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	SENATE:	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes

Larry Higgs - For South Jersey Times, 'New law adds protections for vehicle owners and dealers in recalls A new statelaw signed by Gov. Murphy extends additional protection for drivers who own a recalled vehicle.', *South Jersey Times*(online), 13 Sep 2025 002 <<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/1A314A3414957090>>

Larry Higgs - For The Star-Ledger, 'When your car gets recalled, a new state law adds protection for drivers', *Star-Ledger, The* (online), 13 Sep 2025 007 <<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/1A314CC1B9613968>>

Matthew Fazelpoor, 'Murphy signs NJ auto recall law boosting dealer pay, safety', *NJBIZ* (online), 12 Sep 2025<<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/1A32E9ED61B43838>>

Larry Higgs, 'When your car gets recalled, a new N.J. state law adds protection for drivers - A new state law signed byGov. Phil Murphy extends additional protection for drivers who own a recalled vehicle and additional responsibilitiesfor car dealers and manufacturers.', *Star-Ledger, The: Web Edition Articles* (online), 11 Sep 2025<<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/1A30F46D1FEA5960>>

§§1-4
C.56:10-32
to 56:10-35
§1
Note to §5
§5
C.39:3-4g
§8
Note

P.L. 2025, CHAPTER 140, *approved September 11, 2025*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 3309

CORRECTED COPY

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]** ⁵ 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.

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

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

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

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

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

15 “Open recall” means a recall that has not been corrected or
16 addressed.

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

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

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

33 ¹**“Time of sale” means the period of time when the buyer**
34 **executes a retail order form for the purchase, or lease agreement for**
35 **the lease, of a used motor vehicle.**¹

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

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

40
41 3. (New section) Any corporation or association that is
42 primarily owned by or comprised of motor vehicle franchisees,
43 which corporation or association primarily represents the interests
44 of motor vehicle franchisees, shall have standing to ¹**“file an**
45 **administrative petition, or to”**¹ bring an action before any court of
46 competent jurisdiction, for itself or by, for, or on behalf of any
47 motor vehicle franchisee or group of motor vehicle franchisees for

1 any violation of the “Franchise Practices Act,” P.L.1971, c.356
2 (C.56:10-1 et seq.), as amended and supplemented, which violation
3 was allegedly conducted by a motor vehicle franchisor with motor
4 vehicle franchisees, if:

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

7 b. the interests that the ¹‘[administrative petition or]’ action
8 seeks to protect are germane to the corporation’s or association’s
9 purpose; and

10 c. neither the claim asserted nor the relief requested requires
11 any individual members of the corporation or association to
12 participate in the ¹‘[administrative petition or]’ action.

13

14 4. (New section) a. If a part or the parts necessary to perform a
15 recall service are not reasonably available to perform a recall
16 service or repair on a used motor vehicle held for sale by a motor
17 vehicle franchisee authorized to sell and service new motor vehicles
18 of the same line-make within 30 days of the motor vehicle
19 franchisor issuing the initial recall notice, and the motor vehicle
20 franchisor has issued a stop-sale notice or do-not-drive notice on the
21 motor vehicle, the motor vehicle franchisor shall compensate the
22 motor vehicle franchisee at a prorated rate of at least 1.5 percent of
23 the value of the used motor vehicle per month beginning 30 days
24 after the motor vehicle franchisor issued the stop-sale notice or do-
25 not-drive notice to the motor vehicle franchisee until the earlier of
26 either:

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

29 (2) the date that the motor vehicle ¹‘[franchisor] franchisee’
30 sells, trades, or otherwise disposes of a used motor vehicle that is
31 subject to a stop-sale notice or do-not-drive notice.

32 b. The value of a used motor vehicle shall be the average trade-
33 in value for used motor vehicles as indicated in an independent
34 third-party guide for the year, make, and model of the recalled
35 motor vehicle.

36 c. Subject to the provisions of section 3 of P.L.1977, c.84
37 (C.56:10-15), it shall be a violation of this section for a motor
38 vehicle franchisor to reduce the amount of compensation otherwise
39 owed to a motor vehicle franchisee through a chargeback, the
40 removal of the motor vehicle franchisee from an incentive program,
41 or a reduction in the amount owed under an incentive program
42 because the motor vehicle franchisee has submitted a claim for
43 reimbursement pursuant to this section. Nothing in this subsection
44 shall prohibit a motor vehicle franchisor from discontinuing an
45 incentive program.

46 d. All reimbursement claims made by motor vehicle
47 franchisees pursuant to this section for recall remedies or repairs, or
48 for compensation where no part or repair is reasonably available

1 and the motor vehicle is subject to a stop-sale notice or do-not-drive
2 notice, shall be subject to the same limitations and requirements as
3 a warranty reimbursement claim made under section 3 of P.L.1977,
4 c.84 (C.56:10-15). As an alternative, a motor vehicle franchisor
5 may compensate its motor vehicle franchisees under a national
6 recall compensation program, provided that:

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

9 (2) the motor vehicle franchisor and motor vehicle franchisee
10 otherwise agree.

11 e. A motor vehicle franchisor may direct the manner and
12 method in which a motor vehicle franchisee is required to
13 demonstrate the inventory status of an affected used motor vehicle
14 to determine eligibility under this section. However, the manner
15 and method shall not be unduly burdensome and shall not require
16 information that is unduly burdensome to provide.

17 f. Nothing in this section shall require a motor vehicle
18 franchisor to provide total compensation to a motor vehicle
19 franchisee, which compensation would exceed the total average
20 trade-in value of the affected used motor vehicle as originally
21 determined pursuant to subsection b. of this section.

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

25

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

27 “Chief administrator” means the Chief Administrator of the New
28 Jersey Motor Vehicle Commission.

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

34 “Manufacturer” means an entity engaged in the business of
35 making or assembling new motor vehicles and that manufactures or
36 assembles at least 10 new motor vehicles per year under normal
37 business conditions.

38 “Open recall” means a safety-related recall that requires:
39 notification by a manufacturer pursuant to 49 U.S.C. s.30118 or 49
40 U.S.C. s.30119 and a repair or modification to a motor vehicle by
41 an authorized dealer] , “chief administrator,” “commission,”
42 “manufacturer,” “new motor vehicle dealer,” “open recall,” and
43 “recall” have the same meaning as those terms are defined in
44 section 2 of P.L. , c. (C.) (pending before the Legislature
45 as this bill)¹.

46 b. When issuing a motor vehicle registration or registration
47 renewal notice, the commission shall also issue an open recall
48 notice to inform a motor vehicle owner that the National Highway

1 Traffic Safety Administration maintains a recall database through
2 which motor vehicle owners can determine whether a motor vehicle
3 is subject to an open recall. The open recall notice shall also
4 include:

5 (1) a link to the Internet website through which a motor vehicle
6 owner can access the National Highway Traffic Safety
7 Administration's recall database; and

8 (2) a statement indicating that each open recall may be repaired
9 by a 'new motor vehicle' dealer approved by the manufacturer of
10 the motor vehicle at no cost to the owner of the motor vehicle,
11 except as provided pursuant to 49 U.S.C. s.30120.

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

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

20 d. In the event that any funding sources acquired pursuant to
21 subsection c. of this section do not cover the commission's costs to
22 implement the provisions of this section, the chief administrator
23 may require each manufacturer that conducts business in the State
24 to pay a fee to the commission, except that the total fees collected
25 shall not exceed the actual costs incurred by the commission each
26 year to implement the provisions of this section. The amount of the
27 fee shall be determined by the chief administrator each year based
28 on documentation of the actual costs incurred by the commission to
29 implement the provisions of this section, which documentation shall
30 be published annually on the commission's Internet website and
31 provided directly to each manufacturer that conducts business in the
32 State.

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

38 f. Nothing in this section shall alter the liability under common
39 law of a manufacturer or 'a new motor vehicle' dealer approved by
40 the manufacturer to repair an open recall.

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

44
45 6. Section 1 of P.L.1989, c.24 (C.56:10-7.2) is amended to read
46 as follows:

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

- 1 a. Notwithstanding the enactment of the "Franchise Practices
2 Act," P.L.1971, c.356 (C.56:10-1 et seq.), and other legislation
3 dealing with the franchisor-franchisee relationship, including, but
4 not limited to, P.L.1982, c.156 (C.56:10-17 et seq.), inequality of
5 bargaining power continues to exist between motor vehicle
6 franchisors and motor vehicle franchisees. This inequality of
7 bargaining power exists even as to motor vehicle franchisees who
8 have had their franchises for many years and who have expended
9 large sums of money in the promotion of their franchises.
- 10 b. This inequality of bargaining power enables motor vehicle
11 franchisors to compel motor vehicle franchisees to execute
12 franchises and related leases and agreements **【which】** that contain
13 terms and conditions that would not routinely be agreed to by the
14 motor vehicle franchisees absent the compulsion and duress
15 **【which】** that arise out of the inequality of bargaining power. These
16 terms and conditions are detrimental to the interests of the motor
17 vehicle franchisees in that they require the motor vehicle
18 franchisees to relinquish their rights **【which】** that have been
19 established by the "Franchise Practices Act" and supplemental
20 legislation and other statutes and laws of this State.
- 21 c. As a result, motor vehicle franchisees have been denied the
22 opportunity to have disputes with their motor vehicle franchisors
23 arising out of the franchisor-franchisee relationship heard in an
24 appropriate venue, convenient to both parties, by tribunals
25 established by statute for the resolution of these disputes. It is
26 therefore necessary and in the public interest to ensure that motor
27 vehicle franchisees voluntarily determine whether to agree to
28 certain terms and conditions contained in franchises and related
29 leases and agreements presented to them by motor vehicle
30 franchisors and under circumstances unaffected by the compulsion
31 **【which】** that arises from the inequality of bargaining power.
- 32 d. The distribution, sale, and service of new motor vehicles in
33 the State of New Jersey vitally affects the general economy of this
34 State, and there is a compelling public interest in providing a
35 system of new motor vehicle franchisees to foster competition and
36 promote motor vehicle and highway safety by ensuring there are
37 qualified facilities to provide independently owned and operated
38 sales, warranty, open recall, and routine service for motor vehicles.
- 39 e. The new motor vehicle franchise system encourages local
40 investment in motor vehicle dealerships, creates jobs and economic
41 activity in virtually every community in this State, and advances the
42 public interest by fostering an extensive network of independent
43 new motor vehicle franchisees who compete for motor vehicle sales
44 and service business, offer ready access to open recall repair service
45 and warranty service, when needed, and provide routine
46 maintenance to ensure motor vehicle and highway safety.
- 47 f. There remains, however, a vast disparity in bargaining
48 power between motor vehicle franchisors and their franchisees,

1 which, if left unchecked, will discourage local investment in the
 2 motor vehicle franchise system and result in fewer new motor
 3 vehicle franchisees, less competition in the motor vehicle
 4 marketplace, and diminished consumer access to qualified motor
 5 vehicle warranty services, open recall repair services, and routine
 6 service facilities.

7 g. Despite prior enactments, many motor vehicle franchisees
 8 have found it either too risky to oppose their supplier or too
 9 burdensome to take on a legal challenge to their motor vehicle
 10 franchisors, who control the exclusive supply of motor vehicles,
 11 parts, and special equipment to motor vehicle franchisees.

12 h. As a result, it is necessary for the Legislature to further
 13 revise the laws pertaining to motor vehicle franchisees to strengthen
 14 and clarify certain provisions of existing law intended to protect the
 15 public from marketplace behavior that has the potential to restrict
 16 competition for sales and threaten highway safety by limiting
 17 consumer access to essential warranty and open recall service
 18 provided by neighborhood dealers of new motor vehicles.

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

20

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

23 3. If any motor vehicle franchise shall require or permit motor
 24 vehicle franchisees to perform labor services or provide parts in
 25 satisfaction of a repair service offered and reimbursed by the motor
 26 vehicle franchisor, including, but not limited to, a warranty **【issued**
 27 **by the motor vehicle franchisor】** , an extended warranty, a
 28 maintenance plan, a service-related plan, or a recall:

29 a. **【The】** the motor vehicle franchisor shall reimburse each
 30 motor vehicle franchisee for such labor services , including
 31 diagnostic work, as are rendered and for such parts as are supplied,
 32 in an amount equal to the prevailing retail price **【charged by such**
 33 **motor vehicle franchisee for such services and parts in**
 34 **circumstances where such services are rendered or such parts**
 35 **supplied other than pursuant to warranty; provided that such motor**
 36 **vehicle franchisee's prevailing retail price is not unreasonable when**
 37 **compared with that of the holders of motor vehicle franchises from**
 38 **the same motor vehicle franchisor for identical merchandise or**
 39 **services in the geographic area in which the motor vehicle**
 40 **franchisee is engaged in business.】** calculated pursuant to
 41 subsections d., e., and j. of this section. The average retail labor
 42 rate, average retail labor time allowance, and parts markup, as
 43 declared by the motor vehicle franchisee, shall become effective 30
 44 days following the declaration subject to audit by the motor vehicle
 45 franchisor only of the sample submitted by the motor vehicle
 46 franchisee. Any proposed adjustment of the average retail labor
 47 rate, the average retail labor time allowance, or the parts markup

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

3 b. **【The】** the motor vehicle franchisor shall not by agreement,
4 by restrictions upon reimbursement, or otherwise **【,】** restrict the
5 nature and extent of labor services to be rendered or parts to be
6 provided so that such restriction prevents the motor vehicle
7 franchisee from satisfying the warranty by rendering labor services
8 in a good and workmanlike manner and providing parts **【which】**
9 that are required in accordance with generally accepted standards.
10 Any such restriction shall constitute a prohibited practice hereunder
11 **【.】**;

12 c. **【The】** the motor vehicle franchisor shall reimburse the
13 motor vehicle franchisee pursuant to subsection a. of this section,
14 without deduction, for labor services performed on, and parts
15 supplied for, a motor vehicle by the motor vehicle franchisee in
16 good faith and in accordance with generally accepted standards,
17 notwithstanding any requirement that the motor vehicle franchisor
18 accept the return of the motor vehicle or make payment to a
19 consumer with respect to the motor vehicle pursuant to the
20 provisions of P.L.1988, c.123 (C.56:12-29 et seq.) **【.】**;

21 d. **【For】** for the purposes of this section, the "prevailing retail
22 price" charged by: (1) a motor vehicle franchisee for parts means
23 the price paid by the motor vehicle franchisee for those parts,
24 including all shipping and other charges, multiplied by the sum of
25 1.0 and the franchisee's average percentage parts markup over the
26 price paid by the motor vehicle franchisee for parts purchased by
27 the motor vehicle franchisee from the motor vehicle franchisor and
28 sold at retail. The motor vehicle franchisee may establish average
29 percentage parts markup under this section by submitting to the
30 motor vehicle franchisor 100 sequential customer paid service
31 repair orders or 90 days of customer paid service repair orders,
32 whichever is less, covering repairs made no more than 180 days
33 before the submission, and declaring **【what】** the average percentage
34 parts markup **【is】**. The average percentage parts markup so
35 declared shall go into effect 30 days following the declaration
36 subject to audit **【of the submitted repair orders by the motor vehicle**
37 **franchisor and adjustment of the average percentage markup based**
38 **on that audit. Only retail sales not involving warranty repairs, parts**
39 **covered by subsection e. of this section, or parts supplied for**
40 **routine vehicle maintenance, shall be considered in calculating**
41 **average percentage markup. No motor vehicle franchisor shall**
42 **require a motor vehicle franchisee to establish average percentage**
43 **markup by a methodology, or by requiring information, that is**
44 **unduly burdensome or time consuming to provide, including, but**
45 **not limited to, part by part or transaction by transaction**
46 **calculations】** by the motor vehicle franchisor only of the sample
47 submitted by the motor vehicle franchisee. Any proposed

1 adjustment of the average parts markup by the motor vehicle
 2 franchisor shall be based only on an audit of that sample. A motor
 3 vehicle franchisee shall not request a change in the average
 4 percentage parts markup more than twice in one calendar year; and
 5 (2) a recreational motor vehicle franchisee for parts means actual
 6 wholesale cost, plus a minimum **【30%】** 30 percent handling charge
 7 and any freight costs incurred to return the removed parts to the
 8 motor vehicle franchisor **【.】** ;

9 e. **【If】** (1) if a motor vehicle franchisor supplies , or causes to
 10 be supplied, a part or parts for use in a repair rendered under a
 11 warranty **【other than by sale of that part or parts to the motor**
 12 **vehicle franchisee, the motor vehicle franchisee shall be entitled to**
 13 **compensation equivalent to the motor vehicle franchisee's average**
 14 **percentage markup on the part or parts, as if the part or parts had**
 15 **been sold to the motor vehicle franchisee by the motor vehicle**
 16 **franchisor.】** , an extended warranty, a maintenance plan, a service-
 17 related plan, a recall, or other work that is also offered and
 18 reimbursed by the motor vehicle franchisor, at no cost or at a
 19 reduced cost for use in performing the repair work, the franchisor
 20 shall compensate the motor vehicle franchisee in the same manner
 21 as the motor vehicle franchisor compensates the motor vehicle
 22 franchisee under this section by paying the motor vehicle franchisee
 23 for the franchisee's cost of the part, if any, plus an amount equal to
 24 the franchisee's parts markup multiplied by the wholesale value of
 25 the part. The wholesale value of the part shall be the greater of:

26 (a) the amount the motor vehicle franchisee paid for the part or
 27 a substantially identical part;

28 (b) the cost of the part in a current or prior established price
 29 schedule issued by the motor vehicle franchisor or issued by a third
 30 party that has previously supplied the part to the motor vehicle
 31 franchisee;

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

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

36 (2) The requirements of this section shall not apply to electric
 37 propulsion batteries, entire engine assemblies, and entire
 38 transmission assemblies. In the case of those **【assemblies】** parts,
 39 the motor vehicle franchisor shall reimburse the motor vehicle
 40 franchisee in the amount of **【30%】** 30 percent of what the motor
 41 vehicle franchisee would have paid the motor vehicle franchisor for
 42 the **【assembly】** part if the **【assembly】** part had not been supplied by
 43 the franchisor other than by the sale of that **【assembly】** part to the
 44 motor vehicle franchisee **【.】** ;

45 f. **【The】** the motor vehicle franchisor shall reimburse the
 46 motor vehicle franchisee for parts supplied and labor services
 47 rendered under a warranty, an extended warranty, a maintenance

1 plan, or a service-related plan offered by the motor vehicle
2 franchisor within 30 days after approval of a claim for
3 reimbursement. All claims for reimbursement shall be approved or
4 disapproved within 30 days after receipt of the claim by the motor
5 vehicle franchisor. When a claim is disapproved, the motor vehicle
6 franchisee shall be notified in writing of the grounds for the
7 disapproval. No claim that has been approved and paid shall be
8 charged back to the motor vehicle franchisee unless it can be shown
9 that the claim was false or fraudulent, that the labor services were
10 not properly performed, that the parts or labor services were
11 unnecessary to correct the defective condition, or that the motor
12 vehicle franchisee failed to reasonably substantiate the claim in
13 accordance with reasonable written requirements of the motor
14 vehicle franchisor, provided that the motor vehicle franchisee had
15 been notified of the requirements prior to the time the claim arose
16 and the requirements were in effect at the time the claim arose. A
17 motor vehicle franchisor shall not audit a claim after the expiration
18 of 12 months following the payment of the claim unless the motor
19 vehicle franchisor has reasonable grounds to believe that the claim
20 was fraudulent **【.】** ;

21 g. **【The】** the obligations imposed on motor vehicle franchisors
22 by this section shall apply to any parent, subsidiary, affiliate,
23 agent of the motor vehicle franchisor, any person under common
24 ownership or control, any employee of the motor vehicle franchisor
25 and any person holding **【1%】** one percent or more of the shares of
26 any class of securities or other ownership interest in the motor
27 vehicle franchisor, if a warranty or service or repair plan is issued
28 by that person instead of or in addition to one issued by the motor
29 vehicle franchisor **【.】** ;

30 h. **【The】** the provisions of this section shall also apply to motor
31 vehicle franchisor administered service and repair plans:

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

34 (2) if the motor vehicle franchisee is paid its prevailing retail
35 price for all service or repair plans that the motor vehicle franchisee
36 offers for sale to purchasers of new motor vehicles; **【or】**

37 (3) for the first 36,000 miles of coverage under the motor
38 vehicle franchisor administered service or repair plan, if the
39 warranty offered by the motor vehicle franchisor on the motor
40 vehicle provides coverage for less than 36,000 miles; or

41 (4) for motor vehicles covered by a motor vehicle franchisor
42 administered service or repair plan, if the motor vehicle franchisee
43 does not offer for sale the motor vehicle franchisor administered
44 service or repair plan.

