) A motor vehicle dealer may submit one set of repair orders for the purpose of calculating both its retail labor rate and the retail parts markup percentage or may submit separate sets of repair orders for purposes of calculating only its retail labor rate or for purposes of calculating only its retail parts markup percentage. If the rates from the calculation are ten percent higher or lower than the current rates, the manufacturer may request additional repair orders for the ninety days before or after the submitted repair orders for purposes of alteration.
 - (d) Except with regard to a request for additional repair orders as provided in subsection (3)(c) of this section, the repair orders submitted under this subsection (3) to determine the retail labor rate must contain only repair orders from the last ninety days before the date the submission is sent to the manufacturer.
 - (e) Except with regard to a request for additional repair orders as provided in subsection (3)(c) of this section, the repair orders submitted under this subsection (3) to determine the retail parts markup percentage must contain only repair orders from the last ninety days before the date the submission is sent to the manufacturer.
- (4) (a) Except as provided in subsection (4)(c) of this section, to calculate the retail labor rate, the motor vehicle dealer must divide the motor vehicle dealer's total nonwarranty labor sales generated from the nonwarranty repairs submitted under subsection (3) of this section by the total number of labor hours that generated those total labor sales.
- (b) Except as provided in subsection (4)(c) of this section, to calculate the retail parts markup percentage, the motor vehicle dealer must divide the motor vehicle dealer's total parts sales generated from nonwarranty repairs submitted under subsection (3) of this section by the amount of the motor vehicle dealer's total cost for those parts, subtracting one from this amount, and then multiplying the amount by one hundred.
- (c) The calculation of the retail labor rate in subsection (4)(a) of this section and of the retail parts markup percentage in subsection (4)(b) of this section do not include parts used or labor performed:
- (I) For manufacturer or motor vehicle dealer special events, one-time specials, express service, and quoted-price promotional discounts, but this exclusion from the calculation does not include broadly applicable discounts offered by the dealer, such as percentage-off coupons, that apply to repairs and parts;
 - (II) For parts sold at wholesale;
 - (III) For routine maintenance, including replacement fluids, filters, batteries, bulbs, nuts, bolts, fasteners, tires, and belts;
 - (IV) That do not have individual part numbers;
 - (V) For the repairs of a motor vehicle owned by the motor vehicle dealer, an affiliate of the motor vehicle dealer, or an employee of either the motor vehicle dealer or the affiliate;
 - (VI) For motor vehicle dealer reconditioning;
 - (VII) For window tint, protective film, masking products, or window replacement labor;
 - (VIII) For manufacturer-approved and reimbursed goodwill repairs or replacements;

- (IX) For emission inspections required by law;
 - (X) For safety inspections required by law;
 - (XI) For which a volume discount was negotiated with a third-party payer, including government agencies, insurance carriers, and fleet operators, but not including third-party warranty companies or service contract companies.
- (5) (a) Notwithstanding any manufacturer requirement, policy, procedure, guideline, or standard, a motor vehicle dealer may submit to the manufacturer the retail labor rate or retail parts markup percentage as each is calculated in accordance with subsection (4) of this section.
- (b) A motor vehicle dealer may request in writing, not more often than once annually, an increase in compensation for labor at the retail labor rate for warranty obligations.
- (c) A motor vehicle dealer may request in writing, not more often than once annually, an increase in compensation for parts at the retail parts markup percentage for warranty obligations.
- (d) (I) A manufacturer may conduct a periodic review of a motor vehicle dealer's service records to verify the continuing accuracy of the retail labor rate or retail parts markup percentage proposed by or in effect for the dealer.
- (II) A manufacturer shall not conduct a periodic review more than once per calendar year. This periodic review is not an audit in accordance with section 44-20-135..

CONNECTICUT

§ 42-133s. Obligations of manufacturers and distributors. Retail rate for parts and labor. Establishment, rebuttal and protest. Hearings. Dealer's claims.



- (c) The retail rate customarily charged by the dealer for labor may be established by submitting to the manufacturer or distributor all nonwarranty customer-paid service repair orders covering repairs made during the month prior to the submission and dividing the amount of the dealer's total labor sales by the number of total labor hours that generated those sales. The average labor rate shall be presumed to be fair and reasonable, provided a manufacturer or distributor may, not later than thirty days after submission, rebut such presumption by reasonably substantiating that such rate is unfair and unreasonable in light of the practices of all other franchised motor vehicle dealers in the vicinity offering the same line-make vehicles. The average labor rate shall go into effect thirty days following the declaration, subject to audit of the submitted repair orders by the franchisor and a rebuttal of such declared rate. If the declared rate is rebutted, the manufacturer or distributor shall propose an adjustment of the average labor rate based on such rebuttal not later than thirty days after submission. If the dealer does not agree with the proposed average labor rate, the dealer may file a protest with the commissioner not later than thirty days after receipt of that proposal by the manufacturer or distributor. If such a protest is filed, the commissioner shall inform the manufacturer or distributor that a timely protest has been filed and that a hearing will be held on such protest. In any hearing held pursuant to this subsection, the manufacturer or distributor shall have the burden of proving that the rate declared by the dealer was unfair and unreasonable as described in this subsection and that the proposed adjustment of the average labor rate is fair and reasonable pursuant to the provisions of this subsection.
- (d) In calculating the retail rate customarily charged by the dealer for parts and labor, the following work shall not be included in the calculation: (1) Repairs for manufacturer or distributor special events, specials or promotional discounts for retail customer repairs; (2) parts sold at wholesale; (3) engine assemblies and

transmission assemblies; (4) routine maintenance not covered under any retail customer warranty, such as fluids, filters and belts not provided in the course of repairs; (5) nuts, bolts, fasteners, and similar items that do not have an individual part number; (6) tires; and (7) vehicle reconditioning.

DELAWARE

§ 4903. Sales incentives; warranty and predelivery obligations to new motor vehicle dealers.

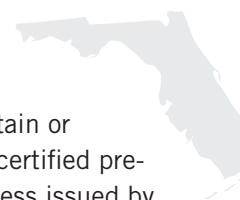
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- (1) For the purposes of this provision, the dealer's rate charged to nonwarranty customers for parts and labor shall be established by the dealer submitting to the manufacturer 100 sequential customer paid service repair orders or 90 days of customer paid service repair orders, whichever is less, covering like repairs made no more than 180 days before the submission of such customer paid service repair orders and declaring the schedule of compensation. The new schedule of compensation shall take effect within 30 days after the initial submission to the manufacturer and shall be presumed to be fair and reasonable. However, within 30 days following receipt of the declared schedule of compensation from the dealer, the manufacturer may make reasonable requests for additional information supporting the declared schedule of compensation. The 30-day time frame in which the manufacturer shall make the schedule of compensation effective shall commence following receipt from the dealer of any reasonably requested supporting information. No manufacturer shall require a motor vehicle dealer to establish a schedule of compensation by any other methodology or require supportive information that is unduly burdensome or time consuming to provide including, but not limited to, part by part or transaction by transaction calculations. The dealer shall not request a change in the schedule of compensation more than once every 9 months.
 - (2) For the purposes of this provision, all of the following parts or types of repairs are excluded from the calculation:
 - a. Repairs for manufacturer special events and manufacturer discounted service campaigns.
 - b. Parts sold at wholesale or parts discounted by a dealer for repairs made in group fleet, insurance, or other third-party payer service work or parts used in repairs of government agencies' repairs for which volume discounts have been negotiated.
 - c. Tires replaced due to normal wear.
 - d. Routine maintenance not covered under any retail customer warranty such as alignments, flushes, oil changes, brakes, fluids, filters and belts not provided in the course of repairs.
 - e. Engine assemblies and transmission assemblies.
 - f. Vehicle reconditioning.
 - g. Batteries and lightbulbs.
 - h. Nuts, bolts, fasteners, and similar items that do not have an individual part number.
 - (3) A manufacturer shall not take or threaten to take adverse action against a dealer who seeks to obtain compensation pursuant to this provision, including but not limited to, creating or implementing an obstacle or process that is inconsistent with the manufacturer's obligations to the dealer under this provision.
 - (4) Within 30 days of receiving the manufacturer's notice of denial of the dealer's parts and/or labor submission pursuant to this subsection, any such new motor vehicle dealer may file with the Public Service Commission a protest to the manufacturer's denial. In the event a protest is filed, the manufacturer possesses the burden of

proof to establish that the dealer's submission did not meet the respective submission requirements contained within this provision. In the event a dealer prevails in a protest filed under this provision, the dealer's increased parts and/or labor reimbursement shall be provided retroactive to the date the submission would have been effective pursuant to the terms of this section but for the manufacturer's denial.

- (c) It is a violation of this section for any new motor vehicle manufacturer to fail to perform any warranty obligations or to fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of such defects, or to fail to compensate any of the new motor vehicle dealers in this State for repairs effected by such recall.

FLORIDA

§ 320.696. Warranty responsibility.



- (1) (a) A licensee shall timely compensate a motor vehicle dealer who performs work to maintain or repair a licensee's product under a warranty or maintenance plan, extended warranty, certified pre-owned warranty, or a service contract, issued by the licensee or its common entity, unless issued by a common entity that is not a manufacturer; to fulfill a licensee's delivery or preparation procedures; or to repair a motor vehicle as a result of a licensee's or common entity's recall, campaign service, authorized goodwill, directive, or bulletin.
 - (b) As used in this section, the terms "compensate" and "compensation" shall include all labor and parts included in the work as provided in this section. The term "labor" shall include time spent by employees for diagnosis and repair of a vehicle. The term "parts" shall include replacement parts and accessories. The term "retail customer repair" means work, including parts and labor, performed by a dealer which does not come within the provisions of a licensee's or its common entity's warranty, extended warranty, certified pre-owned warranty, service contract, or maintenance plan, and excludes parts and labor described in paragraphs (3)(b) and (4)(c).
- (4) (a) A licensee shall compensate a motor vehicle dealer for labor performed in connection with work described in subsection (1) as calculated in this subsection.
 - (b) Compensation paid by a licensee to a motor vehicle dealer may be an agreed hourly labor rate. If, however, an agreement is not reached within 30 days after the dealer's written request, the dealer may choose to be paid the greater of:
 - 1. The dealer's hourly labor rate for retail customer repairs, determined by dividing the amount of the dealer's total labor sales for retail customer repairs by the number of total labor hours that generated those sales for the month preceding the request, excluding the work in paragraph (c); or
 - 2. An amount equal to the dealer's markup over dealer cost that results in the same gross profit percentage for labor hours performed in work covered by subsection (1) as the dealer receives for labor performed in its customer retail repairs, as evidenced by the average of said dealer's gross profit percentage in the dealer's financial statements provided to the licensee for the 2 months preceding the dealer's written request, if the dealer provides in the written request the arithmetical mean of the hourly wage paid to all of its technicians during that preceding month. The arithmetical mean shall be the dealer cost used in that calculation.

After an hourly labor rate is agreed or determined, the licensee shall uniformly apply and pay that hourly labor rate for all labor used by the dealer in performing work under subsection (1). However, a licensee shall not pay an hourly labor rate less than the hourly rate it was paying to the dealer for

work done under subsection (1) on January 2, 2008. A licensee shall not eliminate flat-rate times from or establish an unreasonable flat-rate time in its warranty repair manual, warranty time guide, or any other similarly named document. A licensee shall establish reasonable flat-rate labor times in its warranty repair manuals and warranty time guides for newly introduced model motor vehicles which are at least consistent with its existing documents. As used in this subsection, the terms “retail customer repair” and “similar work” are not limited to a repair to the same model vehicle or model year, but include prior repairs that resemble but are not identical to the repair for which the dealer is making a claim for compensation.

