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## Luther S. Olsen

State Senator

14th District

**TO:** Senate Committee on Transportation and Veterans Affairs

**FROM:** Senator Olsen

**DATE:** December 5<sup>th</sup>, 2017

**SUBJECT:** Testimony for Senate Bill 537

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Thank you Chairman Petrowski and members of the Senate Committee on Transportation and Veterans Affairs for holding a hearing and allowing me to testify in support of Senate Bill 537.

In 2011 Senate Bill 96 was passed by the Wisconsin State Legislature, which updated and amended the Wisconsin Motor Vehicle Franchise law. Part of this updated legislation included the reimbursement formula which motor vehicle dealers receive from manufacturers for performing warranty repairs for that manufacturer. Another part that was discussed in meetings but was removed from the original bill, prohibited manufacturers from assessing surcharges for following this reimbursement formula.

After this law was on the books, manufacturers have assessed or indicated surcharges on vehicles for dealerships that have opted to use the compensation formula for warranty work as listed in statute. These surcharges have been at amounts up to \$389 per vehicle.

Senate Bill 537 would prohibit manufacturers from assessing surcharges on Wisconsin motor vehicle dealers for utilizing the formula provided in state statute. This will help to prevent the cost being forced onto Wisconsin businesses and consumers from large, out of state manufacturers.

Thank you members, I ask for your support on Senate Bill 537 and I am happy to answer any questions that you may have.



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WISCONSIN STATE REPRESENTATIVE

41<sup>ST</sup> ASSEMBLY DISTRICT

**Senate Bill 537: Reasonable Compensation of a Motor Vehicle Dealer by a Motor Vehicle  
Manufacturer, Importer, or Distributor for Certain Motor Vehicle Service Work.  
Testimony of State Representative Joan Ballweg  
Senate Committee on Transportation and Veterans Affairs  
December 5<sup>th</sup>, 2017**

Thank you, Chair Petrowski, and members of the Senate Committee on Transportation and Veteran Affairs for holding this public hearing on SB 537. This bill prohibits auto manufacturers from assessing a surcharge on auto dealers to protect auto dealers and consumers in Wisconsin.

When a car owner brings their car in for warranty work, the dealer performs the work on behalf of the manufacturer. The rates at which the dealer is reimbursed are determined through the dealer's contract and franchise law. In September of 2016, General Motors informed 25 of their 144 Wisconsin dealerships that due to those dealers' election to be compensated for warranty work at the rate the statute allows, General Motors would assess a surcharge of \$389 per vehicle purchased by the dealer. As of September 2017, Nissan began assessing a \$75 per vehicle surcharge.

These surcharges assessed by the manufacturer cost the consumer and put dealers at a disadvantage, especially those on the state's borders. The cost for warranty work is already built into the price of the vehicle from the manufacturer to the dealer. It is not a free market when a surcharge allows the manufacturer to pick and choose dealers to selectively raise the price of the vehicle, rather than raising the invoice price to all dealers. This will benefit the out-of-state manufacturers, but it hurts Wisconsin dealers and Wisconsin consumers.

As the Alliance of Automobile Manufacturers pointed out in their October 30<sup>th</sup> letter to legislators, during negotiations for 2011 Act 91, which amended the Motor Vehicle Franchise Law, a similar provision prohibiting surcharges raised by the auto dealers "was removed through negotiation." That is why it is troubling to see auto manufacturers begin surcharges, after the dealers and manufacturers negotiated this through the last amendment to franchise law.

Currently, an individual dealer does not have an ability to negotiate these surcharges with the manufacturer through their contract. That is why the parameters of these contracts need to be set on a statewide basis through franchise law. SB 537 levels the playing field, and it gives auto dealers the ability to negotiate reasonable compensation for warranty work with the manufacturers on a statewide basis through the franchise law.

The Wisconsin Automobile and Truck Dealers Association, Inc. registered in support of this bill.

Thank you for your consideration of SB 537. Please feel free to contact my office with any questions that you may have.

The Honorable Jerry Petrowski  
Chair, Senate Committee on Transportation and Veterans Affairs  
Wisconsin State Legislature  
Madison Wisconsin 53707

**SUBJECT: SENATE BILL 537 - RELATING TO: REASONABLE COMPENSATION OF  
A MOTOR VEHICLE DEALER BY A MOTOR VEHICLE MANUFACTURER,  
IMPORTER, OR DISTRIBUTOR FOR CERTAIN MOTOR VEHICLE SERVICE  
WORK - OPPOSE**

Dear Senator Petrowski,

The Association of Global Automakers represents the U.S. operations of international motor vehicle manufacturers, original equipment suppliers, and other automotive-related trade associations. We work with industry leaders, legislators, regulators, and other stakeholders in the United States to create public policies that improve motor vehicle safety, encourage technological innovation and addresses environmental needs. Our goal is to foster an open and competitive automotive marketplace that encourages investment, job growth, and development of vehicles that can enhance Americans' quality of life. For more information, visit [www.globalautomakers.org](http://www.globalautomakers.org).

