

SENATE BILL 45

R4

5lr1385

(PRE-FILED)

By: **Senator Folden**

Requested: October 25, 2024

Introduced and read first time: January 8, 2025

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Manufacturers and Dealers – Alterations**

3 FOR the purpose of altering certain provisions governing the compensation that vehicle
4 manufacturers must pay to vehicle dealers in relation to service obligations of the
5 dealers; prohibiting manufacturers from selling vehicle parts directly to retail
6 customers; prohibiting manufacturers from requiring or coercing dealers to engage
7 with certain third parties in the course of the dealers' service obligations; authorizing
8 a dealer for which the franchise has ceased to exist to begin and complete certain
9 warranty and recall repairs; and generally relating to vehicle manufacturers and
10 dealers.

11 BY repealing and reenacting, without amendments,
12 Article – Transportation
13 Section 15–201(a) and (d)
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2024 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Transportation
18 Section 15–212
19 Annotated Code of Maryland
20 (2020 Replacement Volume and 2024 Supplement)

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

23 **Article – Transportation**

24 15–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this subtitle the following words have the meanings indicated.

2 (d) "License" means a manufacturer's, distributor's, or factory branch's license
3 issued by the Administration under this subtitle.

4 15-212.

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

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

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

11 (i) Cooking;

12 (ii) Refrigeration or ice box;

13 (iii) Self-contained toilet;

14 (iv) Heating, air-conditioning, or both;

15 (v) A potable water supply system including a faucet and sink;

16 (vi) Separate 110-125 volt electrical power supply; or

17 (vii) An LP gas supply.

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

22 (1) Made any material misrepresentation in transferring a vehicle or truck
23 component part to a dealer or distributor;

24 (2) Failed to comply with any written warranty agreement; or

25 (3) Failed to reasonably compensate any franchised dealer who does work
26 under:

27 (i) The vehicle preparation and delivery obligations of the dealer; or

28 (ii) Any outstanding express or implied new vehicle or truck
29 component parts warranty.

1 (c) (1) (I) A licensee shall specify in writing to each of its motor vehicle
2 dealers licensed in the State:

3 [(i)] 1. The dealer's obligation for vehicle preparation, delivery,
4 warranties, and recalls on its products;

5 [(ii)] 2. The schedule of compensation to be paid to the dealers for
6 parts, including parts assemblies, and labor, including diagnostic labor and associated
7 administrative requirements, in connection with the service obligations established under
8 item (i) of this paragraph; and

9 [(iii)] 3. A time allowance for the performance of labor described in
10 this paragraph that is reasonable and adequate.

11 (II) FOR PURPOSES OF THIS PARAGRAPH, MISCELLANEOUS
12 FEES INCLUDE:

13 1. SHOP SUPPLIES USED IN A REPAIR AND NORMALLY
14 CHARGED TO A CUSTOMER;

15 2. COSTS TO TRANSPORT VEHICLES FOR REPAIRS AT
16 THIRD-PARTY VENDORS AND NORMALLY CHARGED TO CUSTOMERS; AND

17 3. COSTS PAID TO A THIRD-PARTY VENDOR AND
18 NORMALLY CHARGED TO A CUSTOMER.

19 (III) FOR PURPOSES OF THIS PARAGRAPH, ASSOCIATED
20 ADMINISTRATIVE REQUIREMENTS INCLUDE TIME SPENT:

21 1. INSPECTING THE VEHICLE AND PREPARING REPORTS
22 TO THE LICENSEE;

23 2. CONTACTING THE LICENSEE TO DETERMINE PROPER
24 REPAIRS; AND

25 3. MAKING UNSUCCESSFUL REPAIRS DIRECTED BY THE
26 LICENSEE.

27 (2) Reasonable compensation under this section may not be less than:

28 (i) With respect to labor for warranty or recall repairs, the dealer's
29 current labor rate for nonwarranty repairs of a like kind for retail customers; and

1 (ii) With respect to any part, the dealer's cost plus its current retail
2 mark-up percentage charged to retail customers for nonwarranty repairs of a like kind.

3 (3) (i) For purposes of paragraph (2) of this subsection, the dealer's
4 labor rate or parts mark-up percentage shall be established by a submission to the licensee
5 of whichever of the following produces fewer repair orders closed, as of the date of
6 submission, within the [preceding] **FIRST 180 days DURING WHICH THE DEALER'S**
7 **LABOR RATE OR PARTS MARK-UP PERCENTAGE HAS BEEN IN EFFECT:**

8 1. 100 qualifying sequential customer-paid repair orders; or

9 2. 90 days of qualifying customer-paid repair orders.

10 (ii) With respect to parts, a schedule of compensation established
11 under this subsection shall be equal to the parts mark-up percentage as reflected in
12 qualifying repair orders, calculated by dividing the total charges for parts in the repair
13 orders by the total dealer cost for the parts minus one.

