

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3309

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED JUNE 19, 2025

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SYNOPSIS

Establishes “Motor Vehicle Open Recall Notice and Fair Compensation Act”; revises motor vehicle franchise agreements.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 30, 2025.

(Sponsorship Updated As Of: 6/30/2025)

1 **AN ACT** concerning motor vehicle open recalls and motor vehicle
2 franchises, supplementing Title 56 and Title 39 of the Revised
3 Statutes, and amending P.L.1989, c.24 and P.L.1977, c.84.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) Sections 1 through 5 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall be known and may
10 be cited as the “Motor Vehicle Open Recall Notice and Fair
11 Compensation Act.”

12
13 2. (New section) As used in sections 2 through ¹**[4]** ¹5¹ of
14 P.L. , c. (C.) (pending before the Legislature as this bill):

15 ¹**“Dealer”** means a person who is actively engaged in the retail
16 business of buying, selling, or exchanging new motor vehicles or
17 used motor vehicles**】**

18 “Chief administrator” means the Chief Administrator of the New
19 Jersey Motor Vehicle Commission.

20 “Commission” means the New Jersey Motor Vehicle
21 Commission established pursuant to section 4 of P.L.2003, c.13
22 (C.39:2A-4)¹.

23 “Do-not-drive notice” means a notification issued by a motor
24 vehicle franchisor, or the National Highway Traffic Safety
25 Administration, to a motor vehicle franchisee, which notice states
26 that certain used motor vehicles in inventory are unsafe to drive and
27 shall not be sold or leased, at either retail or wholesale, due to a
28 recall.

29 ¹“Manufacturer” means an entity engaged in the business of
30 making or assembling new motor vehicles that manufactures or
31 assembles at least 10 new motor vehicles per year under normal
32 business conditions.¹

33 “Motor vehicle franchisee” means the same as that term is
34 defined in section 1 of P.L.1977, c.84 (C.56:10-13).

35 “Motor vehicle franchisor” means the same as that term is
36 defined in section 1 of P.L.1977, c.84 (C.56:10-13).

37 “New motor vehicle” means a new motor vehicle, as that term is
38 defined in section 1 of P.L.1977, c.84 (C.56:10-13), that is subject
39 to an open recall, or has been recalled, in accordance with federal
40 law.

41 ¹“New motor vehicle dealer” means the same as that term is
42 defined pursuant to R.S.39:10-2.¹

43 “Open recall” means a recall that has not been corrected or
44 addressed.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 30, 2025.

1 “Recall” means a safety or emissions recall on a specific motor
2 vehicle that requires: (1) manufacturer notification pursuant to 49
3 U.S.C. s.30118, 49 U.S.C. s.30119, or any other federal law or
4 regulation; and (2) repairs or modifications to a motor vehicle ¹by
5 an authorized new motor vehicle dealer or an authorized used motor
6 vehicle dealer¹.

7 “Retail” does not include wholesale sales, sales between ¹new
8 motor vehicle dealers or used motor vehicle¹dealers, or sales to
9 owners or operators of motor vehicle junk businesses or motor
10 vehicle junk yards, as those terms are defined in R.S.39:11-2, or
11 any other person engaged in the business of dismantling,
12 destroying, or recycling motor vehicles.

13 “Stop-sale notice” means a notification issued by a motor vehicle
14 franchisor to its motor vehicle franchisee stating that certain used
15 motor vehicles in inventory shall not be sold or leased, at either
16 retail or wholesale, due to a recall.

17 ¹“Time of sale” means the period of time when the buyer
18 executes a retail order form for the purchase, or lease agreement for
19 the lease, of a used motor vehicle.¹

20 “Used motor vehicle” means the same as that term is defined in
21 R.S.39:10-2.

22 ¹“Used motor vehicle dealer” means the same as that term is
23 defined pursuant to R.S.39:10-2.¹

24

25 3. (New section) Any corporation or association that is
26 primarily owned by or comprised of motor vehicle franchisees,
27 which corporation or association primarily represents the interests
28 of motor vehicle franchisees, shall have standing to ¹“file an
29 administrative petition, or to”¹ bring an action before any court of
30 competent jurisdiction, for itself or by, for, or on behalf of any
31 motor vehicle franchisee or group of motor vehicle franchisees for
32 any violation of the “Franchise Practices Act,” P.L.1971, c.356
33 (C.56:10-1 et seq.), as amended and supplemented, which violation
34 was allegedly conducted by a motor vehicle franchisor with motor
35 vehicle franchisees, if:

36 a. at least one of the corporation’s or association’s members
37 has independent standing to sue;

38 b. the interests that the ¹“administrative petition or”¹ action
39 seeks to protect are germane to the corporation’s or association’s
40 purpose; and

41 c. neither the claim asserted nor the relief requested requires
42 any individual members of the corporation or association to
43 participate in the ¹“administrative petition or”¹ action.

