



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0099/1
EVM:cdc

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 304**

October 7, 2019 - Offered by Senators BERNIER and FITZGERALD.

1 **AN ACT** *to amend* 218.0125 (3m) (a), 218.0125 (3m) (b), 218.0125 (3m) (c) 1. and
2 218.0125 (5); and *to create* 218.0125 (8) of the statutes; **relating to:**
3 compensation of motor vehicle dealers by manufacturers, importers, or
4 distributors for certain service work.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 218.0125 (3m) (a) of the statutes is amended to read:
6 218.0125 (**3m**) (a) Subject to sub. (4m), a manufacturer, importer, or
7 distributor, except a manufacturer, importer, or distributor of motorcycles with
8 respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles,
9 shall reasonably compensate a dealer who performs work to rectify the product or
10 ~~warranty defects of~~ under a warranty or recall issued by the manufacturer, importer,
11 or distributor ~~or to satisfy delivery and preparation obligations of the manufacturer,~~

1 ~~importer, or distributor~~ or who performs any other repair work required, requested,
2 or approved by the manufacturer, importer, or distributor ~~or~~ for which the
3 manufacturer, importer, or distributor has agreed to pay.

4 **SECTION 2.** 218.0125 (3m) (b) of the statutes is amended to read:

5 218.0125 **(3m)** (b) Reasonable compensation under par. (a) for labor is equal
6 to the dealer's effective nonwarranty labor rate multiplied by the number of hours
7 allowed for the repair under the manufacturer's, importer's, or distributor's time
8 allowances used in compensating the dealer for warranty work. A dealer may
9 request that the time allowance for work on a specific vehicle include an additional
10 amount of time for diagnostic or repair work performed on the vehicle. The request
11 shall be made in the manner and with all the documentation and information
12 reasonably required by the manufacturer, importer, or distributor. A request for an
13 additional amount of time allowance under this paragraph may not be unreasonably
14 denied by the manufacturer, importer, or distributor. Reasonable compensation
15 under par. (a) for parts is equal to the dealer's cost for the parts multiplied by the
16 dealer's average percentage markup over dealer cost for parts.

17 **SECTION 3.** 218.0125 (3m) (c) 1. of the statutes is amended to read:

18 218.0125 **(3m)** (c) 1. The effective nonwarranty labor rate is determined, using
19 the submitted substantiating orders under sub. (4m) (a) 2., by dividing the total
20 customer labor charges for qualifying nonwarranty repairs in the repair orders by
21 the total number of hours that ~~would be allowed for the repairs if the repairs were~~
22 ~~made under the manufacturer's, importer's, or distributor's time allowances used in~~
23 ~~compensating the dealer for warranty work generated the total customer labor~~
24 charges as indicated in the repair orders.

25 **SECTION 4.** 218.0125 (5) of the statutes is amended to read:

1 218.0125 (5) A manufacturer, importer, or distributor who fails to compensate
2 a dealer for parts or labor at an amount not less than the amount the dealer charges
3 its other retail service customers for parts or labor used to perform similar work shall
4 not be found to have violated this section if the manufacturer, importer, or distributor
5 shows that, for a manufacturer, importer, or distributor of motorcycles with respect
6 to a dealer of the manufacturer's, importer's, or distributor's motorcycles, the
7 amount is not reasonably competitive to the amounts charged to retail service
8 customers by other similarly situated franchised motor vehicle dealers in this state
9 for the same parts or labor when used by those dealers to perform similar work or,
10 for any other manufacturer, importer, or distributor, the amount is not reasonably
11 competitive to the amounts charged to retail service customers by other similarly
12 situated franchised motor vehicle dealers in this state in performing qualifying
13 nonwarranty repairs.

14 **SECTION 5.** 218.0125 (8) of the statutes is created to read:

15 218.0125 (8) A manufacturer, importer, or distributor may not assess any
16 penalty, fee, or surcharge against an individual dealer for the purpose of recovering
17 costs associated with compensating the dealer under this section. This subsection
18 does not prohibit a manufacturer, importer, or distributor from increasing the price
19 charged for goods or services in the ordinary course of business.

20 **(END)**