

House Bill 581 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Powell of the 23rd, Parham of the 94th, and Rice of the 64th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 22 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the
2 "Georgia Motor Vehicle Franchise Practices Act," so as to provide for warranty
3 reimbursement agreements; to provide for the contents of such agreements; to provide for
4 applicability; to provide that the Department of Motor Vehicle Safety shall enforce the Act
5 rather than the Department of Revenue; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 22 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the "Georgia
9 Motor Vehicle Franchise Practices Act," is amended in Part 3 by adding at the end thereof
10 a new Code Section 10-1-645 to read as follows:

11 "10-1-645.

12 (a) Any motor vehicle franchisor and at least a majority of its dealers of the same line
13 make may agree in an express written contract, citing this Code section, upon a uniform
14 warranty reimbursement policy used by contracting dealers to perform warranty repairs.
15 The policy shall only involve either reimbursement for parts used in warranty repairs or the
16 use of a uniform time standards manual, or both. Reimbursement for parts under the
17 agreement shall be used instead of the dealers' prevailing retail price charged by that dealer
18 for the same parts as defined in Code Section 10-1-644 to calculate compensation due from
19 the franchisor for parts used in warranty repairs. This Code section does not authorize a
20 franchisor and its dealers to establish a uniform hourly labor reimbursement.

21 (b) Each franchisor shall only have one such agreement with each line make. Any such
22 agreement shall:

23 (1) Establish a uniform parts reimbursement rate. The uniform parts reimbursement rate
24 shall be greater than the franchisor's nationally established parts reimbursement rate in
25 effect at the time the first such agreement becomes effective; however, any subsequent

1 agreement shall result in a uniform reimbursement rate that is greater or equal to the rate
2 set forth in the immediately prior agreement;

3 (2) Apply to all warranty repair orders written during the period that the agreement is
4 effective;

5 (3) Be available, during the period it is effective, to any motor vehicle dealer of the same
6 line make at any time and on the same terms; and

7 (4) Be for a term not to exceed three years so long as any party to the agreement may
8 terminate the agreement upon the annual anniversary of the agreement and with 30 days'
9 prior written notice; however, the agreement shall remain in effect for the term of the
10 agreement regardless of the number of dealers of the same line make that may terminate
11 the agreement.

12 (c)(1) As used in this subsection, the term 'costs' means the difference between the
13 uniform reimbursement rate set forth in an agreement entered into pursuant to subsection
14 (b) of this Code section and the prevailing retail price charged by that dealer received by
15 those dealers of the same line make.

16 (2) A franchisor that enters into an agreement with its dealers may seek to recover its
17 costs from only those dealers that are receiving their prevailing retail price charged by
18 that dealer under Code Section 10-1-644 as follows:

19 (A) The costs shall be recovered only by increasing the invoice price on new vehicles
20 received by those dealers not a party to an agreement under this Code section; and

21 (B) Price increases imposed for the purpose of recovering costs under this Code section
22 may vary from time to time and from model to model but shall apply uniformly to all
23 dealers of the same line make in the State of Georgia that have requested
24 reimbursement for warranty repairs at their prevailing retail price charged by that
25 dealer, except that a franchisor may make an exception for vehicles that are titled in the
26 name of a consumer in another state.

27 (d) If a franchisor contracts with its dealers, the franchisor shall certify under oath to the
28 Department of Motor Vehicle Safety that a majority of the dealers of that line make did
29 agree to such an agreement and file a sample copy of the agreement. On an annual basis,
30 each dealer shall certify under oath to the department that the reimbursement costs it
31 recovers under subparagraph (c)(2)(A) of this Code section do not exceed the amounts
32 authorized by subparagraph (c)(2)(A) of this Code section. The franchisor shall maintain
33 for a period of three years a file that contains the information upon which its certification
34 is based.

35 (e) If a franchisor and its dealers do not enter into an agreement pursuant to this Code
36 section, and for any matter that is not the subject of an agreement, this Code section shall
37 have no effect whatsoever.

1 (f) For purposes of this Code section, a uniform time standard manual is a document
 2 created by a franchisor that establishes the time allowances for the diagnosis and
 3 performance of warranty work and service. The allowances shall be reasonable and
 4 adequate for the work and service to be performed. Each franchisor shall have a reasonable
 5 and fair process that allows a dealer to request a modification or adjustment of a standard
 6 or standards included in such a manual."

7 **SECTION 2.**

8 Said article is further amended by striking Part 6 in its entirety and inserting in lieu thereof
 9 a new Part 6 to read as follows:

10 "Part 6

11 10-1-665.

12 As used in this part, the term:

13 (1) 'Commissioner' means the ~~state revenue~~ commissioner of motor vehicle safety.

14 (2) 'Department' means the Department of ~~Revenue~~ Motor Vehicle Safety.

15 10-1-666.

16 As an alternative to and in addition to any civil or criminal enforcement of this article, the
 17 ~~state revenue~~ commissioner of motor vehicle safety by and through the Department of
 18 ~~Revenue~~ Motor Vehicle Safety is authorized to enforce the provisions of this article and
 19 any order issued pursuant to the enforcement of this article.

20 10-1-667.

21 Any dealer, distributor, or manufacturer who is aggrieved by a violation of any provision
 22 of this article may file a petition with the Department of ~~Revenue~~ Motor Vehicle Safety
 23 setting forth the facts supporting the allegation of such violation. The commissioner shall
 24 issue an administrative order, whenever the commissioner, after notice to all parties and
 25 after a hearing, determines that a violation of this article or any order issued under this
 26 article has occurred. The notice and the hearing and any administrative review thereof shall
 27 be conducted in accordance with the procedure for contested cases under Chapter 13 of
 28 Title 50, the 'Georgia Administrative Procedure Act.' Any party who has exhausted all
 29 administrative remedies available and who is aggrieved or adversely affected by a final
 30 order or action of the commissioner shall have the right of judicial review thereof in
 31 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
 32 commissioner or the prevailing party may file, in the superior court in the county wherein

1 the party under order resides or, if such party is a corporation, in the county wherein the
2 corporation maintains its established place of business or its agent for service of process
3 is located, or in the county wherein the violation occurred, a certified copy of a final order
4 of the commissioner, whether unappealed from or affirmed upon appeal, whereupon the
5 court shall render judgment in accordance therewith and notify the parties. Such judgment
6 shall have the same effect and proceedings in relation thereto shall thereafter be the same
7 as though the judgment had been rendered in an action duly heard and determined by the
8 court. The remedy prescribed in this Code section shall be concurrent, alternative, and
9 cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures,
10 or penalties provided, allowed, or available under the laws of this state.

11 10-1-668.

12 (a) In addition to the licensing fee set forth in Code Section 40-2-38, each dealer shall
13 register annually with the department and shall pay an annual registration fee of \$25.00.
14 The fee shall be paid on or before January 1 of the registration year and shall be paid with
15 and accompanied by such forms as the commissioner shall prescribe.

16 (b) It is the intent of the General Assembly of Georgia that an amount equal to the amount
17 collected by the registration fee provided for in this Code section be appropriated to the
18 department to fund the provisions of this part. If the funds appropriated to the department
19 to fund the provisions of this part exceed the actual cost to the department to enforce this
20 part, then the excess funds so appropriated shall lapse. However, if the fees collected under
21 subsection (a) of this Code section do not equal the actual cost to the department to enforce
22 the provisions of this part, then the commissioner may raise the registration fee to an
23 amount which will ensure that the cost to the state to enforce this part is received."

24 **SECTION 3.**

25 All laws and parts of laws in conflict with this Act are repealed.