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

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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

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

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

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

2. Replacement of fluids, filters, belts, nuts, bolts, fasteners, wiper blades, bulbs, or similar items, unless the replacement is part of a repair that otherwise constitutes a qualifying nonwarranty repair.
3. Replacement of tires, alignments, or other work related to the replacement of tires.

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

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

6. Installation of accessories.

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

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

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

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

(c) 1. A manufacturer, importer or distributor retains the right to audit claims under par. (a) 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. If there is evidence of fraud, this subsection subdivision does not limit the right of the
manufacturer to audit for longer periods and charge back for any fraudulent claim under par. (a), subject to the limitations period under s. 893.93 (1) (b).

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

218.0125 (7) (c) 2. A manufacturer, importer, or distributor may not charge back any amount paid on claims under par. (a) due to the dealer’s failure to comply with requirements of the manufacturer, importer, or distributor 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 subject to reasonable compensation under sub. (2m) or (3m).

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

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

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

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

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