44

45 4. (New section) a. If a part or the parts necessary to perform a
46 recall service are not reasonably available to perform a recall
47 service or repair on a used motor vehicle held for sale by a motor

1 vehicle franchisee authorized to sell and service new motor vehicles
2 of the same line-make within 30 days of the motor vehicle
3 franchisor issuing the initial recall notice, and the motor vehicle
4 franchisor has issued a stop-sale notice or do-not-drive notice on the
5 motor vehicle, the motor vehicle franchisor shall compensate the
6 motor vehicle franchisee at a prorated rate of at least 1.5 percent of
7 the value of the used motor vehicle per month beginning 30 days
8 after the motor vehicle franchisor issued the stop-sale notice or do-
9 not-drive notice to the motor vehicle franchisee until the earlier of
10 either:

11 (1) the date that the recall parts or parts necessary to perform
12 recall service are made available; or

13 (2) the date that the motor vehicle ¹**[franchisor]** franchisee¹
14 sells, trades, or otherwise disposes of a used motor vehicle that is
15 subject to a stop-sale notice or do-not-drive notice.

16 b. The value of a used motor vehicle shall be the average trade-
17 in value for used motor vehicles as indicated in an independent
18 third-party guide for the year, make, and model of the recalled
19 motor vehicle.

20 c. Subject to the provisions of section 3 of P.L.1977, c.84
21 (C.56:10-15), it shall be a violation of this section for a motor
22 vehicle franchisor to reduce the amount of compensation otherwise
23 owed to a motor vehicle franchisee through a chargeback, the
24 removal of the motor vehicle franchisee from an incentive program,
25 or a reduction in the amount owed under an incentive program
26 because the motor vehicle franchisee has submitted a claim for
27 reimbursement pursuant to this section. Nothing in this subsection
28 shall prohibit a motor vehicle franchisor from discontinuing an
29 incentive program.

30 d. All reimbursement claims made by motor vehicle
31 franchisees pursuant to this section for recall remedies or repairs, or
32 for compensation where no part or repair is reasonably available
33 and the motor vehicle is subject to a stop-sale notice or do-not-drive
34 notice, shall be subject to the same limitations and requirements as
35 a warranty reimbursement claim made under section 3 of P.L.1977,
36 c.84 (C.56:10-15). As an alternative, a motor vehicle franchisor
37 may compensate its motor vehicle franchisees under a national
38 recall compensation program, provided that:

39 (1) compensation under the program is equal to or greater than
40 the compensation provided pursuant to this section; or

41 (2) the motor vehicle franchisor and motor vehicle franchisee
42 otherwise agree.

43 e. A motor vehicle franchisor may direct the manner and
44 method in which a motor vehicle franchisee is required to
45 demonstrate the inventory status of an affected used motor vehicle
46 to determine eligibility under this section. However, the manner
47 and method shall not be unduly burdensome and shall not require
48 information that is unduly burdensome to provide.

1 f. Nothing in this section shall require a motor vehicle
2 franchisor to provide total compensation to a motor vehicle
3 franchisee, which compensation would exceed the total average
4 trade-in value of the affected used motor vehicle as originally
5 determined pursuant to subsection b. of this section.

6 g. Any remedy provided to a motor vehicle franchisee under
7 this section is exclusive and shall not be combined with any other
8 State or federal recall compensation remedy.

9
10 5. (New section) a. As used in this section ¹]:

11 “Chief administrator” means the Chief Administrator of the New
12 Jersey Motor Vehicle Commission.

13 “Commission” means the New Jersey Motor Vehicle
14 Commission established pursuant to section 4 of P.L.2003, c.13
15 (C.39:2A-4). “Dealer” means a person who is actively engaged in
16 the retail business of buying, selling, or exchanging new motor
17 vehicles or used motor vehicles.

18 “Manufacturer” means an entity engaged in the business of
19 making or assembling new motor vehicles and that manufactures or
20 assembles at least 10 new motor vehicles per year under normal
21 business conditions.

22 “Open recall” means a safety-related recall that requires:
23 notification by a manufacturer pursuant to 49 U.S.C. s.30118 or 49
24 U.S.C. s.30119 and a repair or modification to a motor vehicle by
25 an authorized dealer¹, “chief administrator,” “commission,”
26 “manufacturer,” “new motor vehicle dealer,” “open recall,” and
27 “recall” have the same meaning as those terms are defined in
28 section 2 of P.L. , c. (C.) (pending before the Legislature
29 as this bill)¹.