45 With respect to motor vehicle franchisor administered service or
46 repair plans covering only routine maintenance service, this section

- 1 applies only to those plans sold to customers on or after the
2 effective date of P.L.1999, c.45 **[.]** ;
- 3 i. **[A]** a motor vehicle franchisor shall make payment to a
4 motor vehicle franchisee pursuant to incentive, bonus, sales,
5 performance, or other programs within 30 days after receipt of a
6 claim from the motor vehicle franchisee. When a claim is
7 disapproved, the motor vehicle franchisee shall be notified in
8 writing of the grounds for disapproval. No claim shall be
9 disapproved unless it can be shown that the claim was false or
10 fraudulent, or that the motor vehicle franchisee failed to reasonably
11 substantiate the claim in accordance with reasonable written
12 requirements of the motor vehicle franchisor, provided that the
13 motor vehicle franchisee had been notified of the requirements prior
14 to the time the claim arose and the requirements were in effect at
15 the time the claim arose. A motor vehicle franchisor shall not audit
16 a claim after the expiration of 12 months following the payment of
17 the claim **[.]** ;
- 18 j. (1) a calculation of the retail rate customarily charged by the
19 dealer for parts markup shall not include the following:
- 20 (a) discounts for retail customer repairs or special or promotional
21 events offered by a manufacturer, manufacturer branch, distributor,
22 or distributor branch;
- 23 (b) parts sold or repairs performed at wholesale;
- 24 (c) routine maintenance, including, but not limited to, the
25 replacement of brakes, bulbs, fluids, filters, batteries, and belts that
26 are not provided in the course of or related to a repair;
- 27 (d) items that do not have individual part numbers, including, but
28 not limited to, nuts, bolts, and fasteners;
- 29 (e) vehicle reconditioning;
- 30 (f) accessories;
- 31 (g) repairs of conditions caused by a collision, a road hazard,
32 natural forces, vandalism, theft, or negligent or deliberate damage
33 by an owner, operator, or third party;
- 34 (h) parts sold or repairs performed for insurance carriers;
- 35 (i) vehicle emission inspections required by law;
- 36 (j) manufacturer-approved goodwill or policy repairs or
37 replacements;
- 38 (k) repairs for a government agency or a service contract
39 provider employed as an agent of a government agency;
- 40 (l) repairs with aftermarket parts when calculating a retail parts
41 rate, not when calculating a retail labor rate;
- 42 (m) repairs on aftermarket parts;
- 43 (n) replacement of tires or work on tires, including wheel
44 alignments or tire rotations; or
- 45 (o) repairs of motor vehicles owned by the franchisee or an
46 employee of a franchisee at the time of the repair;

- 1 (2) a calculation of the retail labor time allowance customarily
2 charged by the dealer for customer paid repairs shall not include the
3 following:
- 4 (a) discounts for retail customer repairs or special or promotional
5 events offered by a manufacturer, manufacturer branch, distributor,
6 or distributor branch;
 - 7 (b) parts sold or repairs performed at wholesale;
 - 8 (c) routine maintenance, including, but not limited to, the
9 replacement of brakes, bulbs, fluids, filters, batteries, and belts that
10 are not provided in the course of or related to a repair;
 - 11 (d) items that do not have individual part numbers, including, but
12 not limited to, nuts, bolts, and fasteners;
 - 13 (e) vehicle reconditioning;
 - 14 (f) accessories;
 - 15 (g) repairs of conditions caused by a collision, a road hazard,
16 natural forces, vandalism, theft, or negligent or deliberate damage
17 by an owner, operator, or third party;
 - 18 (h) parts sold or repairs performed for insurance carriers;
 - 19 (i) vehicle emission inspections required by law;
 - 20 (j) manufacturer-approved goodwill or policy repairs or
21 replacements;
 - 22 (k) repairs for a government agency or a service contract
23 provider employed as an agent of a government agency;
 - 24 (l) repairs with aftermarket parts when calculating a retail parts
25 rate, not when calculating a retail labor rate;
 - 26 (m) repairs on aftermarket parts;
 - 27 (n) replacement of tires or work on tires, including wheel
28 alignments or tire rotations; or
 - 29 (o) repairs of motor vehicles owned by the franchisee or an
30 employee of a franchisee at the time of the repair; and
- 31 (3) a calculation of the retail labor rate customarily charged by
32 the dealer for customer paid repairs shall not include the 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 but 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 the franchisee at the time of the repair;
- 12 k. (1) a motor vehicle franchisor shall not:
- 13 (a) impose unreasonable handling procedures or unreasonable
14 handling charges upon its motor vehicle franchisees for return or
15 disposal of any part, including electric propulsion batteries,
16 dangerous or unexploded air bag units, or seat belt tensioners;
- 17 (b) penalize or charge a motor vehicle franchisee for the return of
18 a defective electric propulsion battery that is returned to the motor
19 vehicle franchisor within 60 days of its removal from a vehicle
20 under warranty service, extended warranty service, a maintenance
21 plan, a service-related plan, a recall, or other work that is also
22 offered and reimbursed by the motor vehicle franchisor; or
- 23 (c) charge a dealer more for a late return than the wholesale price
24 charged to the dealer for the electric propulsion battery.
- 25 (2) A franchisor shall compensate a franchisee for labor time to
26 package and return ship an electric propulsion battery and shall
27 supply the franchisee with appropriate packaging to facilitate the
28 return;
- 29 l. for the purposes of this section, the prevailing retail price for
30 labor shall be the average hourly labor rate charged to retail
31 customers. A motor vehicle franchisee may establish its average
32 labor rate under this section by submitting to the motor vehicle
33 franchisor 100 sequential customer paid service repair orders or 90
34 days of customer paid service repair orders, whichever is less,
35 covering customer paid repairs made no more than 180 days before
36 the submission. The average retail labor rate shall be calculated by
37 multiplying the total labor charges in the sample by 1.0 and
38 dividing that amount by the total number of labor hours in the
39 sample. The average retail labor rate so declared shall go into
40 effect 30 days following the declaration subject to audit by the
41 motor vehicle franchisor only of the sample submitted by the motor
42 vehicle franchisee. Any proposed adjustment of the average retail
43 labor rate made by the motor vehicle franchisor shall be based
44 solely on an audit of that sample;
- 45 m. a motor vehicle franchisor shall provide adequate and fair
46 compensation to each motor vehicle franchisee for labor services
47 rendered for a repair in an amount not less than the amount a retail
48 customer pays for the same labor services with regard to labor time.

1 A motor vehicle franchisee may apply to its motor vehicle
2 franchisor to be reimbursed for labor time according to, at the motor
3 vehicle franchisee's discretion, an established average retail labor
4 time allowance, in lieu of the motor vehicle franchisor's labor time
5 guide for franchisor-paid repairs or service, by submitting to the
6 motor vehicle franchisor the multiplier established by taking the
7 number of hours billed in 100 sequential customer paid service
8 repair orders or 90 days of customer paid service repair orders,
9 whichever is less, covering repairs made no more than 180 days
10 before the submission, and dividing that by the number of hours
11 permitted by the motor vehicle franchisor for any such repairs under
12 the motor vehicle franchisor's labor time guide for franchisor-paid
13 repairs or service. The resulting quotient shall be applied to the
14 motor vehicle franchisor's labor time guide to establish the motor
15 vehicle franchisee's average retail labor time allowance. The
16 average retail labor time allowance so declared shall go into effect
17 30 days following the declaration subject to audit by the motor
18 vehicle franchisor only of the sample submitted by the motor
19 vehicle franchisee. Any proposed adjustment of the average labor
20 time allowance made by the motor vehicle franchisor shall be based
21 only on an audit of that sample.

22 Upon payment of a claim for labor services under this section by
23 the motor vehicle franchisor to the motor vehicle franchisee, the
24 motor vehicle franchisee shall compensate its factory-certified flat
25 rate technicians performing work on a warranty, an extended
26 warranty, a maintenance plan, a service-related plan, a recall, or
27 other work that is also offered and reimbursed by the motor vehicle
28 franchisor;

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

32 o. a motor vehicle franchisor shall not recover its costs, except
33 as provided in this section, from a motor vehicle franchisee within
34 this State, including, but not limited to, an increase in the wholesale
35 price of a vehicle or a surcharge imposed on a motor vehicle
36 franchisee solely, which increase is intended to recover the cost of
37 reimbursing a motor vehicle franchisee for parts and service
38 pursuant to this section. However, a motor vehicle franchisor shall
39 not be prohibited from increasing prices for vehicles or parts in the
40 normal course of business;

41 p. a motor vehicle franchisor shall not charge back any claim paid
42 for labor services and parts provided in the performance of a warranty,
43 an extended warranty, a maintenance plan, a service-related plan, a
44 recall, or other work that is also offered and reimbursed by the motor
45 vehicle franchisor for an incentive, bonus, sales, performance, or other
46 program without providing written notice to the motor vehicle
47 franchisee within 30 days from the audit, which explains in detail the
48 basis for each of the proposed chargebacks and the methodology by

1 which the franchisee was selected for audit or review. After all
2 internal dispute resolution processes provided through the motor
3 vehicle franchisor have been resolved, the motor vehicle franchisor
4 shall provide final notice to the motor vehicle franchisee of the final
5 amount of the proposed chargeback. If the motor vehicle franchisee or
6 its representative institutes an administrative or judicial action for a
7 violation of the “Franchise Practices Act,” P.L.1971, c.356 (C.56:10-1
8 et seq.), challenging the chargeback within 30 days of the receipt of
9 the final notice, the total proposed chargeback amounts shall be stayed,
10 without bond, until the final judgment has been rendered in the action.
11 A motor vehicle franchisor shall not deny or charge back a claim paid
12 for labor services and parts provided in the performance of an open
13 recall, warranty, or other service agreement or for an incentive, bonus,
14 sales, performance, or other program unless the motor vehicle
15 franchisor satisfies its burden of proof that the motor vehicle
16 franchisee did not make a good faith effort to comply with the
17 reasonable written procedures of the motor vehicle franchisor, that the
18 motor vehicle franchisee did not actually perform the work, or that the
19 claim was materially false or fraudulent. A motor vehicle franchisor
20 shall not deny or charge back a claim due to an administrative or
21 scrivener’s error in the submission of the claim; and

22 g. a motor vehicle franchisor shall not unilaterally reduce or
23 otherwise manipulate the price of parts required for a warranty, an
24 extended warranty, a maintenance plan, a service-related plan, a
25 recall, or other work that is also offered and reimbursed by the
26 motor vehicle franchisor in a manner that unfairly and unilaterally
27 allows the motor vehicle franchisor to reduce the level of
28 compensation paid to motor vehicle franchisees, including changes
29 to price within 60 or fewer days preceding an announcement of a
30 recall, any time after a recall, or after a warranty claim has arisen.
31 A motor vehicle franchisor shall not manipulate the price of parts
32 required for warranty or open recall services by creating a new or
33 additional part number for the same part used in warranty or recall
34 repair in a manner that unfairly and unilaterally allows the motor
35 vehicle franchisor to reduce the level of compensation paid to motor
36 vehicle franchisees for warranty and open recall services that the
37 motor vehicle franchisees provide to consumers.

38 (cf: P.L.2011, c.66, s.5)

39
40 8. This act shall take effect on the first day of the **‘[fourth]**
41 **seventh¹** month following enactment and shall apply to motor
42 vehicle franchise agreements in effect on or after the effective date
43 of P.L. , c. (C.) (pending before the Legislature as this bill)
44 but shall not apply retroactively to any cause of action that shall
45 have arisen prior to the effective date of P.L. , c. (C.)
46 (pending before the Legislature as this bill).

1 _____
2
3 Establishes “Motor Vehicle Open Recall Notice and Fair
4 Compensation Act”; revises motor vehicle franchise agreements.

CHAPTER 140

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.56:10-32 Short title.

1. Sections 1 through 5 of P.L.2025, c.140 (C.56:10-32 to 56:10-35 and C.39:3-4g) shall be known and may be cited as the “Motor Vehicle Open Recall Notice and Fair Compensation Act.”

C.56:10-33 Definitions.

2. As used in sections 2 through 5 of P.L.2025, c.140 (C.56:10-33 to 56:10-35 and C.39:3-4g):

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

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

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

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

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

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

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

“New motor vehicle dealer” means the same as that term is defined pursuant to R.S.39:10-2.

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

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

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

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

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

“Used motor vehicle dealer” means the same as that term is defined pursuant to R.S.39:10-2.

C.56:10-34 Standing, motor vehicle franchisees, corporation, association.

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

- a. at least one of the corporation’s or association’s members has independent standing to sue;
- b. the interests that the action seeks to protect are germane to the corporation’s or association’s purpose; and
- c. neither the claim asserted nor the relief requested requires any individual members of the corporation or association to participate in the action.

C.56:10-35 Recall service, repair, insufficient part or parts necessary, compensation.

4. a. If a part or the parts necessary to perform a recall service are not reasonably available to perform a recall service or repair on a used motor vehicle held for sale by a motor vehicle franchisee authorized to sell and service new motor vehicles of the same line-make within 30 days of the motor vehicle franchisor issuing the initial recall notice, and the motor vehicle franchisor has issued a stop-sale notice or do-not-drive notice on the motor vehicle, the motor vehicle franchisor shall compensate the motor vehicle franchisee at a prorated rate of at least 1.5 percent of the value of the used motor vehicle per month beginning 30 days after the motor vehicle franchisor issued the stop-sale notice or do-not-drive notice to the motor vehicle franchisee until the earlier of either:

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

(2) the date that the motor vehicle franchisee sells, trades, or otherwise disposes of a used motor vehicle that is subject to a stop-sale notice or do-not-drive notice.

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

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

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

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

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

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

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

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

C.39:3-4g Open recall notice, recall database, New Jersey Motor Vehicle Commission.

5. a. As used in this section, “chief administrator,” “commission,” “manufacturer,” “new motor vehicle dealer,” “open recall,” and “recall” have the same meaning as those terms are defined in section 2 of P.L.2025, c.140 (C.56:10-33).

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

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

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

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

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

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

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

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

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

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

C.56:10-7.2 Findings, declarations.

1. The Legislature hereby finds and declares the following:

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

b. This inequality of bargaining power enables motor vehicle franchisors to compel motor vehicle franchisees to execute franchises and related leases and agreements that contain terms and conditions that would not routinely be agreed to by the motor vehicle franchisees absent the compulsion and duress that arise out of the inequality of bargaining power. These terms and conditions are detrimental to the interests of the motor vehicle franchisees in that they require the motor vehicle franchisees to relinquish their rights that have been established by the "Franchise Practices Act" and supplemental legislation and other statutes and laws of this State.

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

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

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

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

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

h. As a result, it is necessary for the Legislature to further revise the laws pertaining to motor vehicle franchisees to strengthen and clarify certain provisions of existing law intended

to protect the public from marketplace behavior that has the potential to restrict competition for sales and threaten highway safety by limiting consumer access to essential warranty and open recall service provided by neighborhood dealers of new motor vehicles.

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

C.56:10-15 Reimbursement for services or parts under warranty or law.

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

a. the motor vehicle franchisor shall reimburse each motor vehicle franchisee for such labor services, including diagnostic work, as are rendered and for such parts as are supplied, in an amount equal to the prevailing retail price calculated pursuant to subsections d., e., and j. of this section. The average retail labor rate, average retail labor time allowance, and parts markup, as declared by the motor vehicle franchisee, shall become effective 30 days following the declaration subject to audit by the motor vehicle franchisor only of the sample submitted by the motor vehicle franchisee. Any proposed adjustment of the average retail labor rate, the average retail labor time allowance, or the parts markup made by the motor vehicle franchisor shall be based only on an audit of that sample;

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

c. the motor vehicle franchisor shall reimburse the motor vehicle franchisee pursuant to subsection a. of this section, without deduction, for labor services performed on, and parts supplied for, a motor vehicle by the motor vehicle franchisee in good faith and in accordance with generally accepted standards, notwithstanding any requirement that the motor vehicle franchisor accept the return of the motor vehicle or make payment to a consumer with respect to the motor vehicle pursuant to the provisions of P.L.1988, c.123 (C.56:12-29 et seq.);

d. for the purposes of this section, the "prevailing retail price" charged by: (1) a motor vehicle franchisee for parts means the price paid by the motor vehicle franchisee for those parts, including all shipping and other charges, multiplied by the sum of 1.0 and the franchisee's average percentage parts markup over the price paid by the motor vehicle franchisee for parts purchased by the motor vehicle franchisee from the motor vehicle franchisor and sold at retail. The motor vehicle franchisee may establish average percentage parts markup under this section by submitting to the motor vehicle franchisor 100 sequential customer paid service repair orders or 90 days of customer paid service repair orders, whichever is less, covering repairs made no more than 180 days before the submission, and declaring the average percentage parts markup. The average percentage parts markup so declared shall go into effect 30 days following the declaration subject to audit by the motor vehicle franchisor only of the sample submitted by the motor vehicle franchisee. Any proposed adjustment of the average parts markup by the motor vehicle franchisor shall be based only on an audit of that sample. A motor vehicle franchisee shall not request a change in the average percentage parts markup more than twice in one calendar year; and (2) a recreational motor vehicle franchisee for parts means actual wholesale cost, plus a minimum 30 percent handling

charge and any freight costs incurred to return the removed parts to the motor vehicle franchisor;

e. (1) if a motor vehicle franchisor supplies, or causes to be supplied, a part or parts for use in a repair rendered under a warranty, an extended warranty, a maintenance plan, a service-related plan, a recall, or other work that is also offered and reimbursed by the motor vehicle franchisor, at no cost or at a reduced cost for use in performing the repair work, the franchisor shall compensate the motor vehicle franchisee in the same manner as the motor vehicle franchisor compensates the motor vehicle franchisee under this section by paying the motor vehicle franchisee for the franchisee's cost of the part, if any, plus an amount equal to the franchisee's parts markup multiplied by the wholesale value of the part. The wholesale value of the part shall be the greater of:

- (a) the amount the motor vehicle franchisee paid for the part or a substantially identical part;
- (b) the cost of the part in a current or prior established price schedule issued by the motor vehicle franchisor or issued by a third party that has previously supplied the part to the motor vehicle franchisee;
- (c) the cost of a substantially identical part in a current or prior established price schedule issued by the motor vehicle franchisor or by a third party; or
- (d) the reasonable wholesale price for the part.

