

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 406
Mar 13, 2025
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30195-NE-48B

Short Title: Clarify Motor Vehicle Dealer Laws. (Public)

Sponsors: Representative B. Jones.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY VARIOUS MOTOR VEHICLE DEALER LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **PREVENT UNFAIR DEALER FRANCHISE TERMINATIONS AND CLARIFY RV**
6 **DEALER TERMINATION ASSISTANCE RIGHTS**

7 SECTION 1. G.S. 20-305 reads as rewritten:

8 "**§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel**
9 **franchise; preventing transfer of ownership; granting additional franchises;**
10 **terminating franchises without good cause; preventing family succession.**

11 It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch,
12 or any field representative, officer, agent, or any representative whatsoever of any of them:

13 ...

14 (4) Notwithstanding the terms of any franchise agreement, to prevent or refuse to
15 approve the sale or transfer of the ownership of a dealership by the sale of the
16 business, stock transfer, or otherwise, or the transfer, sale or assignment of a
17 dealer franchise, or a change in the executive management or principal
18 operator of the dealership, change in use of an existing facility to provide for
19 the sales or service of one or more additional line-makes of new motor
20 vehicles, or relocation of the dealership to another site within the dealership's
21 relevant market area, if the Commissioner has determined, if requested in
22 writing by the dealer within 30 days after receipt of an objection to the
23 proposed transfer, sale, assignment, relocation, or change, and after a hearing
24 on the matter, that the failure to permit or honor the transfer, sale, assignment,
25 relocation, or change is unreasonable under the circumstances. The following
26 applies:

27 ...

28 i. It is unlawful for a manufacturer to, in any way, do any of the
29 following:

30 1. Condition its approval of a proposed transfer, sale, assignment,
31 change in the dealer's executive management, principal
32 operator, or appointment of a designated successor, on the
33 existing or proposed dealer's willingness to construct a new
34 facility, renovate the existing facility, acquire or refrain from
35 acquiring one or more line-makes of vehicles, separate or



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- 1 divest one or more line-makes of vehicle, or establish or
 2 maintain exclusive facilities, personnel, or display space.
 3 ...
 4 4. Condition, directly or indirectly, the approval of the sale or
 5 transfer of the ownership of a dealership by the sale of the
 6 business, stock transfer, or otherwise, or the transfer, sale,
 7 succession, or assignment of a dealer's franchise, or a change
 8 in the executive management or principal operator of the
 9 dealership, or a dealer's proposed relocation of the dealership
 10 facility, or a dealer's satisfaction of the terms of any incentive
 11 program or contest, upon the existing or proposed dealer's
 12 willingness to enter into a right of first refusal in favor of the
 13 manufacturer.
 14 5. In determining whether to approve a dealer's proposed transfer,
 15 sale, assignment, change in the dealer's executive management,
 16 principal operator, or appointment of a designated successor,
 17 to inquire about or consider whether another manufacturer or
 18 distributor had previously denied, rejected, or otherwise turned
 19 down the application of the applicant, or any person or entity
 20 affiliated with the applicant, to acquire a franchise or
 21 dealership or become principal operator, part of the executive
 22 management, or a successor owner or manager of a dealership.
 23 6. In determining whether to approve a dealer's proposed transfer,
 24 sale, assignment, change in the dealer's executive management,
 25 principal operator, or appointment of a designated successor,
 26 to inquire about or consider whether the applicant, or any
 27 person or entity affiliated with the applicant, had, for any
 28 reason, ever previously commenced a civil or administrative
 29 proceeding against any manufacturer or distributor.
 30 j. If a manufacturer or distributor objects to, denies, rejects, or otherwise
 31 turns down a dealer's proposed transfer, sale, assignment, change in
 32 the dealer's executive management, principal operator, or appointment
 33 of a designated successor, the manufacturer or distributor shall
 34 reimburse both the dealer and applicant for their respective attorneys'
 35 fees, if either of the following is applicable:
 36 1. Both the dealer and applicant elect not to appeal from or
 37 otherwise seek civil or administrative redress from the decision
 38 of the manufacturer to object to, deny, reject, or otherwise turn
 39 down the dealer's application.
 40 2. The decision of the manufacturer or distributor to object to,
 41 deny, reject, or otherwise turn down the dealer's application is
 42 ultimately overturned by a reviewing court or administrative
 43 agency.
 44 ...
 45 (6) Notwithstanding the terms, provisions or conditions of any franchise or
 46 notwithstanding the terms or provisions of any waiver, to terminate, cancel or
 47 fail to renew any franchise with a licensed new motor vehicle dealer unless
 48 the manufacturer has satisfied the notice requirements of sub-subdivision c.
 49 of this subdivision and the Commissioner has determined, if requested in
 50 writing by the dealer within (i) the time period specified in
 51 G.S. 20-305(6)c.1.II., III., or IV., as applicable, or (ii) the effective date of the

