

# HB2934



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2934

Introduced 2/16/2023, by Rep. Steven Reick

### SYNOPSIS AS INTRODUCED:

815 ILCS 710/1.1  
815 ILCS 710/6

from Ch. 121 1/2, par. 751.1  
from Ch. 121 1/2, par. 756

Amends the Motor Vehicle Franchise Act. Restores the provisions that were amended by Public Act 102-232 to the form in which they existed before their amendment by that Public Act. Effective immediately.

LRB103 27530 SPS 53905 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Motor Vehicle Franchise Act is amended by  
5 changing Sections 1.1 and 6 as follows:

6 (815 ILCS 710/1.1) (from Ch. 121 1/2, par. 751.1)

7 Sec. 1.1. Declaration of purpose. The Legislature finds  
8 and declares that the distribution and sale of vehicles within  
9 this State vitally affects the general economy of the State  
10 and the public interest, welfare, and safety and that in order  
11 to promote the public interest, welfare, and safety, and in  
12 the exercise of its police power, it is necessary to regulate  
13 motor vehicle manufacturers, distributors, wholesalers and  
14 factory or distributor branches or representatives, and to  
15 regulate dealers of motor vehicles doing business in this  
16 State in order to prevent frauds, impositions, discrimination,  
17 and other abuses upon its citizens, to protect and preserve  
18 the investments and properties of the citizens of this State,  
19 to foster healthy competition, and to provide adequate and  
20 sufficient service to consumers generally. The licensing and  
21 supervision of motor vehicle dealers is necessary for the  
22 protection of consumers and the sale of motor vehicles by  
23 unlicensed dealers ~~shall~~ should be ~~prohibited~~ prevented.

1           The Legislature further finds that the regulation of motor  
2 vehicle manufacturers, distributors, wholesalers, factory  
3 branches, distributor branches and representatives, and  
4 dealers promotes the distribution of motor vehicles to the  
5 public and provides a system for servicing vehicles and for  
6 complying with manufacturer warranties so that consumers can  
7 keep their motor vehicles properly functioning and safe. The  
8 sale and distribution of motor vehicles constitutes a  
9 continuing obligation of manufacturers, distributors,  
10 wholesalers, factory branches, distributor branches and  
11 representatives, and dealers to consumers, and the public has  
12 an interest in promoting the availability of post-sale  
13 mechanical and operational services.

14       (Source: P.A. 102-232, eff. 1-1-22.)

15           (815 ILCS 710/6) (from Ch. 121 1/2, par. 756)

16           Sec. 6. Warranty agreements; claims; approval; payment;  
17 written disapproval.

18           (a) Every manufacturer, distributor, wholesaler,  
19 distributor branch or division, factory branch or division, or  
20 wholesale branch or division shall properly fulfill any  
21 warranty agreement and adequately and fairly compensate each  
22 of its motor vehicle dealers for labor and parts.

23           (b) ~~Adequate and fair compensation requires the~~  
24 ~~manufacturer to pay each dealer no less than the amount the~~  
25 ~~retail customer pays for the same services with regard to rate~~

1 ~~and time.~~

2 ~~Any time guide previously agreed to by the manufacturer~~  
3 ~~and the dealer for extended warranty repairs may be used in~~  
4 ~~lieu of actual time expended. In the event that a time guide~~  
5 ~~has not been agreed to for warranty repairs, or said time guide~~  
6 ~~does not define time for an applicable warranty repair, the~~  
7 ~~manufacturer's time guide shall be used, multiplied by 1.5.~~

8 In no event shall such compensation fail to include ~~full~~  
9 reasonable compensation for diagnostic work, as well as repair  
10 service, labor, and parts. Time allowances for the diagnosis  
11 and performance of warranty work and service shall be ~~no less~~  
12 ~~than charged to retail customers~~ reasonable and adequate for  
13 the ~~same~~ work to be performed.

14 ~~No warranty or factory compensated repairs shall be~~  
15 ~~excluded from this requirement, including recalls or other~~  
16 ~~voluntary stop sell repairs required by the manufacturer. If a~~  
17 ~~manufacturer is required to issue a recall, the dealer will be~~  
18 ~~compensated for labor time as above stated.~~

19 ~~Furthermore, manufacturers shall pay the dealer the same~~  
20 ~~effective labor rate (using the 100 sequential repair orders~~  
21 ~~chosen and submitted by the dealer less simple maintenance~~  
22 ~~repair orders) that the dealer receives for customer pay~~  
23 ~~repairs. This requirement includes vehicle diagnostic times~~  
24 ~~for all warranty repairs. Additionally, if a technician is~~  
25 ~~required to communicate with a Technical Assistance~~  
26 ~~Center/Engineering/or some external manufacturer source in~~