14 (iii) 1. A dealer may not make a submission under this subsection
15 more than once in 1 year.

16 2. For purposes of subparagraph 1 of this subparagraph,
17 a revision or supplement to a submission to correct or clarify the submission does not
18 constitute a new submission.

19 (4) Repair orders for labor or parts in connection with any of the following
20 may not constitute a qualifying repair order under paragraph (2) of this subsection:

21 (i) Accessories;

22 (ii) Repairs for manufacturer, distributor, or factory branch special
23 events, promotions, or service campaigns;

24 (iii) Repairs related to collision;

25 (iv) Vehicle emission or safety inspections required by law;

26 (v) Parts sold, or repairs performed, at wholesale or for insurance
27 carriers, or other third-party payors;

28 (vi) Routine maintenance not covered under any warranty, including
29 maintenance involving fluids, filters, and belts not provided in the course of repairs;

30 (vii) Nuts, bolts, fasteners, and similar items that do not have an
31 individual parts number;

32 (viii) Tires;

- 1 (ix) Vehicle reconditioning;
- 2 (x) Goodwill or policy repairs or replacements; or
- 3 (xi) Repairs on vehicles from a different line–make.

4 (5) (I) If a licensee gives a dealer a part at no cost to use in performing
5 a repair under a recall, campaign service action, or warranty repair, the licensee shall
6 compensate the dealer for the part by paying the dealer the parts mark–up percentage
7 established under this subsection on the cost for the part listed on the licensee’s price
8 schedule.

9 (II) IF NO PRICE SCHEDULE EXISTS FOR A PART DESCRIBED IN
10 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE LICENSEE SHALL COMPENSATE THE
11 DEALER FOR THE PART BY PAYING THE DEALER THE PRICE OF THE PART BEING
12 REPLACED, OR THE PRICE OF THE PART MOST SIMILAR TO THE PART BEING
13 REPLACED.

14 (6) (i) The schedule of compensation submitted under paragraph (3) of
15 this subsection shall be presumed to be accurate and reasonable.

16 (ii) The licensee shall approve or rebut the dealer’s submission
17 within 30 days of receipt.

18 (iii) If the licensee approves a dealer’s submission, the licensee shall
19 begin compensating the dealer under the schedule within 30 days after the date of approval.

20 (iv) In the absence of a timely rebuttal by the licensee, the schedule
21 of compensation submitted by the dealer shall go into effect on the 31st day following the
22 licensee’s receipt of the schedule.

23 (v) Any rebuttal of the schedule of compensation by the licensee
24 shall:

25 1. Be delivered to the dealer within 30 days of the licensee’s
26 receipt of the schedule; and

27 2. Consist of reasonable substantiating evidence that the
28 declared rate is materially inaccurate.

29 (vi) In the event of a timely rebuttal, on resolution of the matter by
30 agreement of the parties or by administrative, judicial, or other action, a licensee’s payment
31 obligations under the resulting schedule of compensation shall begin on the 31st day
32 following a final order unless otherwise provided for by the fact finder.

1 (vii) 1. To the extent that any action commenced under subsection
2 **[(d)] (E)** of this section or § 15–213 or § 15–214 of this subtitle involves the application of
3 paragraph (3) of this subsection, the issues shall be limited to whether the labor rate or
4 parts mark–up percentage stated in the dealer’s submission was materially inaccurate.

5 2. A licensee shall have the burden of proving under this
6 subparagraph that the dealer’s submission was materially inaccurate.

7 (viii) 1. A licensee may verify a dealer’s effective rates once
8 annually.

9 2. If a licensee finds that a dealer’s effective rates have
10 increased or decreased, the licensee may increase or decrease, respectively, the warranty
11 reimbursement rate prospectively.

12 (7) A licensee may not directly or indirectly:

13 (i) Calculate its own labor rate or parts mark–up percentage on a
14 warranty reimbursement rate submission by the licensee’s dealer under this section, or
15 require a dealer to calculate a labor rate or parts mark–up percentage, by any method not
16 required under this section, including a method that is unduly burdensome or
17 time–consuming or that requires information that is unduly burdensome or
18 time–consuming to provide such as:

19 1. A part–by–part or transaction–by–transaction
20 calculation; or

21 2. Presentation of information as to, or calculations based on,
22 the dealer’s or other dealers’ warranty compensation;

23 (ii) Establish or implement a special part or component number for
24 parts used in warranty fulfillment, if the special part or component number results in
25 reduced compensation for the dealer **[unless the part is used for specific, limited repair**
26 **situations]**;

27 (iii) Require or coerce a dealer to change the prices for which it sells
28 parts or labor for retail customer repairs;

29 (iv) Take adverse action against a dealer because the dealer seeks
30 compensation under this section, by:

31 1. Implementing a process that is inconsistent with the
32 licensee’s obligations to the dealer under this subtitle; or