- (c) In determining the hourly labor rate calculated under subparagraph (b)1., a dealer’s labor charges for internal vehicle repairs; vehicle reconditioning; repairs performed for group, fleet, insurance, or other third-party payers; discounted repairs of motor vehicles for government agencies; labor used in special events, specials, or express service; and promotional discounts shall not be included as retail customer repairs and shall be excluded from such calculations.
- (5) A licensee shall not review, change, or fail to pay a motor vehicle dealer for parts or labor determined under this section unless the dealer has requested a change, or the action is pursuant to the licensee’s written, predetermined schedule for increasing parts or labor compensation that is not contrary to any provision of this section. A dealer may make written requests for changes in compensation for parts or labor performed under this section not more than semiannually. The dealer shall attach supporting documentation to each written request. Any increase in parts or labor reimbursement determined thereafter to be owed to the dealer shall be paid pursuant to this section retroactively for all claims filed by a dealer 15 days after the date of the licensee’s receipt of the dealer’s written request.
- (6) A licensee shall not recover or attempt to recover, directly or indirectly, any of its costs for compensating a motor vehicle dealer under this section.
- (7) A licensee shall not require, influence, or attempt to influence a motor vehicle dealer to implement or change the prices for which it sells parts or labor in retail customer repairs. A licensee shall not implement or continue a policy, procedure, or program to any of its dealers in this state for compensation under this section which is inconsistent with this section.

GEORGIA

§ 10-1-641. Dealer’s predelivery preparation, warranty service, and recall work obligations to be provided in writing; recovery of costs.



- (2) (A) In the determination of what constitutes reasonable compensation for parts and labor under this Code section, the principal factors to be considered shall be the retail rates customarily charged by the dealer, as established pursuant to this paragraph, and the rates for parts and labor charged by other similarly situated franchised dealers in a comparable geographic area in this state offering the same line-make vehicles.

§ 10-1-645. Uniform warranty reimbursement policy amongst dealers.

- (a) Any manufacturer or franchisor and at least a majority of its dealers of the same line make may agree to a uniform warranty reimbursement agreement in an express written contract executed by a dealer principal or authorized designee of the dealer principal that specifically cites this Code section. The agreement shall only involve either reimbursement for parts used in warranty repairs or the use of a uniform time standards manual, or both. Reimbursement for parts under the agreement shall be used instead of the dealers’ prevailing

retail rate charged by that dealer for the same parts as defined in Code Section 10-1-641 to calculate compensation due from the franchisor for parts used in warranty repairs. This Code section does not authorize a franchisor and its dealers to establish a uniform hourly labor reimbursement.

- (b) A manufacturer or franchisor that proposes a uniform reimbursement agreement must provide all of its line make dealers a minimum of 30 days to consider such proposal which shall be in writing and provided to the dealer principal or authorized designee of the dealer principal via certified mail or other trackable delivery method, including electronic transmission, to which a notice containing the following language in all capital letters shall be affixed:

GEORGIA LAW ALLOWS TWO ALTERNATIVE METHODS OF WARRANTY REIMBURSEMENT:

1. DEALERS MAY SUBMIT A REQUEST TO RECEIVE RETAIL RATE PURSUANT TO O.C.G.A. SECTION 10-1-641; OR
2. A MAJORITY OF LINE MAKE DEALERS MAY AGREE TO A UNIFORM WARRANTY REIMBURSEMENT AGREEMENT, AS PROPOSED WITH THIS NOTICE.

IN THE EVENT A MAJORITY OF THE SAME LINE MAKE DEALERS AGREE TO THE ATTACHED UNIFORM WARRANTY REIMBURSEMENT AGREEMENT, DEALERS THAT OPT TO SEEK RETAIL RATE PURSUANT TO O.C.G.A. SECTION 10-1-641 MAY BE SUBJECT TO A COST RECOVERY SURCHARGE ON ALL NEW VEHICLE INVOICES.

- (c) Each franchisor shall only have one such agreement with each line make. Any such agreement shall:
- (c) Each franchisor shall only have one such agreement with each line make. Any such agreement shall:
- (1) Establish a uniform parts reimbursement rate. The uniform parts reimbursement rate shall be not less than the greater of the nationally established rate set forth in the franchisor's sales and service agreement or other warranty manual or policy or the franchisor's national average warranty parts reimbursement rate at the time such agreement becomes effective;
 - (2) Apply to all warranty repair orders written during the period that the agreement is effective;
 - (3) Be available, during the period it is effective, to any dealer of the same line make at any time and on the same terms; and
 - (4) Be for a term not to exceed three years so long as any party to the agreement may terminate the agreement upon the annual anniversary of the agreement and with 30 days' prior written notice; however, the agreement shall remain in effect for the term of the agreement regardless of the number of dealers of the same line make that may terminate the agreement.
- (d) (1) As used in this subsection, the term 'costs' means the difference between the uniform reimbursement rate set forth in an agreement entered into pursuant to this Code section and the retail rate received by an individual dealer pursuant to Code Section 10-1-641.
- (2) A manufacturer or franchisor that enters into a uniform warranty reimbursement agreement as provided in this Code section may seek to recover its costs from only those dealers that are receiving their retail rate pursuant to Code Section 10-1-641 as follows:
- (A) The costs shall be recovered only by increasing the invoice price on new vehicles received by those dealers not a party to an agreement under this Code section; and

- (B) Price increases imposed for the purpose of recovering costs under this Code section may vary from time to time and from model to model but shall apply to all dealers of the same line make in the State of Georgia that have requested reimbursement for warranty repairs at their prevailing retail rate.

HAWAII

§ 437-28. Suspension; revocation; fine; denial of issuance or renewal of a license.

- (a) In addition to any other actions authorized by law, the board, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, may suspend, revoke, fine, or deny the renewal of any license, or prior to notice and hearing deny the issuance of any license for any cause authorized by law, including but not limited to circumstances where the board finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than ten per cent interest of the applicant or holder:
- (G) Has failed to adequately and fairly compensate its dealers for labor incurred by the dealer to perform under and comply with manufacturer's warranty agreements. In no event shall any manufacturer or distributor pay its dealers a labor rate per hour for warranty work that is less than that charged by the dealer to the retail customers of the dealer nor shall the rates be more than the retail rates. All claims made by the dealers for compensation for delivery, preparation, and warranty work shall be paid within thirty days after approval and shall be approved or disapproved within thirty days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval;

IDAHO

§ 49-1626. Payment for delivery preparation and warranty service.

- (11) The schedule of compensation for warranty parts and labor shall not be less than the rates charged by the dealer for similar service to retail customers for nonwarranty parts and labor; provided that such dealer's retail rate is not unreasonable when compared with other motor vehicle franchises from the same or competitive lines for similar merchandise or services in the geographic area in which the dealer is engaged in business.
- (a) For purposes of determining the schedule of compensation paid to a dealer by the manufacturer or distributor, the following shall not be considered in determining amounts charged by the dealer to retail customers:
- (i) Menu-priced parts or services;
 - (ii) Repairs for manufacturer or distributor special events;
 - (iii) Repairs covered by any insurance or service contract;
 - (iv) Vehicle emission or safety inspections required by federal, state or local governments;
 - (v) Parts sold at wholesale or repairs performed at wholesale, which shall include any sale or service to a fleet of vehicles;
 - (vi) Engine assemblies and transmission assemblies;
 - (vii) Routine maintenance not covered under any retail customer warranty including, but not necessarily limited to, maintenance involving fluids, filters and belts not provided in the course of repairs;

- (viii) Nuts, bolts, fasteners and similar items that do not have an individual part number;
 - (ix) Tires; or
 - (x) Vehicle reconditioning.
- (b) The dealer shall establish their schedule of compensation under the provisions of this section by submitting to the manufacturer or distributor one hundred (100) sequential customer paid service repair orders or ninety (90) days of customer paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty (180) days before the submission of such customer paid service repair orders and declaring the schedule of compensation. The new schedule of compensation shall take effect within ninety (90) days after the initial submission to the manufacturer or distributor and shall be presumed to be fair and reasonable. However, within thirty (30) days following receipt of the declared schedule of compensation from the dealer, the manufacturer or distributor may make reasonable requests for additional information supporting the declared schedule of compensation. The ninety (90) day time frame in which the manufacturer or distributor shall make the schedule of compensation effective shall commence following receipt from the dealer of any reasonably requested supporting information. No manufacturer or distributor shall require a motor vehicle dealer to establish a schedule of compensation by any other methodology or require supportive information that is unduly burdensome or time consuming to provide including, but not limited to, part by part or transaction by transaction calculations. The dealer shall not request a change in the schedule of compensation more than once every twelve (12) months.

ILLINOIS

§ 815 ILCS 710-6. Warranty agreements; claims; approval; payment; written disapproval.

- (a) Every manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division shall properly fulfill any warranty agreement and adequately and fairly compensate each of its motor vehicle dealers for labor and parts.
- (b) Adequate and fair compensation requires the manufacturer to pay each dealer no less than the amount the retail customer pays for the same services with regard to rate and time.

Any time guide previously agreed to by the manufacturer and the dealer for extended warranty repairs may be used in lieu of actual time expended. In the event that a time guide has not been agreed to for warranty repairs, or said time guide does not define time for an applicable warranty repair, the manufacturer's time guide shall be used, multiplied by 1.5.

In no event shall such compensation fail to include full compensation for diagnostic work, as well as repair service, labor, and parts. Time allowances for the diagnosis and performance of warranty work and service shall be no less than charged to retail customers for the same work to be performed.

No warranty or factory compensated repairs shall be excluded from this requirement, including recalls or other voluntary stop-sell repairs required by the manufacturer. If a manufacturer is required to issue a recall, the dealer will be compensated for labor time as above stated.

Furthermore, manufacturers shall pay the dealer the same effective labor rate (using the 100 sequential repair orders chosen and submitted by the dealer less simple maintenance repair orders) that the dealer receives for customer-pay repairs. This requirement includes vehicle diagnostic times for all warranty repairs. Additionally,



if a technician is required to communicate with a Technical Assistance Center/Engineering/or some external manufacturer source in order to provide a warranty repair, the manufacturer shall pay for the time from start of communications (including hold time) until the communication is complete.

The dealer may submit a request to the manufacturer for warranty labor rate increases a maximum of once per calendar year.

INDIANA

9-32-13-15. Payment of dealer for labor costs; uniform hourly labor reimbursement rate.



- Sec. 15. (a) It is an unfair practice for a manufacturer or distributor to fail to compensate a dealer at the dealer's retail rate for the work and services the dealer is required to perform in connection with the dealer's delivery and preparation obligations under any franchise, or fail to compensate a dealer anything less than the dealer's retail rate for labor and parts under the manufacturer's warranty agreements as long as the dealer's retail rate is reasonable. Judgment of the reasonableness includes consideration of charges for similar repairs by similarly situated repair facilities in Indiana.

9-32-13-16. Uniform warranty reimbursement policies; contents.

- Sec. 16. (a) A manufacturer or distributor and at least thirty percent (30%) of its franchisees in Indiana of the same line make may agree in an express written contract citing this section to a uniform warranty reimbursement policy to be used by franchisees for the performance of warranty repairs. The contract must include reimbursement for parts used in warranty repairs or the use of a uniform time standards manual, or both. The allowance for diagnosis within the uniform time standards manual must be reasonable and adequate for the work and service to be performed. The manufacturer or distributor:

The following paragraph (c)(2) was deleted in the 2019 bill along w/the rest of paragraph (c)

IOWA

§ 322A.5. Warranties and recalls.



- b. The franchiser shall provide to the franchisee a schedule of compensation that specifies reasonable compensation the franchiser will pay to the franchisee for such warranty services, including for parts, labor, and diagnostics.
- (2) In determining the schedule of compensation for labor-related warranty services, the franchiser may calculate the franchiser's retail labor rate by dividing the total amount of retail sales attributable to labor for warranty-like services by the number of hours of labor spent to generate the retail sales in the retail service orders submitted pursuant to subparagraph (3).
- (3) (a) The franchisee may establish its average percentage markup for parts or its labor rate by submitting to the franchiser copies of one hundred sequential retail service orders paid by the franchiser's customers, or all of the franchiser's retail service orders paid by the franchiser's customers in a ninety-day period, whichever is less, for services provided within the previous one-hundred-eighty-day period. The franchiser shall not consider retail service orders or portions of retail service orders attributable to routine maintenance such as tire service or oil service.