(2) The requirements of this section shall not apply to electric propulsion batteries, entire engine assemblies, and entire transmission assemblies. In the case of those parts, the motor vehicle franchisor shall reimburse the motor vehicle franchisee in the amount of 30 percent of what the motor vehicle franchisee would have paid the motor vehicle franchisor for the part if the part had not been supplied by the franchisor other than by the sale of that part to the motor vehicle franchisee;

f. the motor vehicle franchisor shall reimburse the motor vehicle franchisee for parts supplied and labor services rendered under a warranty, an extended warranty, a maintenance plan, or a service-related plan offered by the motor vehicle franchisor within 30 days after approval of a claim for reimbursement. All claims for reimbursement shall be approved or disapproved within 30 days after receipt of the claim by the motor vehicle franchisor. When a claim is disapproved, the motor vehicle franchisee shall be notified in writing of the grounds for the disapproval. No claim that has been approved and paid shall be charged back to the motor vehicle franchisee unless it can be shown that the claim was false or fraudulent, that the labor services were not properly performed, that the parts or labor services were unnecessary to correct the defective condition, or that the motor vehicle franchisee failed to reasonably substantiate the claim in accordance with reasonable written requirements of the motor vehicle franchisor, provided that the motor vehicle franchisee had been notified of the requirements prior to the time the claim arose and the requirements were in effect at the time the claim arose. A motor vehicle franchisor shall not audit a claim after the expiration of 12 months following the payment of the claim unless the motor vehicle franchisor has reasonable grounds to believe that the claim was fraudulent;

g. the obligations imposed on motor vehicle franchisors by this section shall apply to any parent, subsidiary, affiliate, or agent of the motor vehicle franchisor, any person under common ownership or control, any employee of the motor vehicle franchisor, and any person holding one percent or more of the shares of any class of securities or other ownership interest in the motor vehicle franchisor, if a warranty or service or repair plan is issued by that person instead of or in addition to one issued by the motor vehicle franchisor;

h. the provisions of this section shall also apply to motor vehicle franchisor-administered service and repair plans:

- (1) if the motor vehicle franchisee offers for sale only the motor vehicle franchisor administered service or repair plan; or
- (2) if the motor vehicle franchisee is paid its prevailing retail price for all service or repair plans that the motor vehicle franchisee offers for sale to purchasers of new motor vehicles;
- (3) for the first 36,000 miles of coverage under the motor vehicle franchisor administered service or repair plan, if the warranty offered by the motor vehicle franchisor on the motor vehicle provides coverage for less than 36,000 miles; or
- (4) for motor vehicles covered by a motor vehicle franchisor administered service or repair plan, if the motor vehicle franchisee does not offer for sale the motor vehicle franchisor administered service or repair plan.

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

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

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

- (a) discounts for retail customer repairs or special or promotional events offered by a manufacturer, manufacturer branch, distributor, or distributor branch;
- (b) parts sold or repairs performed at wholesale;
- (c) routine maintenance, including, but not limited to, the replacement of brakes, bulbs, fluids, filters, batteries, and belts that are not provided in the course of or related to a repair;
- (d) items that do not have individual part numbers, including, but not limited to, nuts, bolts, and fasteners;
- (e) vehicle reconditioning;
- (f) accessories;
- (g) repairs of conditions caused by a collision, a road hazard, natural forces, vandalism, theft, or negligent or deliberate damage by an owner, operator, or third party;
- (h) parts sold or repairs performed for insurance carriers;
- (i) vehicle emission inspections required by law;
- (j) manufacturer-approved goodwill or policy repairs or replacements;
- (k) repairs for a government agency or a service contract provider employed as an agent of a government agency;
- (l) repairs with aftermarket parts when calculating a retail parts rate, not when calculating a retail labor rate;
- (m) repairs on aftermarket parts;
- (n) replacement of tires or work on tires, including wheel alignments or tire rotations; or
- (o) repairs of motor vehicles owned by the franchisee or an employee of a franchisee at the time of the repair;

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

- (a) discounts for retail customer repairs or special or promotional events offered by a manufacturer, manufacturer branch, distributor, or distributor branch;
- (b) parts sold or repairs performed at wholesale;
- (c) routine maintenance, including, but not limited to, the replacement of brakes, bulbs, fluids, filters, batteries, and belts that are not provided in the course of or related to a repair;
- (d) items that do not have individual part numbers, including, but not limited to, nuts, bolts, and fasteners;
- (e) vehicle reconditioning;
- (f) accessories;
- (g) repairs of conditions caused by a collision, a road hazard, natural forces, vandalism, theft, or negligent or deliberate damage by an owner, operator, or third party;
- (h) parts sold or repairs performed for insurance carriers;
- (i) vehicle emission inspections required by law;
- (j) manufacturer-approved goodwill or policy repairs or replacements;
- (k) repairs for a government agency or a service contract provider employed as an agent of a government agency;
- (l) repairs with aftermarket parts when calculating a retail parts rate, not when calculating a retail labor rate;
- (m) repairs on aftermarket parts;
- (n) replacement of tires or work on tires, including wheel alignments or tire rotations; or
- (o) repairs of motor vehicles owned by the franchisee or an employee of a franchisee at the time of the repair; and

(3) a calculation of the retail labor rate customarily charged by the dealer for customer paid repairs shall not include the following:

- (a) discounts for retail customer repairs or special or promotional events offered by a manufacturer, manufacturer branch, distributor, or distributor branch;
- (b) parts sold or repairs performed at wholesale;
- (c) routine maintenance, including, but not limited to, the replacement of brakes, bulbs, fluids, filters, batteries, and belts that are not provided in the course of or related to a repair;
- (d) items that do not have individual part numbers, including, but not limited to, nuts, bolts, and fasteners;
- (e) vehicle reconditioning;
- (f) accessories;
- (g) repairs of conditions caused by a collision, a road hazard, natural forces, vandalism, theft, or negligent or deliberate damage by an owner, operator, or third party;
- (h) parts sold or repairs performed for insurance carriers;
- (i) vehicle emission inspections required by law;
- (j) manufacturer-approved goodwill or policy repairs or replacements;
- (k) repairs for a government agency or a service contract provider employed as an agent of a government agency;
- (l) repairs with aftermarket parts when calculating a retail parts rate but not when calculating a retail labor rate;
- (m) repairs on aftermarket parts;
- (n) replacement of tires or work on tires, including wheel alignments or tire rotations; or
- (o) repairs of motor vehicles owned by the franchisee or an employee of the franchisee at the time of the repair;

k. (1) a motor vehicle franchisor shall not:

(a) impose unreasonable handling procedures or unreasonable handling charges upon its motor vehicle franchisees for return or disposal of any part, including electric propulsion batteries, dangerous or unexploded air bag units, or seat belt tensioners;

(b) penalize or charge a motor vehicle franchisee for the return of a defective electric propulsion battery that is returned to the motor vehicle franchisor within 60 days of its removal from a vehicle under warranty service, extended warranty service, a maintenance plan, a service-related plan, a recall, or other work that is also offered and reimbursed by the motor vehicle franchisor; or

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

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

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

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

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

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

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

p. a motor vehicle franchisor shall not charge back any claim paid for labor services and parts provided in the performance of a warranty, an extended warranty, a maintenance plan, a service-related plan, a recall, or other work that is also offered and reimbursed by the motor vehicle franchisor for an incentive, bonus, sales, performance, or other program without providing written notice to the motor vehicle franchisee within 30 days from the audit, which explains in detail the basis for each of the proposed chargebacks and the methodology by which the franchisee was selected for audit or review. After all internal dispute resolution processes provided through the motor vehicle franchisor have been resolved, the motor vehicle franchisor shall provide final notice to the motor vehicle franchisee of the final amount of the proposed chargeback. If the motor vehicle franchisee or its representative institutes an administrative or judicial action for a violation of the “Franchise Practices Act,” P.L.1971, c.356 (C.56:10-1 et seq.), challenging the chargeback within 30 days of the receipt of the final notice, the total proposed chargeback amounts shall be stayed, without bond, until the final judgment has been rendered in the action. A motor vehicle franchisor shall not deny or charge back a claim paid for labor services and parts provided in the performance of an open recall, warranty, or other service agreement or for an incentive, bonus, sales, performance, or other program unless the motor vehicle franchisor satisfies its burden of proof that the motor vehicle franchisee did not make a good faith effort to comply with the reasonable written procedures of the motor vehicle franchisor, that the motor vehicle franchisee did not actually perform the work, or that the claim was materially false or fraudulent. A motor vehicle franchisor shall not deny or charge back a claim due to an administrative or scrivener’s error in the submission of the claim; and

q. a motor vehicle franchisor shall not unilaterally reduce or otherwise manipulate the price of parts required for a warranty, an extended warranty, a maintenance plan, a service-related plan, a recall, or other work that is also offered and reimbursed by the motor vehicle franchisor in a manner that unfairly and unilaterally allows the motor vehicle franchisor to reduce the level of compensation paid to motor vehicle franchisees, including changes to price within 60 or fewer days preceding an announcement of a recall, any time after a recall, or after a warranty claim has arisen. A motor vehicle franchisor shall not manipulate the price of parts required for warranty or open recall services by creating a new or additional part number for the same part used in warranty or recall repair in a manner that unfairly and unilaterally allows the motor vehicle franchisor to reduce the level of compensation paid to motor vehicle franchisees for warranty and open recall services that the motor vehicle franchisees provide to consumers.

8. This act shall take effect on the first day of the seventh month following enactment and shall apply to motor vehicle franchise agreements in effect on or after the effective date of P.L.2025, c.140 (C.56:10-32 et al.) but shall not apply retroactively to any cause of action that shall have arisen prior to the effective date of P.L.2025, c.140 (C.56:10-32 et al.).

Approved September 11, 2025.

SENATE, No. 3309

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 20, 2024

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Somerset and Union)

Senator ANTHONY M. BUCCO

District 25 (Morris and Passaic)

Co-Sponsored by:

Senators Amato, Singer, Singleton, Holzapfel, Polistina, Turner, Diegnan, Pennacchio, Ruiz, McKnight, Zwicker, Bramnick, Steinhardt, Henry, Tiver, Space, Pou, Gopal, Moriarty, B.Smith, Burzichelli, Schepisi, McKeon and Cruz-Perez

SYNOPSIS

Establishes “Motor Vehicle Open Recall Notice and Fair Compensation Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/17/2025)

1 **AN ACT** concerning motor vehicle open recalls and motor vehicle
2 franchises, supplementing P.L.1971, c.356 (C.56:10-1 et seq.),
3 and amending various parts of the statutory law.

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 5 of P.L. , c.
14 (C.):

15 “Chief administrator” means the Chief Administrator of the New
16 Jersey Motor Vehicle Commission.

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

20 “Dealer” means a person who is actively engaged in the retail
21 business of buying, selling, or exchanging new or used motor
22 vehicles.

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

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

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

31 “Open recall” means a safety or emissions recall on a specific
32 vehicle that has not been corrected or addressed.

33 “Retail” does not include wholesale sales, sales between dealers,
34 or sales to owners or operators of motor vehicle junk businesses or
35 motor vehicle junk yards, as those terms are defined in R.S.39:11-2,
36 or any other person engaged in the business of dismantling,
37 destroying, or recycling motor vehicles.

38 “Time of sale” means the period of time when the buyer executes
39 a retail order form for the purchase, or lease agreement for the
40 lease, of a used motor vehicle.

41 “Used motor vehicle” means a used motor vehicle, as that term is
42 defined in R.S.39:10-2.

43
44 3. (New section) a. A motor vehicle franchisee or dealer shall
45 not conduct a retail sale of a used motor vehicle without first

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.

1 contacting, or accessing information provided through the Internet
2 website of, the National Highway Traffic Safety Administration, or
3 a subsequently established similar official source of information, to
4 determine whether there are any open recalls on the motor vehicle
5 offered for retail sale. If an open recall is discovered, the motor
6 vehicle franchisee or dealer shall inform a prospective purchaser
7 about the recall and provide the prospective purchaser with a
8 printed copy of the recall information, as published on the Internet
9 website of the National Highway Traffic Safety Administration, or a
10 subsequently established similar official source of information.

11 b. A motor vehicle franchisee or dealer shall not sell or
12 otherwise transfer to a retail customer any used motor vehicle that
13 is subject to a stop-sale notice, do-not-drive notice, or similar notice
14 or designation issued by the National Highway Traffic Safety
15 Administration, or its successor.

16 c. There shall be an irrebuttable presumption that a motor
17 vehicle franchisee or dealer had no knowledge of the existence of
18 an open recall, stop-sale notice, do-not-drive notice, or similar
19 notice or designation for a used motor vehicle if, at the time of sale:

20 (1) the motor vehicle franchisee or dealer accessed the Internet
21 website of the National Highway Traffic Safety Administration on
22 open recalls, or a subsequently established similar official source of
23 information; and

24 (2) a search by the motor vehicle franchisee or dealer using the
25 specific vehicle identification number of the motor vehicle yielded
26 no indication of an open recall, stop-sale notice, do-not-drive
27 notice, or similar notice or designation for the used motor vehicle.

28 d. Nothing in this section shall be construed to:

29 (1) create any legal duty or liability upon a motor vehicle
30 franchisee or dealer related to the accuracy, errors, or omissions of
31 the Internet website of the National Highway Traffic Safety
32 Administration on open recalls, or a subsequently established
33 similar official source of information; or

34 (2) require a motor vehicle franchisee or dealer to provide a
35 prospective purchaser with any recall information that may be
36 added to the Internet website of the National Highway Traffic
37 Safety Administration on open recalls, or subsequently established
38 similar official source of information, after the motor vehicle
39 franchisee or dealer has provided a printed copy of the recall
40 information as it appeared at the time it was provided to the
41 prospective purchaser of the used motor vehicle at the time of sale.

42

43 4. (New section) a. Any motor vehicle franchisor or dealer
44 offering motor vehicles for sale in this State shall provide a list to
45 the Chief Administrator of the New Jersey Motor Vehicle
46 Commission of motor vehicles registered in this State that are
47 subject to an open recall for which the necessary repairs remain
48 uncompleted for a period of six or more months after the initial

1 notice of recall issued by the manufacturer pursuant federal law. In
2 addition to any other information that the chief administrator may
3 deem appropriate, the list shall identify each motor vehicle by year,
4 make, model, and vehicle identification number. Any motor vehicle
5 franchisor or dealer that is required to submit a list pursuant to this
6 subsection shall provide an updated list to the chief administrator
7 every 180 days after the submission of the initial list pursuant to
8 this subsection.

9 b. Upon receipt of an initial or updated list pursuant to
10 subsection a. of this section, the chief administrator shall, within 30
11 days, direct a motor vehicle franchisor or dealer to send out a notice
12 on official letterhead of the commission at the motor vehicle
13 franchisor or dealer's expense, to all registered owners of the listed
14 motor vehicles. The notice shall read as follows:

15 "..... (date)
16 (registered owner's name)
17 (registered owner's address)
18 THERE IS AN OPEN RECALL ON YOUR VEHICLE:
19 YOUR IMMEDIATE ACTION IS REQUIRED!
20 Dear (owner's name):

21 This notification concerns a motor vehicle registered in your
22 name in the State of New Jersey, a (year, make,
23 model), vehicle identification number (vehicle
24 identification number).

25 The New Jersey Motor Vehicle Commission is contacting you
26 because your (year, make, model) vehicle has an open
27 recall for a serious motor vehicle defect THAT COULD CAUSE
28 SERIOUS INJURY TO YOU AND/OR A PASSENGER IN YOUR
29 VEHICLE if not remedied.

30 The New Jersey Motor Vehicle Commission has been provided
31 information from (motor vehicle franchisor or dealer)
32 that the (make, model) that is currently registered in
33 your name, identified by the vehicle identification number
34 (vehicle identification number), has been recalled.

35 According to information provided by (motor
36 vehicle franchisor or dealer), your vehicle has not been repaired yet.
37 The potentially lifesaving repair is FREE of charge to you and parts
38 are available now. A FREE loaner car or other alternative
39 transportation may be available to assist with any inconvenience
40 this repair may cause you.

41 WHAT SHOULD YOU DO NOW?

42 - Visit (internet website of motor vehicle
43 manufacturer or dealer) or call the motor vehicle franchisor or
44 dealer toll-free at (toll-free motor vehicle franchisor or
45 dealer number) to find your nearest (make) dealership.
46 - Immediately contact a local (make) dealership to
47 schedule a FREE repair for your recalled vehicle. Ask for
48 alternative transportation, if needed.

1 - If you believe you have already taken action on this recall, visit
2 (the Internet website of the National Highway Traffic
3 Safety Administration on open recalls, or a subsequently established
4 similar official source of information) and enter your
5 (make, model) vehicle identification number to verify the repair and
6 ensure that no other recalls have been issued for your vehicle.

7 The safety of you and your family on New Jersey roadways is
8 one of the commission's top priorities. Please act NOW to protect
9 yourself and the passengers in your vehicle. If you believe that
10 (motor vehicle franchisor or dealer) or your
11 (make) dealer has failed or is unable to remedy the
12 defect in your vehicle, without charge and within a reasonable
13 period of time, you may submit a complaint by mail to:
14 Administrator, National Highway Traffic Safety Administration,
15 1200 New Jersey Avenue S.E., West Building, Washington, DC
16 20590. Alternatively, you may call the toll-free Vehicle Safety
17 Hotline at (toll-free telephone number) or visit
18 (Internet website of the National Highway Traffic
19 Safety Administration)."

20

21 5. (New section) Any corporation or association that is
22 primarily owned by or comprised of motor vehicle franchisees,
23 which corporation or association primarily represents the interests
24 of motor vehicle franchisees, shall have standing to file an
25 administrative petition, or to bring an action before any court of
26 competent jurisdiction, for itself or by, for, or on behalf of any
27 motor vehicle franchisee or group of motor vehicle franchisees for
28 any alleged violation of P.L.1971, c.356 (C.56:10-1 et seq.), as
29 amended and supplemented.

30

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

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

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

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

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

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

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

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

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

39 g. Despite prior enactments, certain motor vehicle franchisors
40 have failed to comply with the law, and many motor vehicle
41 franchisees have found it either too risky to oppose their supplier or
42 too burdensome to take on a legal challenge to unfair or oppressive
43 marketplace behavior carried out by motor vehicle franchisors,
44 which franchisors control the exclusive supply of motor vehicles,
45 parts, and special equipment to motor vehicle franchisees.

46 h. As a result, it is necessary for the Legislature to further
47 revise the laws pertaining to motor vehicle franchisees to strengthen
48 and clarify certain provisions of existing law intended to protect the

1 public from marketplace behavior that has the potential to restrict
2 competition for sales and threaten highway safety by limiting
3 consumer access to essential warranty and open recall service
4 provided by neighborhood new car dealers.

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

6
7 7. Section 5 of P.L.1999, c.45 (C.56:10-7.4) is amended to read
8 as follows:

9 5. It shall be a violation of P.L.1971, c.356 (C.56:10-1 et seq.)
10 for any motor vehicle franchisor, directly or indirectly, through any
11 officer, agent or employee, to engage in any of the following
12 practices:

13 a. To impose unreasonable standards of performance or
14 unreasonable facilities, financial, operating or other requirements
15 upon a motor vehicle franchisee.