30 b. When issuing a motor vehicle registration or registration
31 renewal notice, the commission shall also issue an open recall
32 notice to inform a motor vehicle owner that the National Highway
33 Traffic Safety Administration maintains a recall database through
34 which motor vehicle owners can determine whether a motor vehicle
35 is subject to an open recall. The open recall notice shall also
36 include:

37 (1) a link to the Internet website through which a motor vehicle
38 owner can access the National Highway Traffic Safety
39 Administration’s recall database; and

40 (2) a statement indicating that each open recall may be repaired
41 by a ¹new motor vehicle¹ dealer approved by the manufacturer of
42 the motor vehicle at no cost to the owner of the motor vehicle,
43 except as provided pursuant to 49 U.S.C. s.30120.

44 c. (1) The commission may apply for any funding that may be
45 available to defray the costs to implement the provisions of this
46 section, which may include, but shall not be limited to, federal
47 grants.

1 (2) A manufacturer that conducts business in the State shall
2 assist the commission with its application for any funding that may
3 be available to defray the costs of implementing the provisions of
4 this section, as provided in paragraph (1) of this subsection.

5 d. In the event that any funding sources acquired pursuant to
6 subsection c. of this section do not cover the commission's costs to
7 implement the provisions of this section, the chief administrator
8 may require each manufacturer that conducts business in the State
9 to pay a fee to the commission, except that the total fees collected
10 shall not exceed the actual costs incurred by the commission each
11 year to implement the provisions of this section. The amount of the
12 fee shall be determined by the chief administrator each year based
13 on documentation of the actual costs incurred by the commission to
14 implement the provisions of this section, which documentation shall
15 be published annually on the commission's Internet website and
16 provided directly to each manufacturer that conducts business in the
17 State.

18 e. The commission may adopt, pursuant to the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
20 regulations that are necessary to implement this section, which rules
21 and regulations may include enforcement and penalty provisions for
22 violations.

23 f. Nothing in this section shall alter the liability under common
24 law of a manufacturer or ¹a new motor vehicle¹ dealer approved by
25 the manufacturer to repair an open recall.

26 g. The commission shall not be liable to any person for any act
27 or omission related to the open recall notice provided pursuant to
28 this section.

29

30 6. Section 1 of P.L.1989, c.24 (C.56:10-7.2) is amended to read
31 as follows:

32 1. The Legislature hereby finds and declares the following:

33 a. Notwithstanding the enactment of the "Franchise Practices
34 Act," P.L.1971, c.356 (C.56:10-1 et seq.), and other legislation
35 dealing with the franchisor-franchisee relationship, including, but
36 not limited to, P.L.1982, c.156 (C.56:10-17 et seq.), inequality of
37 bargaining power continues to exist between motor vehicle
38 franchisors and motor vehicle franchisees. This inequality of
39 bargaining power exists even as to motor vehicle franchisees who
40 have had their franchises for many years and who have expended
41 large sums of money in the promotion of their franchises.

42 b. This inequality of bargaining power enables motor vehicle
43 franchisors to compel motor vehicle franchisees to execute
44 franchises and related leases and agreements **【which】** that contain
45 terms and conditions that would not routinely be agreed to by the
46 motor vehicle franchisees absent the compulsion and duress
47 **【which】** that arise out of the inequality of bargaining power. These
48 terms and conditions are detrimental to the interests of the motor

1 vehicle franchisees in that they require the motor vehicle
2 franchisees to relinquish their rights **【which】** that have been
3 established by the "Franchise Practices Act" and supplemental
4 legislation and other statutes and laws of this State.

5 c. As a result, motor vehicle franchisees have been denied the
6 opportunity to have disputes with their motor vehicle franchisors
7 arising out of the franchisor-franchisee relationship heard in an
8 appropriate venue, convenient to both parties, by tribunals
9 established by statute for the resolution of these disputes. It is
10 therefore necessary and in the public interest to ensure that motor
11 vehicle franchisees voluntarily determine whether to agree to
12 certain terms and conditions contained in franchises and related
13 leases and agreements presented to them by motor vehicle
14 franchisors and under circumstances unaffected by the compulsion
15 **【which】** that arises from the inequality of bargaining power.

16 d. The distribution, sale, and service of new motor vehicles in
17 the State of New Jersey vitally affects the general economy of this
18 State, and there is a compelling public interest in providing a
19 system of new motor vehicle franchisees to foster competition and
20 promote motor vehicle and highway safety by ensuring there are
21 qualified facilities to provide independently owned and operated
22 sales, warranty, open recall, and routine service for motor vehicles.

23 e. The new motor vehicle franchise system encourages local
24 investment in motor vehicle dealerships, creates jobs and economic
25 activity in virtually every community in this State, and advances the
26 public interest by fostering an extensive network of independent
27 new motor vehicle franchisees who compete for motor vehicle sales
28 and service business, offer ready access to open recall repair service
29 and warranty service, when needed, and provide routine
30 maintenance to ensure motor vehicle and highway safety.