*Our Position*

On behalf of our members, Global Automakers opposes certain provisions contained in Senate Bill 537, a bill that seeks to amend Wis. Stat. § 218.0125 relating to warranty reimbursement for motor vehicle dealers.

Sections 1 and 2 of the bill seek to amend the definition of "Qualifying nonwarranty repairs," which term is used to calculate the reimbursement rate for warranty parts and labor. There is no need to amend the current definition, which states:

"Qualifying nonwarranty repairs" means nonwarranty repairs that would be covered by a warranty of a manufacturer, importer or distributor if the vehicle being repaired by the warranty. The term does not include routine maintenance."

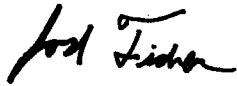
Wis. Stat. § 218.0125(1)(b). The proposed amendment adds numerous exceptions for work performed by dealers that would not be included in the reimbursement calculation for parts and labor. It is very likely that the exclusion of these additional repairs will result in higher warranty labor and parts reimbursement rates because their exclusion will increase the retail rate calculation for repairs done under warranty. The increased retail costs will be borne by your constituents. Such a provision only serves to benefit the automobile dealers at the expense of Wisconsin consumers.

Section 4 of the bill adds a provision that would prevent manufacturers from charging back a dealer based on a dealer's failure to comply with procedures for submitting warranty reimbursement claims if the dealer provides "reasonable proof" that the work was actually performed and subject to compensation under the statute. This amendment, as a whole, is vague and ambiguous, and the term "reasonable proof" is overly broad and undefined. Manufacturers pay dealers substantial amounts each year for performing warranty repairs without requiring the submission of any supporting documentation. Instead, manufacturers rely on a dealer's representation that the repairs have been performed properly and in accordance with the applicable policies and procedures. Because this amendment prohibits manufacturers from enforcing their policies regarding the submission of warranty reimbursement claims, it should be stricken from the bill.

Lastly, Section 5 of the bill would prohibit manufacturers from recovering their compliance costs. This section should also be stricken as manufacturers should have the right to recover their compliance costs by increasing vehicle and parts prices. Otherwise, the economics of offering warranty coverage become threatened to the detriment of Wisconsin consumers.

We are happy to provide you with additional information or answer any questions you may have on this important issue.

Sincerely,

A handwritten signature in black ink that reads "Josh Fisher". The signature is written in a cursive, slightly slanted style.

Josh Fisher  
Manager  
State Government Affairs



December 5, 2017

Re: Oppose Senate Bill 537 – Overage Recoupment Prohibition on Warranty Claims

Dear Chairman Petrowski:

On behalf of the Alliance of Automobile Manufacturers, I would like to thank you for the opportunity to express our opposition to Senate bill 537, legislation that will create poor public policy to the detriment of manufacturers and Wisconsin consumers. The Alliance is a trade association representing twelve of the world's leading car and light truck manufacturers, including BMW Group, FCA US LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota, Volkswagen Group of America, and Volvo Car USA. Together, Alliance members account for roughly 70% of the cars and light duty trucks sold throughout the United States each year.

Senate bill 537 resurrects a concept that negotiating parties excluded from the last major amendment to the Motor Vehicle Franchise Law passed in 2011 (Act 91) which created new Wisconsin-specific costs for manufacturer's warranties. In 2011, through negotiations, a provision was ultimately removed that would prohibit manufacturers from imposing overage recoupments to address added costs. This bill would recreate the same problem and the legislature should not overturn an agreement between policymakers and stakeholders that was reached so recently.

Not only would this legislation resurrect an old problem, it creates a new one. Senate Bill 537 would require all manufacturers to reimburse a dealer for any warranty work any time that the dealer provides "reasonable proof" that the work was done. As anyone who has run a business before can attest to, allowing several individuals to submit claims for expense or timesheets in any reasonable way that the individual wishes – with no regard to uniformity – is a recipe for chaos, disorganization, and unnecessary administrative costs for no logical reason. If dealers submit claims to a manufacturer in an inconsistent manner then it will be exceedingly difficult for manufacturers to have clear standards for how to approve claims.

Additionally, this legislation would only require proof that the dealer did the repair with no regard to whether the repair was necessary or even correctly performed. If manufacturers are unable to validate whether repairs were necessary and properly performed, then customer safety and vehicle quality can be affected due to the manufacturer not being able to know about a specific vehicle or trends in vehicles. This would result in a manufacturer having a difficult time identifying red flags that suggest a



dealer is not performing repair properly. This is problematic for consumers who rightfully expect the repairs to be done properly.

Senate bill 537 raises the cost of doing business for manufacturers in Wisconsin while also creating a risk of harm to Wisconsin automobile consumers. Lastly, the Alliance believes private contracts freely initiated between two business entities should not be permitted to be constantly rewritten by the legislature. We thank you for the opportunity to express our opposition to SB 537. The Alliance urges you to oppose this legislation and vote against the passage of Senate bill 537.

Sincerely,

Leighton J. Yates  
Manager, State Affairs

CC: Senate Committee on Transportation and Veterans Affairs