

MOTOR VEHICLE FRANCHISE ACT (EXCERPT)
Act 118 of 1981

445.1577a Reasonable compensation for parts reimbursement and labor rates; factors.

Sec. 17a.

(1) The principal factors in determining what constitutes reasonable compensation for parts reimbursement and labor rates for purposes of section 17(1) are as follows:

(a) The retail price charged for parts by other similarly situated new motor vehicle dealers in a comparable geographic area in this state that offer the same line-make of vehicles.

(b) The retail labor rates of other similarly situated new motor vehicle dealers in a comparable geographic area in this state that offer the same line-make of vehicles.

(2) All of the following apply for purposes of subsection (1):

(a) A new motor vehicle dealer that is demanding warranty compensation from a manufacturer at a rate that exceeds the agreed-upon rates shall establish the retail rate it customarily charges for parts by submitting to the manufacturer 100 consecutive and sequential nonwarranty customer-paid service repair orders that contain repairs for like services or all nonwarranty customer-paid service repair orders covering a period of 90 consecutive days, whichever is less. A dealer shall not submit a service repair order under this subsection that covers repairs made more than 180 days before the date of the submission.

(b) If a manufacturer determines from any set of repair orders submitted under subdivision (a) that the calculated retail markup rate for parts or the retail labor rate is substantially higher or lower than the rate currently on record with the manufacturer, the manufacturer may request additional documentation for a period of either 60 days before or 60 days after the time period for which the repair orders were submitted for purposes of an adjustment.

(c) A new motor vehicle dealer's retail rate percentage for parts is calculated by determining the dealer's total parts sales in the submitted repair orders and dividing that amount by the dealer's total cost for the purchase of those parts, subtracting 1 from that amount, and then multiplying by 100. The manufacturer must approve or disapprove the declared retail rate within 45 days after the date of submission by the dealer. The declared retail rate is effective beginning 30 days after approval by the manufacturer, unless the manufacturer disapproves and timely contests the dealer's declared rate. If a manufacturer fails to disapprove within 45 days following submission by the dealer, the declared retail rate is considered approved. A new motor vehicle dealer's retail rate for labor is calculated by determining the dealer's total labor sales from the submitted repair orders and dividing that amount by the total number of hours that generated those sales. The manufacturer must approve or disapprove the declared retail rate within 45 days after the date the dealer submits the repair orders. The declared retail labor rate is effective beginning 30 days after approval by the manufacturer, unless the manufacturer disapproves and timely contests the dealer's declared rate.

(d) A manufacturer may contest a new motor vehicle dealer's declared retail markup rate for parts or retail labor rate not later than 45 days after submission and declaration of the retail markup rate for parts or retail labor rate by the dealer by reasonably substantiating that the rate is inaccurate, incomplete, or unreasonable in light of the factors described in subsection (1). In contesting a new motor vehicle dealer's declared rate, a manufacturer shall provide a written explanation of the reasons for disagreement with the declared rate. If the declared retail markup rate for parts or retail labor rate is contested, then the manufacturer shall propose an adjustment of the rate. If the manufacturer contests the dealer's declared parts or labor rate, the parties shall attempt to resolve the dispute through an internal dispute resolution procedure of the manufacturer, if available, provided that the dispute resolution procedure occurs within a reasonable amount of time that does not exceed 45 days after notification of disagreement with the dealer's declared rate.

(e) If an internal dispute resolution procedure described in subdivision (d) is unsuccessful or does not occur in a timely manner, a new motor vehicle dealer may file a complaint in the circuit court for the county in which the new motor vehicle dealer is located, within 60 days after it receives the adjustment proposed by the manufacturer or within 30 days after conclusion of the internal dispute resolution procedure, whichever is later. In an action under this subdivision, the manufacturer has the burden of proof to demonstrate that the retail markup rate for parts or retail labor rate declared by the dealer is inaccurate, incomplete, or unreasonable.

(3) The following work shall not be considered in calculating the retail rate customarily charged by a new motor vehicle dealer for parts and labor under this section:

(a) Repairs for manufacturer special events, specials, or promotional discounts for retail customer repairs.

(b) Parts sold at wholesale.

(c) Routine maintenance not covered under any retail customer warranty, such as oil changes, fluids, filters, or belts not provided in the course of repairs.

(d) Nuts, bolts, or fasteners or similar items that do not have an individual part number.

(e) Tires, tire repair, tire rotation, or other tire services.

- (f) Vehicle reconditioning.
- (g) Installation or repair of accessories.
- (h) Repairs of vehicle body damage caused by a collision, a road hazard, the force of the elements, vandalism, or theft.
- (i) Vehicle emission or safety inspections required by law.
- (j) Manufacturer approved and reimbursed goodwill or policy repairs or replacements.
- (k) Repairs for which volume discounts have been negotiated with government agencies.
- (4) If a manufacturer furnishes a part or component to a new motor vehicle dealer to use in performing repairs under a recall, campaign service action, or warranty repair at no cost to the dealer, the manufacturer shall compensate the dealer for the authorized repair part or component in the same manner as warranty parts compensation under section 17 by paying the dealer the retail rate markup on the cost for the part or component as listed in the price schedule of the manufacturer less the cost for the part or component.
- (5) A manufacturer shall not require a new motor vehicle dealer to establish the retail rate customarily charged by the dealer for parts and labor by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. A dealer shall not declare a retail rate for parts or labor or both more than once in a calendar year.
- (6) A manufacturer shall not limit access to sales or service promotion events, incentives, programs, or activities sponsored by the manufacturer or limit allocation of vehicles or parts to a new motor vehicle dealer based solely on the new motor vehicle dealer's exercise of its rights under this section. This subsection does not prohibit a manufacturer from increasing the price of a motor vehicle or part in the normal course of business.

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