

# Senate Bill 980

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires motor vehicle manufacturers, distributors and importers to reimburse dealers for service related to vehicle recall at same rate as warranty work. Specifies that if dealer is subject to prohibition on selling or driving motor vehicle that is subject to recall and manufacturer, distributor or importer does not have remedy for defect that led to recall or parts to remedy defect, manufacturer, distributor or importer must compensate dealer at specified rate for time during which remedy or parts are not available and motor vehicle remains subject to prohibition.

Prohibits manufacturer, distributor or importer from recovering costs from dealer's claim for service in connection with vehicle recall by reducing payments from incentive program or removing dealer from incentive program or other means.

Requires dealer to disclose in writing to person that purchases used motor vehicle all manufacturer recalls to which used motor vehicle remains subject for defects that have not been remedied. Provides that dealer may make disclosure by printing and providing to person report for used motor vehicle from federal governmental database that lists by vehicle identification number motor vehicles that are subject to manufacturer's recall.

## A BILL FOR AN ACT

1  
2 Relating to service in connection with recalled motor vehicles; creating new provisions; and  
3 amending ORS 650.158.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 650.158 is amended to read:

6 650.158. (1) Each manufacturer, distributor or importer shall specify in writing to each of the  
7 manufacturer's, distributor's or importer's dealers in this state:

8 (a) The dealer's obligations for predelivery preparation and warranty service on the  
9 manufacturer's, distributor's or importer's motor vehicles;

10 (b) The schedule of compensation the manufacturer, distributor or importer will pay the dealer  
11 for parts, work and service in connection with predelivery preparation and warranty service; and

12 (c) The time allowances for performing predelivery preparation and warranty service.

13 (2)(a) A schedule of compensation must include reasonable compensation for diagnostic work,  
14 repair service and labor. Time allowances for diagnosing and performing predelivery and warranty  
15 service must be reasonable and adequate for the work to be performed. A manufacturer, distributor  
16 or importer may not pay an hourly rate to a dealer that is less than the rate the dealer charges  
17 nonwarranty customers for nonwarranty service and repairs. Reimbursement for parts, other than  
18 parts used to repair the living facilities of motor homes, that the dealer purchases for use in per-  
19 forming predelivery and warranty service must be the amount the dealer charges nonwarranty cus-  
20 tomers, as long as the amount is not unreasonable.

21 (b)(A) For purposes of this subsection and subject to subparagraphs (B) and (C) of this para-  
22 graph, to determine compensation under this subsection, a dealer shall propose an hourly rate and  
23 an amount for parts that the dealer charges nonwarranty customers by submitting to the manufac-  
24 turer, distributor or importer copies of 100 sequential nonwarranty service repair invoices that

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 customers paid or 90 consecutive days' worth of nonwarranty service invoices that customers paid,  
2 whichever is less, for repairs the dealer made not more than 180 days before the dealer's submission.  
3 If the manufacturer, distributor or importer does not contest the dealer's proposal and the dealer  
4 otherwise complies with the provisions of this paragraph, the dealer's proposal is presumed to be  
5 fair and reasonable.

6 (B) A manufacturer, distributor or importer may contest the dealer's proposal with evidence that  
7 the dealer's proposal is not accurate or on the basis that the dealer's proposal does not reasonably  
8 conform with the hourly rate or the amount for parts that other dealers charge nonwarranty cus-  
9 tomers in the same line-make in market areas that are contiguous to the dealer's market area or  
10 with other relevant evidence. In contesting a dealer's proposal based on evidence from other dealers  
11 in the contiguous market area, a manufacturer, distributor or importer shall rely on evidence from  
12 at least three other dealers in the contiguous market area or three dealers in an economically sim-  
13 ilar market within the manufacturer's, distributor's or importer's region.

14 (C) A dealer may not include in the dealer's proposal:

15 (i) Repairs for a manufacturer's, distributor's or importer's specials, special events or promo-  
16 tional discounts for retail customer repairs;

17 (ii) Parts sold at wholesale;

18 (iii) Routine maintenance that a retail customer warranty does not cover, such as fluids, filters  
19 and belts that a dealer uses in performing work other than repairs;

20 (iv) Nuts, bolts, fasteners and similar items that do not have an individual part number; and

21 (v) Vehicle reconditioning.

22 (c) The hourly rate or the amount for parts that a dealer charges nonwarranty customers that  
23 the dealer proposes under paragraph (b)(A) of this subsection becomes effective 30 days after the  
24 manufacturer, distributor or importer approves the hourly rate or the amount for parts. For pur-  
25 poses of this paragraph, a manufacturer, distributor or importer approves the dealer's proposal if the  
26 manufacturer, distributor or importer does not contest the proposed hourly rate or amount for parts  
27 within 30 days after the dealer submits the proposal.

28 (d) If a manufacturer, distributor or importer contests a dealer's proposal, the manufacturer,  
29 distributor or importer shall propose an adjustment to the dealer's proposal not later than 30 days  
30 after the dealer submits the dealer's proposal.