1 franchise termination specified or proposed by the manufacturer in the notice
2 of termination, whichever period of time is longer, and after a hearing on the
3 matter, that there is good cause for the termination, cancellation, or
4 nonrenewal of the franchise and that the manufacturer has acted in good faith
5 as defined in this act regarding the termination, cancellation or nonrenewal.
6 When such a petition is made to the Commissioner by a dealer for
7 determination as to the existence of good cause and good faith for the
8 termination, cancellation or nonrenewal of a franchise, the Commissioner
9 shall promptly inform the manufacturer that a timely petition has been filed,
10 and the franchise in question shall continue in effect pending the
11 Commissioner's decision. The Commissioner shall try to conduct the hearing
12 and render a final determination within 180 days after a petition has been filed.
13 If the termination, cancellation or nonrenewal is pursuant to
14 G.S. 20-305(6)c.1.III. then the Commissioner shall give the proceeding
15 priority consideration and shall try to render his final determination no later
16 than 90 days after the petition has been filed. Any parties to a hearing by the
17 Commissioner under this section shall have a right of review of the decision
18 in a court of competent jurisdiction pursuant to Chapter 150B of the General
19 Statutes. Any determination of the Commissioner under this section finding
20 that good cause exists for the nonrenewal, cancellation, or termination of any
21 franchise shall automatically be stayed during any period that the affected
22 dealer shall have the right to judicial review or appeal of the determination
23 before the superior court or any other appellate court and during the pendency
24 of any appeal; provided, however, that within 30 days of entry of the
25 Commissioner's order, the affected dealer provide such security as the
26 reviewing court, in its discretion, may deem appropriate for payment of such
27 costs and damages as may be incurred or sustained by the manufacturer by
28 reason of and during the pendency of the stay. Although the right of the
29 affected dealer to such stay is automatic, the procedure for providing such
30 security and for the award of damages, if any, to the manufacturer upon
31 dissolution of the stay shall be in accordance with G.S. 1A-1, Rule 65(d) and
32 (e). No such security provided by or on behalf of any affected dealer shall be
33 forfeited or damages awarded against a dealer who obtains a stay under this
34 subdivision in the event the ownership of the affected dealership is
35 subsequently transferred, sold, or assigned to a third party in accordance with
36 this subdivision or subdivision (4) of this section and the closing on such
37 transfer, sale, or assignment occurs no later than 180 days after the date of
38 entry of the Commissioner's order. Furthermore, unless and until the
39 termination, cancellation, or nonrenewal of a dealer's franchise shall finally
40 become effective, in light of any stay or any order of the Commissioner
41 determining that good cause exists for the termination, cancellation, or
42 nonrenewal of a dealer's franchise as provided in this subdivision, a dealer
43 who receives a notice of termination, cancellation, or nonrenewal from a
44 manufacturer as provided in this subdivision shall continue to have the same
45 rights to assign, sell, or transfer the franchise to a third party under the
46 franchise and as permitted under G.S. 20-305(4) as if notice of the termination
47 had not been given by the manufacturer. Any franchise under notice or threat
48 of termination, cancellation, or nonrenewal by the manufacturer which is duly
49 transferred in accordance with G.S. 20-305(4) shall not be subject to
50 termination by reason of failure of performance or breaches of the franchise
51 on the part of the transferor.