1 ~~order to provide a warranty repair, the manufacturer shall pay~~  
2 ~~for the time from start of communications (including hold~~  
3 ~~time) until the communication is complete.~~

4 ~~The dealer may submit a request to the manufacturer for~~  
5 ~~warranty labor rate increases a maximum of once per calendar~~  
6 ~~year.~~

7 ~~A claim made by a franchised motor vehicle dealer for~~  
8 ~~compensation under this Section shall be either approved or~~  
9 ~~disapproved within 30 days after the claim is submitted to the~~  
10 ~~manufacturer in the manner and on the forms the manufacturer~~  
11 ~~reasonably prescribes. An approved claim shall be paid within~~  
12 ~~30 days after its approval. If a claim is not specifically~~  
13 ~~disapproved in writing or by electronic transmission within 30~~  
14 ~~days after the date on which the manufacturer receives it, the~~  
15 ~~claim shall be considered to be approved and payment shall~~  
16 ~~follow within 30 days.~~

17 In the determination of what constitutes reasonable  
18 compensation under this Section, the principal factor to be  
19 given consideration shall be the prevailing wage rates being  
20 paid by the dealer in the relevant market area in which the  
21 motor vehicle dealer is doing business, and in no event shall  
22 such compensation to of a motor vehicle dealer for labor times  
23 and labor rates warranty service be less than the rates  
24 charged by such dealer for like service to retail customers  
25 for nonwarranty service and repairs. ~~Additionally, the~~  
26 ~~manufacturer~~ The franchiser shall reimburse the dealer

1 franchisee for any parts provided in satisfaction of a  
2 warranty at the prevailing retail price charged by that dealer  
3 for the same parts when ~~sold to a retail customer~~ not provided  
4 in satisfaction of a warranty; provided that such motor  
5 vehicle franchisee's prevailing retail price is not  
6 unreasonable when compared with that of the holders of motor  
7 vehicle franchises from the same motor vehicle franchiser for  
8 identical merchandise in the geographic area in which the  
9 motor vehicle franchisee is engaged in business.

10 ~~There shall be no reduction in payments due to~~  
11 ~~preestablished market norms or market averages. Manufacturers~~  
12 ~~are prohibited from establishing restrictions or limitations~~  
13 ~~of customer repair frequency due to failure rate indexes or~~  
14 ~~national failure averages.~~

15 ~~No debit reduction or charge back of any item on a warranty~~  
16 ~~repair order may be made absent a finding of fraud or illegal~~  
17 ~~actions by the dealer.~~

18 ~~A warranty claim timely made shall not be deemed invalid~~  
19 ~~solely because unavailable parts cause additional use and~~  
20 ~~mileage on the vehicle.~~

21 ~~If a manufacturer imposes a recall or stop sale on any new~~  
22 ~~vehicle in a dealer's inventory that prevents the sale of the~~  
23 ~~vehicle, the manufacturer shall compensate the dealer for any~~  
24 ~~interest and storage until the vehicle is repaired and made~~  
25 ~~ready for sale.~~

26 ~~Manufacturers are not permitted to impose any form of cost~~

1 ~~recovery fees or surcharges against a franchised auto~~  
2 ~~dealership for payments made in accordance with this Section.~~

3 All claims, either original or resubmitted, made by motor  
4 vehicle dealers hereunder and under Section 5 for such labor  
5 and parts shall be either approved or disapproved within 30  
6 days following their submission. All approved claims shall be  
7 paid within 30 days following their approval. The motor  
8 vehicle dealer who submits a claim which is disapproved shall  
9 be notified in writing of the disapproval within the same  
10 period, and each such notice shall state the specific grounds  
11 upon which the disapproval is based. The motor vehicle dealer  
12 shall be permitted to correct and resubmit such disapproved  
13 claims within 30 days of receipt of disapproval. Any claims  
14 not specifically disapproved in writing within 30 days from  
15 their submission shall be deemed approved and payment shall  
16 follow within 30 days. The manufacturer or franchiser shall  
17 have the right to require reasonable documentation for claims  
18 and to audit such claims within a one year period from the date  
19 the claim was paid or credit issued by the manufacturer or  
20 franchiser, and to charge back any false or unsubstantiated  
21 claims. The audit and charge back provisions of this Section  
22 also apply to all other incentive and reimbursement programs  
23 for a period of one year after the date the claim was paid or  
24 credit issued by the manufacturer or franchiser. However, the  
25 manufacturer retains the right to charge back any fraudulent  
26 claim if the manufacturer establishes in a court of competent

1 jurisdiction in this State that the claim is fraudulent.