- (b) Within thirty days of receiving the franchiser's submission, the franchiser may choose to audit the submitted orders. The franchiser shall then approve or deny the establishment of the franchiser's average percentage markup or labor rate. If the franchiser approves the establishment of the franchiser's average percentage markup or labor rate, the markup or rate calculated under this subparagraph shall go into effect forty-five days after the date of the franchiser's approval. If the franchiser denies the establishment of the franchiser's average percentage markup or labor rate, the franchisee may file a complaint with the department and a hearing shall be held before the department of inspections and appeals. The franchiser shall have the burden of proof to establish that the franchiser's denial was reasonable. If the department of inspections and appeals finds the denial was not reasonable, the denial shall be deemed a violation of this chapter and the department of inspections and appeals shall determine the franchiser's average percentage markup or labor rate for purposes of calculating a reasonable schedule of compensation. In making such a determination, the department of inspections and appeals shall not consider retail service orders or portions of retail service orders attributable to routine maintenance such as tire service or oil service.
- (c) A franchiser shall not require a franchisee to establish an average percentage markup or labor rate by a methodology, or by requiring the submission of information, that is unduly burdensome or time-consuming to the franchisee, including but not limited to requiring part-by-part or transaction-by-transaction calculations.

KANSAS

§ 8-2415. Correction of warranty defects; compensation to dealer; promotional allowances or incentive payments; claim for reimbursement from dealer.

- (1) (A) A first or second stage manufacturer or distributor shall specify in writing to each of the first or second stage manufacturer's or distributor's dealers operating in this state the dealer's obligations for preparation, delivery and warranty services related to the first or second stage manufacturer's or distributor's products.
- (B) The first or second stage manufacturer or distributor shall compensate the dealer for the warranty services that the first or second stage manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles of the first or second stage manufacturer or distributor and all parts and components authorized by the manufacturer to be installed in or manufactured for installation in such motor vehicles.
- (2) The first or second stage manufacturer or distributor shall provide to the dealer a schedule of compensation that specifies reasonable compensation that the first or second stage manufacturer or distributor will pay to the dealer for such warranty services, including for parts, labor and diagnostics.
- (A) In determining the schedule of compensation for parts, the first or second stage manufacturer or distributor may multiply the price paid by the dealer for parts, including all shipping costs and other charges, by the sum of one and the dealer's average percentage markup. The dealer's average percentage markup is calculated by subtracting one from the result of dividing the total amounts charged by the dealer for parts used in warranty-like repairs by the total cost to the dealer for the parts in the retail service orders submitted pursuant to subparagraph (C).

- (B) In determining the schedule of compensation for labor-related warranty services, the first or second stage manufacturer or distributor may calculate the dealer's retail labor rate by dividing the total amount of retail sales attributable to labor for warranty-like services by the number of hours of labor spent to generate the retail sales in the retail service orders submitted pursuant to subparagraph (C).
- (C) (i) The dealer may establish its average percentage markup for parts or its labor rate by submitting to the first or second stage manufacturer or distributor copies of 100 sequential retail service orders paid by the dealer's customers, or all of the dealer's retail service orders paid by the dealer's customers in a 90-day period, whichever is less, for services provided within the previous 180-day period. The first or second stage manufacturer or distributor shall not consider retail service orders or portions of retail service orders attributable to routine maintenance such as tire service or oil service.
- (ii) Within 30 days of receiving the dealer's submission, the first or second stage manufacturer or distributor may choose to audit the submitted orders. The first or second stage manufacturer or distributor shall then approve or deny the establishment of the dealer's average percentage markup or labor rate. If the first or second stage manufacturer or distributor approves the establishment of the dealer's average percentage markup or labor rate, the markup or rate calculated under this subparagraph shall go into effect 45 days after the date of the first or second stage manufacturer's or distributor's approval. If the first or second stage manufacturer or distributor denies the establishment of the dealer's average percentage markup or labor rate, the dealer may file a complaint with the director of vehicles, and a hearing shall be held as provided by K.S.A. 8-2411, and amendments thereto. The first or second stage manufacturer or distributor shall have the burden of proof to establish that the first or second stage manufacturer's or distributor's denial was reasonable. If the director of vehicles finds that the denial was not reasonable, the denial shall be deemed a violation of this section and the director of vehicles shall then determine the dealer's average percentage markup or labor rate for purposes of calculating a reasonable schedule of compensation. In making such a determination, the director of vehicles shall not consider retail service orders or portions of retail service orders attributable to routine maintenance such as tire service or oil service.
- (iii) A first or second stage manufacturer or distributor shall not require a dealer to establish an average percentage markup or labor rate by a methodology, or by requiring the submission of information, that is unduly burdensome or time-consuming to the dealer, including, but not limited to, requiring part-by-part or transaction-by-transaction calculations.
- (iv) A dealer shall not request a change in the dealer's average percentage markup or labor rate more than once in any one-year period.
- (3) The compensation to the dealer for warranty parts and labor shall not be less than the rates charged by the dealer for like parts and services to retail customers, provided the rates are reasonable.

KENTUCKY

§ 190.046 Compensation to dealer for work performed under warranty; reasonable compensation; submission, determination, and payment of dealer's claims; compensation to dealer...



- (2) In the determination of what constitutes “reasonable compensation” under this section, the principal factor to be considered shall be the amount of money that the dealer is charging its other customers for the same type service or repair work. Other factors may be considered, including the compensation being paid by other manufacturers or distributors to their dealers for work; and the prevailing amount of money being paid or charged by the dealers in the city or community in which the authorized dealer is doing business. “Reasonable compensation” shall include diagnosing the defect; repair service; labor; parts and administrative and clerical costs. The compensation of a dealer shall not be less than the amount charged by the dealer for like services and parts, which minimum compensation for parts shall be dealer cost plus thirty percent (30%) gross profit, to retail customers for nonwarranty service and repairs, or less than the amounts indicated for work on the schedule of warranty compensation required to be filed by the manufacturer with the commission as a part of the manufacturer’s license application by KRS 190.030. A manufacturer or distributor shall not require unreasonable proof to establish “reasonable compensation.”

LOUISIANA

§ 32-1262. Warranty; compensation; audits of dealer records.



- (2) In no event shall any manufacturer or distributor pay its dealers at a price or rate for warranty work that is less than that charged by the dealer to the retail customers of the dealer for nonwarranty work of like kind.

MAINE

§ 1176. Warranty.



If a motor vehicle franchisor requires or permits a motor vehicle franchisee to perform labor or provide parts in satisfaction of a warranty created by the franchisor, the franchisor shall properly and promptly fulfill its warranty obligations, in the case of motor vehicles over 10,000 pounds gross vehicle weight rating, shall adequately and fairly compensate the franchisee for any parts so provided and, in the case of all other motor vehicles, shall reimburse the franchisee for any parts so provided at the retail rate customarily charged by that franchisee for the same parts when not provided in satisfaction of a warranty. A franchisor may not otherwise recover its costs for reimbursing a franchisee for parts and labor pursuant to this section. For purposes of this section, the retail rate customarily charged by the franchisee for parts may be established by submitting to the franchisor 100 sequential nonwarranty customer-paid service repair orders or 60 days of nonwarranty customer-paid service repair orders, whichever is less in terms of total cost, covering repairs made no more than 180 days before the submission and declaring the average percentage markup. The average percentage markup so declared is the retail rate, which goes into effect 30 days following the declaration, subject to audit of the submitted repair orders by the franchisor and adjustment of the average percentage markup based on that audit. Only retail sales not involving warranty repairs, not involving state inspection, not involving routine maintenance such as changing the oil and oil filter and not involving accessories may be considered in calculating the average percentage markup. A franchisor may not require a franchisee to establish the average percentage markup by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time-consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. A franchisee may not change the average percentage markup more than 2 times in one calendar year. Further, the franchisor shall reimburse

the franchisee for any labor so performed at the retail rate customarily charged by that franchisee for the same labor when not performed in satisfaction of a warranty; as long as the franchisee's rate for labor not performed in satisfaction of a warranty is routinely posted in a place conspicuous to its service customer. A franchisor is not required to pay the price charged by the dealer to retail customers for parts of systems, appliances, furnishings, accessories and fixtures of a motor home as defined in Title 29-A, Section 101, subsection 40 that are designed, used and maintained primarily for non-vehicular residential purposes. Any claim made by a franchisee for compensation for parts provided or for reimbursement for labor performed in satisfaction of a warranty must be paid within 60 days of its approval. All the claims must be either approved or disapproved within 60 days of their receipt. A claim may be submitted within 90 days after the performance of services. When a claim is disapproved, the franchisee that submitted the claim must be notified in writing of the claim's disapproval within that period, together with the specific reasons for its disapproval. A franchisor may not, by agreement, by restriction upon reimbursement, or otherwise, restrict the nature or extent of labor performed or parts provided so that such restriction impairs the franchisee's ability to satisfy a warranty created by the franchisor by performing labor in a professional manner or by providing parts required in accordance with generally accepted standards.

MARYLAND

§ 15-212. Refusal, suspension, or revocation of manufacturer or distributor license.



- (c) (1) A licensee shall specify in writing to each of its motor vehicle dealers licensed in the State:
- (i) The dealer's obligation for vehicle preparation, delivery, warranties, and recalls on its products;
 - (ii) The schedule of compensation to be paid to the dealers for parts, including parts assemblies, and labor, including diagnostic labor and associated administrative requirements, in connection with the service obligations established under item (i) of this paragraph; and
 - (iii) A time allowance for the performance of labor described in this paragraph that is reasonable and adequate.
- (2) Reasonable compensation under this section may not be less than:
- (i) With respect to labor for warranty or recall repairs, the dealer's current labor rate for nonwarranty repairs of a like kind for retail customers; and
 - (ii) With respect to any part, the dealer's cost plus its current retail mark-up percentage charged to retail customers for nonwarranty repairs of a like kind.
- (3) (i) For purposes of paragraph (2) of this subsection, the dealer's labor rate or parts mark-up percentage shall be established by a submission to the licensee of whichever of the following produces fewer repair orders closed, as of the date of submission, within the preceding 180 days:
- 1. 100 qualifying sequential customer-paid repair orders; or
 - 2. 90 days of qualifying customer-paid repair orders.
- (ii) With respect to parts, a schedule of compensation established under this subsection shall be equal to the parts mark-up percentage as reflected in qualifying repair orders, calculated by dividing the total charges for parts in the repair orders by the total dealer cost for the parts minus one.
- (iii) 1. A dealer may not make a submission under this subsection more than once in 1 year.

2. For purposes of subparagraph 1 of this subparagraph, a revision or supplement to a submission to correct or clarify the submission does not constitute a new submission.
- (4) Repair orders for labor or parts in connection with any of the following may not constitute a qualifying repair order under paragraph (2) of this subsection:
- (i) Accessories;
 - (ii) Repairs for manufacturer, distributor, or factory branch special events, promotions, or service campaigns;
 - (iii) Repairs related to collision;
 - (iv) Vehicle emission or safety inspections required by law;
 - (v) Parts sold, or repairs performed, at wholesale or for insurance carriers, or other third-party payors;
 - (vi) Routine maintenance not covered under any warranty, including maintenance involving fluids, filters, and belts not provided in the course of repairs;
 - (vii) Nuts, bolts, fasteners, and similar items that do not have an individual parts number;
 - (viii) Tires;
 - (ix) Vehicle reconditioning;
 - (x) Goodwill or policy repairs or replacements; or
 - (xi) Repairs on vehicles from a different line-make.

MASSACHUSETTS

§ 9. Delivery and preparation obligations; express warranty agreements; audit of claims.



