

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 18, 2018

Date

Committee on Business, Labor, & Technology.

After consideration on the merits, the Committee recommends the following:

SB18-219 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, line 22, strike "OR SERVICE".
- 2 Page 3, line 25, strike "LABOR, AND SERVICING" and substitute "AND
3 LABOR".
- 4 Page 3, line 26, strike "DEALER. "REPAIR" ALSO INCLUDES" and substitute
5 "DEALER".
- 6 Page 3, strike line 27.
- 7 Page 4, strike line 1.
- 8 Page 4, line 2, strike "LABOR".
- 9 Page 4, lines 14 and 15, strike "DIAGNOSING, REPAIRING, AND SERVICING"
10 and substitute "DIAGNOSING AND REPAIRING".
- 11 Page 4, line 15, strike "TO CORRECT ANY DEFECT OR" and substitute "IN
12 ACCORDANCE WITH ANY".
- 13 Page 4, strike lines 16 through 19 and substitute "WARRANTY, RECALL, OR
14 CERTIFIED PREOWNED WARRANTY,".
- 15 Page 4, line 20, strike "OBLIGATION,".

- 1 Page 4, line 21, strike "OR SERVICE COMMITMENT".
- 2 Page 4, line 23, strike "A" and substitute "AT A MOTOR VEHICLE DEALER'S"
3 REQUEST, A" and strike "ITS" and substitute "THE".
- 4 Page 4, line 24, strike "DEALERS" and substitute "DEALER".
- 5 Page 4, line 25, after "PERCENTAGE" insert "IN ACCORDANCE WITH"
6 SUBSECTION (3) OF THIS SECTION".
- 7 Page 4, lines 26 and 27, strike "ARISING FROM OR RELATING TO ANY"
8 WARRANTY OBLIGATION." and substitute "FOR COVERED REPAIRS"
9 PERFORMED IN ACCORDANCE WITH THE WARRANTY OBLIGATION, IF THE"
10 RETAIL LABOR RATE AND RETAIL PARTS MARKUP PERCENTAGE ARE"
11 REASONABLE."
- 12 Page 5, line 6, strike "FIFTY" and substitute "ONE HUNDRED".
- 13 Page 5, line 15, strike "THIRTY" and substitute "NINETY".
- 14 Page 5, line 26, after "PERCENTAGE." add "IF THE RATES FROM THE"
15 CALCULATION ARE SUBSTANTIALLY HIGHER OR LOWER THAN THE CURRENT"
16 RATES, THE MANUFACTURER MAY REQUEST ADDITIONAL REPAIR ORDERS"
17 FOR THE NINETY DAYS BEFORE OR AFTER THE SUBMITTED REPAIR ORDERS"
18 FOR PURPOSES OF ALTERATION."
- 19 Page 6, line 2, strike "SIXTY" and substitute "NINETY".
- 20 Page 6, line 6, strike "SIXTY" and substitute "NINETY".
- 21 Page 7, strike line 1 and substitute "EVENTS, ONE-TIME SPECIALS, EXPRESS"
22 SERVICE, AND QUOTED-PRICE PROMOTIONAL DISCOUNTS, BUT THIS"
23 EXCLUSION FROM THE CALCULATION DOES NOT INCLUDE BROADLY"
24 APPLICABLE DISCOUNTS OFFERED BY THE DEALER, SUCH AS"
25 PERCENTAGE-OFF COUPONS, THAT APPLY TO REPAIRS AND PARTS;".
- 26 Page 7, line 2, strike "REPAIRS DONE" and substitute "PARTS SOLD".
- 27 Page 7, line 4, after "FASTENERS," insert "TIRES,".

- 1 Page 7, strike line 6.
- 2 Renumber succeeding subparagraphs accordingly.
- 3 Page 7, line 14, after "FOR" insert "MANUFACTURER APPROVED AND
4 REIMBURSED".
- 5 Page 7, line 14, strike "OR POLICY".
- 6 Page 7, line 19, strike "CARRIERS, FLEET OPERATORS," and substitute
7 "CARRIERS, AND FLEET OPERATORS, BUT NOT INCLUDING" and strike
8 "COMPANIES," and substitute "COMPANIES".
- 9 Page 7, line 27, strike "SEMIANNUALLY," and substitute "ONCE
10 ANNUALLY,".
- 11 Page 8, line 3, strike "SEMIANNUALLY," and substitute "ONCE
12 ANNUALLY,".
- 13 Page 8, after line 5 insert:
- 14 (d) (I) A MANUFACTURER MAY:
15 (A) CONDUCT A PERIODIC REVIEW OF A MOTOR VEHICLE DEALER'S
16 SERVICE RECORDS TO VERIFY THE CONTINUING ACCURACY OF THE RETAIL
17 LABOR RATE OR RETAIL PARTS MARKUP PERCENTAGE PROPOSED BY OR IN
18 EFFECT FOR THE DEALER; AND
19 (B) ADJUST THE MOTOR VEHICLE DEALER'S RETAIL LABOR RATE OR
20 RETAIL PARTS MARKUP PERCENTAGE BASED ON THE REVIEW CONDUCTED
21 UNDER SUBSECTION (5)(d)(I)(A) OF THIS SECTION.
22 (II) A MANUFACTURER SHALL NOT CONDUCT A PERIODIC REVIEW
23 MORE THAN ONCE PER CALENDAR YEAR. THIS PERIODIC REVIEW IS NOT AN
24 AUDIT IN ACCORDANCE WITH SECTION 12-6-126.
25 (III) THE MOTOR VEHICLE DEALER MAY FILE A COMPLAINT IN
26 ACCORDANCE WITH THE PROCEDURES SET FORTH IN SUBSECTION (6)(c) OF
27 THIS SECTION IF THE MOTOR VEHICLE DEALER DOES NOT AGREE WITH THE
28 ADJUSTED RETAIL LABOR RATE OR RETAIL PARTS MARKUP PERCENTAGE."
- 29 Page 8, line 8, strike "INACCURATE," and substitute "INACCURATE OR IS
30 UNREASONABLE OR IS SUBSTANTIALLY DIFFERENT THAN THAT OF OTHER
31 SAME LINE-MAKE DEALERS WITHIN THIRTY MILES OF OR SIMILARLY
32 SITUATED AS THE SUBMITTING MOTOR VEHICLE DEALER,".

