

SENATE BILL 886

R7

3lr2789
CF HB 1139

By: **Senator Stone**

Introduced and read first time: February 8, 2013

Assigned to: Rules

Re-referred to: Judicial Proceedings, March 7, 2013

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 1, 2013

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Manufacturers, Distributors, and Factory Branches –**
3 **~~Compensation of~~ Relationship with Dealers**

4 FOR the purpose of prohibiting, except under certain circumstances, a manufacturer,
5 distributor, or factory branch from requiring, attempting to require, coercing, or
6 attempting to coerce a dealer to purchase certain goods or services from certain
7 vendors under certain circumstances; providing for the construction of a certain
8 prohibition under this Act; repealing a requirement that certain factors be
9 considered in determining whether a dealer has been reasonably compensated;
10 requiring a manufacturer, distributor, or factory branch licensed in the State to
11 specify in writing to each of its motor vehicle dealers in the State certain
12 information relating to the compensation of dealers for certain parts and labor;
13 establishing certain requirements for the reasonable compensation of dealers
14 with respect to certain parts and labor; requiring a dealer to make a certain
15 submission to a licensee; providing for the calculation of a dealer's labor rate
16 and parts mark-up percentage for certain purposes; establishing requirements
17 for a certain schedule of compensation; ~~requiring a licensee to communicate~~
18 ~~directly with a certain agent of a dealer in regard to a certain submission under~~
19 ~~this Act;~~ providing that certain repair orders for labor and parts do not
20 constitute qualifying repair orders under this Act; requiring a licensee to
21 compensate a dealer for certain parts given to a dealer at no cost; establishing
22 that a certain schedule of compensation will be presumed to be accurate;
23 requiring a licensee to begin compensation of a dealer under the schedule within
24 certain periods of time under certain circumstances; providing for ~~a~~ certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 rebuttal of the presumption of accuracy of the schedule of compensation;
 2 providing for the resolution of certain matters relating to the schedule of
 3 compensation; prohibiting a licensee from making or requiring certain
 4 calculations or establishing certain special parts or component numbers;
 5 prohibiting a licensee from requiring, influencing, or attempting to influence a
 6 dealer to change certain prices; ~~prohibiting a licensee from recovering or~~
 7 ~~attempting to recover certain costs;~~ prohibiting a licensee from taking ~~or~~
 8 ~~threatening to take~~ certain adverse action against a dealer under certain
 9 circumstances; ~~prohibiting a licensee from implementing or continuing certain~~
 10 ~~policies, procedures, or programs;~~ repealing a certain provision relating to a
 11 licensee's compensation of dealers for certain work; altering a certain provision
 12 relating to denial of a dealer's claim to prohibit a manufacturer from basing a
 13 denial on certain technical or administrative errors under certain
 14 circumstances; repealing the authority of the Motor Vehicle Administrator to
 15 require a certain licensee to pay a certain fine for certain violations relating to
 16 the compensation of dealers; and generally relating to ~~compensation of~~
 17 relationships between motor vehicle dealers ~~by~~ and motor vehicle
 18 manufacturers, distributors, or factory branches.

19 BY adding to

20 Article – Transportation
 21 Section 15–207(k)
 22 Annotated Code of Maryland
 23 (2012 Replacement Volume)

24 BY repealing and reenacting, with amendments,

25 Article – Transportation
 26 Section 15–212
 27 Annotated Code of Maryland
 28 (2012 Replacement Volume)

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

31 **Article – Transportation**

32 15–207.