- (b) (1) A manufacturer or distributor shall specify in writing to each of its dealers the dealer's obligations for predelivery preparation and warranty service on its products and shall compensate the dealer for such preparation and service. A manufacturer or distributor shall within a reasonable time fulfill its obligations under all express warranty agreements made by it with respect to a product manufactured, distributed or sold by it and shall adequately and fairly compensate any motor vehicle dealer who, under its franchise obligations, furnishes labor, parts and materials under the warranty or maintenance plan, extended warranty, certified preowned warranty or a service contract, issued by the manufacturer or distributor or its common entity, unless issued by a common entity that is not a manufacturer; to fulfill a manufacturer or distributor's delivery or preparation procedures or to repair a motor vehicle as a result of a manufacturer or distributor's or common entity's recall, campaign service, authorized goodwill, directive or bulletin. For the purposes of motor vehicle dealers, fair and adequate compensation shall not be less than the rate and price customarily charged for retail customer repairs and computed under paragraph (2); provided, however, that fair and adequate compensation shall, for purposes of this section for power sport vehicles, be computed at the rate normally charged by the motor vehicle dealer to the public for the labor and materials and shall include a fair charge for diagnostic and test services; provided, further, that fair and adequate compensation shall, for purposes of this section for recreational vehicles, be computed at the rate normally charged by the motor vehicle dealer to the public for the labor and shall include a fair charge for diagnostic and test services and shall be computed for the materials at the rate of not less than actual wholesale cost, plus a handling

charge of 30 per cent of the cost and the cost, if any, of freight to return the warranty materials to the manufacturer. For the purposes of this subsection, "labor" shall include time spent by employees for diagnosis and repair of a vehicle, "parts" shall include replacement parts and accessories and "retail customer repair" shall mean work, including parts and labor, performed by a dealer which does not come within a manufacturer's, distributor's or its common entity's warranty, extended warranty, certified preowned warranty, service contract or maintenance plan and excludes parts and labor described in clause (iii) of paragraph (2).

- (2) (i) In determining the rate and price customarily charged by the motor vehicle dealer to the public for parts, the compensation may be an agreed percentage markup over the dealer's cost under a writing separate and distinct from the franchise agreement signed after the dealer's request, but if an agreement is not reached within 30 days after a dealer's written request to be compensated under this section, compensation for parts shall be calculated by utilizing the method described in this paragraph.

The retail rate customarily charged by the dealer for parts shall be established by the dealer submitting to the manufacturer or distributor 100 sequential nonwarranty or customer-paid service repair orders or 60 consecutive days of nonwarranty, customer-paid service repair orders, whichever is less, each of which includes parts that would normally be used in warranty repairs and covered by the manufacturer's warranty, covering repairs made not more than 180 days before the submission and declaring the average percentage markup. The average of the markup rates shall be presumed to be fair and reasonable. The retail rate shall go into effect 30 days following the declaration, subject to audit of the submitted repair orders by the franchisor and a rebuttal of the declared rate. If the declared rate is rebutted, the manufacturer or distributor shall propose an adjustment of the average percentage markup based on the rebuttal not later than 30 days after submission. If the dealer does not agree with the proposed average percentage markup, the dealer may file an action in a court of competent jurisdiction not later than 30 days after receipt of the proposal by the manufacturer or distributor. In an action commenced under this paragraph, the manufacturer or distributor shall have the burden of proving that the rate declared by the dealer was inaccurate or unreasonable.

- (ii) The retail rate customarily charged by the dealer for labor may be established by submitting to the manufacturer or distributor 100 sequential nonwarranty, customer-paid service repair orders or 60 consecutive days of nonwarranty, customer-paid service repair orders, whichever is less, covering repair orders made not more than 180 days before the submission and dividing the amount of the dealer's total labor sales by the number of total labor hours that generated those sales. The average labor rate shall be presumed to be fair and reasonable. The average labor rate shall go into effect 30 days following the declaration, subject to audit of the submitted repair orders by the franchisor and a rebuttal of the declared rate. If the declared rate is rebutted, the manufacturer or distributor shall propose an adjustment of the average labor rate based on the rebuttal not later than 30 days after submission. If the dealer does not agree with the proposed average labor rate, the dealer may file an action in a court of competent jurisdiction not later than 30 days after receipt of the proposal by the manufacturer or distributor. In any action commenced under this paragraph, the manufacturer or distributor shall have the burden of proving that the rate declared by the dealer was inaccurate or unreasonable.
- (iii) In calculating the retail rate customarily charged by the dealer for parts and labor, the following work shall not be included in the calculation: (a) routine maintenance not covered under any retail customer warranty, such as fluids, filters and belts not provided in the course of repairs; (b) items that do not have an individual part number such as some nuts, bolts, fasteners and similar items; (c) tires; and (d) vehicle reconditioning.

- (iv) If a manufacturer or distributor furnishes a part or component to a dealer, at no cost, to use in performing repairs under a recall, campaign service action or warranty repair, the manufacturer or distributor shall compensate the dealer for the part or component in the same manner as warranty parts compensation under this section by compensating the dealer the average markup on the cost for the part or component as listed in the manufacturer's or distributor's price schedule less the cost for the part or component.

MICHIGAN

445.1577. Recall, warranty, and promotional claim chargebacks; requirements.

Sec. 17. (1) A manufacturer shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, recall service, and warranty service on its products. A manufacturer shall compensate a new motor vehicle dealer for recall or warranty service required of the dealer by the manufacturer. A manufacturer shall provide a new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, work, and service, and the time allowance for the performance of the work and service. A manufacturer shall also include in the schedule of compensation a reasonable time allowance for labor for diagnostic work and repair work, included in the manufacturer's labor time allowance or listed as a separate compensable item. A dealer may submit a request for an additional time allowance for either diagnostic or repair time, that includes any information and documentation reasonably required by the manufacturer, and a manufacturer shall not unreasonably deny that request. The schedule of compensation shall include reasonable compensation for parts reimbursement and labor rates as determined under section 17a(1).¹

445.1577a. Warranty chargebacks; reasonable compensation for parts reimbursement and labor rates; factors

- Sec. 17a. (1) The principal factors in determining what constitutes reasonable compensation for parts reimbursement and labor rates for purposes of section 17(1)¹ are as follows:
- (a) The retail price charged for parts by other similarly situated new motor vehicle dealers in a comparable geographic area in this state that offer the same line-make of vehicles.
 - (b) The retail labor rates of other similarly situated new motor vehicle dealers in a comparable geographic area in this state that offer the same line-make of vehicles.
- (2) All of the following apply for purposes of subsection (1):
- (a) A new motor vehicle dealer that is demanding warranty compensation from a manufacturer at a rate that exceeds the agreed-upon rates shall establish the retail rate it customarily charges for parts by submitting to the manufacturer 100 consecutive and sequential nonwarranty customer-paid service repair orders that contain repairs for like services or all nonwarranty customer-paid service repair orders covering a period of 90 consecutive days, whichever is less. A dealer shall not submit a service repair order under this subsection that covers repairs made more than 180 days before the date of the submission.
 - (b) If a manufacturer determines from any set of repair orders submitted under subdivision (a) that the calculated retail markup rate for parts or the retail labor rate is substantially higher or lower than the rate currently on record with the manufacturer, the manufacturer may request additional documentation for a period of either 60 days before or 60 days after the time period for which the repair orders were submitted for purposes of an adjustment.

MINNESOTA

80E.041 Warranty obligations to dealers.



Subdivision 1. Requirements.

Each new motor vehicle manufacturer shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, and warranty service on its products. The manufacturer shall compensate the new motor vehicle dealer for warranty service parts and labor required of the new motor vehicle dealer by the manufacturer. Compensation for parts used in warranty service must include the motor vehicle dealer's actual cost of the part plus a reasonable percentage markup or be calculated as described in subdivision 2 at the election of the dealer. Compensation for labor used in warranty service must be reasonable and may at the election of the dealer be determined as described in subdivision 4. This section applies to all warranty repair service performed by the dealer for the manufacturer or with the approval of the manufacturer and for which the dealer is entitled to compensation or reimbursement from the manufacturer

Subdivision 4 Retail rate for labor.

- (a) Compensation for warranty labor must equal the dealer's effective nonwarranty labor rate multiplied by the time guide used by the dealer for nonwarranty customer-paid service repair orders. If no time guide exists for a warranty repair, compensation for warranty labor must equal the dealer's effective nonwarranty labor rate multiplied by the time actually spent to complete the repair order and must not be less than the time charged to retail customers for the same or similar work performed. The effective nonwarranty labor rate is determined by dividing the total customer labor charges for qualifying nonwarranty repairs in the repair orders submitted under subdivision 2 by the total number of labor hours that generated those sales. Compensation for warranty labor must include reasonable all diagnostic time for repairs performed under this section, including but not limited to all time spent communicating with the manufacturer's technical assistance or external manufacturer source in order to provide a warranty repair, and must not be less than the time charged to retail customers for the same or similar work performed.

MISSISSIPPI

§ 63-17-85. Denial or discipline; civil sanctions.



The commission may deny an application for a license, or revoke or suspend a license after it has been granted, for any of the following reasons:

- (j) On satisfactory proof that any manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division has unfairly and without due regard to the equities of the parties or to the detriment of the public welfare failed to properly fulfill any warranty agreement or to adequately and fairly compensate any of its motor vehicle dealers for labor and parts incurred by any such dealer with regard to warranty work performed by any such dealer, and upon the written request of a dealer using a format provided by the manufacturer, which is consistent with the requirements of Section 63-17-86. In no event shall any such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division pay to the requesting motor vehicle dealer an hourly labor rate and parts mark-up for warranty work that is less than that charged by such dealer to its retail customers in accordance with Section 63-17-86. Time allowances for the diagnosis and performance of warranty work shall be reasonable and adequate for such work to be performed using the actual time required by a qualified technician of ordinary skill to perform such work. No such dealer shall charge to its manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, a labor rate in excess of the rate charged to its retail customers. All claims made by motor vehicle dealers hereunder for such labor and/or parts shall be paid within thirty (30) days following their approval. All such claims shall

be either approved or disapproved within thirty (30) days after their receipt, and when any such claim is disapproved the motor vehicle dealer who submits it shall be notified in writing of its disapproval within said period, and each such notice shall state the specific grounds upon which the disapproval is based.

MISSOURI

§ 407.828. Franchisor's duties to franchisee—schedule of compensation—claims payment—retail rate calculation—audit authority.



2. The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service and labor for the franchisee to meet its obligations for preparation, delivery, and warranty service. The schedule shall also include reasonable and adequate time allowances for the diagnosis and performance of preparation, delivery, and warranty service to be performed in a careful and professional manner. In the determination of what constitutes reasonable compensation for labor and service pursuant to this section, the principal factor to be given consideration shall be the prevailing wage rates being charged for similar labor and service by the franchisee for similar labor and service to retail customers for nonwarranty labor and service,. The primary factor in determining reasonable compensation for parts under this section shall be amount charged by the franchisee for similar parts to retail customers for nonwarranty parts.
3. A franchisor shall perform all warranty obligations, including recall notices; include in written notices of franchisor recalls to new motor vehicle owners and franchisees the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; and reasonably compensate any of the franchisees in this state for repairs required by the recall. Compensation for parts , and labor for recall repairs shall be determined under subsection 2 of this section.
4. No franchisor shall require a franchisee to submit a claim authorized under this section sooner than thirty days after the franchisee completes the preparation, delivery, or warranty service authorizing the claim for preparation, delivery, or warranty service. All claims made by a franchisee under this section shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claims not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within fifteen days thereafter. A franchisee shall not be required to maintain defective parts for more than thirty days after submission of a claim.
5. A franchisor shall compensate the franchisee for franchisor-sponsored sales or service promotion events, including but not limited to, rebates, programs, or activities in accordance with established written guidelines for such events, programs, or activities, which guidelines shall be provided to each franchisee.
6. No franchisor shall require a franchisee to submit a claim authorized under subsection 5 of this section sooner than thirty days after the franchisee becomes eligible to submit the claim. All claims made by a franchisee pursuant to subsection 5 of this section for promotion events, including but not limited to rebates, programs, or activities shall be paid within ten days after their approval. All claims shall be either approved or disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of this form shall be considered to be approved and payment shall be made within fifteen days.

7. In calculating the retail rate customarily charged by the franchisee for parts, service, and labor, the following work shall not be included in the calculation:
 - (1) Repairs for franchisor, manufacturer, or distributor special events, specials, or promotional discounts for retail customer repairs;
 - (2) Parts sold at wholesale;
 - (3) Engine assemblies and transmission assemblies;
 - (4) Routine maintenance not covered under any retail customer warranty, such as fluids, filters, and belts not provided in the course of repairs;
 - (5) Nuts, bolts, fasteners, and similar items that do not have an individual part number;
 - (6) Tires; and
 - (7) Vehicle reconditioning.
8. If a franchisor, manufacturer, importer, or distributor furnishes a part or component to a franchisee, at no cost, to use in performing repairs under a recall, campaign service action, or warranty repair, the franchisor shall compensate the franchisee for the part or component in the same manner as warranty parts compensation under this section by compensating the franchisee at the average markup on the cost for the part or component as listed in the price schedule of the franchisor, manufacturer, importer, or distributor, less the cost for the part or component. This subsection shall not apply to entire engine assemblies, propulsion engine assemblies, including electric vehicle batteries, or entire transmission assemblies.

