

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1192

Introduced by

Representatives Ruby, Delmore, Kasper, Sukut

Senators Hogue, Klein, Lyson

1 A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota
2 Century Code, relating to motor vehicle warranty reimbursement; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 51-07 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Warranty work compensation.**

- 7 1. A motor vehicle manufacturer shall include reasonable compensation for diagnostic
8 work, as well as repair service, parts, and labor, in warranty work compensation. In
9 addition, a motor vehicle manufacturer shall provide adequate time allowances for
10 diagnosis and performance of warranty work and service for the work performed. The
11 hourly labor rate paid by a motor vehicle manufacturer to the dealer for warranty
12 services may not be less than the ~~average~~ rate charged by the dealer for like service
13 to nonwarranty customers for nonwarranty service ~~as provided under subsection 5.~~ A
14 motor vehicle manufacturer may not reimburse a dealer for parts used in the
15 performance of warranty repair at a lower rate than the ~~current~~ ~~average~~ retail rate
16 customarily charged by the dealer for these parts ~~as provided under subsection 4.~~
17 2. A motor vehicle manufacturer shall pay a dealer on a claim made by a dealer under
18 this section within thirty days of the approval of the claim. The manufacturer shall
19 either approve or disapprove a claim within thirty days after the claim is submitted to
20 the manufacturer. The manufacturer may prescribe the manner in which and the forms
21 on which the dealer must present the claim. A claim not specifically disapproved in
22 writing within thirty days after the manufacturer receives the claim must be construed
23 to be approved and the manufacturer shall pay the claim within thirty days.

- 1 3. A motor vehicle manufacturer, factory branch, distributor, or distributor branch
2 ~~must~~shall fully compensate its motor vehicle dealers licensed in this state for warranty
3 parts, work, and service specified in this section. Failure to fully compensate includes
4 a reduction in the amount due to the dealer or imposing a separate charge, surcharge,
5 or other imposition by which the motor vehicle manufacturer, factory branch,
6 distributor, or distributor branch seeks to recover the costs of complying with this
7 section ~~or seeks to recover legal costs and expenses incurred by the dealers in~~
8 ~~connection with warranty obligations for which the manufacturer, factory branch,~~
9 ~~distributor or distributor branch is legally responsible or which the manufacturer,~~
10 ~~factory branch, distributor, or distributor branch imposes upon~~ from the dealer.
11 4. The retail rate customarily charged by the dealer for parts is established by the dealer
12 submitting to the manufacturer or distributor one hundred sequential nonwarranty
13 customer-paid service repair orders ~~which~~ that contain warranty-like parts or ~~sixty~~ ninety
14 consecutive days of nonwarranty customer-paid service repair orders that contain
15 warranty-like parts, whichever is less, covering repairs made no more than one
16 hundred eighty days before the submission and declaring the average percentage
17 markup.
18 5. The retail rate customarily charged by the dealer for labor ~~is~~ must be established ~~by the~~
19 dealer submitting to the manufacturer or distributor all nonwarranty customer-paid
20 service repair orders covering repairs made during the month before the submission
21 and dividing the amount of the dealer's total labor sales by the number of total labor
22 hours that generated those sales using the same process as provided under
23 subsection 4 and declaring the average labor rate. The average labor rate must be
24 determined by dividing the amount of the dealer's total labor sales by the number of
25 total hours that generated those sales. If a labor rate and parts markup rate are
26 simultaneously declared by the dealer, the dealer may use the same repair orders to
27 complete each calculation as provided under subsection 4.
28 6. In calculating the retail rate customarily charged by the dealer for parts and labor, the
29 following work may not be included in the calculation:
30 a. Repairs for manufacturer or distributor special events, specials, or promotional
31 discounts for retail customer repairs;

1 b. Parts sold at wholesale;

2 ~~c. Engine assemblies and transmission assemblies;~~

3 ~~d.c.~~ Routine maintenance not covered under any retail customer warranty, including
4 fluids, filters and belts not provided in the course of repairs;

5 ~~e.d.~~ Nuts, bolts, fasteners, and similar items that do not have an individual part
6 number;

7 ~~f.e.~~ Tires; and

8 ~~g.f.~~ Vehicle reconditioning.

9 7. The average of the parts markup rates and labor rate is presumed to be fair and
10 reasonable and must go into effect thirty days following the ~~declaration~~ manufacturer's
11 approval. A manufacturer or distributor may rebut the presumption by reasonably
12 substantiating that a rate is ~~unfair and~~ unreasonable in light of the practices of all other
13 franchised motor vehicle dealers in an economically similar area of the ~~vicinity~~ state
14 offering the dealer's declaration of the same line-make vehicles, not later than thirty
15 days after submission. If the average ~~of the~~ parts markup rate or average labor rate is
16 rebutted, or both, the manufacturer or distributor shall propose an adjustment of the
17 average percentage markup based on that rebuttal not later than thirty days after
18 submission.

19 8. Each manufacturer, in establishing a schedule of compensation for warranty work,
20 shall rely on the vehicle dealer's written schedule of hourly labor rates and parts and
21 may not obligate any vehicle dealer to engage in unduly burdensome or
22 time-consuming documentation of rates or parts, including obligating vehicle dealers to
23 engage in transaction-by-transaction or part-by-part calculations.

24 9. A dealer ~~may not declare a retail parts markup rate or retail labor rate more than twice~~
25 ~~in one calendar year.~~ or manufacturer may demand that the average parts markup or
26 average labor rate be calculated using the process provided under subsections 4 and
27 5; however, the demand for the average parts markup may not be made within twelve
28 months of the last parts markup declaration and the demand for the average labor rate
29 may not be made within twelve months of the last labor rate declaration. If a parts
30 markup or labor rate is demanded by the dealer or manufacturer, the dealer shall

1 determine the repair orders to be included in the calculation under subsections 4 and
2 5.

3 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.