33 (K) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
 34 AND EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A
 35 MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT, DIRECTLY OR
 36 THROUGH AN AGENT, AN EMPLOYEE, AN AFFILIATE, OR A REPRESENTATIVE,
 37 REQUIRE, ATTEMPT TO REQUIRE, COERCE, OR ATTEMPT TO COERCE BY
 38 AGREEMENT, PROGRAM, INCENTIVE PROVISION, OR OTHERWISE, A DEALER TO
 39 PURCHASE GOODS OR SERVICES FOR THE CONSTRUCTION, RENOVATION, OR

1 MODIFICATION OF A FACILITY FROM A VENDOR DESIGNATED BY THE
2 MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH.

3 (II) A MANUFACTURER, DISTRIBUTOR, OR FACTORY
4 BRANCH MAY OFFER A DEALER THE OPTION TO OBTAIN GOODS OR SERVICES
5 UNDER THIS SUBSECTION OF SUBSTANTIALLY SIMILAR QUALITY AND DESIGN
6 FROM A VENDOR CHOSEN BY THE DEALER SUBJECT TO APPROVAL BY THE
7 MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH.

8 (2) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY
9 NOT UNREASONABLY WITHHOLD THE APPROVAL REQUIRED UNDER PARAGRAPH
10 (1) OF THIS SUBSECTION.

11 (3) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO
12 ALLOW A DEALER OR VENDOR TO:

13 (I) DIRECTLY OR INDIRECTLY ELIMINATE OR IMPAIR IN
14 ANY WAY A MANUFACTURER'S INTELLECTUAL PROPERTY RIGHTS OR
15 REASONABLE BUSINESS REQUIREMENTS; OR

16 (II) ERECT OR MAINTAIN SIGNS THAT DO NOT CONFORM TO
17 THE INTELLECTUAL PROPERTY USAGE GUIDELINES OF THE MANUFACTURER,
18 DISTRIBUTOR, OR FACTORY BRANCH.

19 (4) THIS SUBSECTION DOES NOT APPLY IF A MANUFACTURER,
20 DISTRIBUTOR, OR FACTORY BRANCH PROVIDES A CREDIT OR STIPEND FOR, OR
21 OTHER REIMBURSEMENT OF, A SUBSTANTIAL PORTION OF THE COST OF THE
22 GOODS OR SERVICES OBTAINED UNDER THIS SECTION UNDER AN AGREEMENT
23 MADE BEFORE THE BEGINNING OF CONSTRUCTION, RENOVATION, OR
24 MODIFICATION OF THE FACILITY.

25 15-212.

26 (a) In this section, "motor home" means a motor vehicle that:

27 (1) Is designed to provide temporary living quarters, built into as an
28 integral part of, or permanently attached to, a self-propelled motor vehicle chassis or
29 van; and

30 (2) Contains permanently installed independent life support systems
31 which provide at least four of the following facilities:

32 (i) Cooking;

33 (ii) Refrigeration or ice box;

- 1 (iii) Self-contained toilet;
- 2 (iv) Heating, air-conditioning, or both;
- 3 (v) A potable water supply system including a faucet and sink;
- 4 (vi) Separate 110–125 volt electrical power supply; or
- 5 (vii) An LP gas supply.

6 (b) In addition to the other grounds specified in Subtitle 1 of this title for
 7 refusal, suspension, or revocation of a license, the Administration may refuse to grant
 8 a license under this subtitle to any person and may suspend, revoke, or refuse to
 9 renew the license of any person if it finds that the person has:

- 10 (1) Made any material misrepresentation in transferring a vehicle or
 11 truck component part to a dealer or distributor;
- 12 (2) Failed to comply with any written warranty agreement; or
- 13 (3) Failed to reasonably compensate any franchised dealer who does
 14 work under:
 - 15 (i) The vehicle preparation and delivery obligations of the
 16 dealer; or
 - 17 (ii) Any outstanding express or implied new vehicle or truck
 18 component parts warranty.