16 b. To base the disapproval of the transfer, sale or assignment of
17 a motor vehicle franchise, or any interest therein, on the ground that
18 the proposed transferee is not a natural person.

19 c. (1) To fail to compensate a motor vehicle franchisee for all
20 reasonable costs incurred by the franchisee in complying with the
21 requirements imposed on the franchisee by the franchisor or by law
22 relating to a product recall.

23 (2) With respect to a new motor vehicle or any used motor
24 vehicle that is of the same line make as the motor vehicle franchisor
25 and motor vehicle franchisee, that is held for sale by the motor
26 vehicle franchisee, that is subject to a stop-sale notice, do-not-drive
27 notice, or similar notice or designation issued by the National
28 Highway Traffic Safety Administration, its successor, or the motor
29 vehicle franchisor, and for which motor vehicle a part or remedy is
30 not reasonably available to perform a service or repair, the
31 reasonable costs of the motor vehicle franchisee, if not preempted
32 by federal law or regulation, shall be 1.75 percent of the value of
33 the motor vehicle per month, or per portion of a month, while the
34 part or remedy is unavailable.

35 (3) For purposes of this subsection, the value of a new motor
36 vehicle shall be the motor vehicle franchisor's suggested retail price
37 of the motor vehicle, and the value of a used motor vehicle shall be
38 the average trade-in value of the used motor vehicle, as indicated in
39 an independent third-party guide for the year, make, model, and
40 mileage of the motor vehicle.

41 (4) Notwithstanding any provision of this subsection to the
42 contrary, a motor vehicle franchisor may compensate one or more
43 motor vehicle franchisees under a national recall compensation
44 program, provided that the compensation paid under that program is
45 equal to or greater than the amounts set forth in this section.

46 d. To utilize an arbitrary or unreasonable formula or other
47 calculation or process intended to gauge performance as a basis for

1 making any decision or taking any action governed by P.L.1971,
2 c.356 (C.56:10-1 et seq.).

3 e. Except as provided pursuant to section 6 of P.L.2015, c.24
4 (C.56:10-27.1), to own or operate or enter into an agreement with a
5 person, other than an existing motor vehicle franchisee, to operate a
6 retail facility for the servicing of motor vehicles, which is
7 authorized to perform warranty service on motor vehicles
8 manufactured or distributed by the motor vehicle franchisor. The
9 establishment, relocation, reopening or reactivation of such a
10 facility pursuant to an agreement with a motor vehicle franchisee
11 shall be subject to the provisions of P.L.1982, c.156 (C.56:10-16 et
12 seq.), except that paragraph (3) of subsection b. of section 8 of that
13 act (C.56:10-23) shall not be applicable. Notice shall be given to
14 motor vehicle franchisees in the same line make or makes within six
15 miles of the proposed retail facility for the servicing of motor
16 vehicles which is authorized to perform warranty service on motor
17 vehicles manufactured or distributed by the motor vehicle
18 franchisor.

19 f. To require an unconditional release from a motor vehicle
20 franchisee without permitting the franchisee to except from the
21 release any claims for outstanding financial obligations of the motor
22 vehicle franchisor to the motor vehicle franchisee for which
23 payment will not be made at or before the giving of the release.

24 g. (1) To require or attempt to require a motor vehicle
25 franchisee to order or purchase a new or used motor vehicle, or any
26 accessory or equipment thereof not required by law; or (2) to
27 require or attempt to require a motor vehicle franchisee to accept
28 delivery of any motor vehicle, or any accessory or equipment
29 thereof not required by law, which is not as ordered by the motor
30 vehicle franchisee; or (3) to take or withhold or threaten to take or
31 withhold any action, impose or threaten to impose any penalty, or
32 deny or threaten to deny any benefit, as a result of the motor vehicle
33 franchisee's failure or refusal to purchase, order or accept delivery
34 of any such motor vehicle, accessory or equipment. This subsection
35 shall not prevent a motor vehicle franchisor from requiring that a
36 motor vehicle franchisee carry a representative inventory of models
37 offered for sale by the motor vehicle franchisor.

38 h. To fail or refuse to sell or offer to sell to all motor vehicle
39 franchisees in a line make every motor vehicle sold or offered for
40 sale to any motor vehicle franchisee of the same line make, or to
41 fail or refuse to sell or offer to sell such motor vehicles to all motor
42 vehicle franchisees at the same price for a comparably equipped
43 motor vehicle, on the same terms, with no differential in discount,
44 allowance, credit or bonus, and on reasonable, good faith and non-
45 discriminatory allocation and availability terms. However, the
46 failure to deliver any such motor vehicle shall not be considered a
47 violation of this section if the failure is not arbitrary and is due to a
48 lack of manufacturing capacity or to a strike or labor difficulty, a

1 shortage of materials, a freight embargo or other cause over which
2 the franchisor has no control. A motor vehicle franchisor shall not
3 require a motor vehicle franchisee to purchase unreasonable
4 quantities of advertising materials, purchase special tools not
5 required to properly service a motor vehicle or undertake sales
6 person or service person training unrelated to the motor vehicle or
7 meet unreasonable display requirements as a condition of receiving
8 a motor vehicle.

9 i. Unless compelled by law or legal process, (1) if the
10 customer has objected thereto in writing, to require a motor vehicle
11 franchisee to publish, release, convey or otherwise provide
12 information obtained with respect to any customers, contracts,
13 products, services or other transactions of the motor vehicle
14 franchisee which is not necessary for the motor vehicle franchisor
15 to meet its obligations to consumers or the motor vehicle
16 franchisee, including vehicle recalls or other requirements imposed
17 by State or federal law, or for complying with the duties or
18 obligations of the respective parties under the franchise; or (2) to
19 release such information which has been provided to it by the motor
20 vehicle franchisees to any third party.

21 j. To impose or attempt to impose any requirement, limitation
22 or regulation on, or interfere or attempt to interfere with, the
23 manner in which a motor vehicle franchisee utilizes the facilities at
24 which a motor vehicle franchise is operated, including, but not
25 limited to, requirements, limitations or regulations as to the line
26 makes of motor vehicles that may be sold or offered for sale at the
27 facility, or to take or withhold or threaten to take or withhold any
28 action, impose or threaten to impose any penalty, or deny or
29 threaten to deny any benefit, as a result of the manner in which the
30 motor vehicle franchisee utilizes his facilities, except that the motor
31 vehicle franchisor may require that the portion of the facilities
32 allocated to or used for the motor vehicle franchise meets the motor
33 vehicle franchisor's reasonable, written space and volume
34 requirements as uniformly applied by the motor vehicle franchisor.
35 The provisions of this subsection shall not apply if the motor
36 vehicle franchisor and the motor vehicle franchisee voluntarily
37 agree to the requirement and separate and valuable consideration
38 therefor is paid.

39 k. To require or attempt to require a motor vehicle franchisee,
40 or the owner or landlord of property on which a motor vehicle
41 franchise is operated, to give a motor vehicle franchisor or any
42 person under the control of the motor vehicle franchisor an interest
43 in or option with respect to the real property on which the motor
44 vehicle franchise is operated, to restrict the uses to which the
45 facility at which the motor vehicle franchise is operated may be put
46 during or after the term of the franchise, or to take or withhold or
47 threaten to take or withhold any action, impose or threaten to
48 impose any penalty, or deny or threaten to deny any benefit, as a

1 result of the failure or refusal of a motor vehicle franchisee,
2 property owner, or landlord to agree to or comply with any such
3 demand or restriction. Nothing in this subsection shall be deemed
4 to bar a voluntary agreement between a motor vehicle franchisor
5 and a motor vehicle franchisee, or the owner or landlord of property
6 on which a motor vehicle franchise is operated, to give the motor
7 vehicle franchisor or the person under the control of the motor
8 vehicle franchisor an interest in or option with respect to the real
9 property on which a motor vehicle franchise is operated, or to
10 restrict the uses to which the facility at which the motor vehicle
11 franchise is operated is put, provided that separate and valuable
12 consideration is paid for such interest, option or restriction.

13 l. To require or attempt to require a motor vehicle franchisee
14 to relocate his franchise or to implement any facility or operational
15 modification or to take or withhold or threaten to take or withhold
16 any action, impose or threaten to impose any penalty, or deny or
17 threaten to deny any benefit as a result of the failure or refusal of
18 such motor vehicle franchisee to agree to any such relocation or
19 modification, unless the motor vehicle franchisor can demonstrate
20 that: (1) funds are generally available to the franchisee for the
21 relocation or modification on reasonable terms; and (2) the motor
22 vehicle franchisee will be able, in the ordinary course of business as
23 conducted by such motor vehicle franchisee, to earn a reasonable
24 return on his total investment in such facility or from such
25 operational modification, and the full return of his total investment
26 in such facility or from such operational modifications within 10
27 years; or (3) the modification is required so that the motor vehicle
28 franchisee can effectively sell and service a motor vehicle offered
29 by the motor vehicle franchisor based on the specific technology of
30 the motor vehicle. This subsection shall not be construed as
31 requiring a motor vehicle franchisor to guarantee that the return as
32 provided in paragraph (2) of this subsection will be realized.

33 m. Directly, or through any financial institution having any
34 commonality of ownership with the motor vehicle franchisor, to
35 require or attempt to require, or to take or withhold or threaten to
36 take or withhold any action, impose or threaten to impose any
37 penalty, or deny or threaten to deny any benefit, as a result of the
38 failure or refusal of a motor vehicle franchisee to maintain working
39 capital, equity, floor plan financing or other indications of financial
40 condition, greater than the lesser of (1) the minimum required to
41 operate the motor vehicle franchise based on the operations of the
42 franchise over the prior 12-month period; or (2) an increase of no
43 more than **【5%】** five percent over the prior calendar year, unless
44 the motor vehicle franchisor, or the financial institution having any
45 commonality of ownership with a motor vehicle franchisor, can
46 establish that such failure or refusal prevents the franchisee from
47 operating the franchise in the ordinary course of business. This
48 subsection shall not apply if the working capital, equity, floor plan

1 financing or other indication of financial condition is the result of
2 an accommodation by the motor vehicle franchisor, or financial
3 institution with a commonality of ownership with the motor vehicle
4 franchisor, to the motor vehicle franchisee, containing specific
5 terms and deadlines for the restoration of the motor vehicle
6 franchisee's working capital, inventory, floor plan financing or
7 other indication of financial condition, which accommodation is
8 agreed to in writing by the motor vehicle franchisee.

9 n. To impose or attempt to impose any conditions on the
10 approval of the transfer of a motor vehicle franchise, except as
11 provided in section 6 of P.L.1971, c.356 (C.56:10-6).

12 o. To amend or modify the franchise of a motor vehicle
13 franchisee, or any lease or agreement ancillary or collateral to such
14 franchise, including in connection with the renewal of a franchise, if
15 such amendment or modification is not in good faith, is not for good
16 cause, or would adversely and substantially alter the rights,
17 obligations, investment or return on investment of the motor vehicle
18 franchisee.

19 p. To take or withhold or threaten to take or withhold any
20 action, impose or threaten to impose any penalty, or deny or
21 threaten to deny any benefit, because the motor vehicle franchisee
22 sold or leased a motor vehicle to a customer who exported the
23 vehicle to a foreign country or who resold the vehicle, unless the
24 motor vehicle franchisor can establish that the motor vehicle
25 franchisee knew or reasonably should have known, prior to the sale
26 or lease, that the customer intended to export or resell the motor
27 vehicle; provided, however, that it shall be presumed that the motor
28 vehicle franchisee did not know or should not have reasonably
29 known that the vehicle would be exported if the vehicle is titled or
30 registered in any state or the District of Columbia.

31 q. To require a motor vehicle franchisee, at the time of entering
32 into a franchise arrangement, any lease or agreement ancillary or
33 collateral to a motor vehicle franchise, or any amendment,
34 modification, renewal or termination thereof, to assent to a release,
35 assignment, novation, waiver or estoppel, which would relieve any
36 person from liability imposed by P.L.1971, c.356 (C.56:10-1 et
37 seq.); provided that nothing in this subsection shall be deemed to
38 prohibit a voluntary agreement between the motor vehicle
39 franchisor and the motor vehicle franchisee which contains a
40 release, assignment, novation, waiver or estoppel for which separate
41 and valuable consideration is paid by the motor vehicle franchisor
42 to the motor vehicle franchisee.

43 r. To provide any term or condition in any motor vehicle
44 franchise, in any lease or other agreement ancillary or collateral to a
45 motor vehicle franchise or in any renewal, amendment or
46 modification thereof, which term or condition directly or indirectly
47 violates P.L.1971, c.356 (C.56:10-1 et seq.).

1 s. To allocate vehicles to or evaluate the performance of a
2 motor vehicle franchise based on, or offer any discount, incentive,
3 bonus, program, allowance or credit that differentiates between
4 vehicle sales by a motor vehicle franchisee within a territory or
5 geographic area assigned to the motor vehicle franchisee and
6 vehicle sales outside of such territory or geographic area.

7 t. To take or withhold, or threaten to take or withhold, any
8 action; impose, or threaten to impose, any penalty; or deny or limit,
9 or threaten to deny or limit any benefit to a motor vehicle franchisee
10 who discloses to a customer any recall or any information related to
11 a condition that may affect the safety, emissions, or operability of a
12 motor vehicle, including, but not limited to, the provision of notice
13 pursuant to section 4 of P.L. , c. (C.) (pending before the
14 Legislature as this bill).

15 u. To reduce the amount of compensation otherwise owed to a
16 motor vehicle franchisee, whether through a chargeback, removal
17 from an incentive program, reduction in amount owed under an
18 incentive program, or any other means, because the motor vehicle
19 franchisee has submitted a claim for reimbursement under
20 subsection c. of this section or was otherwise compensated for a
21 motor vehicle subject to a recall.

22 (cf: P.L.2015, c.24, s.2)

23
24 8. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read
25 as follows:

26 3. If any motor vehicle franchise shall require or permit motor
27 vehicle franchisees to perform labor services or provide parts in
28 satisfaction of a warranty [issued], extended warranty,
29 maintenance, or other service-related plan offered by the motor
30 vehicle franchisor:

31 a. The motor vehicle franchisor shall reimburse each motor
32 vehicle franchisee for such labor services, including diagnostic
33 work, as are rendered and for such parts as are supplied, in an
34 amount equal to the greater of the adequate and fair compensation
35 calculated pursuant to subsection j. of this section or the prevailing
36 retail price charged by such motor vehicle franchisee for such labor
37 services and parts in circumstances where such labor services are
38 rendered or such parts supplied other than pursuant to warranty;
39 provided that such motor vehicle franchisee's prevailing retail price
40 is not unreasonable when compared with that of the holders of
41 motor vehicle franchises from the same motor vehicle franchisor for
42 identical merchandise or services in the geographic area in which
43 the motor vehicle franchisee is engaged in business.

44 b. The motor vehicle franchisor shall not by agreement, by
45 restrictions upon reimbursement, or otherwise, restrict the nature
46 and extent of labor services to be rendered or parts to be provided
47 so that such restriction prevents the motor vehicle franchisee from
48 satisfying the warranty by rendering labor services in a good and

1 workmanlike manner and providing parts which are required in
2 accordance with generally accepted standards. Any such restriction
3 shall constitute a prohibited practice hereunder.

4 c. The motor vehicle franchisor shall reimburse the motor
5 vehicle franchisee pursuant to subsection a. of this section, without
6 deduction, for labor services performed on, and parts supplied for, a
7 motor vehicle by the motor vehicle franchisee in good faith and in
8 accordance with generally accepted standards, notwithstanding any
9 requirement that the motor vehicle franchisor accept the return of
10 the motor vehicle or make payment to a consumer with respect to
11 the motor vehicle pursuant to the provisions of P.L.1988, c.123
12 (C.56:12-29 et seq.).

13 d. For the purposes of this section, the "prevailing retail price"
14 charged by: (1) a motor vehicle franchisee for parts means the price
15 paid by the motor vehicle franchisee for those parts, including all
16 shipping and other charges, multiplied by the sum of 1.0 and the
17 franchisee's average percentage parts markup over the price paid by
18 the motor vehicle franchisee for parts purchased by the motor
19 vehicle franchisee from the motor vehicle franchisor and sold at
20 retail. The motor vehicle franchisee may establish average
21 percentage parts markup under this section by submitting to the
22 motor vehicle franchisor 100 sequential customer paid service
23 repair orders or 90 days of customer paid service repair orders,
24 whichever is less, covering repairs made no more than 180 days
25 before the submission, and declaring **【what】** the average percentage
26 parts markup **【is】**. The average percentage parts markup so
27 declared shall go into effect 30 days following the declaration
28 subject to audit of the submitted repair orders by the motor vehicle
29 franchisor and adjustment of the average percentage parts markup
30 based on that audit. Only retail sales not involving warranty
31 repairs, parts covered by subsection e. of this section, or parts
32 supplied for routine vehicle maintenance, shall be considered in
33 calculating average percentage parts markup. No motor vehicle
34 franchisor shall require a motor vehicle franchisee to establish
35 average percentage parts markup by a methodology, or by requiring
36 information, that is unduly burdensome or time consuming to
37 provide, including, but not limited to, part by part or transaction by
38 transaction calculations. A motor vehicle franchisee shall not
39 request a change in the average percentage parts markup more than
40 twice in one calendar year; and (2) a recreational motor vehicle
41 franchisee for parts means actual wholesale cost, plus a minimum
42 **30【%】** percent handling charge and any freight costs incurred to
43 return the removed parts to the motor vehicle franchisor.

44 e. If a motor vehicle franchisor supplies a part or parts for use
45 in a repair rendered under a warranty other than by sale of that part
46 or parts to the motor vehicle franchisee, the motor vehicle
47 franchisee shall be entitled to compensation equivalent to the motor
48 vehicle franchisee's average percentage parts markup on the part or

1 parts, as if the part or parts had been sold to the motor vehicle
2 franchisee by the motor vehicle franchisor. The requirements of
3 this section shall not apply to entire engine assemblies and entire
4 transmission assemblies. In the case of those **【assemblies】** parts,
5 the motor vehicle franchisor shall reimburse the motor vehicle
6 franchisee in the amount of 30**【%】** percent of what the motor
7 vehicle franchisee would have paid the motor vehicle franchisor for
8 **【the assembly】** a part if the **【assembly】** part had not been supplied
9 by the franchisor other than by the sale of that **【assembly】** part to
10 the motor vehicle franchisee.

11 f. The motor vehicle franchisor shall reimburse the motor
12 vehicle franchisee for parts supplied and labor services rendered
13 under a warranty within 30 days after approval of a claim for
14 reimbursement. All claims for reimbursement shall be approved or
15 disapproved within 30 days after receipt of the claim by the motor
16 vehicle franchisor. When a claim is disapproved, the motor vehicle
17 franchisee shall be notified in writing of the grounds for the
18 disapproval. No claim that has been approved and paid shall be
19 charged back to the motor vehicle franchisee unless it can be shown
20 that the claim was false or fraudulent, that the labor services were
21 not properly performed, that the parts or labor services were
22 unnecessary to correct the defective condition, or that the motor
23 vehicle franchisee failed to reasonably substantiate the claim in
24 accordance with reasonable written requirements of the motor
25 vehicle franchisor, provided that the motor vehicle franchisee had
26 been notified of the requirements prior to the time the claim arose
27 and the requirements were in effect at the time the claim arose. A
28 motor vehicle franchisor shall not audit a claim after the expiration
29 of 12 months following the payment of the claim unless the motor
30 vehicle franchisor has reasonable grounds to believe that the claim
31 was fraudulent.

