

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 127

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO DEALERS AND SALESMEN LICENSING; AMENDING SECTION 49-1626, IDAHO
2 CODE, TO PROVIDE FOR CERTAIN REIMBURSEMENTS RELATED TO WARRANTY SERVICE
3 AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PRO-
4 VIDING AN EFFECTIVE DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 49-1626, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 49-1626. PAYMENT FOR DELIVERY PREPARATION AND WARRANTY SERVICE. (1)
10 Each manufacturer or distributor shall: specify in writing to each of its
11 dealers licensed in this state, the dealer's obligations for predelivery
12 preparation and warranty service on its products, compensate the dealer for
13 service required of the dealer by the manufacturer or distributor, and pro-
14 vide the dealer a schedule of compensation to be paid the dealer for parts,
15 work and service in connection with its products, and the time allowance for
16 the performance of that work and service.

17 (2) In no event shall a schedule of compensation fail to include reason-
18 able compensation for diagnostic work, as well as repair service and labor.
19 Time allowances for the diagnosis and performance of warranty work and ser-
20 vice shall be reasonable and adequate for the work to be performed.

21 (3) It is unlawful for a new vehicle manufacturer or distributor to fail
22 to perform any warranty obligations or to fail to include in written notices
23 of factory recalls to new vehicle owners and dealers, the expected date by
24 which necessary parts and equipment will be available to dealers for the cor-
25 rection of those defects, or to fail to compensate any of the dealers in this
26 state for repairs affected by recall.

27 (4) A vehicle dealer may submit a warranty claim to a manufacturer or
28 distributor if a warranty defect is identified and documented prior to the
29 expiration of a manufacturer's or distributor's warranty:

30 (a) While a franchise agreement is in effect; or

31 (b) After the termination of a franchise agreement if the claim is for
32 work performed while the franchise agreement was in effect.

33 (5) All claims made by dealers pursuant to this section for labor and
34 parts shall be paid within thirty (30) days following their approval. All
35 claims shall be either approved or disapproved within thirty (30) days after
36 their receipt, on forms and in the manner specified by the manufacturer or
37 distributor, and any claim not specifically disapproved in writing within
38 thirty (30) days after receipt shall be construed to be approved and payment
39 must follow within thirty (30) days.

40 (6) A dealer whose claim has been denied due to failure to comply with
41 a specific claim processing requirement, such as a clerical error or other
42 administrative technicality that does not put into question the legitimacy

1 of the claim, may resubmit the corrected claim as provided for in subsection
2 (7) of this section.

3 (7) A dealer shall have thirty (30) days from the date of notification
4 by a manufacturer or distributor of a denial of a claim or a charge-back to
5 the dealer to resubmit a claim for payment or compensation if the claim was
6 denied for any of the reasons described in subsection (6) of this section,
7 whether the charge-back was a direct or an indirect transaction, unless a
8 longer period of time is provided for by the manufacturer or distributor.

9 (8) Notwithstanding the terms of a franchise agreement or other con-
10 tract with a dealer and except as provided in subsection (9) of this section,
11 after the expiration of one (1) year after the date of payment of the warranty
12 claim, a manufacturer or distributor shall not audit the records of a motor
13 vehicle dealer to determine compliance with the terms of a warranty claim.
14 Provided however, that the manufacturer or distributor may audit the dealer
15 for fraudulent claims during any period for which an action for fraud may be
16 commenced.

17 (9) A manufacturer or distributor may make charge-backs to a motor ve-
18 hicle dealer if, after completion of an audit of the dealer's records, the
19 manufacturer or distributor can show, by a preponderance of the evidence,
20 that:

21 (a) With respect to a warranty claim, the repair work was improperly
22 performed in a substandard manner or was unnecessary; or

23 (b) The claim is unsubstantiated in accordance with the manufacturer's
24 or distributor's requirements.

25 (10) Nothing in subsection (8) or (9) of this section shall prevent a
26 manufacturer or distributor from instituting a legal action for fraud as
27 provided for in section 5-218, Idaho Code.

28 (11) The schedule of compensation for warranty parts and labor shall not
29 be less than the rates charged by the dealer for similar service to retail
30 customers for nonwarranty parts and labor; provided that such dealer's re-
31 tail rate is not unreasonable when compared with other motor vehicle fran-
32 chises from the same or competitive lines for similar merchandise or ser-
33 vices in the geographic area in which the dealer is engaged in business.