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

- 23 ~~(i) The compensation being paid by other licensees to their~~
 24 ~~dealers;~~
- 25 ~~(ii) The prevailing wage rate being paid by these dealers; and~~
- 26 ~~(iii) The prevailing labor rate being charged by these dealers.~~

27 ~~[(2) Notwithstanding paragraph (1) of this subsection and except as~~
 28 ~~provided in paragraph (3) of this subsection, a licensee may not compensate its dealers~~
 29 ~~for work performed under any warranty under subsection (b)(3)(ii) of this section in an~~
 30 ~~amount that is less than the average amount charged by the dealer to retail customers~~

1 ~~for nonwarranty work of like kind during the preceding 12 months as long as this~~
 2 ~~amount is reasonable.]~~

3 ~~(2)~~ A LICENSEE SHALL SPECIFY IN WRITING TO EACH OF ITS
 4 MOTOR VEHICLE DEALERS LICENSED IN THE STATE:

5 (I) THE DEALER'S OBLIGATION FOR WARRANTY
 6 PREPARATION, DELIVERY, AND ~~WARRANTY~~ SERVICE ON ITS PRODUCTS;

7 (II) THE SCHEDULE OF COMPENSATION TO BE PAID TO THE
 8 DEALERS FOR PARTS, INCLUDING PARTS ASSEMBLIES, AND LABOR, INCLUDING
 9 DIAGNOSTIC LABOR AND ASSOCIATED ADMINISTRATIVE REQUIREMENTS, IN
 10 CONNECTION WITH WARRANTY SERVICE; AND

11 (III) A TIME ALLOWANCE FOR THE PERFORMANCE OF LABOR
 12 DESCRIBED IN THIS PARAGRAPH THAT IS REASONABLE AND ADEQUATE.

13 ~~(3)~~ (2) REASONABLE COMPENSATION UNDER THIS SECTION
 14 MAY NOT BE LESS THAN:

15 (I) WITH RESPECT TO LABOR, THE DEALER'S CURRENT
 16 LABOR RATE CHARGED TO RETAIL CUSTOMERS FOR ~~SIMILAR~~ NONWARRANTY
 17 REPAIRS OF A LIKE KIND; AND

18 (II) WITH RESPECT TO ANY PART, THE DEALER'S COST PLUS
 19 ITS CURRENT RETAIL MARK-UP PERCENTAGE CHARGED TO RETAIL CUSTOMERS
 20 FOR ~~SIMILAR~~ NONWARRANTY REPAIRS OF A LIKE KIND.

21 ~~(4)~~ (3) (I) FOR PURPOSES OF PARAGRAPH ~~(3)~~ (2) OF THIS
 22 SUBSECTION, THE DEALER'S LABOR RATE OR PARTS MARK-UP PERCENTAGE
 23 SHALL BE ESTABLISHED BY A SUBMISSION TO THE LICENSEE OF WHICHEVER OF
 24 THE FOLLOWING PRODUCES FEWER CLOSED REPAIR ORDERS WITHIN THE
 25 PRECEDING 180 DAYS:

26 1. 100 QUALIFYING SEQUENTIAL CUSTOMER-PAID
 27 REPAIR ORDERS; OR

28 2. ~~60~~ 90 DAYS OF QUALIFYING CUSTOMER-PAID
 29 REPAIR ORDERS.

30 (II) A SCHEDULE OF COMPENSATION ESTABLISHED UNDER
 31 THIS SUBSECTION SHALL BE EQUAL TO:

1 1. WITH RESPECT TO LABOR, THE ~~AVERAGE LABOR~~
2 ~~RATE~~ ARITHMETIC MEAN OF LABOR RATES AS REFLECTED IN QUALIFYING
3 REPAIR ORDERS; AND

4 2. WITH RESPECT TO PARTS, THE ~~AGGREGATE~~
5 ARITHMETIC MEAN OF THE PARTS MARK-UP PERCENTAGE AS REFLECTED IN
6 QUALIFYING REPAIR ORDERS.

7 (III) ~~A LICENSEE SHALL COMMUNICATE DIRECTLY WITH AN~~
8 ~~AGENT AUTHORIZED BY THE DEALER TO COMMUNICATE IN REGARD TO THE~~
9 ~~DEALER'S SUBMISSION UNDER THIS SUBSECTION.~~

10 ~~(IV)~~ 1. A DEALER MAY NOT MAKE A SUBMISSION UNDER
11 THIS SUBSECTION MORE THAN ONCE IN ~~6 MONTHS~~ 1 YEAR.

12 2. FOR PURPOSES OF SUBSUBPARAGRAPH 1 OF THIS
13 SUBPARAGRAPH, A REVISION OR SUPPLEMENT TO A SUBMISSION TO CORRECT
14 OR CLARIFY THE SUBMISSION DOES NOT CONSTITUTE A NEW SUBMISSION.

15 ~~(5)~~ (4) REPAIR ORDERS FOR LABOR OR PARTS IN CONNECTION
16 WITH ANY OF THE FOLLOWING MAY NOT CONSTITUTE A QUALIFYING REPAIR
17 ORDER UNDER PARAGRAPH ~~(3)~~ (2) OF THIS SUBSECTION:

18 (I) ACCESSORIES;

19 (II) REPAIRS FOR MANUFACTURER, DISTRIBUTOR, OR
20 FACTORY BRANCH SPECIAL EVENTS, PROMOTIONS, OR SERVICE CAMPAIGNS;

21 (III) REPAIRS RELATED TO COLLISION;

22 (IV) VEHICLE EMISSION OR SAFETY INSPECTIONS REQUIRED
23 BY LAW;

24 (V) PARTS SOLD, OR REPAIRS PERFORMED, AT WHOLESALE
25 ~~OR AT DISCOUNT FOR GROUP FLEETS, GOVERNMENTAL AGENCIES,~~ FOR
26 INSURANCE CARRIERS, OR OTHER THIRD-PARTY PAYORS;

27 (VI) ROUTINE MAINTENANCE NOT COVERED UNDER ANY
28 WARRANTY, INCLUDING MAINTENANCE INVOLVING FLUIDS, FILTERS, AND
29 BELTS NOT PROVIDED IN THE COURSE OF REPAIRS;

30 (VII) NUTS, BOLTS, FASTENERS, AND SIMILAR ITEMS THAT
31 DO NOT HAVE AN INDIVIDUAL PARTS NUMBER;

- 1 (VIII) TIRES;
- 2 (IX) VEHICLE RECONDITIONING; OR
- 3 (X) GOODWILL OR POLICY REPAIRS OR REPLACEMENTS;
- 4 ~~(XI) REPAIRS ON VEHICLE MAKES NOT SOLD AS NEW BY A~~
5 ~~DEALER; OR~~
- 6 ~~(XII) REPAIRS TO A DEALER'S, AN AFFILIATE'S, OR AN~~
7 ~~EMPLOYEE'S VEHICLE.~~

8 ~~(6)~~ (5) IF A LICENSEE GIVES A DEALER A PART AT NO COST TO
9 USE IN PERFORMING A REPAIR UNDER A RECALL, CAMPAIGN SERVICE ACTION,
10 OR WARRANTY REPAIR, THE LICENSEE SHALL COMPENSATE THE DEALER FOR
11 THE PART BY PAYING THE DEALER THE PARTS MARK-UP PERCENTAGE
12 ESTABLISHED UNDER THIS SUBSECTION ON THE COST FOR THE PART LISTED ON
13 THE LICENSEE'S PRICE SCHEDULE.

14 ~~(7)~~ (6) (I) THE SCHEDULE OF COMPENSATION SUBMITTED
15 UNDER PARAGRAPH ~~(4)~~ (3) OF THIS SUBSECTION SHALL BE PRESUMED TO BE
16 ACCURATE, ~~FAIR,~~ AND REASONABLE, ~~AND THE LICENSEE SHALL BEGIN~~
17 ~~COMPENSATING THE DEALER UNDER THE SCHEDULE ON THE EARLIER TO~~
18 ~~OCCUR OF THE FOLLOWING:~~

19 ~~1. APPROVAL OF THE SCHEDULE BY THE LICENSEE;~~
20 ~~OR .~~

21 (II) THE LICENSEE SHALL APPROVE OR REBUT THE
22 DEALER'S SUBMISSION WITHIN 30 DAYS OF RECEIPT.

23 (III) IF THE LICENSEE APPROVES A DEALER'S SUBMISSION,
24 THE LICENSEE SHALL BEGIN COMPENSATING THE DEALER UNDER THE
25 SCHEDULE WITHIN 30 DAYS FOLLOWING APPROVAL.

26 ~~2.~~ (IV) IN THE ABSENCE OF A TIMELY REBUTTAL BY
27 THE LICENSEE, THE SCHEDULE OF COMPENSATION SUBMITTED BY THE DEALER
28 SHALL GO INTO EFFECT ON THE 31ST DAY FOLLOWING THE LICENSEE'S
29 RECEIPT OF THE SCHEDULE.

30 ~~(II)~~ (V) ANY REBUTTAL OF THE SCHEDULE OF
31 COMPENSATION BY THE LICENSEE SHALL ~~BE:~~

1 **1. BE DELIVERED TO THE DEALER WITHIN 30 DAYS**
 2 **OF THE LICENSEE'S RECEIPT OF THE SCHEDULE; AND**

3 **2. CONSIST OF REASONABLY SUBSTANTIATING**
 4 **EVIDENCE THAT THE DECLARED RATE IS MATERIALLY INACCURATE OR**
 5 **UNREASONABLE IN LIGHT OF THE PRACTICES OF ALL OTHER SAME LINE-MAKE**
 6 **DEALERS IN THE CITY OR COMMUNITY OR IN AN ECONOMICALLY SIMILAR AREA**
 7 **OF THE STATE IF NO OTHER SAME LINE-MAKE DEALERS EXIST IN THE CITY OR**
 8 **COMMUNITY.**

9 ~~(H)~~ **(VI)** IN THE EVENT OF A TIMELY REBUTTAL, ON
 10 RESOLUTION OF THE MATTER BY AGREEMENT OF THE PARTIES OR BY
 11 ADMINISTRATIVE, JUDICIAL, OR OTHER ACTION, A LICENSEE'S PAYMENT
 12 OBLIGATIONS UNDER THE RESULTING SCHEDULE OF COMPENSATION SHALL
 13 BEGIN WITHIN 30 DAYS OF THE MATTER'S RESOLUTION UNLESS OTHERWISE
 14 PROVIDED FOR IN THE AGREEMENT OR BY THE FINDER OF FACT.

15 ~~(IV)~~ **(VII)** 1. TO THE EXTENT THAT ANY ACTION
 16 COMMENCED UNDER SUBSECTION (D) OF THIS SECTION OR § 15-213 OR §
 17 15-214 OF THIS SUBTITLE INVOLVES THE APPLICATION OF PARAGRAPH ~~(4)~~ **(3)**
 18 **OF THIS SUBSECTION, THE ~~ISSUE~~ ISSUES SHALL BE LIMITED TO WHETHER ~~THE~~:**

19 **A. THE LABOR RATE OR PARTS MARK-UP**
 20 **PERCENTAGE STATED IN THE DEALER'S SUBMISSION WAS MATERIALLY**
 21 **INACCURATE; AND**

22 **B. THE DECLARED RATE IS UNREASONABLE IN**
 23 **LIGHT OF THE PRACTICES OF ALL OTHER SAME LINE-MAKE DEALERS IN THE**
 24 **CITY OR COMMUNITY OR IN AN ECONOMICALLY SIMILAR AREA OF THE STATE IF**
 25 **NO OTHER SAME LINE-MAKE DEALERS EXIST IN THE CITY OR COMMUNITY.**

26 **2. A LICENSEE SHALL HAVE THE BURDEN OF**
 27 **PROVING UNDER THIS SUBPARAGRAPH THAT THE DEALER'S SUBMISSION WAS**
 28 **MATERIALLY INACCURATE.**