32 g. The obligations imposed on motor vehicle franchisors by
33 this section shall apply to any parent, subsidiary, affiliate or agent
34 of the motor vehicle franchisor, any person under common
35 ownership or control, any employee of the motor vehicle franchisor
36 and any person holding 1**【%】** percent or more of the shares of any
37 class of securities or other ownership interest in the motor vehicle
38 franchisor, if a warranty or service or repair plan is issued by that
39 person instead of or in addition to one issued by the motor vehicle
40 franchisor.

41 h. **【The provisions of this section shall also apply to franchisor**
42 **administered service and repair plans:**

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

45 (2) if the motor vehicle franchisee is paid its prevailing retail
46 price for all service or repair plans the motor vehicle franchisee
47 offers for sale to purchasers of new motor vehicles; or

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

5 (4) for motor vehicles covered by a franchisor administered
6 service or repair plan, if the motor vehicle franchisee does not offer
7 for sale the franchisor administered service or repair plan.】

8 With respect to franchisor administered service or repair plans
9 covering only routine maintenance service, this section applies only
10 to those plans sold to customers on or after the effective date of
11 P.L.1999, c.45.

12 i. A motor vehicle franchisor shall make payment to a motor
13 vehicle franchisee pursuant to incentive, bonus, sales, performance
14 or other programs within 30 days after receipt of a claim from the
15 motor vehicle franchisee. When a claim is disapproved, the motor
16 vehicle franchisee shall be notified in writing of the grounds for
17 disapproval. No claim shall be disapproved unless it can be shown
18 that the claim was false or fraudulent, or that the motor vehicle
19 franchisee failed to reasonably substantiate the claim in accordance
20 with reasonable written requirements of the motor vehicle
21 franchisor, provided that the motor vehicle franchisee had been
22 notified of the requirements prior to the time the claim arose and the
23 requirements were in effect at the time the claim arose. A motor
24 vehicle franchisor shall not audit a claim after the expiration of 12
25 months following the payment of the claim.

26 j. (1) Except as otherwise provided in subsection a. of this
27 section, the motor vehicle franchisor shall provide adequate and fair
28 compensation to each motor vehicle franchisee for labor services
29 rendered in a repair in an amount not less than the amount the retail
30 customer pays for the same labor services with regard to rate and
31 time.

32 (2) Any time guide agreed to before the effective date of P.L. ,
33 c. (C.) (pending before the Legislature as this bill) by the
34 motor vehicle franchisor and the motor vehicle franchisee for
35 repairs may be used in lieu of actual time expended. If a time guide
36 has not been agreed to before the effective date of
37 P.L. , c. (C.) (pending before the Legislature as this bill)
38 or the time guide does not define the time for an applicable repair,
39 the motor vehicle franchisor's time guide shall be used, except that
40 the definition of time for an applicable repair shall be multiplied by
41 1.5.

42 (3) A motor vehicle franchisor shall pay the motor vehicle
43 franchisee an hourly rate for labor services performed in connection
44 with repairs in an amount that is the greater of:

45 (a) the franchisee's hourly labor rate for retail customer repairs,
46 determined by dividing the amount of the franchisee's total labor
47 sales for retail customer repairs by the number of total labor hours

1 that generated such sales for the month preceding the request,
2 excluding the work specified in subsection k. of this section; or

3 (b) an amount equal to the franchisee's markup over cost that
4 results in the same gross profit percentage for labor hours
5 performed in work covered by subparagraph (a) of this paragraph as
6 the franchisee receives for labor performed in its retail customer
7 repairs, as evidenced by the average of the franchisee's gross profit
8 percentage in the franchisee's financial statements provided to the
9 franchisor for the two months preceding the franchisee's written
10 request. In the written request, the franchisee shall provide the
11 arithmetic mean of the hourly wage paid to all franchisee
12 technicians during the preceding two months preceding the request,
13 which arithmetic mean shall be the franchisee cost used in the
14 calculation of an hourly rate for labor services pursuant to this
15 paragraph.

16 k. The average percentage parts markup and labor rate declared
17 pursuant to this section shall become effective 30 days following
18 their declaration, subject to an audit of the submitted repair orders
19 by the motor vehicle franchisor and a proposed adjustment of the
20 average percentage parts markup or labor rate if the motor vehicle
21 franchisee's submission fails to comply with the respective
22 calculation described in this section. Only retail sales not involving
23 warranty repairs, parts covered by subsection h. of this section, or
24 parts supplied for routine vehicle maintenance, shall be considered
25 in calculating average percentage parts markup and labor rate. No
26 motor vehicle franchisor shall require a motor vehicle franchisee to
27 establish average percentage parts markup or labor rate by using a
28 methodology, or by requiring information, that is unduly
29 burdensome or time consuming to provide, including, but not
30 limited to, part-by-part or transaction-by-transaction calculations.
31 A motor vehicle franchisee shall not request a change in the average
32 percentage parts markup and labor rate more than twice in one
33 calendar year.

34 l. A motor vehicle franchisor shall not recover its costs, except
35 as provided in this section, from a motor vehicle franchisee within
36 this State, including, but not limited to, an increase in the wholesale
37 price of a vehicle or a surcharge imposed on a motor vehicle
38 franchisee solely, which increase is intended to recover the cost of
39 reimbursing a franchisee for parts and service pursuant to this
40 section, provided that a motor vehicle franchisor shall not be
41 prohibited from increasing prices for vehicles or parts in the normal
42 course of business.

43 m. A motor vehicle franchisor shall not charge back any claim
44 paid for labor services and parts provided in the performance of an
45 open recall, warranty, or other services agreement for an incentive,
46 bonus, sales, performance, or other program without providing
47 written notice to the franchisee within 30 days from the on-site
48 audit, which written notice explains in detail the basis for each of

1 the proposed chargebacks and the methodology by which the
2 franchisee was selected for audit or review. After all internal
3 dispute resolution processes provided through the franchisor have
4 been resolved, the franchisor shall provide final notice to the
5 franchisee of the final amount of the proposed chargeback. If the
6 franchisee or its representative institutes an administrative or
7 judicial action for a violation of P.L.1971, c.356 (C.56:10-1 et seq.),
8 as amended and supplemented, challenging the chargeback within
9 30 days of the receipt of the final notice, the total proposed
10 chargeback amounts shall be stayed, without bond, until the final
11 judgment has been rendered in such action. A franchisor shall not
12 deny or charge back a claim paid for labor services and parts
13 provided in the performance of an open recall, warranty, or other
14 service agreement or for an incentive, bonus, sales, performance, or
15 other program unless the franchisor satisfies its burden of proof that
16 the franchisee did not make a good faith effort to comply with the
17 reasonable written procedures of the franchisor, that the franchisee
18 did not actually perform the work, or that the claim was materially
19 false or fraudulent. A franchisor shall not deny or charge back a
20 claim due to an administrative or scrivener's error in the submission
21 of the claim.

22 n. A motor vehicle franchisor shall not unilaterally reduce or
23 otherwise manipulate the price of parts required for warranty or
24 open recall services in a manner that unfairly and unilaterally
25 allows the franchisor to reduce the level of compensation paid to
26 franchisees for warranty and open recall services the motor vehicle
27 franchisees provide to consumers within 60 or fewer days preceding
28 an announcement of an open recall, any time after an open recall, or
29 after a warranty claim has arisen.

30 (cf: P.L.2011, c.66, s.5)

31
32 9. This act shall take effect immediately and shall apply to all
33 motor vehicle franchise agreements in effect on or after the
34 effective date of P.L. , c. (C.) (pending before the
35 Legislature as this bill) but shall not apply retroactively to any
36 cause of action that shall have arisen prior to the effective date of
37 P.L. , c. (C.) (pending before the Legislature as this bill).

40 STATEMENT

41
42 This bill establishes the "Motor Vehicle Open Recall Notice and
43 Fair Compensation Act," which supplements the "Franchise
44 Practices Act," N.J.S.A.56:10-1 et seq. (the act) and amends various
45 sections of law concerning franchise practices. The bill also
46 updates a findings and declarations section in the act. The bill is to
47 take effect immediately and apply to all motor vehicle franchise
48 agreements in effect on or after the bill's effective date. However,

1 the bill is not to apply retroactively to any cause of action that arose
2 prior to the bill's effective date.

3

4 *National Highway Traffic Safety Administration Recall Information*

5 The bill requires a motor vehicle franchisee or dealer to access
6 information on open recalls available on the Internet website of the
7 National Highway Traffic Safety Administration (NHTSA) prior to
8 selling a used motor vehicle. If a recall is discovered, a franchisee
9 or dealer is required to inform a prospective purchaser by providing
10 a printed copy of the recall information. A franchisee or dealer is
11 prohibited from selling a used motor vehicle that is subject to a
12 stop-sale notice, do-not-drive notice, or similar notice or
13 designation issued by the NHTSA.

14 The bill creates an irrebuttable presumption that a franchisee or
15 dealer had no knowledge of the existence of an open recall, stop-
16 sale notice, do-not-drive notice, or similar notice or designation on
17 a used motor vehicle if, at the time of sale: (1) the franchisee or
18 dealer accessed the Internet website of the NHTSA; and (2) the
19 franchisee or dealer's search using the specific vehicle
20 identification number of the motor vehicle yielded no indication of
21 an open recall, stop-sale notice, do-not-drive notice, or similar
22 notice or designation. The bill does not create a legal duty or
23 liability upon a franchisee or dealer related to the accuracy, errors,
24 or omissions of the Internet website. The bill does not require a
25 franchisee or dealer to provide a prospective purchaser with recall
26 information added to the Internet website after providing the printed
27 information on recalls at the time of sale.

28 Any motor vehicle franchisor or dealer offering motor vehicles
29 for sale in this State is required to provide the Chief Administrator
30 of the New Jersey Motor Vehicle Commission (commission) with a
31 list of motor vehicles registered in this State that are subject to an
32 open recall for which the necessary repairs remain uncompleted for
33 a period of six months or longer after the initial notice of recall
34 issued by the manufacturer. At a minimum, this list is to identify
35 each motor vehicle by year, make, model, and vehicle identification
36 number. A motor vehicle franchisor or dealer is required to provide
37 an updated list to the commission every 180 days after submission
38 of the initial list.

39 Within 30 days of receiving the lists, the commission is required
40 to direct the motor vehicle franchisor or dealer to send a notice on
41 official commission letterhead, at the motor vehicle franchisor or
42 dealer's expense, to all registered owners of the listed motor
43 vehicles. The bill provides the form to be used for this notice,
44 which is to inform recipients of an open recall and the options
45 available to resolve the issue, including contact information for the
46 NHTSA.

1 *Compensation for Recall Costs*

2 Under current law, a motor vehicle franchisor is required to
3 compensate a motor vehicle franchisee for all reasonable costs
4 incurred by the franchisee in complying with the requirements
5 imposed by the franchisor relating to a product recall. In addition
6 to these compensation requirements, the bill also provides guidance
7 on certain costs that must be remitted to a motor vehicle franchisee
8 in the event of a recall.

9 The bill provides that for certain new motor vehicles, or used
10 motor vehicles of the same line make as the motor vehicle
11 franchisor and motor vehicle franchisee, and subject to a stop-sale
12 notice, do-not-drive notice, or similar notice or designation for
13 which a part or remedy is not reasonably available, which motor
14 vehicles are held for sale by the motor vehicle franchisee, the costs
15 of the motor vehicle franchisee are to equal 1.75 percent of the
16 value of each motor vehicle per month, or per portion of a month.
17 This requirement applies when not preempted by federal law or
18 regulation. For the purposes of this calculation, a motor vehicle's
19 value is to be the motor vehicle franchisor's suggested retail price,
20 or for a used motor vehicle, the value is to be the average trade-in
21 value as indicated in an independent third-party guide for the year,
22 make, model, and mileage. Under the bill, a motor vehicle
23 franchisor may compensate its motor vehicle franchisees under a
24 national recall compensation program if the compensation thereby
25 provided is at least the value provided for by this requirement.

26 The bill prohibits a motor vehicle franchisor from reducing the
27 amount of compensation otherwise owed to a motor vehicle
28 franchisee because the motor vehicle franchisee has submitted a
29 claim for reimbursement pursuant to the new guidance on
30 compensation for recalls.

31

32 *Reimbursement for Certain Expenses*

33 Under current law, certain requirements are triggered if a motor
34 vehicle franchise requires or permits motor vehicle franchisees to
35 perform services or provide parts in satisfaction of a warranty
36 issued by the motor vehicle franchisor. This bill amends this
37 requirement to extend to the satisfaction of a warranty, extended
38 warranty, maintenance, or other service-related plan offered by the
39 motor vehicle franchisor.

40 Under the bill, labor services to be reimbursed include diagnostic
41 work. In the case of entire engine and entire transmission
42 assemblies, the bill provides that the motor vehicle franchisor is
43 required to reimburse the motor vehicle franchisee in the amount of
44 30 percent of what the motor vehicle franchisee would have paid
45 the motor vehicle franchisor for a part if the part had not been
46 supplied by the franchisor other than by the sale of that part to the
47 motor vehicle franchisee. The bill removes franchisor administered
48 service and repair plans from consideration of reimbursement.

1 The bill amends certain provisions of law concerning the process
2 for calculating average percentage parts markup. Specifically, the
3 bill provides that franchisor-administered service or repair plans
4 covering only routine maintenance service on plans sold to
5 customers after March 12, 1999 are relevant to this calculation.
6 Additionally, the prohibition on a motor vehicle franchisor to
7 require a franchisee to establish average percentage parts markup
8 and labor rate by an unduly burdensome or time consuming
9 methodology is amended to prohibit a demand for part-by-part or
10 transaction-by-transaction calculations.

11 The bill provides that adequate and fair compensation for labor
12 services rendered in a repair requires the motor vehicle franchisor to
13 pay each motor vehicle franchisee no less than the amount the retail
14 customer pays for the same labor services with regard to rate and
15 time. In calculating this amount, the bill permits the use of a time
16 guide, entered into by the franchisor and franchisee, in lieu of the
17 actual time expended on the repair. In the event that a time guide
18 has not been agreed to for repairs or the time guide does not specify
19 a time for the applicable repair, the motor vehicle franchisor's time
20 guide is to be used, except that the motor vehicle franchisor's
21 definition of time for an applicable repair is multiplied by 1.5.

22 Additionally, the bill provides that a motor vehicle franchisor is
23 to pay a motor vehicle franchisee an hourly rate for labor services
24 performed in connection with repairs. The hourly rate is to be the
25 greater of: (1) an amount calculated by dividing the amount of the
26 franchisee's total labor sales for retail customer repairs by the
27 number of total labor hours that generated such sales for the month
28 preceding a request for reimbursement; or (2) an amount equal to
29 the franchisee's markup over cost that results in the same gross
30 profit percentage for labor hours performed for retail customer
31 repairs. For the second of these options, the franchisee's gross
32 profit percentage comes from the franchisee's financial statements
33 provided to the franchisor for the two months preceding the
34 franchisee's written request, and the franchisee is required to
35 provide in the written request the arithmetic mean of the hourly
36 wage paid to all its technicians during the preceding two months
37 preceding the request. The arithmetic mean is the franchisee cost
38 used in the calculation of an hourly rate for labor services
39 performed in connection with repairs.

40
41 *Restrictions on Reimbursement*

42 A motor vehicle franchisor is prohibited under the bill from
43 recovering its costs from a motor vehicle franchisee, except in
44 certain circumstances. However, a motor vehicle franchisor's right
45 to increase prices for vehicles or parts in the normal course of
46 business is preserved.

47 A motor vehicle franchisor is prohibited under the bill from
48 charging back any claim paid for labor services and parts provided

1 in the performance of an open recall, warranty, or other services
2 agreement for an incentive, bonus, sales, performance, or other
3 program without providing written notice to the franchisee within
4 30 days from the on-site audit, which written notice explains in
5 detail the basis for each of the proposed chargebacks and the
6 methodology by which the franchisee was selected for audit or
7 review. After all internal dispute resolution processes provided
8 through the franchisor have been resolved, the franchisor is required
9 to provide final notice to the franchisee of the final amount of the
10 proposed chargeback. If the franchisee or its representative
11 institutes an administrative or judicial action for a violation of the
12 act, challenging the chargeback within 30 days of the receipt of the
13 final notice, the total proposed chargeback amounts are to be
14 stayed, without bond, until the final judgment has been rendered.

15 A franchisor is not permitted to deny or charge back a claim paid
16 for labor services and parts provided in the performance of an open
17 recall, warranty, or other service agreement or for an incentive,
18 bonus, sales, performance, or other program unless the franchisor
19 satisfies its burden of proof that the franchisee did not make a good
20 faith effort to comply with the reasonable written procedures of the
21 franchisor, that the franchisee did not actually perform the work, or
22 that the claim was materially false or fraudulent. A franchisor is
23 not permitted to deny or charge back a claim due to an
24 administrative or scrivener's error in the submission of the claim.

25 Under the bill, a motor vehicle franchisor is not to unilaterally
26 reduce or manipulate the price of parts required for warranty or
27 open recall services in a manner that unfairly and unilaterally
28 allows the franchisor to reduce the level of compensation paid to
29 motor vehicle franchisees for warranty and open recall services
30 within 60 or fewer days preceding an announcement of an open
31 recall, any time after an open recall, or after a warranty claim has
32 arisen.

33

34 *Standing of Certain Corporations or Associations*

35 The bill provides that any corporation or association which is
36 primarily owned by or comprised of motor vehicle franchises has
37 standing to file an administrative petition, or to bring an action
38 before any court of competent jurisdiction, for itself or by, for, or
39 on behalf of any motor vehicle franchisee or group of motor vehicle
40 franchisees for any alleged violation of the act.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3309

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED JUNE 19, 2025

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Senator NICHOLAS P. SCUTARI
District 22 (Somerset and Union)
Senator ANTHONY M. BUCCO
District 25 (Morris and Passaic)
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)
Assemblyman JOHN DIMAIO
District 23 (Hunterdon, Somerset and Warren)
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District 31 (Hudson)

Co-Sponsored by:

Senators Amato, Singer, Singleton, Holzapfel, Polistina, Turner, Diegnan, Pennacchio, Ruiz, McKnight, Zwicker, Bramnick, Steinhardt, Henry, Tiver, Space, Pou, Gopal, Moriarty, B.Smith, Burzichelli, Schepisi, McKeon, Cruz-Perez, Assemblymen Azzariti Jr., Inganamort, Barranco, Miller, Calabrese, Assemblywoman Ramirez, Assemblyman Marengo, Assemblywoman Donlon, Assemblyman Schnall, Assemblywoman Bagolie, Assemblymen Rumpf, DePhillips, Barlas, Assemblywoman Quijano, Assemblyman Myhre, Assemblywomen N.Munoz, Dunn, Matsikoudis, Assemblymen Hutchison, Greenwald, Daniels, Verrelli, Karabinchak, Assemblywoman Reynolds-Jackson, Assemblymen Atkins, Spearman, Assemblywomen Haider, Fantasia, Assemblyman Clifton, Assemblywomen Hall, Swain, Assemblymen Webber, Torrissi, Assemblywomen Park, Peterpaul, Assemblymen Bailey, Kanitra, Assemblywoman Simmons, Assemblyman Auth, Assemblywoman Flynn, Assemblyman Egan, Assemblywoman Pintor Marin, Assemblyman Tully, Assemblywomen Speight, Carter and Murphy

SYNOPSIS

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

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate State Government, Wagering, Tourism & Historic Preservation Committee.