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- a. Notwithstanding the terms, provisions or conditions of any franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when:
 - ...
 - 2. If the failure by the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer if the new motor vehicle dealer was apprised by the manufacturer in writing of the failure; and
 - ...
 - II. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than 180 days, to comply with the criteria; ~~and~~
 - III. The new motor vehicle dealer failed to demonstrate substantial progress towards compliance with the manufacturer's performance criteria during such period and the new motor vehicle dealer's failure was not primarily due to economic or market factors within the dealer's relevant market area which were beyond the dealer's ~~control~~; control; and
 - IV. During the entire performance review period established by the manufacturer, the manufacturer made available to the dealer a sufficient number and model mix of new motor vehicles for the dealer to achieve all elements of the manufacturer's performance criteria.
 - ...
- d. Payments.
 - 1. Notwithstanding the terms of any franchise, agreement, or waiver, upon the termination, nonrenewal or cancellation of any franchise by the manufacturer or distributor, the cessation of business or the termination, nonrenewal, or cancellation of any franchise by any new motor vehicle dealer located in this State, or upon any of the occurrences set forth in G.S. 20-305(6)c.1.IV., the manufacturer or distributor shall purchase from and compensate the new motor vehicle dealer for all of the following:
 - I. Each new and unsold motor ~~vehicle-vehicle~~, and each motorized or nonmotorized trailer, including, but not limited to, travel trailers, slide-in truck campers, and park models, within the new motor vehicle dealer's inventory that has been acquired within 24 months of the effective date of the termination from the manufacturer or distributor or another same line-make dealer in the ordinary course of business, and which has not been substantially altered or damaged to the prejudice of the manufacturer or distributor while in the new motor vehicle dealer's possession, and which has been driven less than 1,000 miles or, for purposes of a

recreational vehicle motor home as defined in G.S. 20-4.01(32b)c., less than 4,500—2,500 miles following the original date of delivery to the dealer, and for which no certificate of title has been issued. For purposes of this sub-subdivision, the term "ordinary course of business" shall include inventory transfers of all new, same line-make vehicles between affiliated dealerships, or otherwise between dealerships having common or interrelated ownership, provided that the transfer is not intended solely for the purpose of benefiting from the termination assistance described in this sub-subdivision.

...

f. The provisions of sub-subdivision e. above shall not be applicable when the termination, nonrenewal, or cancellation of the franchise agreement by a new motor vehicle dealer is the result of the sale of assets or stock of the motor vehicle dealership. ~~The provisions of sub-subdivisions d. and e. above shall not be applicable when the termination, nonrenewal, or cancellation of the franchise agreement is at the initiation of a new motor vehicle dealer of recreational vehicle motor homes, as defined in G.S. 20-4.01(32b)c., provided that at the time of the termination, nonrenewal, or cancellation, the recreational vehicle manufacturer or distributor has paid to the dealer all claims for warranty or recall work, including payments for labor, parts, and other expenses, which were submitted by the dealer 30 days or more prior to the date of termination, nonrenewal, or cancellation.~~

...."

DEALER COMPENSATION FOR THE SALE OF OVER-THE-AIR PRODUCTS AND SERVICES

SECTION 2. G.S. 20-305(57) reads as rewritten:

"(57) To sell, or activate for a fee, any permanent or temporary motor vehicle accessory, option, add-on, service, feature, improvement, or upgrade on or to any motor vehicle owned or leased by a retail customer located in this State, through over-the-air or remote means, unless the manufacturer or distributor complies with all of the following requirements:

...

c. If the sale or activation of the permanent or temporary motor vehicle accessory, option, add-on, service, upgrade, feature, or improvement by either the manufacturer or the direct involvement of the dealer who sells or leases the vehicle to the retail customer occurs at the time of the new motor vehicle sale or lease, or within the 12-month period immediately following the sale or lease of the new motor vehicle by a North Carolina franchised motor vehicle dealer, the manufacturer or distributor provides the franchised motor vehicle dealer that sold the new motor vehicle ~~reasonable~~ compensation in an amount not less than twenty percent (20%) of the gross compensation that was collected from the customer for the sale or activation of the accessory, option, add-on, service, upgrade, feature, or improvement to the original North Carolina vehicle owner or lessee when the cost of which would equal or exceed (i) fifty dollars (\$50.00), if the cost or purchase price to the

1 retail customer involves a single, one-time payment, or (ii)
2 seventy-five dollars (\$75.00) in cumulative cost or purchase price over
3 any 12-month period, if the retail customer is making multiple or
4 periodic payments.

