

CS FOR SENATE BILL NO. 47(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/11/17

Referred: Judiciary

Sponsor(s): SENATOR MEYER

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to motor vehicle franchises, motor vehicle dealers, motor vehicle**
2 **manufacturers, and motor vehicle distributors."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 45.25 is amended by adding new sections to article 2 to read:

5 **Sec. 45.25.200. Payment for repairs.** For repairs made by a new motor
6 vehicle dealer that are covered under a manufacturer's warranty, policy, or service
7 contract, the manufacturer shall pay the new motor vehicle dealer the retail rates for
8 parts and labor determined under AS 45.25.210 - 45.25.270.

9 **Sec. 45.25.210. Submission of information.** (a) To establish the retail rate for
10 parts, a new motor vehicle dealer shall first submit to the manufacturer

11 (1) 100 sequential nonwarranty customer-paid service repair orders for
12 warranty-like repairs; or

13 (2) 90 consecutive days of nonwarranty customer-paid service repair
14 orders for warranty-like parts, if the number of repair orders in this paragraph is less

1 than 100.

2 (b) To establish the rate customarily charged customers by a new motor
3 vehicle dealer for labor, the new motor vehicle dealer shall submit to the manufacturer

4 (1) 100 sequential nonwarranty customer-paid service repair orders for
5 warranty-like repairs; or

6 (2) 90 consecutive days of nonwarranty customer-paid service repair
7 orders for warranty-like repairs, if the number of repair orders in this paragraph is less
8 than 100.

9 (c) The repair orders submitted under (a) or (b) of this section must cover
10 repairs that the new motor vehicle dealer made less than 180 days before the new
11 motor vehicle dealer submitted the orders to the manufacturer.

12 (d) If the manufacturer determines from the repair orders submitted under (a)
13 or (b) of this section that the dealer's retail markup rate is substantially higher or lower
14 than the rate currently on record with the manufacturer, the manufacturer may request
15 additional documentation of orders covering a period of 60 days before or 60 days
16 after the period for which the repair orders were submitted.

17 **Sec. 45.25.220. Calculation of retail rates.** (a) Unless disapproved under
18 AS 45.25.230, the retail rate for parts consists of the sum of the

19 (1) retail rate percentage calculated under (b) of this section multiplied
20 by the cost of the parts; and

21 (2) cost of the parts.

22 (b) The retail rate percentage for parts shall be calculated by

23 (1) determining the new motor vehicle dealer's total sales of parts in
24 the repair orders submitted under AS 45.25.210;

25 (2) dividing the amount of the sales of parts determined in (1) of this
26 subsection by the new motor vehicle dealer's total cost for purchasing the parts;

27 (3) subtracting one from the quotient reached by applying (2) of this
28 subsection; and

29 (4) multiplying by 100 the difference reached by applying (3) of this
30 subsection.

31 (c) Unless disapproved under AS 45.25.230, the retail rate for labor shall be

1 calculated by determining the average hourly labor charge in the new motor vehicle
2 dealer's repair orders submitted under AS 45.25.210(a).

3 **Sec. 45.25.230. Manufacturer approval of retail rate.** (a) A manufacturer
4 shall approve or disapprove a proposed retail rate within 30 days following the
5 submission of the proposed retail rate by the new motor vehicle dealer.

6 (b) A manufacturer may disapprove a proposed retail rate by notifying the new
7 motor vehicle dealer within 30 days after the new motor vehicle dealer submits the
8 retail rate that the manufacturer disapproves the retail rate.

9 (c) To disapprove a proposed retail rate, the manufacturer shall provide
10 reasonable substantiation that the proposed retail rate is unreasonable in light of the
11 practices of all other similarly situated franchised motor vehicle dealers that offer the
12 same line or make of new motor vehicles in a comparable geographic area in the state.

13 (d) If a manufacturer disapproves a proposed retail rate, the manufacturer shall
14 propose an adjustment of the proposed retail rate.

15 **Sec. 45.25.240. Exclusions from calculations.** A manufacturer and a new
16 motor vehicle dealer may not include in the calculation of a retail rate

17 (1) repairs for manufacturer special events, for distributor special
18 events, for manufacturer specials, or for distributor specials, or retail customer
19 promotional discounts;

20 (2) parts sold at wholesale;

21 (3) routine maintenance not covered under warranty, including the
22 replacement of fluids, filters, and belts, unless the new motor vehicle dealer provides
23 the routine maintenance in the course of making a repair;

24 (4) nuts, bolts, fasteners, and similar items that do not have an
25 individual part number; and

26 (5) vehicle reconditioning.

27 **Sec. 45.25.250. Effective date of rates.** If a manufacturer approves a proposed
28 retail rate under AS 45.25.230, the proposed retail rate takes effect 30 days following
29 the approval.

30 **Sec. 45.25.260. Retail rate prohibitions.** (a) A manufacturer or distributor
31 may not require a new motor vehicle dealer to establish a proposed retail rate by an

1 unduly burdensome or time consuming method or by requiring the new motor vehicle
 2 dealer to provide information that is unduly burdensome or time consuming to
 3 provide, including part-by-part or transaction-by-transaction calculations.

4 (b) A new motor vehicle dealer may not propose more than one new retail rate
 5 in one calendar year.

6 (c) A new motor vehicle dealer may elect to return to the previous rate of
 7 reimbursement for parts or labor not more than one time in a 12-month period.

8 **Sec. 45.25.270. Audit of retail rate.** Each year, a manufacturer or distributor
 9 may audit the records of a new motor vehicle dealer to verify that the new motor
 10 vehicle dealer's retail rate has not decreased. If a new motor vehicle dealer's retail rate
 11 has decreased, a manufacturer or distributor may reduce the retail rate prospectively.

12 * **Sec. 2.** AS 45.25.990 is amended by adding new paragraphs to read:

13 (22) "line or make" means motor vehicles that are offered for sale
 14 under a common name, trademark, service mark, or brand name of the manufacturer
 15 of those motor vehicles;

16 (23) "retail rate" means the retail rate for labor or parts required to be
 17 paid by a manufacturer to a new motor vehicle dealer under AS 45.25.200.

18 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

20 **APPLICABILITY.** (a) This Act applies to franchise agreements between
 21 manufacturers and new motor vehicle dealers in the state if the franchise agreement is entered
 22 into on or after the effective date of this Act.

23 (b) In this section,

24 (1) "franchise" has the meaning given in AS 45.25.990;

25 (2) "manufacturer" has the meaning given in AS 45.25.990;

26 (3) "new motor vehicle dealer" has the meaning given in AS 45.25.990.