29 **(VII) 1. A LICENSEE MAY VERIFY ONCE A YEAR THAT A**
 30 **DEALER'S EFFECTIVE RATES HAVE NOT DECREASED.**

31 **2. IF A LICENSEE FINDS THAT A DEALER'S**
 32 **EFFECTIVE RATES HAVE DECREASED, THE LICENSEE MAY REDUCE THE**
 33 **WARRANTY REIMBURSEMENT RATE PROSPECTIVELY.**

34 ~~(8)~~ **(7)** A LICENSEE MAY NOT:

1 (I) ~~CALCULATE~~ CALCULATE DIRECTLY OR INDIRECTLY CALCULATE ITS
 2 OWN LABOR RATE OR PARTS MARK-UP PERCENTAGE ON A WARRANTY
 3 REIMBURSEMENT RATE SUBMISSION BY THE LICENSEE'S DEALER UNDER THIS
 4 SECTION, OR REQUIRE A DEALER TO CALCULATE A LABOR RATE OR PARTS
 5 MARK-UP PERCENTAGE, BY ANY METHOD NOT REQUIRED UNDER THIS SECTION,
 6 INCLUDING A METHOD THAT IS UNDULY BURDENSOME OR TIME-CONSUMING OR
 7 THAT REQUIRES INFORMATION THAT IS UNDULY BURDENSOME OR
 8 TIME-CONSUMING TO PROVIDE SUCH AS:

9 1. A PART-BY-PART OR TRANSACTION BY
 10 TRANSACTION CALCULATION; OR

11 2. PRESENTATION OF INFORMATION AS TO, OR
 12 CALCULATIONS BASED ON, ~~OTHER DEALERS' COMPENSATION OR FINANCIAL~~
 13 ~~STATEMENTS~~ THE DEALER'S OR OTHER DEALERS' WARRANTY COMPENSATION;

14 (II) ESTABLISH OR IMPLEMENT A SPECIAL PART OR
 15 COMPONENT NUMBER FOR PARTS USED IN ~~PRE DELIVERY, DEALER~~
 16 ~~PREPARATION, WARRANTY, EXTENDED WARRANTY, CERTIFIED PRE OWNED~~
 17 ~~WARRANTY, RECALL, CAMPAIGN SERVICE, AUTHORIZED GOODWILL, OR~~
 18 ~~MAINTENANCE ONLY APPLICATIONS~~ WARRANTY FULFILLMENT, IF THE SPECIAL
 19 PART OR COMPONENT NUMBER RESULTS IN REDUCED COMPENSATION FOR THE
 20 DEALER UNLESS THE PART IS USED FOR SPECIFIC, LIMITED REPAIR
 21 SITUATIONS;

22 (III) REQUIRE, INFLUENCE, OR ATTEMPT TO INFLUENCE A
 23 DEALER TO CHANGE THE PRICES FOR WHICH IT SELLS PARTS OR LABOR FOR
 24 RETAIL CUSTOMER REPAIRS;

25 (IV) ~~RECOVER OR ATTEMPT TO RECOVER ALL OR A PORTION~~
 26 ~~OF ITS COSTS FOR COMPENSATING ITS DEALERS FOR WARRANTY PARTS AND~~
 27 ~~LABOR BY A REDUCTION IN THE AMOUNT DUE OR A SEPARATE CHARGE;~~

28 (V) TAKE ~~OR THREATEN TO TAKE~~ ADVERSE ACTION
 29 AGAINST A DEALER THAT SEEKS COMPENSATION UNDER THIS SECTION, ~~OR~~
 30 ~~DISCOURAGE A DEALER FROM SEEKING COMPENSATION UNDER THIS SECTION,~~
 31 BY ANY MEANS INCLUDING:

32 1. CREATING AN OBSTACLE OR IMPLEMENTING A
 33 PROCESS THAT IS INCONSISTENT WITH THE LICENSEE'S OBLIGATIONS TO THE
 34 DEALER UNDER THIS SUBTITLE; OR

35 2. ACTING OR FAILING TO ACT, EXCEPT IN GOOD
 36 FAITH;

