

By: Patterson

H.B. No. 3859

A BILL TO BE ENTITLED

AN ACT

relating to motor vehicle franchised dealers and the reimbursement of motor vehicle franchised dealers by manufacturers and distributors for warranty, recall, over-the-air, and preparation and delivery work.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter I, Chapter 2301, Occupations Code, is amended to read as follows:

SUBCHAPTER I. ~~[WARRANTIES.]~~ REIMBURSEMENT OF DEALER

Sec. 2301.4001. DEFINITIONS. In this subchapter:

(1) "Goodwill repair" means a repair made by a seller for no charge that the seller is not obligated to make.

(2) "Part" includes:

(A) any component, electric vehicle battery, engine, equipment, fixture, good, part assembly, software, or transmission for a motor vehicle; and

(B) a replacement for a part listed in Paragraph (A).

(3) "Routine maintenance" includes replacement of a belt, bolt, brake pad, bulb, fastener, filter, fluid, internal combustion engine vehicle battery, nut, rotor, or wiper blade, and any other repair or service described as vehicle maintenance in the owner information booklet or similar document provided to the vehicle owner by the manufacturer or distributor.

1           Sec. 2301.401. WARRANTY, RECALL, PREPARATION, AND DELIVERY  
2 REQUIREMENTS. (a) On request, a manufacturer or distributor shall  
3 provide to the department a copy of the current requirements the  
4 manufacturer or distributor imposes on its dealers with respect to  
5 the dealer's:

6                   (1) duties under the manufacturer's or distributor's  
7 warranty and under a manufacturer's or distributor's recall; and

8                   (2) vehicle preparation and delivery obligations.

9           (b) Warranty, recall, or preparation and delivery  
10 requirements placed on a dealer by a manufacturer or distributor  
11 are not enforceable unless the requirements are reasonable.

12           Sec. 2301.402. RATE OF COMPENSATION. (a) A manufacturer or  
13 distributor shall fairly and adequately compensate its dealers for  
14 warranty, recall, over-the-air, and preparation and delivery work.

15           (b) A manufacturer or distributor may not pay or reimburse a  
16 dealer an amount of money for warranty, recall, over-the-air, and  
17 preparation and delivery work that is less than the amount the  
18 dealer charges a retail customer for similar [~~nonwarranty~~] work.

19           (c) In computing the amount of money a dealer charges a  
20 retail customer under Subsection (b) for labor, the manufacturer or  
21 distributor shall use the formula, of the following formulas, that  
22 produces the fewest number of repair orders [~~the greater of~~]:

23                   (1) the average labor rate charged during the  
24 preceding six months by the dealer on 100 sequential [~~nonwarranty~~]  
25 repair orders paid in part by a retail customer, exclusive of:

26                           (A) routine maintenance;

27                           (B) tire, wheel, or wheel alignment;

1                    (C) discounts to state agencies, insurers, or  
2 warranty or service contract providers;

3                    (D) state inspections;

4                    (E) goodwill repairs;

5                    (F) accessory installation;

6                    (G) a manufacturer's or distributor's promotion  
7 or service campaign; or

8                    (H) repairs to a vehicle owned by the dealer, an  
9 affiliate of the dealer, or an employee of either the dealer or  
10 affiliate; or

11                    (2) the average labor rate charged for 90 consecutive  
12 days during the preceding six months by the dealer for  
13 ~~[nonwarranty]~~ repairs paid in part by a retail customer, exclusive  
14 of:

15                    (A) routine maintenance;

16                    (B) tire, wheel, or wheel alignment;

17                    (C) discounts to state agencies, insurers, or  
18 warranty or service contract providers;

19                    (D) state inspections;

20                    (E) goodwill repairs;

21                    (F) accessory installation;

22                    (G) a manufacturer's or distributor's promotion  
23 or service campaign; or

24                    (H) repairs to a vehicle owned by the dealer, an  
25 affiliate of the dealer, or an employee of either the dealer or  
26 affiliate.

27                    (d) The average labor rate under Subsection (c) is

determined by dividing the total charges for labor submitted by the total number of hours charged for the repairs.

(e) In computing the amount of money a dealer charges a retail customer under Subsection (b) for parts, the manufacturer or distributor shall use the formula, of the following formulas, that produces the fewest number of repair orders:

(1) the average parts markup charged during the preceding six months by the dealer on 100 sequential repair orders paid in part by a retail customer, exclusive of:

(A) routine maintenance;  
(B) tire, wheel, or wheel alignment;  
(C) discounts to state agencies, insurers, or warranty or service contract providers;

(D) state inspections;  
(E) goodwill repairs;  
(F) accessory installation;  
(G) a manufacturer's or distributor's promotion or service campaign; or

(H) repairs to a vehicle owned by the dealer, an affiliate of the dealer, or an employee of either the dealer or affiliate; or

(2) the average parts markup charged for 90 consecutive days during the preceding six months by the dealer for repairs paid in part by a retail customer, exclusive of:

(A) routine maintenance;  
(B) tire, wheel, or wheel alignment;  
(C) discounts to state agencies, insurers, or

warranty or service contract providers;

(D) state inspections;

(E) goodwill repairs;

(F) accessory installation;

(G) a manufacturer's or distributor's promotion  
or service campaign; or

(H) repairs to a vehicle owned by the dealer, an  
affiliate of the dealer, or an employee of either the dealer or  
affiliate.