31 f. There remains, however, a vast disparity in bargaining
32 power between motor vehicle franchisors and their franchisees,
33 which, if left unchecked, will discourage local investment in the
34 motor vehicle franchise system and result in fewer new motor
35 vehicle franchisees, less competition in the motor vehicle
36 marketplace, and diminished consumer access to qualified motor
37 vehicle warranty services, open recall repair services, and routine
38 service facilities.

39 g. Despite prior enactments, many motor vehicle franchisees
40 have found it either too risky to oppose their supplier or too
41 burdensome to take on a legal challenge to their motor vehicle
42 franchisors, who control the exclusive supply of motor vehicles,
43 parts, and special equipment to motor vehicle franchisees.

44 h. As a result, it is necessary for the Legislature to further
45 revise the laws pertaining to motor vehicle franchisees to strengthen
46 and clarify certain provisions of existing law intended to protect the
47 public from marketplace behavior that has the potential to restrict
48 competition for sales and threaten highway safety by limiting

1 consumer access to essential warranty and open recall service
2 provided by neighborhood dealers of new motor vehicles.

3 (cf: P.L.1989, c.24, s.1)

4
5 7. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read
6 as follows:

7 3. If any motor vehicle franchise shall require or permit motor
8 vehicle franchisees to perform labor services or provide parts in
9 satisfaction of a repair service offered and reimbursed by the motor
10 vehicle franchisor, including, but not limited to, a warranty [issued
11 by the motor vehicle franchisor] , an extended warranty, a
12 maintenance plan, a service-related plan, or a recall:

13 a. **[The]** the motor vehicle franchisor shall reimburse each
14 motor vehicle franchisee for such labor services , including
15 diagnostic work, as are rendered and for such parts as are supplied,
16 in an amount equal to the prevailing retail price **[charged by such**
17 **motor vehicle franchisee for such services and parts in**
18 **circumstances where such services are rendered or such parts**
19 **supplied other than pursuant to warranty; provided that such motor**
20 **vehicle franchisee's prevailing retail price is not unreasonable when**
21 **compared with that of the holders of motor vehicle franchises from**
22 **the same motor vehicle franchisor for identical merchandise or**
23 **services in the geographic area in which the motor vehicle**
24 **franchisee is engaged in business.]** calculated pursuant to
25 subsections d., e., and j. of this section. The average retail labor
26 rate, average retail labor time allowance, and parts markup, as
27 declared by the motor vehicle franchisee, shall become effective 30
28 days following the declaration subject to audit by the motor vehicle
29 franchisor only of the sample submitted by the motor vehicle
30 franchisee. Any proposed adjustment of the average retail labor
31 rate, the average retail labor time allowance, or the parts markup
32 made by the motor vehicle franchisor shall be based only on an
33 audit of that sample;

34 b. **[The]** the motor vehicle franchisor shall not by agreement,
35 by restrictions upon reimbursement, or otherwise **[,]** restrict the
36 nature and extent of labor services to be rendered or parts to be
37 provided so that such restriction prevents the motor vehicle
38 franchisee from satisfying the warranty by rendering labor services
39 in a good and workmanlike manner and providing parts **[which]**
40 that are required in accordance with generally accepted standards.
41 Any such restriction shall constitute a prohibited practice hereunder
42 **[.]**;

43 c. **[The]** the motor vehicle franchisor shall reimburse the
44 motor vehicle franchisee pursuant to subsection a. of this section,
45 without deduction, for labor services performed on, and parts
46 supplied for, a motor vehicle by the motor vehicle franchisee in
47 good faith and in accordance with generally accepted standards,

1 notwithstanding any requirement that the motor vehicle franchisor
2 accept the return of the motor vehicle or make payment to a
3 consumer with respect to the motor vehicle pursuant to the
4 provisions of P.L.1988, c.123 (C.56:12-29 et seq.) **【.】** :