33 2. Failing to act in good faith;

1 (v) Conduct any warranty or retail customer repair audit, or other
2 service-related audit, solely because the dealer makes a request for warranty
3 reimbursement at retail rates in the ordinary course of business; [or]

4 (vi) Establish, implement, enforce, or apply any policy, standard,
5 rule, program, or incentive regarding the compensation due under this section other than
6 in a uniform manner among the licensee's dealers in the State;

7 **(VII) SELL VEHICLE PARTS DIRECTLY TO RETAIL CUSTOMERS;**

8 **(VIII) REQUIRE OR COERCE A DEALER TO ENGAGE WITH A**
9 **THIRD-PARTY MANUFACTURER FOR REPAIRS TO ANY PART INSTALLED ON A**
10 **VEHICLE BY THE LICENSEE; OR**

11 **(IX) ESTABLISH OR IMPLEMENT A PRICING STRUCTURE THAT**
12 **CHARGES A DIFFERENT RATE FOR A PART BASED ON THE USE OF THE PART.**

13 (8) The provisions of paragraphs (1) through (7) of this subsection do not
14 apply to travel trailers or parts of systems, fixtures, appliances, furnishings, accessories,
15 and features of motor homes that are not manufactured by the manufacturer of the motor
16 home as a part of the unit.

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

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

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

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

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

26 **(IV) 1. A. IF THE LICENSEE SEEKS THE RETURN OF ANY**
27 **PART REPLACED BY A DEALER IN CONNECTION WITH A CLAIM FILED UNDER THIS**
28 **SECTION, THE LICENSEE SHALL REQUEST THE RETURN WITHIN 30 DAYS AFTER**
29 **RECEIPT OF THE CLAIM.**

30 **B. IF THE LICENSEE DOES NOT REQUEST THE RETURN**
31 **OF A REPLACED PART WITHIN 30 DAYS AFTER RECEIPT OF THE CLAIM, THE DEALER**
32 **MAY DISPOSE OF THE REPLACED PART.**

2. IF THE LICENSEE REQUESTS THE RETURN OF A REPLACED PART, THE LICENSEE SHALL COMPENSATE THE DEALER FOR THE COST OF RETURNING THE REPLACED PART.

(10) A dealer's failure to comply with a specific requirement of the manufacturer or distributor may not constitute grounds for denial of the claim or reduction of the amount of compensation paid to the dealer if the dealer presents documentation or other reasonable evidence to substantiate that the repair and the claim were done according to manufacturer warranty guidelines.

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

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

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

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

(12) A licensee may not prohibit a dealer from, or take any adverse action against a dealer for, providing to a customer information given to the dealer by a manufacturer related to any condition that may substantially affect motor vehicle safety, durability, reliability, or performance.

(13) A dealer may provide the information specified in paragraph (12) of this subsection only to a customer that has:

- (i) Purchased the vehicle for which the information pertains from the dealer; or
- (ii) Had the vehicle for which the information pertains serviced by the dealer.

(14) A licensee may not deny a claim, reduce the amount of compensation to a dealer, or process a charge back to a dealer for performing covered warranty or required recall repairs on a vehicle:

- (i) For resolving a condition covered by the licensee's original warranty;
- (ii) For remedying a safety-related defect that is subject to an outstanding recall under federal law;

1 (iii) If the dealer properly performed the repairs and submitted the
 2 claims; [or]

3 (iv) If the dealer discovered the need for repairs:

4 1. During the course of a separate repair requested by the
 5 customer; or

6 2. Through notice of an outstanding recall under federal law
 7 for a safety-related defect; OR

8 (v) IF THE LICENSEE LACKS A PUBLISHED BOOK RATE FOR THE
 9 REPAIR.

10 (d) (1) IF A DEALER’S FRANCHISE CEASES TO EXIST, THE DEALER MAY:

11 (i) COMPLETE ANY WARRANTY OR RECALL REPAIR THAT IS
 12 UNDERWAY AT THE TIME THE FRANCHISE CEASES TO EXIST; OR

13 (ii) BEGIN AND COMPLETE ANY WARRANTY OR RECALL REPAIR
 14 ON A VEHICLE SOLD BY THE DEALER TO A RETAIL CUSTOMER WHILE THE FRANCHISE
 15 EXISTED.

16 (2) FOR ANY REPAIR CONDUCTED UNDER THIS SUBSECTION, THE
 17 LICENSEE SHALL COMPENSATE THE DEALER ACCORDING TO:

18 (i) THIS SECTION; AND

19 (ii) THE TERMS OF THE FRANCHISE AS IT EXISTED BEFORE
 20 CEASING TO EXIST.

21 (E) As to any person licensed under this subtitle, instead of or in addition to
 22 revocation, suspension, or nonrenewal of a license under this section, the 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 order the licensee to compensate any person for financial injury or
 26 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, 2025.