- 1 Page 8, line 11, strike "FIFTEEN" and substitute "FORTY-FIVE".
- 2 Page 8, line 15, strike "A FULL AND DETAILED" and substitute "AN".
- 3 Page 8, strike line 17 and substitute "SUBJECT TO CONTEST;".
- 4 Page 8, line 22, strike "SHALL NOT" and substitute "MAY".
- 5 Page 8 line 25, strike "(6)." and substitute "(6), BUT THE MODIFICATION
- 6 DOES NOT CHANGE THE TIMING REQUIREMENTS IN THIS SECTION.".
- 7 Page 9, line 3, strike "FIFTEEN" and substitute "FORTY-FIVE".
- 8 Page 9, line 8, strike "INCREASE IN" and substitute "CALCULATION OF".
- 9 Page 9, line 16, strike "JURISDICTION." and substitute "JURISDICTION OR
- 10 THE EXECUTIVE DIRECTOR NO LATER THAN SIXTY DAYS AFTER THE NEW
- 11 MOTOR VEHICLE DEALER RECEIVES THE MANUFACTURER'S CHALLENGE TO
- 12 THE DETERMINED RETAIL LABOR RATE OR RETAIL PARTS MARKUP
- 13 PERCENTAGE.".
- 14 Page 9, strike lines 17 through 20 and substitute:
15 "(II) IN A COURT PROCEEDING, THE COURT".
- 16 Page 9, line 24, strike "JUDICIAL".
- 17 Page 9, line 26, strike "FIFTEEN" and substitute "THIRTY".
- 18 Page 10, line 12, strike "FIFTEEN" and substitute "THIRTY".
- 19 Page 10, line 19, strike "IF THE COURT FINDS THAT THE".
- 20 Page 10, strike lines 20 through 23.
- 21 Page 10, strike lines 26 and 27.
- 22 Page 11, strike lines 1 and 2.
- 23 Reletter succeeding paragraphs accordingly.

- 1 Page 11, line 3, strike "ELIMINATE FLAT-RATE TIMES OR".
- 2 Page 11, line 4, strike "AND ANY FLAT-RATE TIME THAT IS".
- 3 Page 11, strike lines 5 and 6.
- 4 Page 11, line 7, strike "(c) SHALLESTABLISH REASONABLE" and substitute
5 "NOR ESTABLISH UNREASONABLE".
- 6 Reletter succeeding paragraphs accordingly.
- 7 Page 11, line 8, strike "CONSISTENT" and substitute "INCONSISTENT".
- 8 Page 11, strike lines 11 through 16 and substitute "WARRANTY
9 OBLIGATION, COMPENSATE THE MOTOR VEHICLE DEALER FOR THE
10 AUTHORIZED REPAIR PART BY PAYING THE DEALER AN AMOUNT EQUAL TO
11 THE RETAIL PARTS MARKUP PERCENTAGE MULTIPLIED BY THE COST THE
12 DEALER WOULD HAVE PAID FOR THE AUTHORIZED PART AS LISTED IN THE
13 MANUFACTURER'S PRICE SCHEDULE;".
- 14 Reletter succeeding paragraphs accordingly.
- 15 Page 11, line 21, strike "REPAIRS;" and substitute "REPAIRS SOLELY TO
16 PROVIDE A LOWER COMPENSATION TO A MOTOR VEHICLE DEALER;".
- 17 Page 11, line 23, strike "A" and substitute "THE".
- 18 Page 11, line 24, strike "A" and substitute "THE".
- 19 Page 11, line 27, strike "A" and substitute "THE".
- 20 Page 12, line 1, strike "A" and substitute "THE".
- 21 Page 12, line 2, strike "A" and substitute "THE".
- 22 Page 12, strike lines 4 through 16 and substitute:
- 23 "(f) SHALL NOT REQUIRE FROM A MOTOR VEHICLE ANY
24 INFORMATION THAT IS UNDULY BURDENSOME OR TIME CONSUMING TO
25 OBTAIN, INCLUDING ANY PART-BY-PART OR
26 TRANSACTION-BY-TRANSACTION CALCULATIONS."

- 1 Page 12, lines 19 and 20, strike "BUSINESS IN ACCORDANCE WITH
- 2 ESTABLISHED PRACTICE." and substitute "BUSINESS."

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