5 d. **【For】** for the purposes of this section, the "prevailing retail
6 price" charged by: (1) a motor vehicle franchisee for parts means
7 the price paid by the motor vehicle franchisee for those parts,
8 including all shipping and other charges, multiplied by the sum of
9 1.0 and the franchisee's average percentage parts markup over the
10 price paid by the motor vehicle franchisee for parts purchased by
11 the motor vehicle franchisee from the motor vehicle franchisor and
12 sold at retail. The motor vehicle franchisee may establish average
13 percentage parts markup under this section by submitting to the
14 motor vehicle franchisor 100 sequential customer paid service
15 repair orders or 90 days of customer paid service repair orders,
16 whichever is less, covering repairs made no more than 180 days
17 before the submission, and declaring **【what】** the average percentage
18 parts markup **【is】**. The average percentage parts markup so
19 declared shall go into effect 30 days following the declaration
20 subject to audit **【of the submitted repair orders by the motor vehicle**
21 **franchisor and adjustment of the average percentage markup based**
22 **on that audit. Only retail sales not involving warranty repairs, parts**
23 **covered by subsection e. of this section, or parts supplied for**
24 **routine vehicle maintenance, shall be considered in calculating**
25 **average percentage markup. No motor vehicle franchisor shall**
26 **require a motor vehicle franchisee to establish average percentage**
27 **markup by a methodology, or by requiring information, that is**
28 **unduly burdensome or time consuming to provide, including, but**
29 **not limited to, part by part or transaction by transaction**
30 **calculations】** by the motor vehicle franchisor only of the sample
31 submitted by the motor vehicle franchisee. Any proposed
32 adjustment of the average parts markup by the motor vehicle
33 franchisor shall be based only on an audit of that sample. A motor
34 vehicle franchisee shall not request a change in the average
35 percentage parts markup more than twice in one calendar year; and
36 (2) a recreational motor vehicle franchisee for parts means actual
37 wholesale cost, plus a minimum **【30%】** 30 percent handling charge
38 and any freight costs incurred to return the removed parts to the
39 motor vehicle franchisor **【.】** ;

40 e. **【If】** (1) if a motor vehicle franchisor supplies , or causes to
41 be supplied, a part or parts for use in a repair rendered under a
42 warranty **【other than by sale of that part or parts to the motor**
43 **vehicle franchisee, the motor vehicle franchisee shall be entitled to**
44 **compensation equivalent to the motor vehicle franchisee's average**
45 **percentage markup on the part or parts, as if the part or parts had**
46 **been sold to the motor vehicle franchisee by the motor vehicle**
47 **franchisor.】** , an extended warranty, a maintenance plan, a service-

1 related plan, a recall, or other work that is also offered and
 2 reimbursed by the motor vehicle franchisor, at no cost or at a
 3 reduced cost for use in performing the repair work, the franchisor
 4 shall compensate the motor vehicle franchisee in the same manner
 5 as the motor vehicle franchisor compensates the motor vehicle
 6 franchisee under this section by paying the motor vehicle franchisee
 7 for the franchisee's cost of the part, if any, plus an amount equal to
 8 the franchisee's parts markup multiplied by the wholesale value of
 9 the part. The wholesale value of the part shall be the greater of:

10 (a) the amount the motor vehicle franchisee paid for the part or
 11 a substantially identical part;

12 (b) the cost of the part in a current or prior established price
 13 schedule issued by the motor vehicle franchisor or issued by a third
 14 party that has previously supplied the part to the motor vehicle
 15 franchisee;

16 (c) the cost of a substantially identical part in a current or prior
 17 established price schedule issued by the motor vehicle franchisor or
 18 by a third party; or

19 (d) the reasonable wholesale price for the part.

20 (2) The requirements of this section shall not apply to electric
 21 propulsion batteries, entire engine assemblies, and entire
 22 transmission assemblies. In the case of those **【assemblies】** parts,
 23 the motor vehicle franchisor shall reimburse the motor vehicle
 24 franchisee in the amount of **【30%】** 30 percent of what the motor
 25 vehicle franchisee would have paid the motor vehicle franchisor for
 26 the **【assembly】** part if the **【assembly】** part had not been supplied by
 27 the franchisor other than by the sale of that **【assembly】** part to the
 28 motor vehicle franchisee **【.】** ;

29 f. **【The】** the motor vehicle franchisor shall reimburse the
 30 motor vehicle franchisee for parts supplied and labor services
 31 rendered under a warranty, an extended warranty, a maintenance
 32 plan, or a service-related plan offered by the motor vehicle
 33 franchisor within 30 days after approval of a claim for
 34 reimbursement. All claims for reimbursement shall be approved or
 35 disapproved within 30 days after receipt of the claim by the motor
 36 vehicle franchisor. When a claim is disapproved, the motor vehicle
 37 franchisee shall be notified in writing of the grounds for the
 38 disapproval. No claim that has been approved and paid shall be
 39 charged back to the motor vehicle franchisee unless it can be shown
 40 that the claim was false or fraudulent, that the labor services were
 41 not properly performed, that the parts or labor services were
 42 unnecessary to correct the defective condition, or that the motor
 43 vehicle franchisee failed to reasonably substantiate the claim in
 44 accordance with reasonable written requirements of the motor
 45 vehicle franchisor, provided that the motor vehicle franchisee had
 46 been notified of the requirements prior to the time the claim arose
 47 and the requirements were in effect at the time the claim arose. A

1 motor vehicle franchisor shall not audit a claim after the expiration
2 of 12 months following the payment of the claim unless the motor
3 vehicle franchisor has reasonable grounds to believe that the claim
4 was fraudulent **[.]** ;