(f) The average parts markup for Subsection (e) is  
determined by dividing the total charges for parts submitted by the  
total cost of the parts for which charges are submitted.

(g) If a manufacturer or distributor supplies a part to a  
dealer at no cost or at a reduced cost for use in a repair, the  
manufacturer or distributor shall compensate the dealer for the  
dealer's cost for the part, if any, plus an amount equal to the  
dealer's prevailing retail parts markup, multiplied by the fair  
wholesale value of the part.

(h) For purposes of Subsection (g), the fair wholesale value  
of a part is the greater of:

(1) the amount the dealer paid for the part or a  
substantially identical part if presently owned by the dealer;

(2) the cost of the part as shown in the current price  
schedule of the manufacturer or distributor or in a price schedule  
issued by the manufacturer or distributor in the 24 months  
preceding the date of performance of the repair; or

(3) the cost of a substantially identical part shown

1 in the current price schedule of the manufacturer or distributor or  
2 in a price schedule issued by the manufacturer or distributor in the  
3 24 months preceding the date of performance of the repair.

4 (i) A manufacturer or distributor shall compensate a dealer  
5 in accordance with this subchapter if:

6 (1) a customer, manufacturer, distributor, or  
7 third-party requests or seeks assistance from the dealer for an  
8 over-the-air or remote installation, change, repair, update, or  
9 amendment to any part, system, accessory, or function; or

10 (2) the dealer performs an over-the-air or remote  
11 installation, change, repair, update, or amendment to any part,  
12 system, accessory, or function.

13 Sec. 2301.403. ADJUSTMENT OF RATE FOR WARRANTY WORK [~~LABOR~~  
14 ~~RATE~~]. (a) A dealer may request an adjustment in the dealer's  
15 warranty work [~~labor~~] rate. The request must be sent to the  
16 manufacturer or distributor by certified mail, return receipt  
17 requested, to the address specifically designated by the  
18 manufacturer or distributor for such purpose or electronically if  
19 the manufacturer or distributor has an established portal  
20 specifically designated for such purpose and the manufacturer or  
21 distributor has given notice to the dealer of the designated  
22 address or portal, as applicable. The request [~~and~~] must state the  
23 requested labor or parts rate and include information reasonably  
24 necessary to enable the manufacturer or distributor to adequately  
25 evaluate the request as provided by this subchapter.

26 (b) Not later than the 60th day after the date of receipt of  
27 a request under this section, the manufacturer or distributor shall

1 provide written notice to the requesting dealer of the approval,  
 2 reduction, claimed material inaccuracy, or disapproval of the  
 3 request. If the manufacturer or distributor fails to respond  
 4 before the 60th day after the date the request is received, the  
 5 submitted rate shall take effect on the 60th day after the date the  
 6 manufacturer or distributor receives the request. If the request  
 7 is disapproved, reduced, or claimed to be materially inaccurate,  
 8 the manufacturer or distributor shall state in writing the reasons  
 9 for the disapproval, reduction, or claimed material inaccuracy.  
 10 The stated reasons for disapproval, reduction, or claimed material  
 11 inaccuracy of the requested labor or parts rate must contain:

12 (1) an explanation of the reasons the request is  
 13 disapproved, reduced, or claimed to be materially inaccurate;

14 (2) evidence that substantiates each stated reason;

15 (3) if a material inaccuracy is alleged, a copy of the  
 16 calculations used by the manufacturer or distributor demonstrating  
 17 a material inaccuracy; and

18 (4) a proposed adjusted labor or parts rate, as  
 19 applicable.

20 (c) A requesting dealer may file a protest with the board if  
 21 the manufacturer or distributor[+]

22 [~~(1)~~] disapproves or reduces a dealer's request or  
 23 claims the request is materially inaccurate[~~, or~~

24 [~~(2) fails to respond within the time required by this~~  
 25 ~~section]~~.

26 (d) After a protest is filed, the board may uphold the  
 27 manufacturer's or distributor's decision only if the manufacturer

1 or distributor proves by clear and convincing [~~a preponderance of~~  
2 ~~the~~] evidence that the disapproval, reduction, or claimed material  
3 inaccuracy of the request [~~or failure to respond~~] was reasonable.