34 (a) For purposes of determining the schedule of compensation paid to a
35 dealer by the manufacturer or distributor, the following shall not be
36 considered in determining amounts charged by the dealer to retail cus-
37 tomers:

38 (i) Menu-priced parts or services;

39 (ii) Repairs for manufacturer or distributor special events;

40 (iii) Repairs covered by any insurance or service contract;

41 (iv) Vehicle emission or safety inspections required by federal,
42 state or local governments;

43 (v) Parts sold at wholesale or repairs performed at wholesale,
44 which shall include any sale or service to a fleet of vehicles;

45 (vi) Engine assemblies and transmission assemblies;

46 (vii) Routine maintenance not covered under any retail customer
47 warranty including, but not necessarily limited to, maintenance
48 involving fluids, filters and belts not provided in the course of
49 repairs;

1 (viii) Nuts, bolts, fasteners and similar items that do not have an
2 individual part number;

3 (ix) Tires; or

4 (x) Vehicle reconditioning.

5 (b) The dealer shall establish their schedule of compensation under
6 the provisions of this section by submitting to the manufacturer or
7 distributor one hundred (100) sequential customer-paid service repair
8 orders or ninety (90) days of customer-paid service repair orders,
9 whichever is less, covering repairs made no more than one hundred eighty
10 (180) days before the submission of such customer-paid service repair
11 orders and declaring the schedule of compensation. The new schedule
12 of compensation shall take effect within ninety (90) days after the
13 initial submission to the manufacturer or distributor and shall be
14 presumed to be fair and reasonable. However, within thirty (30) days
15 following receipt of the declared schedule of compensation from the
16 dealer, the manufacturer or distributor may make reasonable requests
17 for additional information supporting the declared schedule of com-
18 pensation. The ninety (90) day time frame in which the manufacturer or
19 distributor shall make the schedule of compensation effective shall
20 commence following receipt from the dealer of any reasonably requested
21 supporting information. No manufacturer or distributor shall require
22 a motor vehicle dealer to establish a schedule of compensation by any
23 other methodology or require supportive information that is unduly
24 burdensome or time-consuming to provide including, but not limited to,
25 part-by-part or transaction-by-transaction calculations. The dealer
26 shall not request a change in the schedule of compensation more than
27 once every twelve (12) months.

28 (12) If a manufacturer or distributor requires or permits a dealer to
29 perform labor or provide parts in satisfaction of a warranty issued by the
30 manufacturer or distributor, the manufacturer or distributor shall reim-
31 burse the dealer for labor as rendered, using the manufacturer's or distrib-
32 utor's labor time guide or the labor time guide used by the dealer for labor
33 furnished other than pursuant to warranty, at the dealer's election, and for
34 parts and supplies, including but not limited to engine, transmission, and
35 other parts assemblies, as furnished, in an amount equal to the prevailing
36 retail rate charged by the dealer for the labor or the prevailing retail
37 markup charged by the dealer for the parts and supplies in circumstances in
38 which the labor is rendered or the parts and supplies are furnished other
39 than pursuant to warranty.

40 ~~(12)~~ (13) It is unlawful for a manufacturer or distributor or subsidiary
41 to own, operate or control, either directly or indirectly, a motor vehicle
42 warranty or service facility located in this state except on an emergency
43 or interim basis or if no qualified applicant has applied for appointment
44 as a dealer in a market previously served by a motor vehicle dealer of that
45 manufacturer or distributor's line make except as provided for in section
46 49-1613(3) (g), Idaho Code.

47 ~~(13)~~ (14) A manufacturer or distributor may not otherwise recover all or
48 any portion of its costs for compensating its dealers licensed in this state
49 for warranty parts and labor either by reduction in the amount due to the
50 dealer or by separate charge, surcharge or other imposition; provided how-

1 ever, a manufacturer or distributor shall not be prohibited from increasing
2 prices for vehicles or parts in the normal course of business.

3 ~~(14)~~ (15) All procedures and protections afforded to a motor vehicle
4 dealer under the provisions of this section shall be available to a recre-
5 ational vehicle dealer. However, the schedule of compensation afforded
6 under subsection (11) of this section shall not apply to compensation for
7 parts, systems, fixtures, appliances, furnishings, accessories and fea-
8 tures of a recreational vehicle that are designed, used and maintained
9 primarily for nonvehicular residential purposes.

10 SECTION 2. An emergency existing therefor, which emergency is hereby
11 declared to exist, this act shall be in full force and effect on and after
12 July 1, 2023.