



Aston Martin • Ferrari • Honda • Hyundai • Isuzu • Kia
Maserati • McLaren • Nissan • Subaru • Suzuki • Toyota

April 11, 2018

The Honorable Jack Tate
Chair, Senate Business, Labor, & Technology Committee
Colorado General Assembly
Denver, Colorado 80203

**SUBJECT: SENATE BILL 219 – MOTOR VEHICLE DEALER AND MANUFACTURER
SERVICE RATES**

Dear Senator Tate:

Global Automakers, www.globalautomakers.org, represents the U.S. operations of international motor vehicle manufacturers, original equipment suppliers, and other automotive-related trade associations. Our goal is to foster an open and competitive automotive marketplace that encourages investment, job growth, and development of vehicles that can enhance Americans' quality of life.

Our Position

On behalf of our members, Global Automakers opposes Senate Bill No. 18-219 ("SB 219"), a bill that seeks to introduce a complete overhaul to Colorado's warranty reimbursement statute. Under current law, a manufacturer "shall reasonably compensate any authorized dealer who performs work to rectify said manufacturer's product or warranty defects." Colo. Rev. Stat. § 12-6-114. This provision adequately and fairly compensates dealers for warranty work. It does not need a drastic and complete overhaul. To the extent the legislature decides to amend the current law, our Members object to many of the provisions contained in SB 219, including the following:

First, the definition of "warranty obligation" contained in SB 219 would extend a manufacturer's obligation to pay dealers their retail rate well beyond warranty work and encompasses a number of additional categories of manufacturer-paid repairs and service. For instance, the definition of warranty obligation would cover labor provided by a dealer under a service or maintenance contract. These contracts typically involve maintenance, which does not require fully trained service technicians. Accordingly, this bill would unnecessarily increase the cost associated with offering service and maintenance contracts, which would make them uncompetitive with similar contracts offered by third parties.

Second, to determine a warranty reimbursement rate, SB 219 provides that dealers may submit 50 sequential non-warranty service repair orders for repairs that have been paid by a retail customer and have been closed for a period of 30 days. Almost every other state that has enacted similar legislation requires that 100 sequential non-warranty repair orders be submitted that have been closed for a period of 90 days. Global requests that these numbers be increased accordingly to ensure that dealers submit a fair representative number of repair orders to determine their reimbursement rate. The bill also provides

that repair orders shall be submitted only from the preceding 60 days. This provision should be removed from the bill or the period should be increased to 90 days.

Third, SB 219 includes numerous exceptions for certain work that shall not be included in the calculation of the reimbursement rate for labor and parts, such as “motor vehicle special events,” “promotional discounts,” and “volume discounts.” These exceptions will encourage dealers to increase rates to consumers for these events and items, which will result in higher service rates to the detriment of Colorado consumers. Accordingly, they should be removed from the bill.

Fourth, SB 219 only provides our Members the right to challenge a dealer’s warranty reimbursement request if the submission was materially inaccurate. Manufacturers should be able to challenge a submission on any ground, including general economic conditions.

Fifth, SB 219 allows dealers to declare a retail parts mark up or retail labor rate “semiannually.” Because we are not aware of any other state that allows dealers to make multiple requests in a calendar year and it would substantially increase the time and expense associated with responding to dealers’ requests, this provision should be amended to allow dealers to submit only one request per calendar year.

Sixth, SB 219 provides that manufacturers must respond to a dealer’s submission for warranty reimbursement within 15 days. We are not aware of any other state that requires such a short turnaround to respond to such a request and would severely prejudice our Members. Accordingly, manufacturers should be provided 60 days to respond to a dealer’s submission for warranty reimbursement. Moreover, the bill also appears to prohibit our Members from auditing a dealer’s records. Accordingly, SB 219 needs to be amended to include a provision allowing manufacturers to audit a dealer’s warranty and service records.

Seventh, SB 219 would allow a dealer to be compensated for a parts markup for parts used in performing warranty work even if the manufacturer or distributor provided the parts to the dealer at no cost. These types of parts are typically provided to address recall or similar issues and allow consumers to have their vehicles repaired more quickly and efficiently than traditional warranty repairs, without injecting unnecessary costs into the distribution system. Accordingly, this provision should be removed from the bill.

Eighth, SB 219 would prohibit our Members from recovering their compliance costs. Manufacturers should have the right to recover their compliance costs by increasing vehicle and parts prices. Otherwise, the economics of offering warranty coverage become threatened. Accordingly, this provision should be removed from the bill.

Ninth, SB 219 contains a punitive provision allowing a court to award a prevailing dealer up to two times its actual damages. Especially since the bill contains an attorney fee award provision, there is no basis or need to also include this provision.

Tenth, SB 219 prohibits our Members from influencing or attempting to influence a dealer “to implement or change the prices for which the motor vehicle dealer sells parts or labor in nonwarranty repairs.” Because it is unclear what activities are prohibited and because this provision is overly broad, vague and ambiguous, it should be removed from the bill.

Lastly, SB 219 requires that if our Members reduce the MSRP or list price for any part that they must also reduce, by the same percentage, the dealer’s cost for that part. Because a dealer’s warranty reimbursement rate is not tied to MSRP and the legislature should not be involved in regulating how MSRP is determined, this provision should be stricken from the bill.

Sincerely,



Josh Fisher
Manager
State Government Affairs