(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 4 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill):

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

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

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

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

32 “Open recall” means a recall that has not been corrected or
33 addressed.

34 “Recall” means a safety or emissions recall on a specific motor
35 vehicle that requires: (1) manufacturer notification pursuant to 49
36 U.S.C. s.30118, 49 U.S.C. s.30119, or any other federal law or
37 regulation; and (2) repairs or modifications to a motor vehicle.

38 “Retail” does not include wholesale sales, sales between dealers,
39 or sales to owners or operators of motor vehicle junk businesses or
40 motor vehicle junk yards, as those terms are defined in R.S.39:11-2,
41 or any other person engaged in the business of dismantling,
42 destroying, or recycling motor vehicles.

43 “Stop-sale notice” means a notification issued by a motor vehicle
44 franchisor to its motor vehicle franchisee stating that certain used

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.

1 motor vehicles in inventory shall not be sold or leased, at either
2 retail or wholesale, due to a recall.

3 “Time of sale” means the period of time when the buyer executes
4 a retail order form for the purchase, or lease agreement for the
5 lease, of a used motor vehicle.

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

8
9 3. (New section) Any corporation or association that is
10 primarily owned by or comprised of motor vehicle franchisees,
11 which corporation or association primarily represents the interests
12 of motor vehicle franchisees, shall have standing to file an
13 administrative petition, or to bring an action before any court of
14 competent jurisdiction, for itself or by, for, or on behalf of any
15 motor vehicle franchisee or group of motor vehicle franchisees for
16 any violation of the “Franchise Practices Act,” P.L.1971, c.356
17 (C.56:10-1 et seq.), as amended and supplemented, which violation
18 was allegedly conducted by a motor vehicle franchisor with motor
19 vehicle franchisees, if:

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

22 b. the interests that the administrative petition or action seeks
23 to protect are germane to the corporation’s or association’s purpose;
24 and

25 c. neither the claim asserted nor the relief requested requires
26 any individual members of the corporation or association to
27 participate in the administrative petition or action.

28
29 4. (New section) a. If a part or the parts necessary to perform a
30 recall service are not reasonably available to perform a recall
31 service or repair on a used motor vehicle held for sale by a motor
32 vehicle franchisee authorized to sell and service new motor vehicles
33 of the same line-make within 30 days of the motor vehicle
34 franchisor issuing the initial recall notice, and the motor vehicle
35 franchisor has issued a stop-sale notice or do-not-drive notice on the
36 motor vehicle, the motor vehicle franchisor shall compensate the
37 motor vehicle franchisee at a prorated rate of at least 1.5 percent of
38 the value of the used motor vehicle per month beginning 30 days
39 after the motor vehicle franchisor issued the stop-sale notice or do-
40 not-drive notice to the motor vehicle franchisee until the earlier of
41 either:

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

44 (2) the date that the motor vehicle franchisor sells, trades, or
45 otherwise disposes of a used motor vehicle that is subject to a stop-
46 sale notice or do-not-drive notice.

47 b. The value of a used motor vehicle shall be the average trade-
48 in value for used motor vehicles as indicated in an independent

1 third-party guide for the year, make, and model of the recalled
2 motor vehicle.

3 c. Subject to the provisions of section 3 of P.L.1977, c.84
4 (C.56:10-15), it shall be a violation of this section for a motor
5 vehicle franchisor to reduce the amount of compensation otherwise
6 owed to a motor vehicle franchisee through a chargeback, the
7 removal of the motor vehicle franchisee from an incentive program,
8 or a reduction in the amount owed under an incentive program
9 because the motor vehicle franchisee has submitted a claim for
10 reimbursement pursuant to this section. Nothing in this subsection
11 shall prohibit a motor vehicle franchisor from discontinuing an
12 incentive program.

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

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

24 (2) the motor vehicle franchisor and motor vehicle franchisee
25 otherwise agree.

26 e. A motor vehicle franchisor may direct the manner and
27 method in which a motor vehicle franchisee is required to
28 demonstrate the inventory status of an affected used motor vehicle
29 to determine eligibility under this section. However, the manner
30 and method shall not be unduly burdensome and shall not require
31 information that is unduly burdensome to provide.

32 f. Nothing in this section shall require a motor vehicle
33 franchisor to provide total compensation to a motor vehicle
34 franchisee, which compensation would exceed the total average
35 trade-in value of the affected used motor vehicle as originally
36 determined pursuant to subsection b. of this section.

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

40

41 5. (New section) a. As used in this section:

42 “Chief administrator” means the Chief Administrator of the New
43 Jersey Motor Vehicle Commission.

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

1 “Manufacturer” means an entity engaged in the business of
2 making or assembling new motor vehicles and that manufactures or
3 assembles at least 10 new motor vehicles per year under normal
4 business conditions.

5 “Open recall” means a safety-related recall that requires:
6 notification by a manufacturer pursuant to 49 U.S.C. s.30118 or 49
7 U.S.C. s.30119 and a repair or modification to a motor vehicle by
8 an authorized dealer.

9 b. When issuing a motor vehicle registration or registration
10 renewal notice, the commission shall also issue an open recall
11 notice to inform a motor vehicle owner that the National Highway
12 Traffic Safety Administration maintains a recall database through
13 which motor vehicle owners can determine whether a motor vehicle
14 is subject to an open recall. The open recall notice shall also
15 include:

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

19 (2) a statement indicating that each open recall may be repaired
20 by a dealer approved by the manufacturer of the motor vehicle at no
21 cost to the owner of the motor vehicle, except as provided pursuant
22 to 49 U.S.C. s.30120.

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

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

31 d. In the event that any funding sources acquired pursuant to
32 subsection c. of this section do not cover the commission’s costs to
33 implement the provisions of this section, the chief administrator
34 may require each manufacturer that conducts business in the State
35 to pay a fee to the commission, except that the total fees collected
36 shall not exceed the actual costs incurred by the commission each
37 year to implement the provisions of this section. The amount of the
38 fee shall be determined by the chief administrator each year based
39 on documentation of the actual costs incurred by the commission to
40 implement the provisions of this section, which documentation shall
41 be published annually on the commission’s Internet website and
42 provided directly to each manufacturer that conducts business in the
43 State.

44 e. The commission may adopt, pursuant to the “Administrative
45 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
46 regulations that are necessary to implement this section, which rules
47 and regulations may include enforcement and penalty provisions for
48 violations.

1 f. Nothing in this section shall alter the liability under common
2 law of a manufacturer or dealer approved by the manufacturer to
3 repair an open recall.

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

7
8 6. Section 1 of P.L.1989, c.24 (C.56:10-7.2) is amended to read
9 as follows:

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

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

20 b. This inequality of bargaining power enables motor vehicle
21 franchisors to compel motor vehicle franchisees to execute
22 franchises and related leases and agreements **【which】** that contain
23 terms and conditions that would not routinely be agreed to by the
24 motor vehicle franchisees absent the compulsion and duress
25 **【which】** that arise out of the inequality of bargaining power. These
26 terms and conditions are detrimental to the interests of the motor
27 vehicle franchisees in that they require the motor vehicle
28 franchisees to relinquish their rights **【which】** that have been
29 established by the "Franchise Practices Act" and supplemental
30 legislation and other statutes and laws of this State.

31 c. As a result, motor vehicle franchisees have been denied the
32 opportunity to have disputes with their motor vehicle franchisors
33 arising out of the franchisor-franchisee relationship heard in an
34 appropriate venue, convenient to both parties, by tribunals
35 established by statute for the resolution of these disputes. It is
36 therefore necessary and in the public interest to ensure that motor
37 vehicle franchisees voluntarily determine whether to agree to
38 certain terms and conditions contained in franchises and related
39 leases and agreements presented to them by motor vehicle
40 franchisors and under circumstances unaffected by the compulsion
41 **【which】** that arises from the inequality of bargaining power.

42 d. The distribution, sale, and service of new motor vehicles in
43 the State of New Jersey vitally affects the general economy of this
44 State, and there is a compelling public interest in providing a
45 system of new motor vehicle franchisees to foster competition and
46 promote motor vehicle and highway safety by ensuring there are
47 qualified facilities to provide independently owned and operated
48 sales, warranty, open recall, and routine service for motor vehicles.

1 e. The new motor vehicle franchise system encourages local
2 investment in motor vehicle dealerships, creates jobs and economic
3 activity in virtually every community in this State, and advances the
4 public interest by fostering an extensive network of independent
5 new motor vehicle franchisees who compete for motor vehicle sales
6 and service business, offer ready access to open recall repair service
7 and warranty service, when needed, and provide routine
8 maintenance to ensure motor vehicle and highway safety.

9 f. There remains, however, a vast disparity in bargaining
10 power between motor vehicle franchisors and their franchisees,
11 which, if left unchecked, will discourage local investment in the
12 motor vehicle franchise system and result in fewer new motor
13 vehicle franchisees, less competition in the motor vehicle
14 marketplace, and diminished consumer access to qualified motor
15 vehicle warranty services, open recall repair services, and routine
16 service facilities.

17 g. Despite prior enactments, many motor vehicle franchisees
18 have found it either too risky to oppose their supplier or too
19 burdensome to take on a legal challenge to their motor vehicle
20 franchisors, who control the exclusive supply of motor vehicles,
21 parts, and special equipment to motor vehicle franchisees.

22 h. As a result, it is necessary for the Legislature to further
23 revise the laws pertaining to motor vehicle franchisees to strengthen
24 and clarify certain provisions of existing law intended to protect the
25 public from marketplace behavior that has the potential to restrict
26 competition for sales and threaten highway safety by limiting
27 consumer access to essential warranty and open recall service
28 provided by neighborhood dealers of new motor vehicles.

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

30
31 7. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read
32 as follows:

33 3. If any motor vehicle franchise shall require or permit motor
34 vehicle franchisees to perform labor services or provide parts in
35 satisfaction of a repair service offered and reimbursed by the motor
36 vehicle franchisor, including, but not limited to, a warranty [issued
37 by the motor vehicle franchisor] , an extended warranty, a
38 maintenance plan, a service-related plan, or a recall:

39 a. **【The】** the motor vehicle franchisor shall reimburse each
40 motor vehicle franchisee for such labor services , including
41 diagnostic work, as are rendered and for such parts as are supplied,
42 in an amount equal to the prevailing retail price [charged by such
43 motor vehicle franchisee for such services and parts in
44 circumstances where such services are rendered or such parts
45 supplied other than pursuant to warranty; provided that such motor
46 vehicle franchisee's prevailing retail price is not unreasonable when
47 compared with that of the holders of motor vehicle franchises from
48 the same motor vehicle franchisor for identical merchandise or

1 services in the geographic area in which the motor vehicle
2 franchisee is engaged in business.】 calculated pursuant to
3 subsections d., e., and j. of this section. The average retail labor
4 rate, average retail labor time allowance, and parts markup, as
5 declared by the motor vehicle franchisee, shall become effective 30
6 days following the declaration subject to audit by the motor vehicle
7 franchisor only of the sample submitted by the motor vehicle
8 franchisee. Any proposed adjustment of the average retail labor
9 rate, the average retail labor time allowance, or the parts markup
10 made by the motor vehicle franchisor shall be based only on an
11 audit of that sample;

12 b. 【The】 the motor vehicle franchisor shall not by agreement,
13 by restrictions upon reimbursement, or otherwise 【,】 restrict the
14 nature and extent of labor services to be rendered or parts to be
15 provided so that such restriction prevents the motor vehicle
16 franchisee from satisfying the warranty by rendering labor services
17 in a good and workmanlike manner and providing parts 【which】
18 that are required in accordance with generally accepted standards.
19 Any such restriction shall constitute a prohibited practice hereunder
20 【.】;

21 c. 【The】 the motor vehicle franchisor shall reimburse the
22 motor vehicle franchisee pursuant to subsection a. of this section,
23 without deduction, for labor services performed on, and parts
24 supplied for, a motor vehicle by the motor vehicle franchisee in
25 good faith and in accordance with generally accepted standards,
26 notwithstanding any requirement that the motor vehicle franchisor
27 accept the return of the motor vehicle or make payment to a
28 consumer with respect to the motor vehicle pursuant to the
29 provisions of P.L.1988, c.123 (C.56:12-29 et seq.) 【.】;

30 d. 【For】 for the purposes of this section, the "prevailing retail
31 price" charged by: (1) a motor vehicle franchisee for parts means
32 the price paid by the motor vehicle franchisee for those parts,
33 including all shipping and other charges, multiplied by the sum of
34 1.0 and the franchisee's average percentage parts markup over the
35 price paid by the motor vehicle franchisee for parts purchased by
36 the motor vehicle franchisee from the motor vehicle franchisor and
37 sold at retail. The motor vehicle franchisee may establish average
38 percentage parts markup under this section by submitting to the
39 motor vehicle franchisor 100 sequential customer paid service
40 repair orders or 90 days of customer paid service repair orders,
41 whichever is less, covering repairs made no more than 180 days
42 before the submission, and declaring 【what】 the average percentage
43 parts markup 【is】. The average percentage parts markup so
44 declared shall go into effect 30 days following the declaration
45 subject to audit 【of the submitted repair orders by the motor vehicle
46 franchisor and adjustment of the average percentage markup based
47 on that audit. Only retail sales not involving warranty repairs, parts

1 covered by subsection e. of this section, or parts supplied for
2 routine vehicle maintenance, shall be considered in calculating
3 average percentage markup. No motor vehicle franchisor shall
4 require a motor vehicle franchisee to establish average percentage
5 markup by a methodology, or by requiring information, that is
6 unduly burdensome or time consuming to provide, including, but
7 not limited to, part by part or transaction by transaction
8 calculations~~】~~ by the motor vehicle franchisor only of the sample
9 submitted by the motor vehicle franchisee. Any proposed
10 adjustment of the average parts markup by the motor vehicle
11 franchisor shall be based only on an audit of that sample. A motor
12 vehicle franchisee shall not request a change in the average
13 percentage parts markup more than twice in one calendar year; and
14 (2) a recreational motor vehicle franchisee for parts means actual
15 wholesale cost, plus a minimum ~~【30%】~~ 30 percent handling charge
16 and any freight costs incurred to return the removed parts to the
17 motor vehicle franchisor ~~【.】~~ ;

18 e. ~~【If】~~ (1) if a motor vehicle franchisor supplies ~~, or causes to~~
19 ~~be supplied,~~ a part or parts for use in a repair rendered under a
20 warranty ~~【other than by sale of that part or parts to the motor~~
21 ~~vehicle franchisee, the motor vehicle franchisee shall be entitled to~~
22 ~~compensation equivalent to the motor vehicle franchisee's average~~
23 ~~percentage markup on the part or parts, as if the part or parts had~~
24 ~~been sold to the motor vehicle franchisee by the motor vehicle~~
25 ~~franchisor.】~~ , an extended warranty, a maintenance plan, a service-
26 related plan, a recall, or other work that is also offered and
27 reimbursed by the motor vehicle franchisor, at no cost or at a
28 reduced cost for use in performing the repair work, the franchisor
29 shall compensate the motor vehicle franchisee in the same manner
30 as the motor vehicle franchisor compensates the motor vehicle
31 franchisee under this section by paying the motor vehicle franchisee
32 for the franchisee's cost of the part, if any, plus an amount equal to
33 the franchisee's parts markup multiplied by the wholesale value of
34 the part. The wholesale value of the part shall be the greater of:

35 (a) the amount the motor vehicle franchisee paid for the part or
36 a substantially identical part;

37 (b) the cost of the part in a current or prior established price
38 schedule issued by the motor vehicle franchisor or issued by a third
39 party that has previously supplied the part to the motor vehicle
40 franchisee;

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

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

45 (2) The requirements of this section shall not apply to electric
46 propulsion batteries, entire engine assemblies, and entire
47 transmission assemblies. In the case of those 【assemblies】 parts,

1 the motor vehicle franchisor shall reimburse the motor vehicle
2 franchisee in the amount of **【30%】** 30 percent of what the motor
3 vehicle franchisee would have paid the motor vehicle franchisor for
4 the **【assembly】** part if the **【assembly】** part had not been supplied by
5 the franchisor other than by the sale of that **【assembly】** part to the
6 motor vehicle franchisee **【.】** ;

7 f. **【The】** the motor vehicle franchisor shall reimburse the
8 motor vehicle franchisee for parts supplied and labor services
9 rendered under a warranty, an extended warranty, a maintenance
10 plan, or a service-related plan offered by the motor vehicle
11 franchisor within 30 days after approval of a claim for
12 reimbursement. All claims for reimbursement shall be approved or
13 disapproved within 30 days after receipt of the claim by the motor
14 vehicle franchisor. When a claim is disapproved, the motor vehicle
15 franchisee shall be notified in writing of the grounds for the
16 disapproval. No claim that has been approved and paid shall be
17 charged back to the motor vehicle franchisee unless it can be shown
18 that the claim was false or fraudulent, that the labor services were
19 not properly performed, that the parts or labor services were
20 unnecessary to correct the defective condition, or that the motor
21 vehicle franchisee failed to reasonably substantiate the claim in
22 accordance with reasonable written requirements of the motor
23 vehicle franchisor, provided that the motor vehicle franchisee had
24 been notified of the requirements prior to the time the claim arose
25 and the requirements were in effect at the time the claim arose. A
26 motor vehicle franchisor shall not audit a claim after the expiration
27 of 12 months following the payment of the claim unless the motor
28 vehicle franchisor has reasonable grounds to believe that the claim
29 was fraudulent **【.】** ;

30 g. **【The】** the obligations imposed on motor vehicle franchisors
31 by this section shall apply to any parent, subsidiary, affiliate, or
32 agent of the motor vehicle franchisor, any person under common
33 ownership or control, any employee of the motor vehicle franchisor
34 and any person holding **【1%】** one percent or more of the shares of
35 any class of securities or other ownership interest in the motor
36 vehicle franchisor, if a warranty or service or repair plan is issued
37 by that person instead of or in addition to one issued by the motor
38 vehicle franchisor **【.】** ;

39 h. **【The】** the provisions of this section shall also apply to motor
40 vehicle franchisor administered service and repair plans:

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

43 (2) if the motor vehicle franchisee is paid its prevailing retail
44 price for all service or repair plans that the motor vehicle franchisee
45 offers for sale to purchasers of new motor vehicles; **【or】**

46 (3) for the first 36,000 miles of coverage under the motor
47 vehicle franchisor administered service or repair plan, if the

1 warranty offered by the motor vehicle franchisor on the motor
2 vehicle provides coverage for less than 36,000 miles; or

3 (4) for motor vehicles covered by a motor vehicle franchisor
4 administered service or repair plan, if the motor vehicle franchisee
5 does not offer for sale the motor vehicle franchisor administered
6 service or repair plan.

