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By: **Delegates Bronrott, Barkley, Barve, V. Clagett, Cryor, Dumais,  
Feldman, Franchot, Frush, Goldwater, Heller, Hixson, Holmes, Hurson,  
King, Lee, Madaleno, Mandel, McConkey, Montgomery, Murray, Parker,  
Simmons, Stern, and Taylor**

Introduced and read first time: March 3, 2004  
Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

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

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

17 BY repealing and reenacting, with amendments,  
18 Article - Transportation  
19 Section 15-212(c) and 15-212.1  
20 Annotated Code of Maryland  
21 (2002 Replacement Volume and 2003 Supplement)

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

24 **Article - Transportation**

25 15-212.

26 (c) (1) The following factors, as they exist in the city or community in which  
27 the dealer is doing business, shall be included among those considered in determining

1 under subsection (b)(3) of this section whether a dealer has been reasonably  
2 compensated:

- 3 (i) The compensation being paid by other licensees to their dealers;  
4 (ii) The prevailing wage rate being paid by these dealers; and  
5 (iii) The prevailing labor rate being charged by these dealers.

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

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

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

18 1. In the manner and form prescribed by the manufacturer  
19 or distributor; and

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

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

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

25 (5) (I) A DEALER'S FAILURE TO COMPLY WITH THE REQUIREMENTS OF  
26 THE MANUFACTURER OR DISTRIBUTOR FOR PROCESSING A CLAIM MAY NOT  
27 CONSTITUTE GROUNDS FOR DENIAL OF THE CLAIM OR REDUCTION OF THE AMOUNT  
28 OF COMPENSATION PAID TO THE DEALER IF THE DEALER PRESENTS REASONABLE  
29 DOCUMENTATION OR OTHER EVIDENCE TO SUBSTANTIATE THE CLAIM.

30 (II) A MANUFACTURER OR ITS REPRESENTATIVE MAY NOT DENY A  
31 CLAIM FOR WHICH A DEALER HAS RECEIVED PREAUTHORIZATION FROM THE  
32 MANUFACTURER OR ITS REPRESENTATIVE.

33 [(5)] (6) (i) If a claim filed under this section is shown by the  
34 manufacturer or distributor to be false or unsubstantiated, the manufacturer or  
35 distributor may charge back the claim within [1 year] 180 DAYS from the date the  
36 claim was paid or credit issued.

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

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

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

7 15-212.1.

8 (a) Upon the filing of a claim, a manufacturer, factory branch, or distributor  
9 shall compensate a dealer for any incentive or reimbursement program sponsored by  
10 the manufacturer, factory branch, or distributor, under the terms of which the dealer  
11 is eligible for compensation.

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

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

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

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

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

20 (c) (1) If a claim filed under this section is shown by the manufacturer,  
21 factory branch, or distributor to be false or unsubstantiated, the manufacturer,  
22 factory branch, or distributor may charge back the claim within [24 months] 60 DAYS  
23 from the date the claim was paid or credit issued.

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

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

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

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

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