

ACT 246

H.B. NO. 1543

A Bill for an Act Relating to the Motor Vehicle Industry Licensing Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that safeguards need to be enacted due to actual and threatened surcharges made by motor vehicle manufacturers against dealers, both those that have sought increased warranty reimbursement under Hawaii law and those that have not sought increased warranty reimbursement.

SECTION 2. Section 437-56, Hawaii Revised Statutes, is amended to read as follows:

**“~~§437-56~~ Reimbursement for parts.** (a) In no event shall any manufacturer or distributor pay its dealers a markup on parts for warranty work that is less than that charged by the dealer to the retail customers of the dealer; provided that such dealer’s retail parts markup is not unreasonable when compared with that of same line make authorized franchise dealers of the manufacturer or distributor for identical merchandise or services in the State.

(b) The retail markup charged by the dealer shall be established by submitting to the manufacturer or distributor a sufficient quantity of numerically consecutive repair orders from the most recent months to provide one hundred qualifying customer-paid repair orders. For a dealer unable to provide one hundred qualifying customer-paid repair orders out of all numerically consecutive repair orders within the two-month period prior to the submission, the dealer shall submit customer service repair orders of all types, including customer pay, warranty, and internal, for that two-month period. The repair orders shall contain the price and percentage markup. Dealers shall declare in their submission the average markup the dealer is declaring as its new parts reimbursement rate. The declared parts reimbursement markup shall take effect within ninety days after initial submission to the manufacturer or distributor and shall be presumed to be fair and reasonable. However, the manufacturer or distributor may make reasonable requests for additional information supporting the submission. The ninety-day timeframe in which the manufacturer or distributor shall make the declared parts reimbursement markup effective shall commence following receipt from the dealer of any reasonably requested supporting information. The dealer shall not request a change in the parts reimbursement markup more than once every twelve months.

(c) In determining qualifying repair orders for parts, the following work shall not be included: repairs for manufacturer or distributor special events; repairs covered by any insurance or service contract; federal, state, or local government legislated vehicle emission or safety inspections; parts sold at wholesale or repairs performed at wholesale, which shall include any sale or service to a fleet of vehicles; engine assemblies and transmission assemblies; routine maintenance not covered under any retail customer warranty, such as fluids, filters, and belts not provided in the course of repairs; nuts, bolts, fasteners, and similar items that do not have an individual part number; tires; and vehicle reconditioning.

(d) Dealers shall have at least thirty days after the repair work is completed to submit a claim for approval. All claims made by the dealers for compensation for delivery, preparation, and warranty work shall be approved or disapproved and if approved, paid within forty-five days after receipt by a manufacturer or distributor of a properly completed claim. All sale incentive claims shall be approved or disapproved and if approved, paid within sixty days after receipt by a manufacturer or distributor of a properly completed claim. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. Failure to disapprove a claim within the required timeframe constitutes approval of the claim.

(e) A manufacturer or distributor may not recover, or attempt to recover, from dealers its cost for reimbursing a dealer for warranty work as required by this section.

(f) For the purposes of this section, the director of commerce and consumer affairs shall:

- (1) Conduct a review of the costs of the repairs of motor vehicles, including the prices charged by dealers for performing repairs under warranty and repairs not under warranty; and
- (2) Compare such costs to repairs performed by non-dealers.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 6, 2012.)