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

11 i. **[A]** a motor vehicle franchisor shall make payment to a
12 motor vehicle franchisee pursuant to incentive, bonus, sales,
13 performance, or other programs within 30 days after receipt of a
14 claim from the motor vehicle franchisee. When a claim is
15 disapproved, the motor vehicle franchisee shall be notified in
16 writing of the grounds for disapproval. No claim shall be
17 disapproved unless it can be shown that the claim was false or
18 fraudulent, or that the motor vehicle franchisee failed to reasonably
19 substantiate the claim in accordance with reasonable written
20 requirements of the motor vehicle franchisor, provided that the
21 motor vehicle franchisee had been notified of the requirements prior
22 to the time the claim arose and the requirements were in effect at
23 the time the claim arose. A motor vehicle franchisor shall not audit
24 a claim after the expiration of 12 months following the payment of
25 the claim **[.]** ;

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

28 (a) discounts for retail customer repairs or special or promotional
29 events offered by a manufacturer, manufacturer branch, distributor,
30 or distributor branch;

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

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

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

37 (e) vehicle reconditioning;

38 (f) accessories;

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

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

43 (i) vehicle emission inspections required by law;

44 (j) manufacturer-approved goodwill or policy repairs or
45 replacements;

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

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

3 (m) repairs on aftermarket parts;

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

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

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

11 (a) discounts for retail customer repairs or special or promotional
12 events offered by a manufacturer, manufacturer branch, distributor,
13 or distributor branch;

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

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

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

20 (e) vehicle reconditioning;

21 (f) accessories;

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

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

26 (i) vehicle emission inspections required by law;

27 (j) manufacturer-approved goodwill or policy repairs or
28 replacements;

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

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

33 (m) repairs on aftermarket parts;

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

36 (o) repairs of motor vehicles owned by the franchisee or an
37 employee of a franchisee at the time of the repair; and

38 (3) a calculation of the retail labor rate customarily charged by
39 the dealer for customer paid repairs shall not include the following:

40 (a) discounts for retail customer repairs or special or promotional
41 events offered by a manufacturer, manufacturer branch, distributor,
42 or distributor branch;

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

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

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

- 1 (e) vehicle reconditioning;
2 (f) accessories;
3 (g) repairs of conditions caused by a collision, a road hazard,
4 natural forces, vandalism, theft, or negligent or deliberate damage
5 by an owner, operator, or third party;
6 (h) parts sold or repairs performed for insurance carriers;
7 (i) vehicle emission inspections required by law;
8 (j) manufacturer-approved goodwill or policy repairs or
9 replacements;
10 (k) repairs for a government agency or a service contract
11 provider employed as an agent of a government agency;
12 (l) repairs with aftermarket parts when calculating a retail parts
13 rate but not when calculating a retail labor rate;
14 (m) repairs on aftermarket parts;
15 (n) replacement of tires or work on tires, including wheel
16 alignments or tire rotations; or
17 (o) repairs of motor vehicles owned by the franchisee or an
18 employee of the franchisee at the time of the repair;
19 k. (1) a motor vehicle franchisor shall not:
20 (a) impose unreasonable handling procedures or unreasonable
21 handling charges upon its motor vehicle franchisees for return or
22 disposal of any part, including electric propulsion batteries,
23 dangerous or unexploded air bag units, or seat belt tensioners;
24 (b) penalize or charge a motor vehicle franchisee for the return of
25 a defective electric propulsion battery that is returned to the motor
26 vehicle franchisor within 60 days of its removal from a vehicle
27 under warranty service, extended warranty service, a maintenance
28 plan, a service-related plan, a recall, or other work that is also
29 offered and reimbursed by the motor vehicle franchisor; or
30 (c) charge a dealer more for a late return than the wholesale price
31 charged to the dealer for the electric propulsion battery.
32 (2) A franchisor shall compensate a franchisee for labor time to
33 package and return ship an electric propulsion battery and shall
34 supply the franchisee with appropriate packaging to facilitate the
35 return;
36 l. for the purposes of this section, the prevailing retail price for
37 labor shall be the average hourly labor rate charged to retail
38 customers. A motor vehicle franchisee may establish its average
39 labor rate under this section by submitting to the motor vehicle
40 franchisor 100 sequential customer paid service repair orders or 90
41 days of customer paid service repair orders, whichever is less,
42 covering customer paid repairs made no more than 180 days before
43 the submission. The average retail labor rate shall be calculated by
44 multiplying the total labor charges in the sample by 1.0 and
45 dividing that amount by the total number of labor hours in the
46 sample. The average retail labor rate so declared shall go into
47 effect 30 days following the declaration subject to audit by the
48 motor vehicle franchisor only of the sample submitted by the motor

1 vehicle franchisee. Any proposed adjustment of the average retail
2 labor rate made by the motor vehicle franchisor shall be based
3 solely on an audit of that sample;

4 m. a motor vehicle franchisor shall provide adequate and fair
5 compensation to each motor vehicle franchisee for labor services
6 rendered for a repair in an amount not less than the amount a retail
7 customer pays for the same labor services with regard to labor time.
8 A motor vehicle franchisee may apply to its motor vehicle
9 franchisor to be reimbursed for labor time according to, at the motor
10 vehicle franchisee's discretion, an established average retail labor
11 time allowance, in lieu of the motor vehicle franchisor's labor time
12 guide for franchisor-paid repairs or service, by submitting to the
13 motor vehicle franchisor the multiplier established by taking the
14 number of hours billed in 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 dividing that by the number of hours
18 permitted by the motor vehicle franchisor for any such repairs under
19 the motor vehicle franchisor's labor time guide for franchisor-paid
20 repairs or service. The resulting quotient shall be applied to the
21 motor vehicle franchisor's labor time guide to establish the motor
22 vehicle franchisee's average retail labor time allowance. The
23 average retail labor time allowance so declared shall go into effect
24 30 days following the declaration subject to audit by the motor
25 vehicle franchisor only of the sample submitted by the motor
26 vehicle franchisee. Any proposed adjustment of the average labor
27 time allowance made by the motor vehicle franchisor shall be based
28 only on an audit of that sample.

29 Upon payment of a claim for labor services under this section by
30 the motor vehicle franchisor to the motor vehicle franchisee, the
31 motor vehicle franchisee shall compensate its factory-certified flat
32 rate technicians performing work on a warranty, an extended
33 warranty, a maintenance plan, a service-related plan, a recall, or
34 other work that is also offered and reimbursed by the motor vehicle
35 franchisor;

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

39 o. a motor vehicle franchisor shall not recover its costs, except
40 as provided in this section, from a motor vehicle franchisee within
41 this State, including, but not limited to, an increase in the wholesale
42 price of a vehicle or a surcharge imposed on a motor vehicle
43 franchisee solely, which increase is intended to recover the cost of
44 reimbursing a motor vehicle franchisee for parts and service
45 pursuant to this section. However, a motor vehicle franchisor shall
46 not be prohibited from increasing prices for vehicles or parts in the
47 normal course of business;

1 p. a motor vehicle franchisor shall not charge back any claim
2 paid for labor services and parts provided in the performance of a
3 warranty, an extended warranty, a maintenance plan, a service-
4 related plan, a recall, or other work that is also offered and
5 reimbursed by the motor vehicle franchisor for an incentive, bonus,
6 sales, performance, or other program without providing written
7 notice to the motor vehicle franchisee within 30 days from the
8 audit, which explains in detail the basis for each of the proposed
9 chargebacks and the methodology by which the franchisee was
10 selected for audit or review. After all internal dispute resolution
11 processes provided through the motor vehicle franchisor have been
12 resolved, the motor vehicle franchisor shall provide final notice to
13 the motor vehicle franchisee of the final amount of the proposed
14 chargeback. If the motor vehicle franchisee or its representative
15 institutes an administrative or judicial action for a violation of the
16 “Franchise Practices Act,” P.L.1971, c.356 (C.56:10-1 et seq.),
17 challenging the chargeback within 30 days of the receipt of the final
18 notice, the total proposed chargeback amounts shall be stayed,
19 without bond, until the final judgment has been rendered in the
20 action. A motor vehicle franchisor shall not deny or charge back a
21 claim paid for labor services and parts provided in the performance
22 of an open recall, warranty, or other service agreement or for an
23 incentive, bonus, sales, performance, or other program unless the
24 motor vehicle franchisor satisfies its burden of proof that the motor
25 vehicle franchisee did not make a good faith effort to comply with
26 the reasonable written procedures of the motor vehicle franchisor,
27 that the motor vehicle franchisee did not actually perform the work,
28 or that the claim was materially false or fraudulent. A motor
29 vehicle franchisor shall not deny or charge back a claim due to an
30 administrative or scrivener’s error in the submission of the claim;
31 and

32 q. a motor vehicle franchisor shall not unilaterally reduce or
33 otherwise manipulate the price of parts required for a warranty, an
34 extended warranty, a maintenance plan, a service-related plan, a
35 recall, or other work that is also offered and reimbursed by the
36 motor vehicle franchisor in a manner that unfairly and unilaterally
37 allows the motor vehicle franchisor to reduce the level of
38 compensation paid to motor vehicle franchisees, including changes
39 to price within 60 or fewer days preceding an announcement of a
40 recall, any time after a recall, or after a warranty claim has arisen.
41 A motor vehicle franchisor shall not manipulate the price of parts
42 required for warranty or open recall services by creating a new or
43 additional part number for the same part used in warranty or recall
44 repair in a manner that unfairly and unilaterally allows the motor
45 vehicle franchisor to reduce the level of compensation paid to motor
46 vehicle franchisees for warranty and open recall services that the
47 motor vehicle franchisees provide to consumers.

48 (cf: P.L.2011, c.66, s.5)

1 8. This act shall take effect on the first day of the fourth month
2 following enactment and shall apply to motor vehicle franchise
3 agreements in effect on or after the effective date of P.L. ,
4 c. (C.) (pending before the Legislature as this bill) but shall
5 not apply retroactively to any cause of action that shall have arisen
6 prior to the effective date of P.L. , c. (C.) (pending before
7 the Legislature as this bill).

[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

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

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

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

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

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

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

c. **【The】** the motor vehicle franchisor shall reimburse the motor vehicle franchisee pursuant to subsection a. of this section, without deduction, for labor services performed on, and parts supplied for, a motor vehicle by the motor vehicle franchisee in 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 **'[fourth]**
24 seventh¹ 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).

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3309

STATE OF NEW JERSEY

DATED: JUNE 19, 2025

The Senate State Government, Wagering, Tourism & Historic Preservation Committee reports favorably a Senate Committee Substitute for Senate Bill No. 3309.

As reported, this substitute establishes the “Motor Vehicle Open Recall Notice and Fair Compensation Act” and revises motor vehicle franchise agreements. The substitute also updates a findings and declarations section under current law. The substitute is to become effective on the first day of the fourth month following enactment and apply to all motor vehicle franchise agreements in effect on or after the substitute’s effective date. However, the substitute is not to apply retroactively to any cause of action that arose prior to the substitute’s effective date.

Standing of Certain Corporations or Associations

The substitute provides that, in certain circumstances outlined in the substitute, any corporation or association that is primarily owned by or comprised of motor vehicle franchisees has standing to file an administrative petition, or to bring an action before any court of competent jurisdiction, for itself or by, for, or on behalf of any motor vehicle franchisee or group of motor vehicle franchisees for any alleged violation of the “Franchise Practices Act.” However, a corporation or association is only permitted to file such petition or bring such action in certain circumstances outlined in the substitute.

Motor Vehicle Commission Requirements

Under the substitute, when issuing a motor vehicle registration or renewal notice, the New Jersey Motor Vehicle Commission (MVC) is also to issue an open recall notice to inform a motor vehicle owner that the National Highway Traffic Safety Administration (NHTSA) maintains a recall database through which motor vehicle owners can determine whether a motor vehicle is subject to an open recall. The open recall notice is also required to include: (1) a link to the Internet website through which a motor vehicle owner can access the NHTSA recall database; and (2) a statement indicating that each open recall may be repaired by a dealer approved by the manufacturer of the

motor vehicle at no cost to the owner of the motor vehicle, except as provided under certain provisions of federal law. The substitute permits the MVC to apply for any available funding to help the MVC cover the costs to effectuate the open recall notice requirements. Manufacturers operating in this State are required to assist the MVC with any application for funding under the substitute. However, if the MVC is unable to acquire sufficient funding to cover the costs of implementing the open recall notice requirement, the chief administrator of the MVC is permitted to require each manufacturer that conducts business in the State to pay a fee to the MVC to cover the difference. The chief administrator of the MVC is required to determine the amount of the fee each year based on documentation of the actual costs incurred to implement the open recall notice requirement under the substitute.

Compensation for Recall Costs

Under the substitute, if the part or parts necessary to perform a recall service are unavailable to perform a recall service or repair on a used motor vehicle within 30 days of the franchisor issuing the first recall notice, a motor vehicle franchisor is to compensate a motor vehicle franchisee at a prorated rate of at least 1.5 percent of the value of the used motor vehicle. However, this prorated rate is only to apply to used motor vehicles that are subject to an open recall, for which a stop-sale notice or do-not-drive notice has been issued, and for which a franchisee is authorized to sell and service new motor vehicles of the same line-make. The franchisor is to compensate a franchisee at the prorated rate each month beginning 30 days after the franchisor issued the stop-sale notice or do-not-drive notice to the franchisee until the earlier of: (1) the date that the part or parts necessary to perform the recall service become available; or (2) the date that the franchisor sells, trades, or otherwise disposes of the used motor vehicle that is subject to the stop-sale notice or do-not-drive notice. For the purposes of this calculation, a used motor vehicle's value is to be the average trade-in value as indicated in an independent third-party guide for the year, make, and model of the used motor vehicle.

Alternatively, the substitute permits a franchisor to compensate its franchisees under a national recall compensation program, provided that: (1) compensation under the program is equal to or greater than the compensation provided under the prorated rate; or (2) the franchisor and the franchisee otherwise reach an agreement relating to compensation.

In addition, the substitute prohibits a franchisor from reducing, through various means outlined in the substitute, the amount of compensation otherwise owed to a franchisee because the franchisee has submitted a claim for reimbursement pursuant to the new guidance on compensation for recall costs.

Reimbursement for Certain Expenses

Under current law, certain requirements are triggered if a motor vehicle franchise requires or permits franchisees to perform services or provide parts in satisfaction of a warranty issued by the franchisor. This substitute amends current law to extend these requirements to the satisfaction of a repair service offered and reimbursed by the franchisor (repair service), including, but not limited to, a warranty, an extended warranty, a maintenance plan, a service-related plan, or a recall.

Under the substitute, labor services to be reimbursed include diagnostic work. In the case of entire engine and entire transmission assemblies and electric propulsion batteries, the substitute requires the franchisor to reimburse the franchisee in the amount of 30 percent of what the franchisee would have paid the franchisor for a part if the part had not been supplied by the franchisor other than by the sale of that part to the franchisee.

The substitute amends certain provisions of law concerning the process for calculating the prevailing retail price, average percentage parts markup, the retail labor time allowance, and the retail labor rate. Under the substitute, a franchisee is not to request a change in the average percentage parts markup, retail labor time allowance, or retail labor rate more than twice in one calendar year.

The substitute requires a franchisor to provide adequate and fair compensation to each franchisee for labor services rendered for a repair in an amount not less than the amount a retail customer pays for the same labor services with regard to labor time. A franchisee may apply to its franchisor for reimbursement for labor services according to an established average retail labor time allowance instead of the franchisor's labor time guide for franchisor-paid repairs or service. As part of its application, a franchisee is to submit certain information to the franchisor in order to establish an average retail labor time allowance pursuant to calculations outlined in the substitute. The average retail labor time allowance, once declared, is to become effective 30 days following the declaration subject to audit by the franchisor only of the sample submitted by the franchisee. Any proposed adjustment of the average labor time allowance made by the franchisor is to be based only on an audit of that sample.

Under the substitute, if a franchisor supplies, or causes to be supplied, a part or parts for use in a repair service, at no cost or at a reduced cost, the franchisor is to compensate the franchisee in the same manner as the franchisor compensates the franchisee for the franchisee's cost of the part, if any. However, in addition to the cost of the part, the franchisor is to compensate the franchisee an amount equal to the franchisee's parts markup multiplied by the wholesale value of the part, which value is to be determined by calculations outlined in the substitute.

Restrictions on Reimbursement

A franchisor is prohibited under the substitute from recovering its costs from a franchisee, except in certain circumstances. However, the substitute preserves a franchisor's right to increase prices for motor vehicles or parts in the normal course of business.

In addition, a motor vehicle franchisor is prohibited under the substitute from charging back any claim paid for labor services and parts provided in the performance of a repair service for an incentive, bonus, sales, performance, or other program without providing written notice to the franchisee within 30 days from the audit, which written notice explains in detail the basis for each of the proposed chargebacks and the methodology by which the franchisee was selected for audit or review.

After all internal dispute resolution processes provided through the franchisor have been resolved, the franchisor is required to provide final notice to the franchisee of the final amount of the proposed chargeback. If the franchisee or its representative institutes an administrative or judicial action for a violation of the "Franchise Practices Act," challenging the chargeback within 30 days of the receipt of the final notice, the total proposed chargeback amounts are to be stayed, without bond, until the final judgment has been rendered.

A franchisor is not permitted to deny or charge back a claim paid for labor services and parts provided in the performance of an open recall, warranty, or other service agreement or for an incentive, bonus, sales, performance, or other program unless the franchisor proves that certain conditions outlined in the substitute were met. A franchisor is not permitted to deny or charge back a claim due to an administrative or scrivener's error in the submission of the claim.

Under the substitute, a motor vehicle franchisor is not to unilaterally reduce or manipulate the price of parts required for a repair service in a manner that unfairly and unilaterally allows the franchisor to reduce the level of compensation paid to franchisees for such services within 60 or fewer days preceding an announcement of a recall, any time after a recall, or after a warranty claim has arisen.

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 3309

with Assembly Floor Amendments
(Proposed by Assemblyman COUGHLIN)

ADOPTED: JUNE 30, 2025

These floor amendments:

(1) remove the definition of “dealer” and “time of sale” from the bill;

(2) provide definitions for “chief administrator,” “commission,” and “manufacturer” in section 2 of the bill, instead of in section 5 of the bill;

(3) define “new motor vehicle dealer” to mean, in part, the agent, distributor, or authorized dealer of the manufacturer of the new motor vehicle who has an established place of business;

(4) define “used motor vehicle dealer” to mean, in part, a person engaged in the business of selling, buying, or dealing in four or more used motor vehicles per year at an established place of business, but who is not a licensed new motor vehicle dealer;

(5) replace references to “dealer” with “new motor vehicle dealer” and “used motor vehicle dealer” in section 2 of the bill;

(6) remove a provision that permitted any corporation or association that is primarily owned by or comprised of motor vehicle franchisees, which corporation or association primarily represents the interests of motor vehicle franchisees, to file an administrative petition for itself or by, for, or on behalf of any motor vehicle franchisee or group of motor vehicle franchisees for any alleged violation of the “Franchise Practices Act”;

(7) clarify that the franchisor is to compensate a franchisee at the prorated rate each month beginning 30 days after the franchisor issued the stop-sale notice or do-not-drive notice to the franchisee until the earlier of: the date that the part or parts necessary to perform the recall service become available; or the date that the franchisee, rather than the franchisor, sells, trades, or otherwise disposes of the used motor vehicle that is subject to the stop-sale notice or do-not-drive notice;

(8) remove the definition section from section 5 of the bill and, instead, clarify that “chief administrator,” “commission,” “new motor vehicle dealer,” “manufacturer,” “open recall,” and “recall,” as used in section 5, have the same meaning as those terms are defined in section 2 of the bill; and

(9) require the bill to become effective on the first day of the seventh month, rather than the first day of the fourth month, following enactment.

