

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 841

Short Title: MV Warranty Reimbursement Rights.

(Public)

Sponsors: Senator Cooper.

Referred to: Judiciary II.

April 13, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE WARRANTY REIMBURSEMENT RIGHTS OF
MOTOR VEHICLE DEALERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-305.1(a) reads as rewritten:

"(a) Each motor vehicle manufacturer, factory branch, distributor or distributor branch, shall specify in writing to each of its motor vehicle dealers licensed in this State the dealer's obligations for preparation, delivery and warranty service on its products, the schedule of compensation to be paid such dealers for parts, work, and service in connection with warranty service, and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work and associated administrative requirements as well as repair service and labor. Time allowances for the performance of warranty work and service shall be reasonable and adequate for the work to be performed. ~~In the determination of what constitutes reasonable compensation under this section, the factors to be given consideration shall include, among others, the compensation being paid by other manufacturers to their dealers, the retail price the dealers charge their retail customers for parts used to perform similar work, and paid to dealers for parts, other than parts used to repair the living facilities of recreational vehicles, and the prevailing wage rates being paid by dealers, and the prevailing labor rate being charged by dealers to their retail customers, in the community in which the dealer is doing business, provided such rates and prices are not unreasonable.~~ Under no circumstances may the reasonable compensation under this section be in an amount less than the average amount charged by the dealer to retail customers for nonwarranty work of like kind during the preceding 12 months. It is unlawful for any motor vehicle manufacturer, factory branch, distributor or distributor

1 branch to surcharge or otherwise increase its costs or charges to dealers in this State in
2 order to offset, either in whole or in part, its cost of providing reimbursement to dealers
3 under this section."

4 Sec. 2. G.S. 20-305.1(b) reads as rewritten:

5 "(b) Notwithstanding the terms of any franchise agreement, it is unlawful for any
6 motor vehicle manufacturer, factory branch, distributor, or distributor branch to fail to
7 perform any of its warranty obligations with respect to a motor vehicle, to fail to
8 compensate its motor vehicle dealers licensed in this State for warranty parts other than
9 parts used to repair the living facilities of recreational vehicles, at the prevailing retail
10 rate according to the factors in subsection (a) of this section, or, in service in accordance
11 with the schedule of compensation provided the dealer pursuant to subsection (a) above,
12 and to fail to indemnify and hold harmless its franchised dealers licensed in this State
13 against any judgment for damages or settlements agreed to by the manufacturer,
14 including, but not limited to, court costs and reasonable attorneys' fees of the motor
15 vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited
16 to, strict liability, negligence, misrepresentation, express or implied warranty, or
17 rescision or revocation of acceptance of the sale of a motor vehicle as defined in G.S. 25-
18 2-608, to the extent that the judgment or settlement relates to the alleged defective
19 negligent manufacture, assembly or design of new motor vehicles, parts or accessories
20 or other functions by the manufacturer, factory branch, distributor or distributor branch,
21 beyond the control of the dealer. Any charge-backs for warranty parts or service
22 compensation and service incentives shall only be for the 12-month period immediately
23 following the date of the claim and in the case of charge-backs for sales compensation
24 only, for the 18-month period immediately following the date of claim. Provided,
25 however, these limitations shall not be effective in the case of fraudulent claims."

26 Sec. 3. This act shall not apply to manufacturers of, or dealers in, mobile or
27 manufactured housing or recreational trailers.

28 Sec. 4. This act becomes effective July 1, 1993.