

RÉSUMÉ DIGEST

ACT 76 (HB 502)

2021 Regular Session

Stefanski

Relative to motor vehicles, new law provides definitions for manufacturer, distributor, wholesaler, factory branch, or distributor branch's warranty, parts, qualifying repair, qualifying repair order, repair order, and warranty work.

Prior law provided that a manufacturer, a distributor, a wholesaler, distributor branch, or factory branch, or officer, agent, or other representative thereof would be in violation of existing law for failing to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by such dealer to perform under and comply with the manufacturer's or a distributor's warranty agreement. New law removes an officer, agent, or representative thereof from the list of potential violators.

Existing law prohibits a manufacturer or distributor from paying its dealers at a price or rate for warranty work that is less than that charged by the dealer to the retail customer of the dealer for non-warranty work of like kind.

New law adds wholesaler, factory branch, or distributor branch to the list of actors prohibited from engaging in the actions provided for in existing law and changes the standard for comparison from the charge for non-warranty work of like kind to the charge for non-warranty qualifying repairs.

New law provides that time allowances for the performance of warranty work shall be reasonable and adequate in relation to the nature and scope of the work for a qualified technician of ordinary skill to perform work.

New law provides that time allowances for the performance of warranty work shall be reasonable and adequate in relation to the nature and scope of the work, using the actual time required by a qualified technician of ordinary skill to perform the work.

New law provides that subject to the provisions of new law, the parts mark-up, labor rate, or both customarily charged by the dealer may be established or modified at the election of the dealer by submitting, in writing, to the representative or pre-designated by electronic transmission or tangible delivery, to the manufacturer, distributor, wholesaler, factory branch, or distributor branch, either of the following:

- (1) All consecutive repair orders that include 100 sequential qualifying repair orders.
- (2) All repair orders closed during any period of 90 consecutive days.

New law provides that a dealer submitting repair orders pursuant to new law shall submit the option that produces the fewer number of repair orders. New law further provides that in making this determination, the dealer should consider repairs made no more than 180 days before the submission.

New law provides that a dealer seeking to establish or modify the warranty labor rate, parts mark-up, or both, shall submit to the manufacturer, distributor, wholesaler, factory branch, or distributor branch either of the following:

- (1) A single set of repair orders for the purpose of calculating both the labor rate or parts mark-up.
- (2) A single set of repair orders for the purpose of calculating only the labor rate or parts mark-up.

New law provides that a dealer may not establish or modify the parts mark-up or labor rate more than once per a 12-month period.

New law provides for the calculation of parts mark-up and labor rates and excludes certain repairs and other services from the calculation.

New law allows the manufacturer, distributor, wholesaler, factory branch, or distributor branch to request additional repair orders from the dealer if it is determined that the parts mark-up, labor rate, or both calculated in accordance with new law is substantially higher or lower than the rate currently on record with the manufacturer, distributor, wholesaler, factory branch, or distributor branch for labor parts, or both. New law provides that the manufacturer, distributor, wholesaler, factory branch, or distributor branch has 45 days from receiving the additional repairs to rebut the presumption of accuracy.

New law provides that in order to rebut the presumption the manufacturer, distributor, wholesaler, factory branch, or distributor branch shall do all of the following:

- (1) Reasonably substantiate that the submission is materially inaccurate and provide a full explanation of any and all reasons.
- (2) Produce evidence validating each reason.
- (3) Produce a copy of all calculations used to demonstrate any material inaccuracies.
- (4) Produce a proposed adjusted parts mark-up, labor rate, or both, based upon the qualified repair orders submitted by the dealer.

New law provides that the manufacturer, distributor, wholesaler, factory branch, or distributor branch shall not submit more than one rebuttal to the dealer and shall not add, expand, supplement, or otherwise modify any element, including but not limited to any grounds for contesting the parts mark-up or labor rate mark-up, except upon discovery of relevant information that was not known or could not have been known at the time of issuing the rebuttal.

New law provides that if the dealer and the manufacturer, distributor, wholesaler, factory branch, or distributor branch do not agree on the parts mark-up or labor rate, the dealer may file a protest with the Louisiana Motor Vehicle Commission within 60 days of receiving the manufacturer's rejection and proposal. New law further provides that the commission shall notify the manufacturer, distributor, wholesaler, factory branch, or distributor branch and schedule a hearing.

New law provides that if the commission decides in favor of the dealer, any increase in the dealer's parts mark-up or labor rate shall be effective, retroactively, 45 days following the manufacturer, distributor, wholesaler, factory branch, or distributor branch's receipt of the original submission.

New law provides that if a manufacturer, distributor, wholesaler, factory branch, or distributor branch furnishes a part to a dealer, at a reduced cost or at no cost, to use in performing warranty work, the manufacturer, distributor, wholesaler, factory branch, or distributor branch shall compensate the dealer for the part in the same manner as warranty parts compensation under new law by compensating the dealer on the basis of the dealer's mark-up on the cost for the part as listed in the manufacturer, distributor, wholesaler, factory branch, or distributor branch's price schedule, minus the cost for the part.

New law prohibits a manufacturer, distributor, wholesaler, factory branch, or distributor branch from requiring a dealer to establish the rate customarily charged by the dealer by an unduly burdensome or time consuming method or by requiring the submission of information that is unduly burdensome or time consuming to provide.

Effective August 1, 2021.

(Amends R.S. 32:1262(A))