MONTANA

§ 61-4-213. Warranty reimbursement.



- (1) (a) If a motor vehicle franchisor requires or permits motor vehicle franchisees to perform labor or provide parts in satisfaction of a warranty issued by the franchisor:
 - (i) the motor vehicle franchisor shall reimburse the motor vehicle franchisee for the labor as rendered, using the franchisor's labor time guide or the labor time guide used by the dealer for labor furnished other than pursuant to warranty, at the dealer's election, and for parts and supplies, including but not limited to engine, transmission, and other parts assemblies, as furnished, in an amount equal to the prevailing retail rate charged by the franchisee for the labor or the prevailing retail markup charged by the franchisee for the parts and supplies in circumstances in which the labor is rendered or the parts and supplies are furnished other than pursuant to warranty;
 - (ii) the motor vehicle franchisor shall reimburse the motor vehicle franchisee pursuant to subsection (1)(a)(i) for labor performed on and parts supplied for a motor vehicle by the franchisee in good faith and in accordance with the manufacturer's warranty and written repair requirements and procedures, notwithstanding any requirement that the franchisor accept the return of the motor vehicle or make payment to a consumer with respect to the motor vehicle pursuant to the provisions of Title 61, chapter 4, part 5; and
 - (iii) the motor vehicle franchisee may establish its prevailing retail labor rate or parts markup by submitting to the motor vehicle franchisor whichever of the following produces the fewer number of repair orders, all of which must be for repairs made no more than 180 days before the submission:
 - (A) all consecutive repair orders that include 100 sequential repair orders reflecting qualified repairs; or
 - (B) all repair orders closed during any period of 90 consecutive days.

- (b) The submission required under subsection (1)(a)(iii) may consist of:
- (i) a single set of repair orders for calculating both the franchisee's prevailing retail labor rate and its parts markup;
 - (ii) separate sets of repair orders, one for calculating the franchisee's prevailing retail labor rate and the other for calculating its parts markup; or
 - (iii) a set of repair orders for calculating only the franchisee's prevailing retail labor rate or only its prevailing retail parts markup.
- (2) The motor vehicle franchisee shall calculate its prevailing retail labor rate by determining the total charges for labor from the qualified repairs submitted and then dividing that amount by the total number of hours charged for the repairs.
- (3) The motor vehicle franchisee shall calculate its prevailing retail parts markup by determining the total charges for parts from the qualified repairs submitted, dividing that amount by the franchisee's total cost of the purchase of those parts including shipping and other charges, subtracting 1, and multiplying by 100 to produce a percentage.
- (4) The motor vehicle franchisee shall provide written notice to the motor vehicle franchisor of its prevailing retail labor rate or prevailing retail parts markup calculated in accordance with subsection (2) or (3) if the franchisee seeks to be compensated under subsection (1).

NEBRASKA

§ 60-1438. Manufacturer or distributor; warranty obligation; prohibited acts.

- (1) Each new motor vehicle manufacturer or distributor shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, and warranty service on its products. The manufacturer or distributor shall compensate the new motor vehicle dealer for warranty service which such manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles and all parts and components included in or manufactured for installation in the motor vehicles of the manufacturer or distributor. The manufacturer or distributor shall provide the new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, work, and service and the time allowance for the performance of the work and service.
- (2) (a) The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the prevailing wage rates being paid by dealers in the community in which the dealer is doing business, and in no event shall the compensation of the dealer for warranty parts and labor be less than the rates charged by the dealer for like parts and service to retail or fleet customers, as long as such rates are reasonable. In determining prevailing wage rates, the rate of compensation for labor for that portion of repair orders for routine maintenance, such as tire repair or replacement and oil and fluid changes, shall not be used.

NEVADA

§ 482.36385. Unfair practices: Competition by manufacturer, distributor or branch of factory; discrimination; compensation of dealer; failure to pay, approve or disapprove claim or accept amended...



It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

3. Fail to compensate a dealer fairly for the work and services which the dealer is required to perform in connection with the delivery and preparation obligations under any franchise, or fail to compensate a dealer fairly for labor, parts and other expenses incurred by the dealer under the manufacturer's warranty agreements or any recall service or repairs. The manufacturer shall set forth in writing the respective obligations of a dealer and the manufacturer in the preparation of a vehicle for delivery, and as between them a dealer's liability for a defective product is limited to the obligation so set forth. Fair compensation includes diagnosis and reasonable administrative and clerical costs. The dealer's compensation for parts and labor to satisfy a warranty or a recall service or repair must not be less than the amount of money charged to its various retail customers for parts and labor that are not covered by a warranty. If parts are supplied by the manufacturer, including exchanged parts and assembled components, the dealer is entitled with respect to each part to an amount not less than the dealer's normal retail markup for the part. This subsection does not apply to compensation for any part, system, fixture, appliance, furnishing, accessory or feature of a motor home or recreational vehicle that is designed, used and maintained primarily for non-vehicular, residential purposes.

NEW HAMPSHIRE

§ 357-C:5. Warranty Obligations, Transportation Damage and Indemnification.



- (B) (i) In determining the rate and price customarily charged by the motor vehicle dealer to the public for parts, the compensation may be an agreed percentage markup over the dealer's cost under a writing separate and distinct from the franchise agreement signed after the dealer's request, but if an agreement is not reached within 30 days after a dealer's written request to be compensated under this section, compensation for parts shall be calculated by utilizing the method described in this paragraph.
- (ii) If the dealer and the manufacturer are unable to agree to a percentage markup as provided by subparagraph (i), the retail rate customarily charged by the dealer for parts that the manufacturer is obligated to pay pursuant to RSA 382-A:2-329, shall be established by the dealer submitting to the manufacturer or distributor 100 sequential nonwarranty or customer-paid service repair orders or 90 consecutive days of nonwarranty, customer-paid service repair orders, whichever is less, each of which includes parts that would normally be used in warranty repairs and covered by the manufacturer's warranty, covering repairs made not more than 180 days before the submission and declaring the average percentage markup. The retail rate so declared must be reasonable as compared to other same line-make dealers of similar size in the immediate geographic vicinity of the dealer or, if none exist, immediately outside the dealer's geographic relevant market area within this state. The declared retail rate shall go into effect 30 days following the date on which the dealer submitted to the manufacturer or distributor the required number of nonwarranty or customer-paid service repair orders (hereafter referred to as the "submission date") subject to audit of the submitted nonwarranty or customer-paid service repair orders by the manufacturer or distributor and a rebuttal of the declared retail rate. If the manufacturer or distributor wishes to rebut the declared retail rate it must so inform the dealer not later than 30 days after the submission date and propose an adjustment of the average percentage markup based on the rebuttal not later than 60 days after the submission date. If the dealer does not agree with the proposed average percentage markup, the dealer may file a protest at the motor vehicle industry board not later than 90 days after the submission date. In the event a protest is filed, the manufacturer has the burden

of proof to establish that the dealer's submission is unreasonable as compared to other same line-make dealers of similar size in the immediate geographic vicinity of the dealer or, if none exist, immediately outside the dealer's geographic relevant market area within this state. In the event a dealer prevails in a protest filed under this provision, the dealer's increased parts and/or labor reimbursement shall be provided retroactive to the date the submission would have been effective pursuant to the terms of this section but for the manufacturer's denial.

- (iii) In calculating the retail rate customarily charged by the dealer for parts, the following work shall not be included in the calculation: routine maintenance not covered under any retail customer warranty, such as fluids, filters and belts not provided in the course of repairs; items that do not have an individual part number such as some nuts, bolts, fasteners and similar items; tires; vehicle reconditioning; parts covered by subparagraph (v); repairs for manufacturer special events and manufacturer discounted service campaigns; parts sold at wholesale or parts used in repairs of government agencies' repairs for which volume discounts have been negotiated by the manufacturer; promotional discounts on behalf of the manufacturer, internal billings, regardless of whether the billing is on an in-stock vehicle; and goodwill or policy adjustments.
- (v) If a motor vehicle franchisor or component manufacturer supplies a part or parts for use in a repair rendered under a warranty other than by sale of that part or parts to the motor vehicle franchisee, the motor vehicle franchisee shall be entitled to compensation equivalent to the motor vehicle franchisee's average percentage markup on the part or parts, as if the part or parts had been sold to the motor vehicle franchisee by the motor vehicle franchisor.

NEW JERSEY

§ 56:10-15. Motor vehicle franchises; reimbursement of franchisees by franchisors for services in satisfaction of warranty.



- a. The motor vehicle franchisor shall reimburse each motor vehicle franchisee for such services as are rendered and for such parts as are supplied, in an amount equal to the prevailing retail price charged by such motor vehicle franchisee for such services and parts in circumstances where such services are rendered or such parts supplied other than pursuant to warranty; provided that such motor vehicle franchisee's prevailing retail price is not unreasonable when compared with that of the holders of motor vehicle franchises from the same motor vehicle franchisor for identical merchandise or services in the geographic area in which the motor vehicle franchisee is engaged in business.
- d. For the purposes of this section, the "prevailing retail price" charged by : (1) a motor vehicle franchisee for parts means the price paid by the motor vehicle franchisee for those parts, including all shipping and other charges, multiplied by the sum of 1.0 and the franchisee's average percentage markup over the price paid by the motor vehicle franchisee for parts purchased by the motor vehicle franchisee from the motor vehicle franchisor and sold at retail. The motor vehicle franchisee may establish average percentage markup under this section by submitting to the motor vehicle franchisor 100 sequential customer paid service repair orders or 90 days of customer paid service repair orders, whichever is less, covering repairs made no more than 180 days before the submission, and declaring what the average percentage markup is. The average percentage markup so declared shall go into effect 30 days following the declaration subject to audit of the submitted repair orders by the motor vehicle franchisor and adjustment of the average percentage markup based on that audit. Only retail sales not involving warranty repairs, parts covered by subsection e. of this section, or parts supplied for routine vehicle maintenance, shall be considered in calculating average percentage markup. No motor vehicle franchisor shall require a motor vehicle franchisee to establish average percentage markup by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, part by part or transaction by transaction calculations. A motor vehicle franchisee shall

not request a change in the average percentage markup more than twice in one calendar year; and (2) a recreational motor vehicle franchisee for parts means actual wholesale cost, plus a minimum 30% handling charge and any freight costs incurred to return the removed parts to the motor vehicle franchisor.

- e. If a motor vehicle franchisor supplies a part or parts for use in a repair rendered under a warranty other than by sale of that part or parts to the motor vehicle franchisee, the motor vehicle franchisee shall be entitled to compensation equivalent to the motor vehicle franchisee's average percentage markup on the part or parts, as if the part or parts had been sold to the motor vehicle franchisee by the motor vehicle franchisor. The requirements of this section shall not apply to entire engine assemblies and entire transmission assemblies. In the case of those assemblies, the motor vehicle franchisor shall reimburse the motor vehicle franchisee in the amount of 30% of what the motor vehicle franchisee would have paid the motor vehicle franchisor for the assembly if the assembly had not been supplied by the franchisor other than by the sale of that assembly to the motor vehicle franchisee.

NEW MEXICO

§ 57-16-7. Warranty claims; payment.

- C. The rates charged by the dealer for nonwarranty service or work for parts means the price paid by the dealer for those parts, including all shipping and other charges, increased by the franchisee's average percentage markup. A dealer shall establish and declare the dealer's average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission. A change in a dealer's established average percentage markup takes effect thirty days following the submission. A manufacturer shall not require a dealer to establish average percentage markup by another methodology. A manufacturer shall not require information that is unduly burdensome or time-consuming to provide, including part-by-part or transaction-by-transaction calculations.

NEW YORK

§ 465. Procedures relating to warranties and sales incentives.