2 (c) The motor vehicle franchiser shall not, by agreement,  
3 by restrictions upon reimbursement, or otherwise, restrict the  
4 nature and extent of services to be rendered or parts to be  
5 provided so that such restriction prevents the motor vehicle  
6 franchisee from satisfying the warranty by rendering services  
7 in a good and workmanlike manner and providing parts which are  
8 required in accordance with generally accepted standards. Any  
9 such restriction shall constitute a prohibited practice.

10 (d) For the purposes of this Section, the "prevailing  
11 retail price charged by that dealer for the same parts" means  
12 the price paid by the motor vehicle franchisee for parts,  
13 including all shipping and other charges, multiplied by the  
14 sum of 1.0 and the franchisee's average percentage markup over  
15 the price paid by the motor vehicle franchisee for parts  
16 purchased by the motor vehicle franchisee from the motor  
17 vehicle franchiser and sold at retail. The motor vehicle  
18 franchisee may establish average percentage markup under this  
19 Section by submitting to the motor vehicle franchiser 100  
20 sequential customer paid service repair orders or 90 days of  
21 customer paid service repair orders, whichever is less,  
22 covering repairs made no more than 180 days before the  
23 submission, and declaring what the average percentage markup  
24 is. The average percentage markup so declared shall go into  
25 effect 30 days following the declaration, subject to audit of  
26 the submitted repair orders by the motor vehicle franchiser



1 and adjustment of the average percentage markup based on that  
2 audit. Any audit must be conducted within 30 days following  
3 the declaration. Only retail sales not involving warranty  
4 repairs, parts covered by subsection (e) of this Section, or  
5 parts supplied for routine vehicle maintenance, shall be  
6 considered in calculating average percentage markup. No motor  
7 vehicle franchiser shall require a motor vehicle franchisee to  
8 establish average percentage markup by a methodology, or by  
9 requiring information, that is unduly burdensome or time  
10 consuming to provide, including, but not limited to, part by  
11 part or transaction by transaction calculations. A motor  
12 vehicle franchisee shall not request a change in the average  
13 percentage markup more than twice in one calendar year.

14 (e) If a motor vehicle franchiser supplies a part or parts  
15 for use in a repair rendered under a warranty other than by  
16 sale of that part or parts to the motor vehicle franchisee, the  
17 motor vehicle franchisee shall be entitled to compensation  
18 equivalent to the motor vehicle franchisee's average  
19 percentage markup on the part or parts, as if the part or parts  
20 had been sold to the motor vehicle franchisee by the motor  
21 vehicle franchiser. The requirements of this subsection (e)  
22 shall not apply to entire engine assemblies and entire  
23 transmission assemblies. In the case of those assemblies, the  
24 motor vehicle franchiser shall reimburse the motor vehicle  
25 franchisee in the amount of 30% of what the motor vehicle  
26 franchisee would have paid the motor vehicle franchiser for

1 the assembly if the assembly had not been supplied by the  
2 franchiser other than by the sale of that assembly to the motor  
3 vehicle franchisee.

4 (f) The obligations imposed on motor vehicle franchisers  
5 by this Section shall apply to any parent, subsidiary,  
6 affiliate, or agent of the motor vehicle franchiser, any  
7 person under common ownership or control, any employee of the  
8 motor vehicle franchiser, and any person holding 1% or more of  
9 the shares of any class of securities or other ownership  
10 interest in the motor vehicle franchiser, if a warranty or  
11 service or repair plan is issued by that person instead of or  
12 in addition to one issued by the motor vehicle franchiser.

13 (g) ~~(Blank)~~. (1) Any motor vehicle franchiser and at least  
14 a majority of its Illinois franchisees of the same line make  
15 may agree in an express written contract citing this Section  
16 upon a uniform warranty reimbursement policy used by  
17 contracting franchisees to perform warranty repairs. The  
18 policy shall only involve either reimbursement for parts used  
19 in warranty repairs or the use of a Uniform Time Standards  
20 Manual, or both. Reimbursement for parts under the agreement  
21 shall be used instead of the franchisees' "prevailing retail  
22 price charged by that dealer for the same parts" as defined in  
23 this Section to calculate compensation due from the franchiser  
24 for parts used in warranty repairs. This Section does not  
25 authorize a franchiser and its Illinois franchisees to  
26 establish a uniform hourly labor reimbursement.

1       Each franchiser shall only have one such agreement with  
2 each line make. Any such agreement shall:

3           (A) Establish a uniform parts reimbursement rate. The  
4 uniform parts reimbursement rate shall be greater than the  
5 franchiser's nationally established parts reimbursement  
6 rate in effect at the time the first such agreement  
7 becomes effective; however, any subsequent agreement shall  
8 result in a uniform reimbursement rate that is greater or  
9 equal to the rate set forth in the immediately prior  
10 agreement.