5 d. If the sale or activation of the permanent or temporary motor vehicle
6 accessory, option, add-on, service, upgrade, feature, or improvement
7 did not occur as provided in sub-subdivision c. of this subdivision, and
8 a North Carolina franchised new motor vehicle dealer of the
9 manufacturer or distributor was directly involved in the sale of the
10 feature or improvement, the manufacturer or distributor provides
11 ~~reasonable~~ compensation in an amount not less than twenty percent
12 (20%) of the gross compensation that was collected from the customer
13 to the North Carolina franchised new motor vehicle dealer that sold
14 the accessory, option, add-on, service, upgrade, feature, or
15 improvement to a North Carolina resident when the cost of which
16 would equal or exceed (i) fifty dollars (\$50.00), if the cost or purchase
17 price to the retail customer involves a single, one-time payment, or (ii)
18 seventy-five dollars (\$75.00) in cumulative cost or purchase price over
19 any 12-month period, if the retail customer is making multiple or
20 periodic payments.

21 ...
22 f. When providing a new motor vehicle to a dealer for offer or sale to the
23 public, the manufacturer or distributor shall provide to the dealer a
24 written disclosure that may be furnished by the dealer to a potential
25 purchaser or lessee of the new motor vehicle identifying each
26 permanent or temporary motor vehicle accessory, option, add-on,
27 service, upgrade, feature, or improvement of the vehicle that may be
28 initiated, updated, changed, or maintained by the manufacturer or
29 distributor through over-the-air or remote means, the cost to the retail
30 customer at the time of the new motor vehicle sale or lease, and the
31 fact that all such accessories, options, add-ons, services, upgrades,
32 features, or improvements may be purchased directly from the dealer.
33 Every manufacturer or distributor that, through over-the-air or remote
34 means, provides any permanent or temporary motor vehicle accessory,
35 option, add-on, service, feature, improvement, or upgrade on or to any
36 motor vehicle owned or leased by a retail customer located in this State
37 shall provide to each of its franchised dealers within this State, on a
38 basis no less frequently than monthly, a statement itemizing the type,
39 volume, and gross receipts generated from the sales of over-the-air or
40 remotely activated products and services that were sold to the dealer's
41 customers and calculating the fees and commissions to which the
42 dealer is entitled pursuant to this sub-subdivision. A manufacturer or
43 distributor may comply with this sub-subdivision by notifying the
44 dealer that such information is available on a website or by other
45 digital means."
46

47 **FACILITATE DEALER TRANSFER OF OWNERSHIP TO QUALIFIED BUYERS**

48 **SECTION 3.** G.S. 20-305(4) reads as rewritten:

49 "(4) Notwithstanding the terms of any franchise agreement, to prevent or refuse to
50 approve the sale or transfer of the ownership of a dealership by the sale of the
51 business, stock transfer, or otherwise, or the transfer, sale or assignment of a

1 dealer franchise, or a change in the executive management or principal
2 operator of the dealership, change in use of an existing facility to provide for
3 the sales or service of one or more additional line-makes of new motor
4 vehicles, or relocation of the dealership to another site within the dealership's
5 relevant market area, if the Commissioner has determined, if requested in
6 writing by the dealer within 30 days after receipt of an objection to the
7 proposed transfer, sale, assignment, relocation, or change, and after a hearing
8 on the matter, that the failure to permit or honor the transfer, sale, assignment,
9 relocation, or change is unreasonable under the circumstances. The following
10 applies:

11 ...

