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FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/11

SPONSOR HBIC LAST UPDATED _____ HB 123/HBICS

SHORT TITLE Compensation for Parts Under Warranty SB _____

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 36/SJCS

SOURCES OF INFORMATION

LFC Files

Response Received From
Attorney General (AGO)

SUMMARY

Synopsis of Bill

House Business and Industry Committee Substitute for House Bill 123 amends Section 57-6-7 NMSA to provide for the compensation to auto dealers from manufacturers or distributors for labor, parts and other expenses incurred by auto dealers to perform required warranty repairs.

Each manufacturer shall specify in its franchise agreement, or in a separate written agreement, with each of its dealers licensed in this state, the dealer's obligation to perform warranty work or service on the manufacturer's products. Each manufacturer shall provide each of its dealers with a schedule of compensation to be paid to the dealer for any warranty work or service, including parts, labor and diagnostic work, required of the dealer by the manufacturer in connection with the manufacturer's products.

The schedule of compensation for a warranty claim shall not be less than the rates charged by the dealer for similar service to retail customers for non warranty service and repairs and shall not be less than the schedule of compensation for an existing dealer as of the effective date of this 2011 act.

The rates charged by the dealer for non warranty service or work for parts means the price paid by the dealer for those parts, including all shipping and other charges, increased by the franchisee's average percentage markup. The bill describes the process for a dealer to establish and declare the dealer's average percentage markup.

If a manufacturer is not required to honor the rate increase proposed by the dealer under the provisions of this bill, a dealer may resubmit a new proposed rate for labor and diagnostic work.

A dealer shall not be granted an increase in the average percentage markup or labor and diagnostic work rate more than twice in one calendar year.

In addition the bill stipulates:

- All claims for warranty work for parts and labor made by dealers under this section shall be submitted to the manufacturer within one year of the date the work was performed;
- All claims submitted must be paid by the manufacturer within thirty days following receipt, provided that the claim has been approved by the manufacturer;
- The manufacturer has the right to audit claims for warranty work and to charge the dealer for any unsubstantiated, incorrect or false claims for a period of six months following payment;
- The manufacturer may audit and charge the dealer for any fraudulent claims during any period for which an action for fraud may be commenced under applicable state law;
- All claims submitted by dealers on the forms and in the manner specified by the manufacturer shall be either approved or disapproved within thirty days following their receipt;
- The manufacturer shall notify the dealer in writing of any disapproved claim and shall set forth the reasons why the claim was not approved;
- Any claim not specifically disapproved in writing within thirty days following receipt is approved, and the manufacturer is required to pay that claim within thirty days of receipt of the claim; and
- A manufacturer may not recover its costs by adjusting other transactions.

The bill also shortens the period for manufactures or distributors to perform audits for claims for sale and service incentives from one year to six months.

FISCAL IMPLICATIONS

NFI

SIGNIFICANT ISSUES

Auto dealers in New Mexico would prefer to be at a higher rate for parts from manufacturers or distributors.

DUPLICATION

House Bill 123/HJICS duplicates 36/SJCS

DW/bym:svb