11           (B) Apply to all warranty repair orders written during  
12 the period that the agreement is effective.

13           (C) Be available, during the period it is effective,  
14 to any motor vehicle franchisee of the same line make at  
15 any time and on the same terms.

16           (D) Be for a term not to exceed 3 years so long as any  
17 party to the agreement may terminate the agreement upon  
18 the annual anniversary of the agreement and with 30 days'  
19 prior written notice; however, the agreement shall remain  
20 in effect for the term of the agreement regardless of the  
21 number of dealers of the same line make that may terminate  
22 the agreement.

23       (2) A franchiser that enters into an agreement with its  
24 franchisees pursuant to paragraph (1) of this subsection (g)  
25 may seek to recover its costs from only those franchisees that  
26 are receiving their "prevailing retail price charged by that

1 dealer" under subsections (a) through (f) of this Section,  
2 subject to the following requirements:

3 (A) "costs" means the difference between the uniform  
4 reimbursement rate set forth in an agreement entered into  
5 pursuant to paragraph (1) of this subsection (g) and the  
6 "prevailing retail price charged by that dealer" received  
7 by those franchisees of the same line make. "Costs" do not  
8 include the following: legal fees or expenses;  
9 administrative expenses; a profit mark-up; or any other  
10 item;

11 (B) the costs shall be recovered only by increasing  
12 the invoice price on new vehicles received by those  
13 franchisees; and

14 (C) price increases imposed for the purpose of  
15 recovering costs imposed by this Section may vary from  
16 time to time and from model to model, but shall apply  
17 uniformly to all franchisees of the same line make in the  
18 State of Illinois that have requested reimbursement for  
19 warranty repairs at their "prevailing retail price charged  
20 by that dealer", except that a franchiser may make an  
21 exception for vehicles that are titled in the name of a  
22 consumer in another state.

23 (3) If a franchiser contracts with its Illinois dealers  
24 pursuant to paragraph (1) of this subsection (g), the  
25 franchiser shall certify under oath to the Motor Vehicle  
26 Review Board that a majority of the franchisees of that line

1 make did agree to such an agreement and file a sample copy of  
2 the agreement. On an annual basis, each franchiser shall  
3 certify under oath to the Motor Vehicle Review Board that the  
4 reimbursement costs it recovers under paragraph (2) of this  
5 subsection (g) do not exceed the amounts authorized by  
6 paragraph (2) of this subsection (g). The franchiser shall  
7 maintain for a period of 3 years a file that contains the  
8 information upon which its certification is based.

9 (3.1) A franchiser subject to subdivision (g)(2) of this  
10 Section, upon request of a dealer subject to that subdivision,  
11 shall disclose to the dealer, in writing or in person if  
12 requested by the dealer, the method by which the franchiser  
13 calculated the amount of the costs to be reimbursed by the  
14 dealer. The franchiser shall also provide aggregate data  
15 showing (i) the total costs the franchiser incurred and (ii)  
16 the total number of new vehicles invoiced to each dealer that  
17 received the "prevailing retail price charged by that dealer"  
18 during the relevant period of time. In responding to a  
19 dealer's request under this subdivision (g)(3.1), a franchiser  
20 may not disclose any confidential or competitive information  
21 regarding any other dealer. Any dealer who receives  
22 information from a franchiser under this subdivision (g)(3.1)  
23 may not disclose that information to any third party unless  
24 the disclosure occurs in the course of a lawful proceeding  
25 before, or upon the order of, the Motor Vehicle Review Board or  
26 a court of competent jurisdiction.

1       (4) If a franchiser and its franchisees do not enter into  
2 an agreement pursuant to paragraph (1) of this subsection (g),  
3 and for any matter that is not the subject of an agreement,  
4 this subsection (g) shall have no effect whatsoever.

5       (5) For purposes of this subsection (g), a Uniform Time  
6 Standard Manual is a document created by a franchiser that  
7 establishes the time allowances for the diagnosis and  
8 performance of warranty work and service. The allowances shall  
9 be reasonable and adequate for the work and service to be  
10 performed. Each franchiser shall have a reasonable and fair  
11 process that allows a franchisee to request a modification or  
12 adjustment of a standard or standards included in such a  
13 manual.

14       (6) A franchiser may not take any adverse action against a  
15 franchisee for not having executed an agreement contemplated  
16 by this subsection (g) or for receiving the "prevailing retail  
17 price charged by that dealer". Nothing in this subsection  
18 shall be construed to prevent a franchiser from making a  
19 determination of a franchisee's "prevailing retail price  
20 charged by that dealer", as provided by this Section.

21 (Source: P.A. 102-232, eff. 1-1-22.)

22       Section 99. Effective date. This Act takes effect upon  
23 becoming law.