1. Every franchisor shall properly fulfill any warranty agreement and/or franchisor's service contract and shall compensate each of its franchised motor vehicle dealers for warranty parts and labor in amounts which reflect reasonable compensation for such work. All warranty claims and/or claims under a franchisor's service contract made by franchised motor vehicle dealers shall be paid within thirty days following their approval. For parts reimbursement, other than components, systems, fixtures, appliances, furnishings, accessories and features of a house coach that are designed, used and maintained primarily for nonvehicular residential purposes, and for labor reimbursement, reasonable compensation shall not be less than the price and rate charged by the franchised motor vehicle dealer for like services to non-warranty and/or non-service contract customers. For purposes of this section, the price and rate charged by the franchised motor vehicle dealer for parts may be established by submitting to the franchisor one hundred sequential nonwarranty customer-paid service repair orders or the number of sequential nonwarranty customer-paid service repair orders written within a ninety day period, whichever is less, covering repairs made no more than one hundred eighty days before the submission, and declaring the price and rate, including average markup for the franchised motor vehicle dealer as its reimbursement rate. The reimbursement rate so declared shall go into effect thirty days following the declaration and shall be presumed to be reasonable, however a franchisor may rebut such presumption by showing that such rate so established is unreasonable in light of the practices of all other franchised motor vehicle dealers in the vicinity offering the same line make. The franchised motor vehicle dealer shall not request a change in the reimbursement rate more often than

once in each calendar year. In establishing the labor reimbursement rate, the franchisor shall not require a franchised motor vehicle dealer to establish said rate by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, a transaction by transaction calculation. For the purposes of this section, the following parts or types of repairs shall be excluded from the parts and/or labor calculations and the franchisor's reimbursement requirements under this section: (a) parts sold at wholesale; (b) tires; (c) routine maintenance not covered under any retail customer warranty such as fluids, filters and belts not provided in the course of repairs; (d) vehicle reconditioning; and (e) batteries replaced as part of a routine maintenance operation. If the franchisor rejects the declaration or attempts to rebut the declaration because of an error in the dealer's submission, the franchisor shall identify with specificity the reason for rejection and identify the error or errors within the submission. In the event the franchisor rejects or rebuts the dealer's initial declaration, the dealer shall have the opportunity, within sixty days to resubmit the full and corrected declaration addressing the alleged error or errors identified by the franchisor. The franchisor shall respond within sixty days. The one hundred eighty day requirement for the repair orders shall be stayed from the date of initial submission. In any action or proceeding held pursuant to this subdivision, the franchisor shall have the burden of proving that the rate declared by the dealer was unreasonable as described in this subdivision and that the proposed adjustment of the average percentage markup or rejection of the submission is reasonable pursuant to the provisions of this subdivision.

NORTH CAROLINA

§ 20-305.1. Automobile dealer warranty obligations.



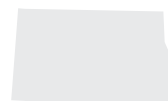
- (a1) The retail rate customarily charged by the dealer for parts and labor may be established at the election of the dealer by the dealer submitting to the manufacturer or distributor 100 sequential nonwarranty customer-paid service repair orders which contain warranty-like parts, or 60 consecutive days of nonwarranty customer-paid service repair orders which contain warranty-like parts, whichever is less, covering repairs made no more than 180 days before the submission and declaring the average percentage markup. The average of the parts markup rate and the average labor rate shall both be presumed to be reasonable, however, a manufacturer or distributor may, not later than 30 days after submission, rebut that presumption by reasonably substantiating that the rate is unfair and unreasonable in light of the retail rates charged for parts and labor by all other franchised motor vehicle dealers located in the dealer's relevant market area offering the same line-make vehicles. In the event there are no other franchised dealers offering the same line-make of vehicle in the dealer's relevant market area, the manufacturer or distributor may compare the dealer's retail rate for parts and labor with the retail rates charged for parts and labor by other same segment franchised dealers who are selling competing line-makes of vehicles within the dealer's relevant market area. In the event there is also no other same segment franchised dealer who is selling a competing line-make of vehicle within the dealer's relevant market area, the manufacturer or distributor may then compare the dealer's retail rate for parts and labor with the retail rates charged for parts and labor by other same line-make dealers or same segment franchised dealers who are selling competing line-makes of vehicles that are located within the relevant market area of the franchised dealer who is located in closest proximity, measured by straight-line distance, to the dealer, provided they are not all owned, operated, or controlled by the subject dealer. For the purposes of this section, the term "relevant market area" shall have the same meaning as set forth in G.S. 20-286(13b). The retail rate and the average labor rate shall go into effect 30 days following the manufacturer's approval, but in no event later than 60 days following the declaration, subject to audit of the submitted repair orders by the manufacturer or distributor and a rebuttal of the declared rate as described above. If the declared rate is rebutted, the manufacturer or distributor shall propose an adjustment of the average percentage markup based on that rebuttal not later than 30 days after such audit, but in no event later than 60 days after submission. If the dealer does not agree with the proposed average percentage markup, the dealer may file a protest with the Commissioner not later than 30 days after receipt of that proposal by the manufacturer or distributor. If such a protest is filed, the Commissioner shall inform the manufacturer

or distributor that a timely protest has been filed and that a hearing will be held on such protest. In any hearing held pursuant to this subsection, the manufacturer or distributor shall have the burden of proving by a preponderance of the evidence that the rate declared by the dealer was unreasonable as described in this subsection and that the proposed adjustment of the average percentage markup is reasonable pursuant to the provisions of this subsection. If the dealer prevails at a protest hearing, the dealer's proposed rate, affirmed at the hearing, shall be effective as of 60 days after the date of the dealer's initial submission of the customer-paid service orders to the manufacturer or distributor. If the manufacturer or distributor prevails at a protest hearing, the rate proposed by the manufacturer or distributor, that was affirmed at the hearing, shall be effective beginning 30 days following issuance of the final order.

- (a2) In calculating the retail rate customarily charged by the dealer for parts and labor, the following work shall not be included in the calculation:
- (1) Repairs for manufacturer or distributor special events, specials, coupons, or other promotional discounts for retail customer repairs.
 - (2) Parts sold at wholesale or at reduced or specially negotiated rates for insurance repairs.
 - (3) Engine assemblies.
 - (4) Routine maintenance, including fluids, filters, alignments, flushes, oil changes, belts, and brake drums/rotors and shoes/pads not provided in the course of repairs.
 - (5) Nuts, bolts, fasteners, and similar items that do not have an individual part number.
 - (6) Tires and vehicle alignments.
 - (7) Vehicle reconditioning.
 - (8) Batteries and light bulbs.

NORTH DAKOTA

§ 51-07-29. Warranty work compensation.



1. A motor vehicle manufacturer shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor, in warranty work compensation. In addition, a motor vehicle manufacturer shall provide adequate time allowances for diagnosis and performance of warranty work and service for the work performed. The hourly labor rate paid by a motor vehicle manufacturer to the dealer for warranty services may not be less than the average rate charged by the dealer for like service to nonwarranty customers for nonwarranty service as provided under subsection 5. A motor vehicle manufacturer may not reimburse a dealer for parts used in the performance of warranty repair at a lower rate than the average retail rate customarily charged by the dealer for these parts as provided under subsection 4.
4. The retail rate customarily charged by the dealer for parts is established by the dealer submitting to the manufacturer or distributor one hundred sequential nonwarranty customer-paid service repair orders that contain warranty-like parts or ninety consecutive days of nonwarranty customer-paid service repair orders that contain warranty-like parts, whichever is less, covering repairs made no more than one hundred eighty days before the submission and declaring the average percentage markup.
5. The retail rate customarily charged by the dealer for labor must be established using the same process as provided under subsection 4 and declaring the average labor rate. The average labor rate must be determined by dividing the amount of the dealer's total labor sales by the number of total hours that generated those sales. If a labor rate and parts markup rate are simultaneously declared by the dealer, the dealer may use the same repair orders to complete each calculation as provided under subsection 4.

6. In calculating the retail rate customarily charged by the dealer for parts and labor, the following work may not be included in the calculation:
- a. Repairs for manufacturer or distributor special events, specials, or promotional discounts for retail customer repairs;
 - b. Parts sold at wholesale;
 - c. Routine maintenance not covered under any retail customer warranty, including fluids, filters, and belts not provided in the course of repairs;
 - d. Nuts, bolts, fasteners, and similar items that do not have an individual part number;
 - e. Tires; and
 - f. Vehicle reconditioning.

OHIO

§ 4517.52.Franchisor warranty obligations; franchisee to be adequately compensated for warranty and recall work.



- (A) Each franchisor shall fulfill warranty and recall obligations of repairing and servicing motor vehicles, including all parts and components manufactured for installation in any motor vehicle.
- (B) Each franchisor shall compensate each of its franchisees for labor and parts used to fulfill warranty and recall obligations of repair and servicing at rates not less than the rates charged by the franchisee to its retail customers for warranty-like labor and parts for nonwarranty work. A franchisee, other than a franchisee that deals in recreational vehicles, may establish rates of compensation for labor performed and parts used by the franchisee for purposes of this section if all of the following apply:

- (1) The franchisee submits to the franchisor either of the following:

- (a) One hundred sequential nonwarranty service repair orders for warranty-like repairs that have been paid by a customer and closed by the time of submission;
 - (b) All service repair orders for warranty-like repairs, that have been paid by a customer and closed by the time of submission, for a period of ninety consecutive days.

A franchisee either may submit a set of repair orders for purposes of calculating both its retail labor rate and its retail parts markup percentage, or may submit separate sets of repair orders for purposes of calculating its retail labor rate and its retail parts markup percentage separately. The repair orders submitted under division (B)(1)(a) or (b) of this section must be from a period occurring not more than one hundred eighty days before the submission.

Subject to division (C)(3) of this section, if a franchisor determines from any set of repair orders submitted under this section that the retail labor rate or parts markup percentage calculated under division (B)(2) or (3) of this section is substantially higher or lower than the rate currently on record with the franchisor for labor or parts, the franchisor may request additional documentation for a period of either ninety days prior to or ninety days subsequent to the time period for which the repair orders were submitted for purposes of an alteration.

- (2) The franchisee calculates its retail labor rate by determining the franchisee's total labor sales from the service repair orders submitted under division (B)(1) of this section and dividing that amount by the total number of labor hours that generated those sales.

- (3) If the franchisor contests a rate or markup percentage established by the franchisee under division (B) of this section, the franchisor and franchisee shall resolve the disagreement through the franchisor's internal dispute resolution process. However, the franchisee may appeal a determination made as part of the dispute resolution process to a court of competent jurisdiction. Any rate or markup percentage established either through an internal dispute resolution process or by a court as part of an appeal under this section shall be applied retroactively to govern reimbursement for labor or parts, as applicable, beginning thirty days after the date the franchisee submitted the disputed rate or markup percentage under division (B) of this section.
- (4) A franchisee shall not establish or modify a retail labor rate or retail parts markup percentage more frequently than once per calendar year.
- (D) When calculating the compensation that must be provided to a franchisee for labor and parts used to fulfill warranty and recall obligations under this section, all of the following apply:
 - (1) The franchisor shall use time allowances for the diagnosis and performance of the warranty and recall work and service that are reasonable and adequate for the work or services to be performed by a qualified technician.
 - (2) The franchisor shall use any retail labor rate and any retail parts markup percentage established in accordance with this section in calculating the compensation.
 - (3) If the franchisor provided a part or component to the franchisee at no cost to use in performing repairs under a recall, campaign service action, or warranty repair, the franchisor shall provide to the franchisee an amount equal to the retail parts markup for that part or component, which shall be calculated by multiplying the dealer cost for the part or component as listed in the franchisor's price schedule by the retail parts markup percentage.

OKLAHOMA

§ 565. Denial revocation or suspension of license—Right of first refusal.