1 ~~3. HINDERING, DELAYING, OR REJECTING THE~~
 2 ~~PROPER AND TIMELY PAYMENT OF COMPENSATION DUE TO A DEALER UNDER~~
 3 ~~THIS SECTION EXCEPT IN A UNIFORM MANNER AMONG ALL THE LICENSEE'S~~
 4 ~~DEALERS IN THE STATE; OR~~

5 ~~4. CONDUCTING OR THREATENING TO CONDUCT~~
 6 ~~ANY WARRANTY, RETAIL CUSTOMER REPAIR, OR OTHER SERVICE RELATED~~
 7 ~~AUDIT; OR~~

8 ~~(VI) IMPLEMENT OR CONTINUE A POLICY, PROCEDURE, OR~~
 9 ~~PROGRAM FOR ANY OF ITS DEALERS FOR COMPENSATION THAT IS~~
 10 ~~INCONSISTENT WITH THIS SUBTITLE;~~

11 (V) CONDUCT ANY WARRANTY OR RETAIL CUSTOMER
 12 REPAIR AUDIT, OR OTHER SERVICE-RELATED AUDIT, SOLELY BECAUSE THE
 13 DEALER MAKES A REQUEST FOR WARRANTY REIMBURSEMENT AT RETAIL RATES
 14 IN THE ORDINARY COURSE OF BUSINESS; OR

15 (VI) ESTABLISH, IMPLEMENT, ENFORCE, OR APPLY ANY
 16 POLICY, STANDARD, RULE, PROGRAM, OR INCENTIVE REGARDING THE
 17 COMPENSATION DUE UNDER THIS SECTION OTHER THAN IN A UNIFORM
 18 MANNER AMONG THE LICENSEE'S DEALERS IN THE STATE.

19 [(3)] ~~(9)~~ (8) The provisions of [paragraph (2)] PARAGRAPHS ~~(2)~~ (1)
 20 THROUGH ~~(8)~~ (7) of this subsection do not apply to travel trailers or parts of systems,
 21 fixtures, appliances, furnishings, accessories, and features of motor homes that are not
 22 manufactured by the manufacturer of the motor home as a part of the unit.

23 [(4)] ~~(10)~~ (9) (i) A claim filed under this section by a dealer with
 24 a manufacturer or distributor shall be:

25 1. In the manner and form prescribed by the
 26 manufacturer or distributor; and

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

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

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

32 [(5)] ~~(11)~~ (10) ~~A dealer's failure to comply with the specific~~
 33 ~~requirements of the manufacturer or distributor for processing a claim may not~~

1 ~~constitute grounds for denial of the claim or reduction of the amount of compensation~~
 2 ~~paid to the dealer if the dealer presents reasonable documentation or other evidence to~~
 3 ~~substantiate the claim~~ A MANUFACTURER MAY NOT BASE A DENIAL OF A
 4 DEALER'S CLAIM SOLELY ON THE DEALER'S CLERICAL ERROR, INCIDENTAL
 5 FAILURE TO COMPLY WITH A SPECIFIC CLAIM PROCESSING REQUIREMENT, OR
 6 OTHER TECHNICAL OR ADMINISTRATIVE ERROR, PROVIDED THAT THE DEALER
 7 CORRECTS THE CLAIM IN ACCORDANCE WITH THE LICENSEE GUIDELINES.

8 [(6)] ~~(12)~~ (11) (i) If a claim filed under this section is shown by
 9 the manufacturer or distributor to be false or unsubstantiated, the manufacturer or
 10 distributor may charge back the claim within 9 months from the date the claim was
 11 paid or credit issued.

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

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

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

20 (d) As to any person licensed under this subtitle, instead of or in addition to
 21 revocation, suspension, or nonrenewal of a license under this section, the
 22 Administrator:

23 ~~(1) May order the licensee to pay a fine not exceeding \$50,000 for each~~
 24 ~~violation of this subtitle; and~~

25 ~~(2) May~~ MAY order the licensee to compensate any person for financial
 26 injury or other damage suffered as a result of the violation.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 October 1, 2013.