

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1208 (Delegates Stein and Amprey)
Economic Matters

Vehicle Laws – Manufacturers – Dealer Compensation

This bill alters the basis for determining compensation from a vehicle manufacturer, distributor, or factory branch (collectively known as licensees) to a vehicle dealer for repairs made under a recall or warranty. The bill also prohibits a licensee from recovering (or attempting to recover) any portion of its costs for compensating the licensee's dealers by reducing the amount due to a dealer by imposing a fee, assessment, or surcharge on the amount due to the dealer.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: With respect to determining the compensation from a licensee to a vehicle dealer for repairs made under a recall or warranty, compensation must be equal to the product of:

- the hourly labor rate as reflected in qualifying repair orders, calculated by dividing the total charges allocated to labor in the repair orders by the total number of hours charged for the repairs; and
- the time allowance applicable to each repair as prescribed in a nationally recognized labor guide selected by the dealer.

Current Law: A motor vehicle manufacturer, distributor, or factory branch must be licensed by the Motor Vehicle Administration (MVA) in order to, among other things, transfer new vehicles and conduct business in new vehicles in Maryland. Likewise, a person may not conduct the business of a dealer unless licensed by MVA. MVA may refuse to grant, suspend, revoke, or refuse to renew a license under specified circumstances.

Factors in Determining Reasonable Compensation

A manufacturer, distributor, or factory branch must specify in writing to each of its licensed vehicle dealers the dealer's obligation for vehicle warranties and recalls on its products as well as the compensation to be paid to the dealer for work related to the dealer's service obligations. "Reasonable compensation" may not be less than what the dealer would charge for equivalent labor or parts for the same nonwarranty repairs.

With respect to labor for warranty or recall repairs, the dealer's labor rate or parts mark-up percentage must 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. With respect to parts, a schedule of compensation must 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. A dealer may not make a submission more than once every year. (A revision or supplement to a submission to correct or clarify the submission does not constitute a new submission).

Repair orders for labor or parts do not constitute a qualifying repair order if connected with any of several specified parts or repairs. If a licensee gives a dealer a part at no cost to use in performing a repair under a recall, a campaign service action, or a warranty repair, the licensee must compensate the dealer for the part by paying the dealer the parts mark-up percentage listed on the licensee's price schedule.

Prohibitions on Licensed Manufacturers, Distributors, and Factory Branches

A licensee may not directly or indirectly (1) calculate its own labor rate or parts mark-up percentage, or require a dealer to calculate a labor rate or parts mark-up percentage, by any method not required by § 15-212 of the Transportation Article; (2) establish or implement a special part or component number for parts used in warranty fulfillment if the special part or component number results in reduced compensation for the dealer, except under limited circumstances; (3) require or coerce a dealer to change the prices for which it sells parts or labor for retail customer repairs; (4) take adverse action against a dealer that seeks compensation by specified means; (5) conduct specified audits solely because a dealer

makes a warranty reimbursement request; or (6) establish or enforce a policy or program regarding specified compensation that is not uniform throughout the State.

Small Business Effect: Vehicle dealerships that are small businesses may benefit from the bill's prohibition against licensees recovering costs by imposing a fee, assessment, or surcharge on amounts due to a dealer for warranty or recall repairs. While the extent of such cost recovery actions by licensees is not known, the bill's prohibitions provide an additional avenue for small business dealerships to challenge such actions. The effect of the bill's modification of labor compensation provisions is assumed to also benefit dealers, as it sets a clearer standard for compensation.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Transportation; Department of Legislative Services

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