5 g. **[The]** the obligations imposed on motor vehicle franchisors
6 by this section shall apply to any parent, subsidiary, affiliate, or
7 agent of the motor vehicle franchisor, any person under common
8 ownership or control, any employee of the motor vehicle franchisor
9 and any person holding **[1%]** one percent or more of the shares of
10 any class of securities or other ownership interest in the motor
11 vehicle franchisor, if a warranty or service or repair plan is issued
12 by that person instead of or in addition to one issued by the motor
13 vehicle franchisor **[.]** ;

14 h. **[The]** the provisions of this section shall also apply to motor
15 vehicle franchisor administered service and repair plans:

16 (1) if the motor vehicle franchisee offers for sale only the motor
17 vehicle franchisor administered service or repair plan; or

18 (2) if the motor vehicle franchisee is paid its prevailing retail
19 price for all service or repair plans that the motor vehicle franchisee
20 offers for sale to purchasers of new motor vehicles; **[or]**

21 (3) for the first 36,000 miles of coverage under the motor
22 vehicle franchisor administered service or repair plan, if the
23 warranty offered by the motor vehicle franchisor on the motor
24 vehicle provides coverage for less than 36,000 miles; or

25 (4) for motor vehicles covered by a motor vehicle franchisor
26 administered service or repair plan, if the motor vehicle franchisee
27 does not offer for sale the motor vehicle franchisor administered
28 service or repair plan.

29 With respect to motor vehicle franchisor administered service or
30 repair plans covering only routine maintenance service, this section
31 applies only to those plans sold to customers on or after the
32 effective date of P.L.1999, c.45 **[.]** ;

33 i. **[A]** a motor vehicle franchisor shall make payment to a
34 motor vehicle franchisee pursuant to incentive, bonus, sales,
35 performance, or other programs within 30 days after receipt of a
36 claim from the motor vehicle franchisee. When a claim is
37 disapproved, the motor vehicle franchisee shall be notified in
38 writing of the grounds for disapproval. No claim shall be
39 disapproved unless it can be shown that the claim was false or
40 fraudulent, or that the motor vehicle franchisee failed to reasonably
41 substantiate the claim in accordance with reasonable written
42 requirements of the motor vehicle franchisor, provided that the
43 motor vehicle franchisee had been notified of the requirements prior
44 to the time the claim arose and the requirements were in effect at
45 the time the claim arose. A motor vehicle franchisor shall not audit
46 a claim after the expiration of 12 months following the payment of
47 the claim **[.]** ;

1 j. (1) a calculation of the retail rate customarily charged by the
2 dealer for parts markup shall not include the following:

3 (a) discounts for retail customer repairs or special or promotional
4 events offered by a manufacturer, manufacturer branch, distributor,
5 or distributor branch;

6 (b) parts sold or repairs performed at wholesale;

7 (c) routine maintenance, including, but not limited to, the
8 replacement of brakes, bulbs, fluids, filters, batteries, and belts that
9 are not provided in the course of or related to a repair;

10 (d) items that do not have individual part numbers, including, but
11 not limited to, nuts, bolts, and fasteners;

12 (e) vehicle reconditioning;

13 (f) accessories;

14 (g) repairs of conditions caused by a collision, a road hazard,
15 natural forces, vandalism, theft, or negligent or deliberate damage
16 by an owner, operator, or third party;

17 (h) parts sold or repairs performed for insurance carriers;

18 (i) vehicle emission inspections required by law;

19 (j) manufacturer-approved goodwill or policy repairs or
20 replacements;

21 (k) repairs for a government agency or a service contract
22 provider employed as an agent of a government agency;

23 (l) repairs with aftermarket parts when calculating a retail parts
24 rate, not when calculating a retail labor rate;

25 (m) repairs on aftermarket parts;

26 (n) replacement of tires or work on tires, including wheel
27 alignments or tire rotations; or

28 (o) repairs of motor vehicles owned by the franchisee or an
29 employee of a franchisee at the time of the repair;

30 (2) a calculation of the retail labor time allowance customarily
31 charged by the dealer for customer paid repairs shall not include the
32 following:

33 (a) discounts for retail customer repairs or special or promotional
34 events offered by a manufacturer, manufacturer branch, distributor,
35 or distributor branch;

36 (b) parts sold or repairs performed at wholesale;

37 (c) routine maintenance, including, but not limited to, the
38 replacement of brakes, bulbs, fluids, filters, batteries, and belts that
39 are not provided in the course of or related to a repair;

40 (d) items that do not have individual part numbers, including, but
41 not limited to, nuts, bolts, and fasteners;

42 (e) vehicle reconditioning;

43 (f) accessories;

44 (g) repairs of conditions caused by a collision, a road hazard,
45 natural forces, vandalism, theft, or negligent or deliberate damage
46 by an owner, operator, or third party;

47 (h) parts sold or repairs performed for insurance carriers;

48 (i) vehicle emission inspections required by law;