12 e. With respect to a proposed change in the executive management or
13 principal operator of the dealership, the sole issue for determination
14 by the Commissioner and the sole issue on which the Commissioner
15 shall hear or consider evidence shall be whether, by reason of lack of
16 training, lack of prior experience, poor past performance, or poor
17 character, the proposed candidate for a position within the executive
18 management or as principal operator of the dealership is unfit for the
19 position. For purposes of this subdivision, the refusal by the
20 manufacturer to accept a proposed candidate for executive
21 management or as principal operator who is of good moral character
22 and who otherwise meets the written, reasonable, and uniformly
23 applied standards or qualifications, if any, of the manufacturer relating
24 to the business experience and prior performance of executive
25 management required by the manufacturers of its dealers is presumed
26 to demonstrate the manufacturer's failure to prove the proposed
27 candidate for executive management or as principal operator is unfit
28 to serve the capacity. If the manufacturer is in any part basing its
29 decision to object to the proposed change in the executive management
30 or principal operator of the dealership on the candidate's alleged poor
31 past performance, the manufacturer shall have the burden of proving
32 that, during the immediately preceding three calendar-year period, the
33 average overall sales performance or average overall customer
34 satisfaction performance of all of the dealerships owned or operated
35 by the candidate, when considering all line-makes of new motor
36 vehicles sold by the franchised dealerships owned or operated by the
37 candidate, was below the national average as measured by each such
38 line-make. In its notice of objection, the manufacturer is required to
39 cite and provide the specific data and calculations upon which the
40 manufacturer bases its contention that during the immediately
41 preceding three calendar-year period, the candidate's overall sales
42 performance or average overall customer satisfaction performance of
43 all of the dealerships owned or operated by the candidate, when
44 considering all line-makes of new motor vehicles sold by the
45 franchised dealerships owned or operated by the candidate, was below
46 the national average as measured by each such line-make. For
47 purposes of this subdivision, the sales performance or customer
48 satisfaction performance of a dealership that has been owned by the
49 candidate for less than two years prior to the date the existing dealer
50 notified the manufacturer or distributor of the proposed change in the
51 executive management or principal operator of the dealership may not

be used in whole or in part as a basis for rejecting the candidate's application.

...."

CLARIFY DEFINITION OF MOTOR VEHICLE DEALER

SECTION 4. G.S. 20-286(11) reads as rewritten:

"(11) Motor vehicle dealer or dealer. –

a. A person who does any of the following:

...

6. For commission, money, or other thing of value, or on behalf of another person sharing ten percent (10%) or more common ownership, offers new vehicles as part of a subscription program. ~~This sub-sub-subdivision shall not apply to any person providing a vehicle subscription or monthly rental program on or after January 1, 2025.~~

7. Performs any warranty service or recall work on motor vehicles; provided, however, that this sub-sub-subdivision shall not be applicable with respect to a commercial fleet customer that has a designation as such by the manufacturer or distributor.

...."

DEFINITION OF SELLING

SECTION 5. G.S. 20-286 reads as rewritten:

"§ 20-286. Definitions.

The following definitions apply in this Article:

...

(15a) Sell. – The terms "sell," "exchange," "retail sales," "selling activities," and "lease" and their cognates are synonymous. Selling includes all of the following:

a. Directly, or indirectly, offering or advertising for sale, taking deposits or down payments, or receiving payment of any kind for the ordering, reservation, purchase, lease, exchange, subscription, or use of a motor vehicle.

b. Accepting a reservation for a specific motor vehicle identified by Vehicle Identification Number or other product identifier from a retail consumer.

c. Setting the retail price for the purchase, lease, or exchange of a motor vehicle.

d. Offering or negotiating terms for the purchase, lease, finance, or exchange of a motor vehicle with a retail consumer.

e. Negotiating directly with a retail consumer the value of a motor vehicle being traded in as part of the purchase, lease, exchange, subscription, or use of a motor vehicle.

f. Offering or negotiating directly with a retail consumer any service contract, extended warranty, vehicle maintenance contract, guaranteed asset protection agreement, or any other vehicle-related products and services in connection with the purchase, lease, or exchange of a motor vehicle.

g. Any transaction where the title of a motor vehicle or a used motor vehicle is transferred to a retail consumer.