4 (e) If the board does not determine by clear and convincing  
5 evidence that the disapproval, reduction, or claimed material  
6 inaccuracy of the request [~~or failure to respond~~] was reasonable,  
7 the board shall order the requested rate into effect as of the 60th  
8 day after the receipt of the request by the manufacturer or  
9 distributor.

10 (f) Except by agreement of the parties, a warranty labor  
11 rate or warranty parts rate established under this subchapter may  
12 not be adjusted more often than once a year.

13 Sec. 2301.404. TIME FOR PAYMENT. (a) A manufacturer or  
14 distributor shall pay a dealer's claim for reimbursement for  
15 warranty [~~work~~], recall, over-the-air, or [dealer] preparation and  
16 delivery work not later than the 30th day after the date of approval  
17 of the claim.

18 (b) A claim that is not disapproved before the 31st day  
19 after the date of receipt is considered approved.

20 (c) If a claim is disapproved, the manufacturer or  
21 distributor shall provide the dealer written notice explaining [~~of~~]  
22 the reasons for the disapproval.

23 Sec. 2301.405. CHARGE BACK TO DEALER. (a) A manufacturer  
24 or distributor may not charge back to a dealer money paid by the  
25 manufacturer or distributor to satisfy a claim approved and paid  
26 under this subchapter unless the manufacturer or distributor shows  
27 that:

1 (1) the claim was false or fraudulent;

2 (2) repair work was not properly performed or was  
3 unnecessary to correct a defective condition; or

4 (3) the dealer who made the claim failed to  
5 substantiate the claim as provided by the manufacturer's or  
6 distributor's requirements that were enforceable under Section  
7 2301.401 at the time the claim was filed.

8 (b) A manufacturer or distributor may not audit a claim  
9 filed under this subchapter after the first anniversary of the date  
10 the claim is submitted unless the manufacturer or distributor has  
11 reasonable grounds to suspect that the claim was fraudulent.

12 Sec. 2301.406. PROHIBITED REQUIREMENTS FOR PAYMENT. (a) A  
13 manufacturer or distributor may not require, as a prerequisite to  
14 the payment of a claim for reimbursement, that a dealer file a  
15 statement of actual time spent in performance of labor, unless the  
16 manufacturer or distributor intends to reimburse the dealer based  
17 on the actual time spent on the repair in accordance with this  
18 subchapter and the manufacturer or distributor has given timely  
19 notice to the dealer that actual time is the basis for  
20 reimbursement.

21 (b) A manufacturer or distributor may not recover or attempt  
22 to recover any portion of the compensation due to a dealer for  
23 warranty, recall, over-the-air, or preparation and delivery work by  
24 reducing the amount due by a separate charge, surcharge, like  
25 charge, other charge, supplemental charge, or a reduction in return  
26 reserve allowance to the wholesale price paid by the dealer to the  
27 manufacturer or distributor for any product, including motor

1 vehicles and parts. A manufacturer or distributor may not add any  
2 additional charge to a dealer for a service such as an information  
3 system or for the dealer's obtaining technical information and  
4 repair assistance from the manufacturer or distributor. This  
5 subsection does not prohibit a manufacturer or distributor from  
6 increasing prices for a vehicle or part in the normal course of  
7 business.

8 (c) A manufacturer or distributor may not establish or  
9 implement a special part number for a part used in warranty, recall,  
10 over-the-air, or preparation and delivery work if the result is  
11 lower compensation to the dealer than as calculated under Section  
12 [2301.402](#). This subsection does not prohibit a manufacturer or  
13 distributor from establishing or implementing a special part number  
14 for recall tracking if required by federal law.

15 (d) Except as otherwise provided by this subsection,  
16 compensation to a dealer for a part used in the performance of a  
17 recall must be calculated using the price for the part listed in the  
18 current parts catalog of the manufacturer or distributor or a parts  
19 catalog issued by the manufacturer or distributor in the 24 months  
20 preceding the date of the performance of the recall work, whichever  
21 results in greater compensation to the dealer. If the part,  
22 irrespective of the part number, is in a dealer's current  
23 inventory, the compensation to a dealer must be calculated using  
24 the price for the part from the manufacturer's or distributor's  
25 parts catalog at the time the part was purchased for the dealer's  
26 inventory.

27 SECTION 2. The changes in law made by this Act apply only to

1 warranty, recall, over-the-air, or preparation and delivery work  
2 under Subchapter I, Chapter 2301, Occupations Code, as amended by  
3 this Act, that commences on or after the effective date of this Act.  
4 Warranty, recall, over-the-air, or preparation and delivery work  
5 that commences before the effective date of this Act is governed by  
6 the law in effect on the date the work was commenced, and the former  
7 law is continued in effect for that purpose.

8       SECTION 3. This Act takes effect September 1, 2025.