- 1 (j) manufacturer-approved goodwill or policy repairs or
2 replacements;
3 (k) repairs for a government agency or a service contract
4 provider employed as an agent of a government agency;
5 (l) repairs with aftermarket parts when calculating a retail parts
6 rate, not when calculating a retail labor rate;
7 (m) repairs on aftermarket parts;
8 (n) replacement of tires or work on tires, including wheel
9 alignments or tire rotations; or
10 (o) repairs of motor vehicles owned by the franchisee or an
11 employee of a franchisee at the time of the repair; and
12 (3) a calculation of the retail labor rate customarily charged by
13 the dealer for customer paid repairs shall not include the following:
14 (a) discounts for retail customer repairs or special or promotional
15 events offered by a manufacturer, manufacturer branch, distributor,
16 or distributor branch;
17 (b) parts sold or repairs performed at wholesale;
18 (c) routine maintenance, including, but not limited to, the
19 replacement of brakes, bulbs, fluids, filters, batteries, and belts that
20 are not provided in the course of or related to a repair;
21 (d) items that do not have individual part numbers, including, but
22 not limited to, nuts, bolts, and fasteners;
23 (e) vehicle reconditioning;
24 (f) accessories;
25 (g) repairs of conditions caused by a collision, a road hazard,
26 natural forces, vandalism, theft, or negligent or deliberate damage
27 by an owner, operator, or third party;
28 (h) parts sold or repairs performed for insurance carriers;
29 (i) vehicle emission inspections required by law;
30 (j) manufacturer-approved goodwill or policy repairs or
31 replacements;
32 (k) repairs for a government agency or a service contract
33 provider employed as an agent of a government agency;
34 (l) repairs with aftermarket parts when calculating a retail parts
35 rate but not when calculating a retail labor rate;
36 (m) repairs on aftermarket parts;
37 (n) replacement of tires or work on tires, including wheel
38 alignments or tire rotations; or
39 (o) repairs of motor vehicles owned by the franchisee or an
40 employee of the franchisee at the time of the repair;
41 k. (1) a motor vehicle franchisor shall not:
42 (a) impose unreasonable handling procedures or unreasonable
43 handling charges upon its motor vehicle franchisees for return or
44 disposal of any part, including electric propulsion batteries,
45 dangerous or unexploded air bag units, or seat belt tensioners;
46 (b) penalize or charge a motor vehicle franchisee for the return of
47 a defective electric propulsion battery that is returned to the motor
48 vehicle franchisor within 60 days of its removal from a vehicle

1 under warranty service, extended warranty service, a maintenance
2 plan, a service-related plan, a recall, or other work that is also
3 offered and reimbursed by the motor vehicle franchisor; or

4 (c) charge a dealer more for a late return than the wholesale price
5 charged to the dealer for the electric propulsion battery.

6 (2) A franchisor shall compensate a franchisee for labor time to
7 package and return ship an electric propulsion battery and shall
8 supply the franchisee with appropriate packaging to facilitate the
9 return;

10 l. for the purposes of this section, the prevailing retail price for
11 labor shall be the average hourly labor rate charged to retail
12 customers. A motor vehicle franchisee may establish its average
13 labor rate under this section by submitting to the motor vehicle
14 franchisor 100 sequential customer paid service repair orders or 90
15 days of customer paid service repair orders, whichever is less,
16 covering customer paid repairs made no more than 180 days before
17 the submission. The average retail labor rate shall be calculated by
18 multiplying the total labor charges in the sample by 1.0 and
19 dividing that amount by the total number of labor hours in the
20 sample. The average retail labor rate so declared shall go into
21 effect 30 days following the declaration subject to audit by the
22 motor vehicle franchisor only of the sample submitted by the motor
23 vehicle franchisee. Any proposed adjustment of the average retail
24 labor rate made by the motor vehicle franchisor shall be based
25 solely on an audit of that sample;

26 m. a motor vehicle franchisor shall provide adequate and fair
27 compensation to each motor vehicle franchisee for labor services
28 rendered for a repair in an amount not less than the amount a retail
29 customer pays for the same labor services with regard to labor time.
30 A motor vehicle franchisee may apply to its motor vehicle
31 franchisor to be reimbursed for labor time according to, at the motor
32 vehicle franchisee's discretion, an established average retail labor
33 time allowance, in lieu of the motor vehicle franchisor's labor time
34 guide for franchisor-paid repairs or service, by submitting to the
35 motor vehicle franchisor the multiplier established by taking the
36 number of hours billed in 100 sequential customer paid service
37 repair orders or 90 days of customer paid service repair orders,
38 whichever is less, covering repairs made no more than 180 days
39 before the submission, and dividing that by the number of hours
40 permitted by the motor vehicle franchisor for any such repairs under
41 the motor vehicle franchisor's labor time guide for franchisor-paid
42 repairs or service. The resulting quotient shall be applied to the
43 motor vehicle franchisor's labor time guide to establish the motor
44 vehicle franchisee's average retail labor time allowance. The
45 average retail labor time allowance so declared shall go into effect
46 30 days following the declaration subject to audit by the motor
47 vehicle franchisor only of the sample submitted by the motor
48 vehicle franchisee. Any proposed adjustment of the average labor

1 time allowance made by the motor vehicle franchisor shall be based
2 only on an audit of that sample.