31 (e) Once per year, a manufacturer, distributor or importer may verify the dealer's hourly rate  
32 or the amount for parts the dealer charges nonwarranty customers. If the manufacturer, distributor  
33 or importer finds that the dealer's hourly rate or the amount for parts has decreased, the manufac-  
34 turer, distributor or importer may reduce the dealer's compensation under this subsection  
35 prospectively.

36 (3)(a) A manufacturer, distributor or importer shall include, in written notices of vehicle recalls  
37 to motor vehicle owners and dealers, the expected date by which necessary parts and equipment  
38 will be available to the dealers to correct the defect or defects. A manufacturer, distributor or  
39 importer shall *[adequately]* compensate a dealer for repair service the dealer performs under the  
40 recall **in accordance with the compensation standards specified in subsection (2) of this sec-**  
41 **tion.**

42 (b)(A) **If a manufacturer, distributor or importer has prohibited a dealer from selling or**  
43 **driving a motor vehicle that is subject to a recall and the manufacturer, distributor or**  
44 **importer does not have a remedy for the defect that led to the recall or parts to remedy the**  
45 **defect, the manufacturer, distributor or importer shall compensate the dealer at the rate of**

1 at least 2.43 percent of the motor vehicle's value during each month or portion of each  
 2 month during which the remedy or the parts are not available and the motor vehicle remains  
 3 subject to the manufacturer's, distributor's or importer's prohibition on selling or driving  
 4 the motor vehicle.

5 (B) For purposes of determining a vehicle's value under subparagraph (A) of this para-  
 6 graph, the manufacturer, distributor or importer shall use the average retail value for the  
 7 motor vehicle's make and model and mileage, as shown in a nationally recognized and dis-  
 8 tributed appraisal guide for motor vehicles.

9 (c) The requirement to compensate a dealer for service in connection with a vehicle re-  
 10 call under this subsection applies only to:

11 (A) Used motor vehicles that are subject to a vehicle recall under federal law or regu-  
 12 lations to remedy defects in vehicle safety or emissions or that are subject to a  
 13 manufacturer's, distributor's or importer's prohibition on selling or driving the motor vehi-  
 14 cle; and

15 (B) Manufacturers, distributors or importers that have authorized the dealer as a  
 16 franchisee for the line-make of motor vehicles that is subject to the vehicle recall.

17 (4) A manufacturer, distributor or importer shall:

18 (a) Pay or credit a dealer for labor or parts, **or compensation under subsection (3)(b) of this**  
 19 **section, that** the dealer claims under this section within 30 days after approving the dealer's claim;

20 (b) Approve or disapprove, in the manner the manufacturer, distributor or importer specifies,  
 21 all claims **under this section** that a dealer makes for labor or parts within 30 days after receiving  
 22 the claim;

23 (c) Treat as approved any claim that a manufacturer, distributor or importer did not approve  
 24 or disapprove within 30 days after the manufacturer, distributor or importer received the claim and  
 25 pay or credit the dealer for the claim within 60 days after receiving the claim; and

26 (d) Notify the dealer in writing of the manufacturer's, distributor's or importer's grounds for  
 27 disapproving a claim.

28 (5) A manufacturer, distributor or importer may not:

29 (a) Recover all or a portion of cost of compensating a dealer for warranty parts or service **or**  
 30 **service in connection with a vehicle recall** by reducing the amount due a dealer or by imposing  
 31 a separate charge, surcharge, administrative fee or other fee.

32 (b) **Reduce amounts due to a dealer under an incentive program or remove the dealer**  
 33 **from an incentive program as a means of recovering all or a portion of the cost of a dealer's**  
 34 **claim for reimbursement for warranty service or service in connection with a vehicle recall.**

35 (c) **Otherwise recover from a dealer compensation that a manufacturer, distributor or**  
 36 **importer owes or has paid to the dealer in connection with the dealer's claim for re-**  
 37 **imbursement for warranty service or service in connection with a vehicle recall.**

38 [(b)] (d) Deny or charge back a dealer's claim solely because a dealer failed to comply with a  
 39 specific claim processing procedure because of a clerical or administrative error that does not affect  
 40 the legitimacy of the dealer's claim, if the dealer resubmits the claim in compliance with the  
 41 manufacturer's, distributor's or importer's claim processing procedure within 45 days after the  
 42 manufacturer, distributor or importer initially denies or charges back the claim.

43 **SECTION 2. (1) A motor vehicle dealer shall disclose in writing to a person that pur-**  
 44 **chases a used motor vehicle all manufacturer recalls to which the used motor vehicle re-**  
 45 **remains subject for defects that have not been remedied.**

1       **(2) A dealer may make the disclosure required under subsection (1) of this section by**  
2 **printing and providing to the person a report for the used motor vehicle from a federal**  
3 **governmental database that lists by vehicle identification number motor vehicles that are**  
4 **subject to a manufacturer's recall.**

5

---