

SENATE BILL 613

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2004 Regular Session
4lr2215
CF 4lr3191

By: **Senators Forehand, Brochin, DeGrange, Garagiola, Giannetti, Haines,
Jacobs, and Jimeno**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2004

CHAPTER _____

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 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.

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:

1 **Article - Transportation**

2 15-212.

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

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

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

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

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

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

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

22 1. In the manner and form prescribed by the manufacturer
 23 or distributor; and

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

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

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

29 (5) ~~(4)~~ A DEALER'S FAILURE TO COMPLY WITH THE SPECIFIC
 30 REQUIREMENTS OF THE MANUFACTURER OR DISTRIBUTOR FOR PROCESSING A
 31 CLAIM MAY NOT CONSTITUTE GROUNDS FOR DENIAL OF THE CLAIM OR REDUCTION
 32 OF THE AMOUNT OF COMPENSATION PAID TO THE DEALER IF THE DEALER
 33 PRESENTS REASONABLE DOCUMENTATION OR OTHER EVIDENCE TO SUBSTANTIATE
 34 THE CLAIM.

1 ~~(H) A MANUFACTURER OR ITS REPRESENTATIVE MAY NOT DENY A~~
 2 ~~CLAIM FOR WHICH A DEALER HAS RECEIVED PREAUTHORIZATION FROM THE~~
 3 ~~MANUFACTURER OR ITS REPRESENTATIVE.~~

4 [(5)] (6) (i) If a claim filed under this section is shown by the
 5 manufacturer or distributor to be false or unsubstantiated, the manufacturer or
 6 distributor may charge back the claim within [1 year] ~~180 DAYS~~ 6 MONTHS from the
 7 date the claim was paid or credit issued.

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

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

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

14 15-212.1.

15 (a) Upon the filing of a claim, a manufacturer, factory branch, or distributor
 16 shall compensate a dealer for any incentive or reimbursement program sponsored by
 17 the manufacturer, factory branch, or distributor, under the terms of which the dealer
 18 is eligible for compensation.

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

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

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

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

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

27 (c) (1) If a claim filed under this section is shown by the manufacturer,
 28 factory branch, or distributor to be false or unsubstantiated, the manufacturer,
 29 factory branch, or distributor may charge back the claim within [24 months] ~~60 DAYS~~
 30 6 MONTHS from ~~the date the claim was paid or credit issued~~ THE END OF THE
 31 INCENTIVE OR REIMBURSEMENT PROGRAM.

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

- 34 (i) Conduct an audit of any claim filed under this section; or
- 35 (ii) Charge back for any claim that is proven to be fraudulent.

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

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