

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 rate charged by the dealer for like service to
13 nonwarranty customers for nonwarranty service. A motor vehicle manufacturer may
14 not reimburse a dealer for parts used in the performance of warranty repair at a lower
15 rate than the current retail rate customarily charged by the dealer for these parts.
16 2. A motor vehicle manufacturer shall pay a dealer on a claim made by a dealer under
17 this section within thirty days of the approval of the claim. The manufacturer shall
18 either approve or disapprove a claim within thirty days after the claim is submitted to
19 the manufacturer. The manufacturer may prescribe the manner in which and the forms
20 on which the dealer must present the claim. A claim not specifically disapproved in
21 writing within thirty days after the manufacturer receives the claim must be construed
22 to be approved and the manufacturer shall pay the claim within thirty days.
23 3. A motor vehicle manufacturer, factory branch, distributor, or distributor branch must
24 fully compensate its motor vehicle dealers licensed in this state for warranty parts.

work, and service specified in this section. Failure to fully compensate includes a reduction in the amount due to the dealer or imposing a separate charge, surcharge, or other imposition by which the motor vehicle manufacturer, factory branch, distributor, or distributor branch seeks to recover the costs of complying with this section or seeks to recover legal costs and expenses incurred by the dealers in connection with warranty obligations for which the manufacturer, factory branch, distributor or distributor branch is legally responsible or which the manufacturer, factory branch, distributor, or distributor branch imposes upon the dealer.

4. The retail rate customarily charged by the dealer for parts is established by the dealer submitting to the manufacturer or distributor one hundred sequential nonwarranty customer-paid service repair orders which contain warranty-like parts or sixty consecutive days of nonwarranty customer-paid service repair orders that contain warranty-like parts, whichever is less, covering repairs made no more than one hundred eighty days before the submission and declaring the average percentage markup.

5. The retail rate customarily charged by the dealer for labor is established by the dealer submitting to the manufacturer or distributor all nonwarranty customer-paid service repair orders covering repairs made during the month before the submission and dividing the amount of the dealer's total labor sales by the number of total labor hours that generated those sales.

6. In calculating the retail rate customarily charged by the dealer for parts and labor, the following work may not be included in the calculation:

- a. Repairs for manufacturer or distributor special events, specials, or promotional discounts for retail customer repairs;
- b. Parts sold at wholesale;
- c. Engine assemblies and transmission assemblies;
- d. Routine maintenance not covered under any retail customer warranty, including fluids, filters and belts not provided in the course of repairs;
- e. Nuts, bolts, fasteners, and similar items that do not have an individual part number;
- f. Tires; and

1 g. Vehicle reconditioning.

2 7. The average of the parts markup rates and labor rate is presumed to be fair and
3 reasonable and must go into effect thirty days following the declaration. A
4 manufacturer or distributor may rebut the presumption by reasonably substantiating
5 that a rate is unfair and unreasonable in light of the practices of all other franchised
6 motor vehicle dealers in the vicinity offering the same line-make vehicles, not later
7 than thirty days after submission. If the average of the parts markup rate or labor rate
8 is rebutted, or both, the manufacturer or distributor shall propose an adjustment of the
9 average percentage markup based on that rebuttal not later than thirty days after
10 submission.

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

16 9. A dealer may not declare a retail parts markup rate or retail labor rate more than twice
17 in one calendar year.

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