

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 23-0194.01 Jery Payne x2157

SENATE BILL 23-078

SENATE SPONSORSHIP

Fields and Van Winkle, Buckner, Gardner, Ginal, Kirkmeyer, Kolker, Liston, Lundein, Priola, Rodriguez

HOUSE SPONSORSHIP

Jodeh and Lynch,

Senate Committees
Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING WARRANTY REIMBURSEMENTS MADE BY A MOTOR**
102 **VEHICLE MANUFACTURER TO MOTOR VEHICLE DEALERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires a motor vehicle manufacturer (manufacturer) to timely compensate a motor vehicle dealer (dealer) for warranty repairs based on the dealer's typical charges for parts and labor if these charges are reasonably consistent with the law governing the setting of these charges. The bill repeals the condition that the charges must be reasonably consistent with this law, requiring the manufacturer to pay the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
March 2, 2023

SENATE
Amended 2nd Reading
March 1, 2023

charges even if there is a dispute as to the charges. The law governing the setting of these charges is not repealed, so the charges must continue to comply with the law.

In setting the charges described above, current law prohibits the manufacturer from establishing unreasonable labor flat rates for the repairs. The bill changes this requirement so that the manufacturers must pay the retail labor rate multiplied by the applicable time allowances prescribed in the labor time guide used by the dealer.

Current law governing these charges allows a manufacturer to challenge the setting of a labor rate or part markup if either is inaccurate or if either is substantially different than the charges of other similarly situated line-make dealers. The bill repeals the manufacturer's ability to challenge these charges when the rates are substantially different than the charges of other similarly situated line-make dealers.

In order to challenge the setting of a labor rate or part markup as allowed in current law, the manufacturer is required to provide the dealer a notice that explains why the calculation is subject to contest. The bill changes this requirement, stating instead that the notice must explain why the calculation is materially inaccurate.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 44-20-141.5, **amend**
3 (2), (6)(a)(I) introductory portion, (6)(a)(I)(A), and (6)(a)(II) as follows:

4 **44-20-141.5. Fulfillment and compensation for warranty and**
5 **recall obligations - definitions.** (2) At a motor vehicle dealer's request,
6 a manufacturer shall timely compensate the motor vehicle dealer at the
7 retail labor rate and the retail parts markup percentage in accordance with
8 subsection (3) of this section for all labor performed and parts used by the
9 motor vehicle dealer for covered repairs performed in accordance with the
10 warranty obligation. ~~if the retail labor rate and retail parts markup~~
11 ~~percentage are reasonably consistent with the requirements of this section~~
12 ~~that concern the retail labor rate and parts markup percentage.~~

13 (6) (a) (I) If the submitted calculation of the retail labor rate or
14 retail parts markup percentage is DEEMED materially inaccurate, ~~or is~~

1 substantially different than the rate of or percentage of other similarly
2 situated same line-make dealers within the state; a manufacturer may
3 contest the motor vehicle dealer's submitted calculations of the retail labor
4 rate or retail parts markup percentage by delivering a notice to the motor
5 vehicle dealer within forty-five days after receiving the submission in
6 accordance with subsection (3) of this section from the motor vehicle
7 dealer. To comply with this subsection (6), the notice must:

8 (A) Include an explanation of the reasons that WHY the
9 manufacturer believes the calculation is ~~subject to contest~~ MATERIALLY
10 INACCURATE;

11 (II) Upon the discovery of new relevant information by the
12 manufacturer, the manufacturer may modify the ~~grounds~~ REASONS for
13 contesting the retail labor rate or retail parts markup percentage after
14 delivering the notice to the motor vehicle dealer under this subsection (6),
15 but the modification does not change the timing requirements in this
16 section.

17 SECTION 2. In Colorado Revised Statutes, 44-20-439.5, amend
18 (2), (6)(a)(I) introductory portion, (6)(a)(I)(A), and (6)(a)(II) as follows:

19 **44-20-439.5. Fulfillment and compensation for warranty and**
20 **recall obligations - definitions.** (2) At a powersports vehicle dealer's
21 request, a manufacturer shall timely compensate the powersports vehicle
22 dealer at the retail labor rate and the retail parts markup percentage in
23 accordance with subsection (3) of this section for all labor performed and
24 parts used by the powersports vehicle dealer for covered repairs
25 performed in accordance with the warranty obligation. if the retail labor
26 rate and retail parts markup percentage are reasonable and consistent with
27 the requirements of this section that concern the retail labor rate and parts

1 markup percentage.

2 (6) (a) (I) If the submitted calculation of the retail labor rate or
3 retail parts markup percentage is DEEMED materially inaccurate, or is
4 substantially different than the rate of or percentage of other similarly
5 situated same line-make dealers within the state, a manufacturer may
6 contest the powersports vehicle dealer's submitted calculations of the
7 retail labor rate or retail parts markup percentage by delivering a notice
8 to the powersports vehicle dealer within forty-five days after receiving the
9 submission in accordance with subsection (3) of this section from the
10 powersports vehicle dealer. To comply with this subsection (6), the notice
11 must:

12 (A) Include an explanation of the reasons that WHY the
13 manufacturer believes the calculation is subject to contest MATERIALLY
14 INACCURATE;

15 (II) Upon the discovery of new relevant information by the
16 manufacturer, the manufacturer may modify the grounds REASONS for
17 contesting the retail labor rate or retail parts markup percentage after
18 delivering the notice to the powersports vehicle dealer under this
19 subsection (6), but the modification does not change the timing
20 requirements in this section.

21 **SECTION 3. Act subject to petition - effective date -**
22 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
23 the expiration of the ninety-day period after final adjournment of the
24 general assembly; except that, if a referendum petition is filed pursuant
25 to section 1 (3) of article V of the state constitution against this act or an
26 item, section, or part of this act within such period, then the act, item,
27 section, or part will not take effect unless approved by the people at the

1 general election to be held in November 2024 and, in such case, will take
2 effect on the date of the official declaration of the vote thereon by the
3 governor.

4 (2) This act applies to warranty repairs made on or after the
5 applicable effective date of this act.