- 1 h. Any retail lease transaction where a retail consumer leases a vehicle
- 2 for a period of at least 12 months.
- 3 ~~(15a)~~(15b) Special tool or essential tool. – A tool designed and required by the
- 4 manufacturer or distributor and not readily available from another source that
- 5 is utilized for the purpose of performing service repairs on a motor vehicle
- 6 sold by a manufacturer or distributor to its franchised new motor vehicle
- 7 dealers in this State.
- 8 "

CLARIFY DEALERSHIP SUCCESSION

SECTION 6. G.S. 20-305(7) reads as rewritten:

- 12 "(7) Notwithstanding the terms of any contract or agreement, to prevent or refuse
- 13 to honor the succession to a dealership, including the franchise, by a motor
- 14 vehicle dealer's designated successor as provided for under this subsection.
- 15 The following applies:
- 16 a. Any owner of a new motor vehicle dealership may appoint by will, or
- 17 any other written instrument, a designated successor to succeed in the
- 18 respective ownership interest or interest as principal operator of the
- 19 owner in the new motor vehicle dealership, including the franchise,
- 20 upon the retirement, death or incapacity of the owner or principal
- 21 operator. In order for succession to the position of principal operator
- 22 to occur by operation of law in accordance with sub-subdivision c.
- 23 below, the owner's choice of a successor must be approved by the
- 24 dealer, in accordance with the dealer's bylaws, if applicable, either
- 25 prior or subsequent to the death or incapacity of the existing principal
- 26 operator.
- 27 "

UNFINISHED VEHICLES AND COST OF TRAINING REQUIREMENTS

SECTION 7. G.S. 20-305 reads as rewritten:

"§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

- 36 ...
- 37 (58) To sell, transfer to floor plan, assign a certificate of origin, or otherwise require
- 38 a dealer to accept ownership or possession of a new motor vehicle that either
- 39 (i) cannot be immediately sold at retail due to the existence of an open recall,
- 40 missing or inoperable part or component, or stop sale order or (ii) has not
- 41 actually been delivered to a dealer within 90 days after the manufacturer or
- 42 distributor has represented to the dealer that the vehicle was shipped.
- 43 (59) To vary the price charged to a dealer for any training, software, equipment, or
- 44 tools that is in any way based upon a dealer's compliance with a facility image
- 45 program or requirement."

WARRANTY REIMBURSEMENT CLARIFICATIONS

SECTION 8. G.S. 20-305.1 reads as rewritten:

"§ 20-305.1. Automobile dealer warranty and recall obligations.

- 50 (a) Each motor vehicle manufacturer, factory branch, distributor or distributor branch,
- 51 shall specify in writing to each of its motor vehicle dealers licensed in this State the dealer's

1 obligations for preparation, delivery, pre-sale maintenance, manufacturer-directed component
2 installation or assembly, warranty, manufacturer-sponsored maintenance programs,
3 manufacturer extended warranty, parts exchange programs, and recall service on its products.
4 The disclosure required under this subsection shall include the schedule of compensation to be
5 paid the dealers for parts, work, and service in connection with preparation, delivery, warranty,
6 and recall service, and the time allowances for the performance of the work and service. In no
7 event shall the schedule of compensation fail to include reasonable compensation for diagnostic
8 work, shipping, if required by the manufacturer or distributor, and for battery ~~disposal or other~~
9 ~~disposal charges or airbag shipping, storage, or disposal, for shipping, storage, or disposal of any~~
10 other parts, fluids, or vehicle components, and for all other associated fees that were actually
11 incurred by the dealer, and associated administrative requirements as well as repair service and
12 labor. Time allowances for the performance of preparation, delivery, warranty, and recall work
13 and service shall be reasonable and adequate for the work to be performed. The compensation
14 paid under this section shall be reasonable, provided, however, that under no circumstances shall
15 the reasonable compensation under this section for warranty and recall service be in an amount
16 less than the dealer's current retail labor rate and the amount charged to retail customers for the
17 manufacturer's or distributor's original parts for nonwarranty work of like kind, ~~provided the~~
18 ~~amount is competitive with the retail rates charged for parts and labor by other franchised dealers~~
19 ~~of the same line make located within the dealer's market. If there is no other same line make~~
20 ~~dealer located in the dealer's market or if all other same line make dealers in the dealer's market~~
21 ~~are owned or operated by the same entities or individuals as the dealership being compared, the~~
22 ~~retail rates charged for parts and labor by other franchised dealers located in the dealer's market~~
23 ~~that sell competing line make motor vehicles as the dealer may be considered when determining~~
24 ~~whether the dealer's rates are competitive.~~kind.

