

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 561
HOUSE BILL 895

AN ACT TO ESTABLISH RETAIL PRICE TO BE PAID FOR WARRANTY WORK
PERFORMED BY MOTOR VEHICLE DEALERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-305.1(a) reads as rewritten:

"(a) Each motor vehicle manufacturer, factory branch, distributor or distributor branch, shall specify in writing to each of its motor vehicle dealers licensed in this State the dealer's obligations for preparation, delivery and warranty service on its products, the schedule of compensation to be paid such dealers for parts, work, and service in connection with warranty service, and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work and associated administrative requirements as well as repair service and labor. Time allowances for the performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the factors to be given consideration shall include, among others, the compensation being paid by other manufacturers to their dealers, the retail price the dealers charge their retail customers for parts used to perform similar work, and paid to dealers for parts, other than parts used to repair the living facilities of recreational vehicles, and the prevailing wage rates being paid by dealers, and the prevailing labor rate being charged by ~~dealers, dealers~~ dealers to their retail customers, in the community in which the dealer is doing business. ~~business, provided such rates and prices are not unreasonable.~~"

Sec. 2. G.S. 20-305.1(b) reads as rewritten:

"(b) Notwithstanding the terms of any franchise agreement, it is unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to fail to perform any of its warranty obligations with respect to a motor vehicle, to fail to compensate its motor vehicle dealers licensed in this State for warranty ~~parts, parts other than parts used to repair the living facilities of recreational vehicles,~~ at the prevailing retail rate according to the factors in subsection (a) of this section, or, in service in accordance with the schedule of compensation provided the dealer pursuant to subsection (a) above, and to fail to indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer, including, but not limited to, court costs and reasonable attorneys' fees of the motor vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or

recision or revocation of acceptance of the sale of a motor vehicle as defined in G.S. 25-2-608, to the extent that the judgment or settlement relates to the alleged defective negligent manufacture, assembly or design of new motor vehicles, parts or accessories or other functions by the manufacturer, factory branch, distributor or distributor branch, beyond the control of the dealer."

Sec. 3. G.S. 20-305.1 is amended by adding a new subsection to read:

"(b1) All claims made by motor vehicle dealers pursuant to this section for compensation for delivery, preparation, warranty and recall work including labor, parts, and other expenses, shall be paid by the manufacturer within 30 days after receipt of claim from the dealer. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. Any claim not specifically disapproved in writing within 30 days after receipt shall be considered approved and payment is due immediately. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition, or the dealer failed to reasonably substantiate the claim in accordance with the written requirements of the manufacturer or distributor in effect at the time the claim arose."

Sec. 4. G.S. 20-305.1(f) reads as rewritten:

"The provisions of subsections, (a), (b), (b1), (d) and (e) shall not apply to manufacturers and dealers of 'motorcycles' as defined in G.S. 20-4.01(27)."

Sec. 5. This act becomes effective September 1, 1991.

In the General Assembly read three times and ratified this the 4th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives