

SENATE BILL 613

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R4

2004 Regular Session
(4lr2215)

ENROLLED BILL

-- *Judicial Proceedings/Environmental Matters* --

Introduced by **Senators Forehand, Brochin, DeGrange, Garagiola, Giannetti,
Haines, Jacobs, and Jimeno**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 295

1 AN ACT concerning

2 **Vehicle Laws - Manufacturers, Distributors, and Factory Branches - Dealer**
3 **Claims**

4 FOR the purpose of prohibiting a failure by a dealer of vehicles to comply with the
5 specific requirements of a manufacturer or distributor for processing ~~a claim~~
6 certain claims from constituting grounds for denial of the claim or reduction of
7 the amount of compensation paid to the dealer ~~if the dealer presents reasonable~~
8 ~~documentation or other evidence to substantiate the claim~~ under certain
9 circumstances; ~~prohibiting a manufacturer or its representative from denying a~~
10 ~~claim for which a dealer has received preauthorization from the manufacturer~~
11 ~~or its representative~~; altering the amount of time during which a manufacturer
12 or distributor may charge back a certain claim if the claim is shown to be false
13 or unsubstantiated; altering the amount of time during which a manufacturer,
14 factory branch, or distributor may charge back a certain claim if the claim is
15 shown to be false or unsubstantiated; and generally relating to claims made by
16 a dealer against a manufacturer, distributor, or factory branch.

1 BY repealing and reenacting, with amendments,
2 Article - Transportation
3 Section 15-212(c) and 15-212.1
4 Annotated Code of Maryland
5 (2002 Replacement Volume and 2003 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - Transportation**

9 15-212.

10 (c) (1) The following factors, as they exist in the city or community in which
11 the dealer is doing business, shall be included among those considered in determining
12 under subsection (b)(3) of this section whether a dealer has been reasonably
13 compensated:

14 (i) The compensation being paid by other licensees to their dealers;

15 (ii) The prevailing wage rate being paid by these dealers; and

16 (iii) The prevailing labor rate being charged by these dealers.

17 (2) Notwithstanding paragraph (1) of this subsection and except as
18 provided in paragraph (3) of this subsection, a licensee may not compensate its
19 dealers for work performed under any warranty under subsection (b)(3)(ii) of this
20 section in an amount that is less than the average amount charged by the dealer to
21 retail customers for nonwarranty work of like kind during the preceding 12 months as
22 long as this amount is reasonable.

23 (3) The provisions of paragraph (2) of this subsection do not apply to
24 travel trailers or parts of systems, fixtures, appliances, furnishings, accessories, and
25 features of motor homes that are not manufactured by the manufacturer of the motor
26 home as a part of the unit.

27 (4) (i) A claim filed under this section by a dealer with a manufacturer
28 or distributor shall be:

29 1. In the manner and form prescribed by the manufacturer
30 or distributor; and

31 2. Approved or disapproved within 30 days of receipt.

32 (ii) A claim not approved or disapproved within 30 days of receipt
33 shall be deemed approved.

34 (iii) Payment of or credit issued on a claim filed under this section
35 shall be made within 30 days of approval.

1 (5) ~~(4)~~ A DEALER'S FAILURE TO COMPLY WITH THE SPECIFIC
 2 REQUIREMENTS OF THE MANUFACTURER OR DISTRIBUTOR FOR PROCESSING A
 3 CLAIM MAY NOT CONSTITUTE GROUNDS FOR DENIAL OF THE CLAIM OR REDUCTION
 4 OF THE AMOUNT OF COMPENSATION PAID TO THE DEALER IF THE DEALER
 5 PRESENTS REASONABLE DOCUMENTATION OR OTHER EVIDENCE TO SUBSTANTIATE
 6 THE CLAIM.

7 ~~(H) A MANUFACTURER OR ITS REPRESENTATIVE MAY NOT DENY A~~
 8 ~~CLAIM FOR WHICH A DEALER HAS RECEIVED PREAUTHORIZATION FROM THE~~
 9 ~~MANUFACTURER OR ITS REPRESENTATIVE.~~

10 [(5)] (6) (i) If a claim filed under this section is shown by the
 11 manufacturer or distributor to be false or unsubstantiated, the manufacturer or
 12 distributor may charge back the claim within [1 year] ~~180 DAYS~~ 6 MONTHS 9 MONTHS
 13 from the date the claim was paid or credit issued.

14 (ii) This paragraph does not limit the right of a manufacturer or
 15 distributor to:

- 16 1. Conduct an audit of any claim filed under this section; or
- 17 2. Charge back for any claim that is proven to be fraudulent.

18 (iii) An audit under this paragraph shall be conducted according to
 19 generally accepted accounting principles.

20 15-212.1.

21 (a) Upon the filing of a claim, a manufacturer, factory branch, or distributor
 22 shall compensate a dealer for any incentive or reimbursement program sponsored by
 23 the manufacturer, factory branch, or distributor, under the terms of which the dealer
 24 is eligible for compensation.

25 (b) (1) A claim filed under this section shall be:

26 (i) In the manner and form prescribed by the manufacturer, factory
 27 branch, or distributor; and

28 (ii) Approved or disapproved within 30 days of receipt.

29 (2) A claim not approved or disapproved within 30 days of receipt shall
 30 be deemed approved.

31 (3) Payment of a claim filed under this section shall be made within 30
 32 days of approval.

33 (c) (1) If a claim filed under this section is shown by the manufacturer,
 34 factory branch, or distributor to be false or unsubstantiated, the manufacturer,
 35 factory branch, or distributor may charge back the claim within [24 months] ~~60 DAYS~~

1 ~~6 MONTHS~~ *9 MONTHS* from the date the claim was paid or credit issued THE END OF
2 THE INCENTIVE OR REIMBURSEMENT PROGRAM.

3 (2) This paragraph does not limit the right of a manufacturer, factory
4 branch, or distributor to:

5 (i) Conduct an audit of any claim filed under this section; or

6 (ii) Charge back for any claim that is proven to be fraudulent.

7 (3) An audit under this paragraph shall be conducted according to
8 generally accepted accounting principles.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2004.