25 ...

26 (a5) A motor vehicle dealer may accept a manufacturer's, factory branch's, distributor's, or
27 distributor branch's labor time guide as adequate and fair compensation for labor services
28 rendered for repairs in an amount equal to the amount a retail customer pays for the same labor
29 services with regard to labor time or may elect to establish an average retail labor time allowance
30 pursuant to subsection (a6) of this section.

31 (a6) A motor vehicle dealer may elect to establish an average retail labor time allowance
32 in lieu of the manufacturer's, factory branch's, distributor's, or distributor branch's labor time
33 guide for manufacturer, factory branch, distributor, or distributor branch-paid repairs or service
34 by submitting to the motor vehicle manufacturer, factory branch, distributor, or distributor branch
35 100 sequential customer paid service repair orders or 90 days of customer paid service repair
36 orders, whichever is less, covering repairs made no more than 180 days before the submission,
37 and dividing the total number of hours allowed by the franchisor for any such repairs under the
38 franchisor's labor time guide into the total number of hours actually billed to the franchisee's
39 retail customers and declaring the average percentage labor time allowance over the franchisor's
40 labor time guide for franchisor-paid repairs or service. The resulting quotient shall be applied to
41 the applicable manufacturer, factory branch, distributor, or distributor branch labor time guide to
42 establish the motor vehicle dealer's average retail labor time allowance. The average retail labor
43 time allowance so declared shall go into effect 30 days following the declaration subject to audit
44 by the motor vehicle manufacturer, factory branch, distributor, or distributor branch only of the
45 sample submitted by the motor vehicle dealer and any adjustment of the average labor time
46 allowance made by the motor vehicle manufacturer, factory branch, distributor, or distributor
47 branch based only on an audit of that sample.

48"

50 LOANER VEHICLE COST REIMBURSEMENT

51 SECTION 9. G.S. 20-305(33) reads as rewritten:

1 "(33) To fail to reimburse a dealer located in this State in full for the actual cost,
2 including applicable taxes and third-party fees, of providing a loaner or rental
3 vehicle to any customer who is having a vehicle serviced at the dealership if
4 the provision of such a loaner or rental vehicle is required or approved by the
5 manufacturer. It is unlawful for a manufacturer to fail to reimburse the dealer
6 in full as provided above (i) whether or not the dealer provides the customer
7 with a model vehicle similar to the vehicle the customer brought in for service,
8 in the event the dealer does not have a similar model loaner or rental vehicle
9 available, or (ii) if the provision of a rental or loaner vehicle to a customer is
10 required or approved by the manufacturer or distributor and further provided
11 that all or any portion of the time the dealer has provided the customer with a
12 loaner or rental vehicle is due to the unavailability of one or more parts sold
13 or distributed by the manufacturer or through a supplier designated or
14 approved by the ~~manufacturer~~manufacturer, or whether or not the
15 manufacturer has its own loaner program in which the dealer has elected not
16 to participate. The manufacturer shall allow a dealer to submit a claim for
17 rental vehicle reimbursement as required pursuant to this subdivision, in
18 30-day increments, prior to the end of the rental vehicle period if the repair
19 for which the rental vehicle is associated is open due to a delay in parts or
20 repair information from the manufacturer, factory branch, distributor, or
21 distributor branch."
22

23 **SEVERABILITY CLAUSE**

24 **SECTION 10.** If any provision of this act or its application is held invalid, the
25 invalidity does not affect other provisions or applications of this act that can be given effect
26 without the invalid provisions or application and, to this end, the provisions of this act are
27 severable.
28

29 **EFFECTIVE DATE**

30 **SECTION 11.** This act is effective when it becomes law and applies to all current
31 and future franchises and other agreements in existence between any new motor vehicle dealer
32 located in this State and a manufacturer or distributor as of the effective date of this act.