- A. The Oklahoma Motor Vehicle Commission may deny an application for a license, or revoke or suspend a license or impose a fine not to exceed Ten Thousand Dollars (\$10,000.00) against a manufacturer or distributor or a fine not to exceed One Thousand Dollars (\$1,000.00) against a dealer per occurrence that any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title is violated or for any of the following reasons:
 - 9. Being a factory that:
 - b. has failed to compensate its dealers for the work and services they are required to perform in connection with the dealer's delivery and preparation obligations according to the agreements on file with the Commission which must be found by the Commission to be reasonable, or has failed to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by the dealer to perform under and comply with manufacturer's warranty agreements and recall repairs which shall include diagnostic work as applicable and assistance requested by a consumer whose vehicle was subjected to an over-the-air or remote change, repair, or update to any part, system, accessory, or function by the manufacturer and performed by the dealer in order to satisfy the consumer. Time allowances for the diagnosis and performance of repair work shall be reasonable and adequate for the work to be performed. Adequate and fair compensation, which under this provision shall be no less than the rates customarily charged for retail consumer repairs as calculated herein, for parts and labor for warranty and recall repairs shall, at the option of the new

motor vehicle dealer, be established by the new motor vehicle dealer submitting to the manufacturer or distributor one hundred sequential nonwarranty consumer-paid service repair orders which contain warranty-like repairs, or ninety (90) consecutive days of nonwarranty consumer-paid service repair orders which contain warranty-like repairs, whichever is less, covering repairs made no more than one hundred eighty (180) days before the submission and declaring the average percentage labor rate and/or markup rate. A new motor vehicle dealer may not submit a request to establish its retail rates more than once in a twelve-month period. That request may establish a parts markup rate, labor rate, or both. The new motor vehicle dealer shall calculate its retail parts rate by determining the total charges for parts from the qualified repair orders submitted, dividing that amount by the new motor vehicle dealer's total cost of the purchase of those parts, subtracting one (1), and multiplying by one hundred (100) to produce a percentage. The new motor vehicle dealer shall calculate its retail labor rate by dividing the amount of the new motor vehicle dealer's total labor sales from the qualified repair orders by the total labor hours charged for those sales. When submitting repair orders to establish a retail parts and labor rate, a new motor vehicle dealer need not include repairs for:

- (1) routine maintenance including but not limited to the replacement of bulbs, fluids, filters, batteries, and belts that are not provided in the course of and related to a repair,
- (2) factory special events, specials, or promotional discounts for retail consumer repairs,
- (3) parts sold or repairs performed at wholesale,
- (4) factory-approved goodwill or policy repairs or replacements,
- (5) repairs with aftermarket parts, when calculating the retail parts rate but not the retail labor rate,
- (6) repairs on aftermarket parts,
- (7) replacement of or work on tires including front-end alignments and wheel or tire rotations,
- (8) repairs of motor vehicles owned by the new motor vehicle dealer or employee thereof at the time of the repair,
- (9) vehicle reconditioning, or
- (10) items that do not have individual part numbers including, but not limited to, nuts, bolts, and fasteners.

OREGON

§ 650.158. Predelivery preparation and warranty service by dealer.

- (1) Each manufacturer, distributor or importer shall specify in writing to each of the manufacturer's, distributor's or importer's dealers in this state:
 - (a) The dealer's obligations for predelivery preparation and warranty service on the manufacturer's, distributor's or importer's motor vehicles;
 - (b) The schedule of compensation the manufacturer, distributor or importer will pay the dealer for parts, work and service in connection with predelivery preparation and warranty service; and
 - (c) The time allowances for performing predelivery preparation and warranty service.



- (2) (a) A schedule of compensation must include reasonable compensation for diagnostic work, repair service and labor. Time allowances for diagnosing and performing predelivery and warranty service must be reasonable and adequate for the work to be performed. A manufacturer, distributor or importer may not pay an hourly rate to a dealer that is less than the rate the dealer charges nonwarranty customers for nonwarranty service and repairs. Reimbursement for parts, other than parts used to repair the living facilities of motor homes, that the dealer purchases for use in performing predelivery and warranty service must be the amount the dealer charges nonwarranty customers, as long as the amount is not unreasonable.
- (b) (A) For purposes of this subsection and subject to subparagraphs (B) and (C) of this paragraph, to determine compensation under this subsection, a dealer shall propose an hourly rate and an amount for parts that the dealer charges nonwarranty customers by submitting to the manufacturer, distributor or importer copies of 100 sequential nonwarranty service repair invoices that customers paid or 90 consecutive days' worth of nonwarranty service invoices that customers paid, whichever is less, for repairs the dealer made not more than 180 days before the dealer's submission. If the manufacturer, distributor or importer does not contest the dealer's proposal and the dealer otherwise complies with the provisions of this paragraph, the dealer's proposal is presumed to be fair and reasonable.

PENNSYLVANIA

818.307. Reimbursement for all parts and service required by the manufacturer or distributor; reimbursement audits.



- (3) (a) Manufacturers or distributors to notify dealers of their obligations.--
- (1) Each new vehicle manufacturer or distributor shall specify in writing to each of its new vehicle dealers licensed in this Commonwealth the dealer's obligations for predelivery preparation and warranty service on its products, shall compensate the new vehicle dealer for service required of the dealer by the manufacturer or distributor and shall provide the dealer with a schedule of compensation to be paid the dealer for parts, work and service, and the time allowance for the performance of such work and service.
- (3) Compensation for labor used in warranty service shall be at the dealer's retail rate. The following shall apply:
- (i) The dealer's hourly retail rate for labor shall be established by submitting the following to the manufacturer or distributor:
- (A) A declaration of the average labor rate calculated by dividing the amount of the dealer's total labor sales by the number of total labor hours that generated the sales.
- (B) The lesser of the following orders which cover repairs made no more than 180 days before the submission:
- (I) One hundred sequential nonwarranty customer-paid service repair orders.
- (II) Ninety consecutive days of nonwarranty customer-paid service repair orders.
- (ii) The declaration under subparagraph (i)(A) shall be presumed to be reasonable, except that a manufacturer or distributor may, no later than 60 days after submission, rebut the presumption by substantiating that the rate is unreasonable or materially inaccurate.

- (iii) The average labor rate shall go into effect 60 days following the declaration under subparagraph (i)(A), unless the franchisor audits the submitted repair orders and a rebuttal under subparagraph (ii) occurs.

RHODE ISLAND

§ 31-5.1-6. Warranty agreement.

- (a) Every manufacturer shall properly fulfill any warranty agreement and adequately and fairly compensate each of its motor vehicle dealers for labor and parts. In no event shall that compensation fail to include reasonable compensation for diagnostic work, as well as repair service and labor. All claims made by motor vehicle dealers for labor and parts shall be paid in accord with the provisions of this section. Any delay in payment after approval or disapproval that is caused by conditions beyond the reasonable control of the manufacturer shall not constitute a violation of this section. Reimbursement for warranty repairs or diagnostic work shall be at the dealer retail rate in effect at the time the warranty repair or diagnostic work is performed. Compensation for parts used in warranty service shall be fair and reasonable, as determined by methods described in subsection (b). Compensation for labor used in warranty service shall be fair and reasonable, as determined by methods described in subsection (c).

SOUTH DAKOTA

§ 32-6B-61. Schedule of compensation for warranty work.

The schedule of compensation for warranty work shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor. Time allowances for diagnosis and performance of warranty work and service shall be adequate for the work to be performed. The hourly labor rate paid to the dealer for warranty services may not be less than the rate charged by the dealer for like service to nonwarranty customers for nonwarranty service. Reimbursement for parts used in the performance of warranty repair may not be less than the current retail rate customarily charged by the vehicle dealer for such parts. Each manufacturer, in establishing a schedule of compensation for warranty work, shall rely on the vehicle dealer's written schedule of hourly labor rates and parts and may not obligate any vehicle dealer to engage in unduly burdensome documentation thereof, including, without limitation, obligating vehicle dealers to engage in transaction by transaction calculations.

TENNESSEE

§ 55-17-121. Labor rates.

- (b) In no event shall a manufacturer or distributor pay to its dealers a labor rate per hour for warranty repairs or servicing less than the dealer's retail labor rate for similar repairs, unless the manufacturer or distributor can show to the commission that the dealer's retail labor rate is improper in light of all economic circumstances.
- (c) No motor vehicle dealer shall charge the manufacturer or distributor a labor rate per hour for warranty work in excess of its posted retail labor rate.

TEXAS

§ 2301.402. Rate of Compensation.

- (b) A manufacturer or distributor may not pay or reimburse a dealer an amount of money for warranty work that is less than the amount the dealer charges a retail customer for similar nonwarranty work.
- (c) In computing the amount of money a dealer charges a retail customer under Subsection (b), the manufacturer or distributor shall use the greater of:
 - (1) the average labor rate charged during the preceding six months by the dealer on 100 sequential nonwarranty repair orders, exclusive of routine maintenance; or
 - (2) the average labor rate charged for 90 consecutive days during the preceding six months by the dealer for nonwarranty repairs, exclusive of routine maintenance.



UTAH

§ 13-14-204. Franchisor's obligations related to service – Franchisor audits – Time limits.

- (3) (a)

As used in this Subsection (3):

- (i) “Qualified repair” means a repair to a motor vehicle that:
 - (A) would have come within the franchisor’s new motor vehicle warranty but for such motor vehicle having exceeded the time or mileage limits of such warranty; and
 - (B) does not otherwise constitute warranty work.
- (ii) “Qualified repair” does not include:
 - (A) routine maintenance, including without limitation the replacement of fluids, filters, non-electric vehicle batteries, bulbs, belts, brake pads, rotors, nuts, bolts, or fasteners;
 - (B) a replacement of or work on tires, wheels, or elements related to either, including without limitation wheel alignments and tire or wheel rotations;
 - (C) a repair for a government agency, an insurer, or an extended warranty or service contract provider;
 - (D) a repair that is the subject of a franchisor special event, promotion, or service campaign, or otherwise is subject to a franchisor discount;
 - (E) a repair of a motor vehicle owned by the franchisee or an employee of the franchisee;
 - (F) an installation of an accessory;
 - (G) a safety or vehicle emission inspection required by law;
 - (H) motor vehicle reconditioning;
 - (I) a part sold at wholesale;
 - (J) a repair or replacement with or to an aftermarket part;



- (K) a franchisor-approved goodwill or policy repair or replacement; or
 - (L) a repair performed on a motor vehicle of a line-make other than that for which the franchisee is franchised by the franchisor.
- (b)
 - (i) Compensation of the franchisee for warranty service or recall repair work may not be less than the amount charged by the franchisee for like parts and service to retail or fleet customers, if the amounts are reasonable.
 - (ii) In the case of a recreational vehicle franchisee, reimbursement for parts used in the performance of warranty repairs, including those parts separately warranted directly to the consumer by a recreational vehicle parts supplier, may not be less than the franchisee's cost plus 20%.
 - (iii) For purposes of this Subsection (3)(b)(ii), the term "cost" shall be that same price paid by a franchisee to a franchisor or supplier for the part when the part is purchased for a nonwarranty repair.

VERMONT

§ 4086. Warranty and predelivery obligations to new motor vehicle dealers.

- (c) For purposes of this section, the "retail amounts customarily charged" by the franchisee for parts may be established by submitting to the manufacturer 100 sequential nonwarranty customer-paid service repair orders or 60 days of nonwarranty customer-paid service repair orders, whichever is less in terms of total cost, covering repairs made no more than 180 days before the submission and declaring the average percentage markup. The average percentage markup so declared is the retail amount, which goes into effect 30 days following the declaration, subject to audit of the submitted repair orders by the manufacturer and adjustment of the average percentage markup based on that audit. Only retail sales not involving warranty repairs, not involving state inspection, not involving routine maintenance such as changing the oil and oil filter, and not involving accessories may be considered in calculating the average percentage markup. A manufacturer may not require a new motor vehicle dealer to establish the average percentage markup by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time-consuming to provide, including part-by-part or transaction-by-transaction calculations. A new motor vehicle dealer may not change the average percentage markup more than two times in one calendar year. Further, the manufacturer shall reimburse the new motor vehicle dealer for any labor performed at the retail rate customarily charged by that franchisee for the same labor when not performed in satisfaction of a warranty, provided the franchisee's rate for labor not performed in satisfaction of a warranty is routinely posted in a place conspicuous to its service customer.



VIRGINIA

§ 46.2-1571. Recall, warranty and sales incentive obligations.