3 Upon payment of a claim for labor services under this section by
4 the motor vehicle franchisor to the motor vehicle franchisee, the
5 motor vehicle franchisee shall compensate its factory-certified flat
6 rate technicians performing work on a warranty, an extended
7 warranty, a maintenance plan, a service-related plan, a recall, or
8 other work that is also offered and reimbursed by the motor vehicle
9 franchisor;

10 n. a motor vehicle franchisee shall not request a change in the
11 average percentage parts markup, labor time allowance, or retail
12 labor rate more than twice in one calendar year;

13 o. a motor vehicle franchisor shall not recover its costs, except
14 as provided in this section, from a motor vehicle franchisee within
15 this State, including, but not limited to, an increase in the wholesale
16 price of a vehicle or a surcharge imposed on a motor vehicle
17 franchisee solely, which increase is intended to recover the cost of
18 reimbursing a motor vehicle franchisee for parts and service
19 pursuant to this section. However, a motor vehicle franchisor shall
20 not be prohibited from increasing prices for vehicles or parts in the
21 normal course of business;

22 p. a motor vehicle franchisor shall not charge back any claim
23 paid for labor services and parts provided in the performance of a
24 warranty, an extended warranty, a maintenance plan, a service-
25 related plan, a recall, or other work that is also offered and
26 reimbursed by the motor vehicle franchisor for an incentive, bonus,
27 sales, performance, or other program without providing written
28 notice to the motor vehicle franchisee within 30 days from the
29 audit, which explains in detail the basis for each of the proposed
30 chargebacks and the methodology by which the franchisee was
31 selected for audit or review. After all internal dispute resolution
32 processes provided through the motor vehicle franchisor have been
33 resolved, the motor vehicle franchisor shall provide final notice to
34 the motor vehicle franchisee of the final amount of the proposed
35 chargeback. If the motor vehicle franchisee or its representative
36 institutes an administrative or judicial action for a violation of the
37 “Franchise Practices Act,” P.L.1971, c.356 (C.56:10-1 et seq.),
38 challenging the chargeback within 30 days of the receipt of the final
39 notice, the total proposed chargeback amounts shall be stayed,
40 without bond, until the final judgment has been rendered in the
41 action. A motor vehicle franchisor shall not deny or charge back a
42 claim paid for labor services and parts provided in the performance
43 of an open recall, warranty, or other service agreement or for an
44 incentive, bonus, sales, performance, or other program unless the
45 motor vehicle franchisor satisfies its burden of proof that the motor
46 vehicle franchisee did not make a good faith effort to comply with
47 the reasonable written procedures of the motor vehicle franchisor,
48 that the motor vehicle franchisee did not actually perform the work,

1 or that the claim was materially false or fraudulent. A motor
2 vehicle franchisor shall not deny or charge back a claim due to an
3 administrative or scrivener's error in the submission of the claim;
4 and
5 q. a motor vehicle franchisor shall not unilaterally reduce or
6 otherwise manipulate the price of parts required for a warranty, an
7 extended warranty, a maintenance plan, a service-related plan, a
8 recall, or other work that is also offered and reimbursed by the
9 motor vehicle franchisor in a manner that unfairly and unilaterally
10 allows the motor vehicle franchisor to reduce the level of
11 compensation paid to motor vehicle franchisees, including changes
12 to price within 60 or fewer days preceding an announcement of a
13 recall, any time after a recall, or after a warranty claim has arisen.
14 A motor vehicle franchisor shall not manipulate the price of parts
15 required for warranty or open recall services by creating a new or
16 additional part number for the same part used in warranty or recall
17 repair in a manner that unfairly and unilaterally allows the motor
18 vehicle franchisor to reduce the level of compensation paid to motor
19 vehicle franchisees for warranty and open recall services that the
20 motor vehicle franchisees provide to consumers.
21 (cf: P.L.2011, c.66, s.5)
22

23 8. This act shall take effect on the first day of the **¹['fourth]**
24 **seventh**¹ month following enactment and shall apply to motor
25 vehicle franchise agreements in effect on or after the effective date
26 of P.L. , c. (C.) (pending before the Legislature as this bill)
27 but shall not apply retroactively to any cause of action that shall
28 have arisen prior to the effective date of P.L. , c. (C.)
29 (pending before the Legislature as this bill).