



2017 SENATE BILL 537

November 20, 2017 - Introduced by Senators OLSEN, DARLING, ERPENBACH, FEYEN, MILLER, MOULTON, TESTIN and WANGGAARD, cosponsored by Representatives BALLWEG, BARCA, CONSIDINE, FELZKOWSKI, FIELDS, MEYERS, MURSAU, NOVAK, PETRYK, ROHRKASTE, SINICKI, THIESFELDT, TITTL, WACHS, ZEPNICK, STEFFEN and TUSLER. Referred to Committee on Transportation and Veterans Affairs.

1 **AN ACT to renumber and amend** 218.0125 (1) (b) and 218.0125 (7); and **to**
2 **create** 218.0125 (1) (b) 1. to 7., 218.0125 (7) (c) 2. and 218.0125 (8) of the
3 statutes; **relating to:** reasonable compensation of a motor vehicle dealer by a
4 motor vehicle manufacturer, importer, or distributor for certain motor vehicle
5 service work.

Analysis by the Legislative Reference Bureau

This bill makes several changes related to motor vehicle manufacturers', importers', or distributors' (manufacturers') compensation of motor vehicle dealers (dealers) for certain service work for the manufacturer (covered work).

Under current law, a manufacturer must reasonably compensate a dealer that performs covered work. Covered work is work to rectify certain product defects, certain motor vehicle delivery or preparation work, and other work requested or approved by the manufacturer. The manufacturer must compensate the dealer based on the dealer's effective nonwarranty labor rate and the average percentage markup over dealer cost for parts. The effective nonwarranty labor rate is determined by dividing the total customer labor charges for "qualifying nonwarranty repairs" by the total number of hours that would be allowed for the repairs if the repairs were made under the manufacturer's time allowances.

This bill limits qualifying nonwarranty repairs to repairs made to a motor vehicle of a line make for which the manufacturer provides a warranty. The bill also excludes several types of motor vehicle work from the definition of qualifying nonwarranty repair.

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Under current law, a claim made by a dealer for compensation for covered work must be either approved or disapproved within 30 days after the claim is submitted to the manufacturer, and an approved claim must be paid within 30 days after its approval. A manufacturer, however, retains the right to audit claims for a period of one year after the date on which the claim is paid and to charge back any amounts paid on claims that are false or unsubstantiated.

This bill specifies that a manufacturer may not charge back amounts paid on claims due to the dealer's failure to comply with requirements of the manufacturer related to the processing of a warranty claim if the dealer provides reasonable proof that the work for which the claim is made was actually performed and was covered work.

This bill also specifies that a manufacturer may not do any of the following for the purpose of recovering the costs of compensating its dealers for covered work:

1. Increase the price the manufacturer charges its dealers for services or for vehicles or other goods.
 2. Impose a charge or surcharge on its dealers.
 3. Reduce a payment that is due from the manufacturer to its dealers.
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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 218.0125 (1) (b) of the statutes is renumbered 218.0125 (1) (b)
2 (intro.) and amended to read:

3 218.0125 (1) (b) (intro.) “Qualifying nonwarranty repairs” means nonwarranty
4 repairs to a motor vehicle of a line make for which the manufacturer, importer, or
5 distributor provides a warranty that would be covered by the warranty of a
6 manufacturer, importer, or distributor if the vehicle being repaired was covered by
7 the warranty. ~~The term~~ “Qualifying nonwarranty repair” does not include routine
8 maintenance. any of the following:

9 **SECTION 2.** 218.0125 (1) (b) 1. to 7. of the statutes are created to read:

10 218.0125 (1) (b) 1. Oil changes or other routine maintenance.

11 2. Replacement of fluids, filters, belts, nuts, bolts, fasteners, wiper blades,
12 bulbs, or similar items, unless the replacement is part of a repair that otherwise
13 constitutes a qualifying nonwarranty repair.

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1 3. Replacement of tires, alignments, or other work related to the replacement
2 of tires.

3 4. Repairs paid for by, or made under a service contract sponsored or
4 administered by, the manufacturer, importer, or distributor or an affiliate of the
5 manufacturer, importer, or distributor.

6 5. Repairs of a motor vehicle that is owned at the time of the repair by the dealer
7 or an employee of the dealer.

8 6. Installation of accessories.

9 7. Motor vehicle safety or emissions inspections required by law.

10 **SECTION 3.** 218.0125 (7) of the statutes is renumbered 218.0125 (7) (a) and
11 amended to read:

12 218.0125 (7) (a) A claim made by a franchised motor vehicle dealer for
13 compensation under this section shall be either approved or disapproved within 30
14 days after the claim is submitted to the manufacturer, importer or distributor in the
15 manner and on the forms the manufacturer, importer or distributor reasonably
16 prescribes.

17 (b) An approved claim under par. (a) shall be paid within 30 days after its
18 approval. If a claim under par. (a) is not specifically disapproved in writing or by
19 electronic transmission within 30 days after the date on which the manufacturer,
20 importer or distributor receives it, the claim shall be considered to be approved and
21 payment shall follow within 30 days.

22 (c) 1. A manufacturer, importer or distributor retains the right to audit claims
23 under par. (a) for a period of one year after the date on which the claim is paid and
24 to charge back any amounts paid on claims that are false or unsubstantiated. If there
25 is evidence of fraud, this ~~subsection~~ subdivision does not limit the right of the

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1 manufacturer to audit for longer periods and charge back for any fraudulent claim
2 under par. (a), subject to the limitations period under s. 893.93 (1) (b).

3 **SECTION 4.** 218.0125 (7) (c) 2. of the statutes is created to read:

4 218.0125 (7) (c) 2. A manufacturer, importer, or distributor may not charge
5 back any amount paid on claims under par. (a) due to the dealer's failure to comply
6 with requirements of the manufacturer, importer, or distributor related to the
7 processing of a warranty claim if the dealer provides reasonable proof that the work
8 for which the claim is made was actually performed and was subject to reasonable
9 compensation under sub. (2m) or (3m).

10 **SECTION 5.** 218.0125 (8) of the statutes is created to read:

11 218.0125 (8) A manufacturer, importer, or distributor may not do any of the
12 following for the purpose of recovering the costs of compensating its dealers under
13 this section:

14 (a) Increase the price the manufacturer, importer, or distributor charges its
15 dealers for services or for vehicles or other goods.

16 (b) Impose a charge or surcharge on its dealers.

17 (c) Reduce a payment that is due from the manufacturer, importer, or
18 distributor to its dealers.

19 (END)