1. Compensation of a dealer for recall or warranty parts, service and diagnostic work shall not be less than the amounts charged by the dealer for the manufacturer's or distributor's original parts, service and diagnostic work to retail customers for nonwarranty service, parts and diagnostic work installed or performed in the dealer's service department unless the amounts are not reasonable. Recall or warranty parts compensation shall be stated as a percentage of markup, which shall be an agreed reasonable approximation of retail markup and which shall be uniformly applied to all of the manufacturer's or distributor's parts unless otherwise provided for in this section. If the dealer and manufacturer or distributor cannot agree on the recall or warranty parts compensation markup to be paid to the dealer, the markup shall be determined by an average of the dealer's retail markup on all of the manufacturer's or distributor's parts as described in subdivisions 2 and 3.
2. For purposes of determining recall or warranty parts and service compensation paid to a dealer by the manufacturer or distributor, menu-priced parts or services, group discounts, special event discounts, and special event promotions shall not be considered in determining amounts charged by the dealer to retail customers. For purposes of determining labor compensation for recall or warranty body shop repairs paid to a dealer by the manufacturer or distributor, internal and insurance-paid repairs shall not be considered in determining amounts charged by the dealer to retail customers.
3. Increases in dealer recall or warranty parts and service compensation and diagnostic work compensation, pursuant to this section, shall be requested by the dealer in writing, shall be based on 100 consecutive repair orders or all repair orders over a 90-day period, whichever occurs first and, in the case of parts, shall be stated as a percentage of markup that shall be uniformly applied to all the manufacturer's or distributor's parts.
4. In the case of recall or warranty parts compensation, the provisions of this subsection shall be effective only for model year 1992 and succeeding model years.
5. If a manufacturer or distributor furnishes a part to a dealer at no cost for use by the dealer in performing work for which the manufacturer or distributor is required to compensate the dealer under this section, the manufacturer or distributor shall compensate the dealer for the part in the same manner as recall or warranty parts compensation, less the wholesale costs, for such part as listed in the manufacturer's current price schedules. A manufacturer or distributor may pay the dealer a reasonable handling fee instead of the compensation otherwise required by this subsection for special high-performance complete engine assemblies in limited production motor vehicles that constitute less than five percent of model production furnished to the dealer at no cost, if the manufacturer or distributor excludes such special high-performance complete engine assemblies in determining whether the amounts requested by the dealer for recall or warranty compensation are consistent with the amounts that the dealer charges its other retail service customers for parts used by the dealer to perform similar work.

WASHINGTON

§ 46.96.105. Warranty work.



- (a) The rates charged by the dealer for nonwarranty service or work for parts means the price paid by the dealer for those parts, including all shipping and other charges, increased by the franchisee's average percentage markup. A dealer must establish and declare the dealer's average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission. A change in a dealer's established average percentage markup takes effect thirty days following the submission. A manufacturer may not require a dealer to establish average percentage markup by another methodology. A manufacturer may not require information that the dealer believes is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. In calculating the retail rate customarily charged by the dealer for parts and labor, the following work must not be included in the calculation:
- (i) Repairs for manufacturer or distributor special events, specials, or promotional discounts for retail customer repairs;
 - (ii) Parts sold at wholesale or at reduced or specially negotiated rates for insurance repairs;
 - (iii) Routine maintenance not covered under warranty, such as fluids, filters, and belts not provided in the course of repairs;
 - (iv) Nuts, bolts, fasteners, and similar items that do not have an individual part number;
 - (v) Tires;
 - (vi) Batteries and light bulbs; and
 - (vii) Vehicle reconditioning.
- (b) A manufacturer shall compensate a dealer for labor and diagnostic work at the rates charged by the dealer to its retail customers for such work and for any documentation work required by the manufacturer to authorize or verify the work including, but not limited to, photographs, paperwork, and electronic data entry. However, a manufacturer is not required to compensate a dealer more than once for the same documentation work. If a manufacturer can demonstrate that the rates unreasonably exceed those of all other franchised motor vehicle dealers in the same relevant market area offering the same or a competitive motor vehicle line, the manufacturer is not required to honor the rate increase proposed by the dealer. If the manufacturer is not required to honor the rate increase proposed by the dealer, the dealer is entitled to resubmit a new proposed rate for labor and diagnostic work.

WEST VIRGINIA

§ 17A-6A-8a. Compensation to dealers for service rendered.



- a) Every motor vehicle manufacturer, distributor, or wholesaler, factory branch or distributor branch, or officer, agent, or representative thereof, shall:
- (1) Specify in writing to each of its motor vehicle dealers, the dealer's obligation for delivery, preparation, warranty, and factory recall services on its products;
 - (2) Compensate the motor vehicle dealer for warranty and factory recall service required of the dealer by the manufacturer, distributor or wholesaler, factory branch or distributor branch or officer, agent, or representative thereof;
 - (3) Provide the dealer the schedule of compensation, which shall be reasonable, to be paid the dealer for parts, work, and service, including reasonable and adequate allowances for diagnostic time necessary

for a qualified technician to perform the service, in connection with warranty and recall services and the time allowance for the performance of the diagnosis, work, and service. If a disagreement arises between the manufacturer, distributor, or wholesaler, factory branch or distributor branch and the new motor vehicle dealer about the time allowance for the performance of the diagnosis, work, or service, the new motor vehicle dealer shall submit a written request for modification of the time allowance. A manufacturer, distributor, or wholesaler, factory branch or distributor branch shall not unreasonably deny a written request submitted by a new motor vehicle dealer for modification of a time allowance for a specific warranty repair, or a request submitted by a new motor vehicle dealer for an additional time allowance for either diagnostic or repair work on a specific vehicle covered under warranty, provided the request includes any information and documentation reasonably required by the manufacturer, distributor, or wholesaler, factory branch or distributor branch to assess the merits of the request; and

- (4) Provide compensation to a new motor vehicle dealer for assistance requested by a customer whose vehicle was subjected to an over the air or remote change, repair, or update to any part, system, accessory, or function by the vehicle manufacturer or distributor and performed at the dealership to satisfy the customer.

(b) In no event may:

- (1) The schedule of compensation fail to compensate the dealers for the diagnosis, work, and services they are required to perform in connection with the dealer's delivery and preparation obligations, or fail to adequately and fairly compensate the dealers for labor time or rate, parts, and other expenses incurred by the dealer to perform under and comply with manufacturer's warranty agreements and factory recalls;
- (2) Any manufacturer, distributor or wholesaler, or representative thereof, pay its dealers an amount of money for warranty or recall work that is less than that charged by the dealer to the retail customers of the dealer for nonwarranty and nonrecall work of the like kind; and
- (3) Any manufacturer, distributor or wholesaler, or representative thereof, compensate for warranty and recall work based on a flat-rate figure that is less than what the dealer charges for retail work.

(c) It is a violation of this section for any manufacturer, distributor, wholesaler, or representative to require any dealer to pay in any manner, surcharges, limited allocation, audits, charge backs, or other retaliation if the dealer seeks to recover its nonwarranty retail rate for warranty and recall work.

(e) The retail rate customarily charged by the dealer for labor rate must be established using the same process as provided under subsection (d) of this section and declaring the average labor rate. The average labor rate must be determined by dividing the amount of the dealer's total labor sales by the number of total hours that generated those sales. If a labor rate and parts markup rate simultaneously declared by the dealer, the dealer may use the same repair orders to complete each calculation as provided under subsection (d) of this section. A reasonable allowance for labor for diagnostic time shall be either included in the manufacturer's labor time allowance or listed as a separate compensable item. A dealer may request additional time allowance for either diagnostic or repair time for a specific repair, which request shall not be unreasonably denied by the manufacturer.

(f) In calculating the retail rate customarily charged by the dealer for parts and labor, the following work may not be included in the calculation:

- (1) Repairs for manufacturer or distributor special events, specials, or promotional discounts for customer repairs;
- (2) Parts sold at wholesale;

- (3) Routine maintenance not covered under any retail customer warranty, including bulbs, batteries, fluids, filters, and belts not provided in the course of repairs;
 - (4) Nuts, bolts, fasteners, and similar items that do not have an individual part number;
 - (5) Tires; and
 - (6) Vehicle reconditioning.
- (g) The average of the parts markup rates and labor rate is presumed to be reasonable and must go into effect 30 days following the manufacturer's approval. A manufacturer or distributor must approve or rebut the presumption by demonstrating that the submitted parts markup rate or labor rate is: (1) fraudulent or inaccurate; (2) not established in accordance with this section; or (3) the submitted parts markup rate or labor rate is unreasonable in light of the practices of all other same line-make franchised motor vehicle dealers in an economically similar area of the state offering the same line-make vehicles, not later than 30 days after submission. If the average parts markup rate or average labor rate is disputed by the manufacturer or distributor, the manufacturer or distributor shall provide written notice to the new motor vehicle dealer stating the specific reasons for the rebuttal, providing a full explanation of the reasons for the allegation, and providing a copy of all calculations used by the manufacturer or distributor in determining the manufacturer or distributor's position if the manufacturer's or distributor's objection is based on the accuracy or reasonableness of the new motor vehicle dealer's rate submission, propose an adjustment of the average percentage parts markup or labor rate based on that rebuttal not later than 30 days after submission. If the new motor vehicle dealer does not agree with the manufacturer's proposed average percentage parts markup or labor rate, the new motor vehicle dealer may file a civil action in the circuit court for the county in which it operates not later than 90 days after receipt of that proposal by the manufacturer or distributor. In the event a civil action is filed, the manufacturer or distributor has the burden of proof to establish by a preponderance of the evidence that the new motor vehicle dealer's submitted parts markup rate or labor rate was fraudulent, inaccurate, not established in accordance with this section, or is unreasonable in light of the practices of all other same line-make franchised motor vehicle dealers in an economically similar area of the state offering the same line-make vehicles.
- (h) Each manufacturer, in establishing a schedule of compensation for warranty work, shall rely on the vehicle dealer's declaration of hourly labor rates and parts as stated in subsections (d), (e) and (f) of this section and may not obligate any vehicle dealer to engage in unduly burdensome or time-consuming documentation of rates or parts, including obligating vehicle dealers to engage in transaction-by-transaction or part-by-part calculations.

WISCONSIN

§ 218.0125. Warranty reimbursement.



- (b) Reasonable compensation under par. (a) for labor is equal to the dealer's effective nonwarranty labor rate multiplied by the number of hours allowed for the repair under the manufacturer's, importer's, or distributor's time allowances used in compensating the dealer for warranty work. Reasonable compensation under par. (a) for parts is equal to the dealer's cost for the parts multiplied by the dealer's average percentage markup over dealer cost for parts.
- (c) 1. The effective nonwarranty labor rate is determined, using the submitted substantiating orders under sub. (4m) (a) 2., by dividing the total customer labor charges for qualifying nonwarranty repairs in the repair orders by the total number of hours that would be allowed for the repairs if the repairs were made under the manufacturer's, importer's, or distributor's time allowances used in compensating the dealer for warranty work.

§ 218.0116 (1)

- (z) 1. In this paragraph, “adverse action” includes all of the following:
- a. Increasing a price charged for services or goods.
 - b. Assessing a penalty, fee, or surcharge.
 - c. Withholding, reducing, or delaying an incentive or other payment.
 - d. Transferring or shifting costs.
 - e. Limiting allocations of vehicles or parts.
 - f. Failing to act in good faith.
 - g. Failing to make timely payment of compensation.
 - h. Establishing or applying a discriminatory standard.
 - i. Conducting or threatening to conduct a nonroutine or nonrandom audit.
2. Being a manufacturer, importer, or distributor who directly or indirectly takes or threatens to take an adverse action against a dealer for any of the following reasons:
- a. For the purpose of recovering costs of compensating dealers under s. 218.0125.
 - b. In retaliation for a dealer’s exercising a right or seeking a remedy under ss. 218.0101 to 218.0163 or under rules promulgated by the department of transportation under ss. 218.0101 to 218.0163

WYOMING

§ 31-16-117. Payment for delivery preparation and warranty service.

- (b) No schedule of compensation shall fail to include reasonable compensation for diagnostic work, repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. The hourly labor rate charged by the dealer for warranty service shall not exceed the hourly labor rate charged to nonwarranty customers for nonwarranty service and repairs, provided that rate is reasonable. Reimbursement for parts purchased by the dealer for use in performing work pursuant to a manufacturer’s express warranty shall be dealer cost plus thirty percent (30%).⁴