ASSEMBLY, No. 4380

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 16, 2024

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman JOHN DIMAIO

District 23 (Hunterdon, Somerset and Warren)

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

Co-Sponsored by:

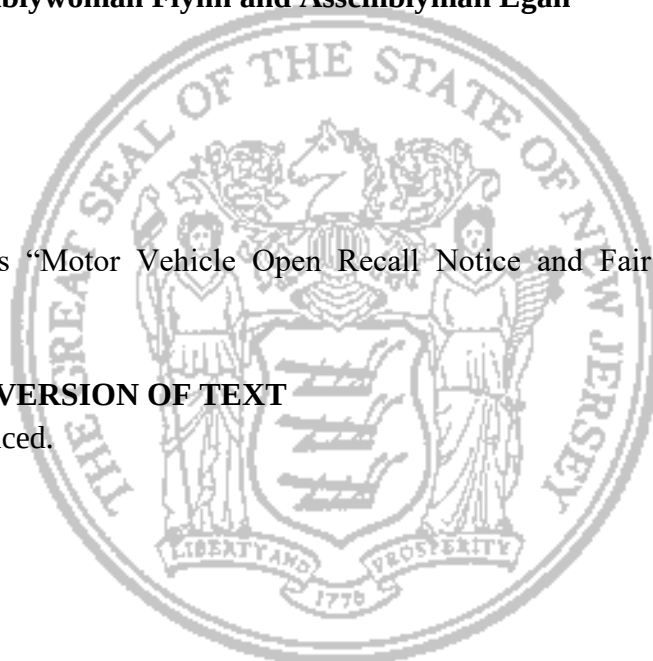
Assemblymen Azzariti Jr., Inganamort, Barranco, Miller, Calabrese, Assemblywoman Ramirez, Assemblyman Marengo, Assemblywoman Donlon, Assemblyman Schnall, Assemblywoman Bagolie, Assemblymen Rumpf, DePhillips, Barlas, Assemblywoman Quijano, Assemblyman Myhre, Assemblywomen N.Munoz, Dunn, Matsikoudis, Assemblymen Hutchison, Greenwald, Danielsen, Verrelli, Karabinchak, Assemblywoman Reynolds-Jackson, Assemblymen Atkins, Spearman, Assemblywomen Haider, Fantasia, Assemblyman Clifton, Assemblywomen Hall, Swain, Assemblymen Webber, Torrissi, Assemblywomen Park, Peterpaul, Assemblymen Bailey, Kanitra, Assemblywoman Simmons, Assemblyman Auth, Assemblywoman Flynn and Assemblyman Egan

SYNOPSIS

Establishes “Motor Vehicle Open Recall Notice and Fair Compensation Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/6/2025)

1 **AN ACT** concerning motor vehicle open recalls and motor vehicle
2 franchises, supplementing P.L.1971, c.356 (C.56:10-1 et seq.),
3 and amending various parts of the statutory law.

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.
9 (C.) (pending before the Legislature as this bill) shall be
10 known and may be cited as the “Motor Vehicle Open Recall Notice
11 and Fair Compensation Act.”

12
13 2. (New section) As used in sections 2 through 5 of P.L. , c.
14 (C.):

15 “Chief administrator” means the Chief Administrator of the New
16 Jersey Motor Vehicle Commission.

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

20 “Dealer” means a person who is actively engaged in the retail
21 business of buying, selling, or exchanging new or used motor
22 vehicles.

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

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

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

31 “Open recall” means a safety or emissions recall on a specific
32 vehicle that has not been corrected or addressed.

33 “Retail” does not include wholesale sales, sales between dealers,
34 or sales to owners or operators of motor vehicle junk businesses or
35 motor vehicle junk yards, as those terms are defined in R.S.39:11-2,
36 or any other person engaged in the business of dismantling,
37 destroying, or recycling motor vehicles.

38 “Time of sale” means the period of time when the buyer executes
39 a retail order form for the purchase, or lease agreement for the
40 lease, of a used motor vehicle.

41 “Used motor vehicle” means a used motor vehicle, as that term is
42 defined in R.S.39:10-2.

43
44 3. (New section) a. A motor vehicle franchisee or dealer shall
45 not conduct a retail sale of a used motor vehicle without first

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.

1 contacting, or accessing information provided through the Internet
2 website of, the National Highway Traffic Safety Administration, or
3 a subsequently established similar official source of information, to
4 determine whether there are any open recalls on the motor vehicle
5 offered for retail sale. If an open recall is discovered, the motor
6 vehicle franchisee or dealer shall inform a prospective purchaser
7 about the recall and provide the prospective purchaser with a
8 printed copy of the recall information, as published on the Internet
9 website of the National Highway Traffic Safety Administration, or a
10 subsequently established similar official source of information.

11 b. A motor vehicle franchisee or dealer shall not sell or
12 otherwise transfer to a retail customer any used motor vehicle that
13 is subject to a stop-sale notice, do-not-drive notice, or similar notice
14 or designation issued by the National Highway Traffic Safety
15 Administration, or its successor.

16 c. There shall be an irrebuttable presumption that a motor
17 vehicle franchisee or dealer had no knowledge of the existence of
18 an open recall, stop-sale notice, do-not-drive notice, or similar
19 notice or designation for a used motor vehicle if, at the time of sale:

20 (1) the motor vehicle franchisee or dealer accessed the Internet
21 website of the National Highway Traffic Safety Administration on
22 open recalls, or a subsequently established similar official source of
23 information; and

24 (2) a search by the motor vehicle franchisee or dealer using the
25 specific vehicle identification number of the motor vehicle yielded
26 no indication of an open recall, stop-sale notice, do-not-drive
27 notice, or similar notice or designation for the used motor vehicle.

28 d. Nothing in this section shall be construed to:

29 (1) create any legal duty or liability upon a motor vehicle
30 franchisee or dealer related to the accuracy, errors, or omissions of
31 the Internet website of the National Highway Traffic Safety
32 Administration on open recalls, or a subsequently established
33 similar official source of information; or

34 (2) require a motor vehicle franchisee or dealer to provide a
35 prospective purchaser with any recall information that may be
36 added to the Internet website of the National Highway Traffic
37 Safety Administration on open recalls, or subsequently established
38 similar official source of information, after the motor vehicle
39 franchisee or dealer has provided a printed copy of the recall
40 information as it appeared at the time it was provided to the
41 prospective purchaser of the used motor vehicle at the time of sale.

42

43 4. (New section) a. Any motor vehicle franchisor or dealer
44 offering motor vehicles for sale in this State shall provide a list to
45 the Chief Administrator of the New Jersey Motor Vehicle
46 Commission of motor vehicles registered in this State that are
47 subject to an open recall for which the necessary repairs remain
48 uncompleted for a period of six or more months after the initial

1 notice of recall issued by the manufacturer pursuant federal law. In
2 addition to any other information that the chief administrator may
3 deem appropriate, the list shall identify each motor vehicle by year,
4 make, model, and vehicle identification number. Any motor vehicle
5 franchisor or dealer that is required to submit a list pursuant to this
6 subsection shall provide an updated list to the chief administrator
7 every 180 days after the submission of the initial list pursuant to
8 this subsection.

9 b. Upon receipt of an initial or updated list pursuant to
10 subsection a. of this section, the chief administrator shall, within 30
11 days, direct a motor vehicle franchisor or dealer to send out a notice
12 on official letterhead of the commission at the motor vehicle
13 franchisor or dealer's expense, to all registered owners of the listed
14 motor vehicles. The notice shall read as follows:

15 "..... (date)

16 (registered owner's name)

17 (registered owner's address)

18 THERE IS AN OPEN RECALL ON YOUR VEHICLE:

19 YOUR IMMEDIATE ACTION IS REQUIRED!

20 Dear (owner's name):

21 This notification concerns a motor vehicle registered in your
22 name in the State of New Jersey, a (year, make,
23 model), vehicle identification number (vehicle
24 identification number).

25 The New Jersey Motor Vehicle Commission is contacting you
26 because your (year, make, model) vehicle has an open
27 recall for a serious motor vehicle defect THAT COULD CAUSE
28 SERIOUS INJURY TO YOU AND/OR A PASSENGER IN YOUR
29 VEHICLE if not remedied.

30 The New Jersey Motor Vehicle Commission has been provided
31 information from (motor vehicle franchisor or dealer)
32 that the (make, model) that is currently registered in
33 your name, identified by the vehicle identification number
34 (vehicle identification number), has been recalled.

35 According to information provided by (motor
36 vehicle franchisor or dealer), your vehicle has not been repaired yet.
37 The potentially lifesaving repair is FREE of charge to you and parts
38 are available now. A FREE loaner car or other alternative
39 transportation may be available to assist with any inconvenience
40 this repair may cause you.

41 WHAT SHOULD YOU DO NOW?

42 - Visit (internet website of motor vehicle
43 manufacturer or dealer) or call the motor vehicle franchisor or
44 dealer toll-free at (toll-free motor vehicle franchisor or
45 dealer number) to find your nearest (make) dealership.

46 - Immediately contact a local (make) dealership to
47 schedule a FREE repair for your recalled vehicle. Ask for
48 alternative transportation, if needed.

1 - If you believe you have already taken action on this recall, visit
2 (the Internet website of the National Highway Traffic
3 Safety Administration on open recalls, or a subsequently established
4 similar official source of information) and enter your
5 (make, model) vehicle identification number to verify the repair and
6 ensure that no other recalls have been issued for your vehicle.

7 The safety of you and your family on New Jersey roadways is
8 one of the commission's top priorities. Please act NOW to protect
9 yourself and the passengers in your vehicle. If you believe that
10 (motor vehicle franchisor or dealer) or your
11 (make) dealer has failed or is unable to remedy the
12 defect in your vehicle, without charge and within a reasonable
13 period of time, you may submit a complaint by mail to:
14 Administrator, National Highway Traffic Safety Administration,
15 1200 New Jersey Avenue S.E., West Building, Washington, DC
16 20590. Alternatively, you may call the toll-free Vehicle Safety
17 Hotline at (toll-free telephone number) or visit
18 (Internet website of the National Highway Traffic
19 Safety Administration)."
20

21 5. (New section) Any corporation or association that is
22 primarily owned by or comprised of motor vehicle franchisees,
23 which corporation or association primarily represents the interests
24 of motor vehicle franchisees, shall have standing to file an
25 administrative petition, or to bring an action before any court of
26 competent jurisdiction, for itself or by, for, or on behalf of any
27 motor vehicle franchisee or group of motor vehicle franchisees for
28 any alleged violation of P.L.1971, c.356 (C.56:10-1 et seq.), as
29 amended and supplemented.
30

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

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

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

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

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

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

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

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

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

39 g. Despite prior enactments, certain motor vehicle franchisors
40 have failed to comply with the law, and many motor vehicle
41 franchisees have found it either too risky to oppose their supplier or
42 too burdensome to take on a legal challenge to unfair or oppressive
43 marketplace behavior carried out by motor vehicle franchisors,
44 which franchisors control the exclusive supply of motor vehicles,
45 parts, and special equipment to motor vehicle franchisees.

46 h. As a result, it is necessary for the Legislature to further
47 revise the laws pertaining to motor vehicle franchisees to strengthen
48 and clarify certain provisions of existing law intended to protect the

1 public from marketplace behavior that has the potential to restrict
2 competition for sales and threaten highway safety by limiting
3 consumer access to essential warranty and open recall service
4 provided by neighborhood new car dealers.

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

6
7 7. Section 5 of P.L.1999, c.45 (C.56:10-7.4) is amended to read
8 as follows:

9 5. It shall be a violation of P.L.1971, c.356 (C.56:10-1 et seq.)
10 for any motor vehicle franchisor, directly or indirectly, through any
11 officer, agent or employee, to engage in any of the following
12 practices:

13 a. To impose unreasonable standards of performance or
14 unreasonable facilities, financial, operating or other requirements
15 upon a motor vehicle franchisee.

16 b. To base the disapproval of the transfer, sale or assignment of
17 a motor vehicle franchise, or any interest therein, on the ground that
18 the proposed transferee is not a natural person.

19 c. (1) To fail to compensate a motor vehicle franchisee for all
20 reasonable costs incurred by the franchisee in complying with the
21 requirements imposed on the franchisee by the franchisor or by law
22 relating to a product recall.

23 (2) With respect to a new motor vehicle or any used motor
24 vehicle that is of the same line make as the motor vehicle franchisor
25 and motor vehicle franchisee, that is held for sale by the motor
26 vehicle franchisee, that is subject to a stop-sale notice, do-not-drive
27 notice, or similar notice or designation issued by the National
28 Highway Traffic Safety Administration, its successor, or the motor
29 vehicle franchisor, and for which motor vehicle a part or remedy is
30 not reasonably available to perform a service or repair, the
31 reasonable costs of the motor vehicle franchisee, if not preempted
32 by federal law or regulation, shall be 1.75 percent of the value of
33 the motor vehicle per month, or per portion of a month, while the
34 part or remedy is unavailable.

35 (3) For purposes of this subsection, the value of a new motor
36 vehicle shall be the motor vehicle franchisor's suggested retail price
37 of the motor vehicle, and the value of a used motor vehicle shall be
38 the average trade-in value of the used motor vehicle, as indicated in
39 an independent third-party guide for the year, make, model, and
40 mileage of the motor vehicle.

41 (4) Notwithstanding any provision of this subsection to the
42 contrary, a motor vehicle franchisor may compensate one or more
43 motor vehicle franchisees under a national recall compensation
44 program, provided that the compensation paid under that program is
45 equal to or greater than the amounts set forth in this section.

46 d. To utilize an arbitrary or unreasonable formula or other
47 calculation or process intended to gauge performance as a basis for

1 making any decision or taking any action governed by P.L.1971,
2 c.356 (C.56:10-1 et seq.).

3 e. Except as provided pursuant to section 6 of P.L.2015, c.24
4 (C.56:10-27.1), to own or operate or enter into an agreement with a
5 person, other than an existing motor vehicle franchisee, to operate a
6 retail facility for the servicing of motor vehicles, which is
7 authorized to perform warranty service on motor vehicles
8 manufactured or distributed by the motor vehicle franchisor. The
9 establishment, relocation, reopening or reactivation of such a
10 facility pursuant to an agreement with a motor vehicle franchisee
11 shall be subject to the provisions of P.L.1982, c.156 (C.56:10-16 et
12 seq.), except that paragraph (3) of subsection b. of section 8 of that
13 act (C.56:10-23) shall not be applicable. Notice shall be given to
14 motor vehicle franchisees in the same line make or makes within six
15 miles of the proposed retail facility for the servicing of motor
16 vehicles which is authorized to perform warranty service on motor
17 vehicles manufactured or distributed by the motor vehicle
18 franchisor.

19 f. To require an unconditional release from a motor vehicle
20 franchisee without permitting the franchisee to except from the
21 release any claims for outstanding financial obligations of the motor
22 vehicle franchisor to the motor vehicle franchisee for which
23 payment will not be made at or before the giving of the release.

24 g. (1) To require or attempt to require a motor vehicle
25 franchisee to order or purchase a new or used motor vehicle, or any
26 accessory or equipment thereof not required by law; or (2) to
27 require or attempt to require a motor vehicle franchisee to accept
28 delivery of any motor vehicle, or any accessory or equipment
29 thereof not required by law, which is not as ordered by the motor
30 vehicle franchisee; or (3) to take or withhold or threaten to take or
31 withhold any action, impose or threaten to impose any penalty, or
32 deny or threaten to deny any benefit, as a result of the motor vehicle
33 franchisee's failure or refusal to purchase, order or accept delivery
34 of any such motor vehicle, accessory or equipment. This subsection
35 shall not prevent a motor vehicle franchisor from requiring that a
36 motor vehicle franchisee carry a representative inventory of models
37 offered for sale by the motor vehicle franchisor.

38 h. To fail or refuse to sell or offer to sell to all motor vehicle
39 franchisees in a line make every motor vehicle sold or offered for
40 sale to any motor vehicle franchisee of the same line make, or to
41 fail or refuse to sell or offer to sell such motor vehicles to all motor
42 vehicle franchisees at the same price for a comparably equipped
43 motor vehicle, on the same terms, with no differential in discount,
44 allowance, credit or bonus, and on reasonable, good faith and non-
45 discriminatory allocation and availability terms. However, the
46 failure to deliver any such motor vehicle shall not be considered a
47 violation of this section if the failure is not arbitrary and is due to a
48 lack of manufacturing capacity or to a strike or labor difficulty, a

1 shortage of materials, a freight embargo or other cause over which
2 the franchisor has no control. A motor vehicle franchisor shall not
3 require a motor vehicle franchisee to purchase unreasonable
4 quantities of advertising materials, purchase special tools not
5 required to properly service a motor vehicle or undertake sales
6 person or service person training unrelated to the motor vehicle or
7 meet unreasonable display requirements as a condition of receiving
8 a motor vehicle.

9 i. Unless compelled by law or legal process, (1) if the
10 customer has objected thereto in writing, to require a motor vehicle
11 franchisee to publish, release, convey or otherwise provide
12 information obtained with respect to any customers, contracts,
13 products, services or other transactions of the motor vehicle
14 franchisee which is not necessary for the motor vehicle franchisor
15 to meet its obligations to consumers or the motor vehicle
16 franchisee, including vehicle recalls or other requirements imposed
17 by State or federal law, or for complying with the duties or
18 obligations of the respective parties under the franchise; or (2) to
19 release such information which has been provided to it by the motor
20 vehicle franchisees to any third party.

21 j. To impose or attempt to impose any requirement, limitation
22 or regulation on, or interfere or attempt to interfere with, the
23 manner in which a motor vehicle franchisee utilizes the facilities at
24 which a motor vehicle franchise is operated, including, but not
25 limited to, requirements, limitations or regulations as to the line
26 makes of motor vehicles that may be sold or offered for sale at the
27 facility, or to take or withhold or threaten to take or withhold any
28 action, impose or threaten to impose any penalty, or deny or
29 threaten to deny any benefit, as a result of the manner in which the
30 motor vehicle franchisee utilizes his facilities, except that the motor
31 vehicle franchisor may require that the portion of the facilities
32 allocated to or used for the motor vehicle franchise meets the motor
33 vehicle franchisor's reasonable, written space and volume
34 requirements as uniformly applied by the motor vehicle franchisor.
35 The provisions of this subsection shall not apply if the motor
36 vehicle franchisor and the motor vehicle franchisee voluntarily
37 agree to the requirement and separate and valuable consideration
38 therefor is paid.

39 k. To require or attempt to require a motor vehicle franchisee,
40 or the owner or landlord of property on which a motor vehicle
41 franchise is operated, to give a motor vehicle franchisor or any
42 person under the control of the motor vehicle franchisor an interest
43 in or option with respect to the real property on which the motor
44 vehicle franchise is operated, to restrict the uses to which the
45 facility at which the motor vehicle franchise is operated may be put
46 during or after the term of the franchise, or to take or withhold or
47 threaten to take or withhold any action, impose or threaten to
48 impose any penalty, or deny or threaten to deny any benefit, as a

1 result of the failure or refusal of a motor vehicle franchisee,
2 property owner, or landlord to agree to or comply with any such
3 demand or restriction. Nothing in this subsection shall be deemed
4 to bar a voluntary agreement between a motor vehicle franchisor
5 and a motor vehicle franchisee, or the owner or landlord of property
6 on which a motor vehicle franchise is operated, to give the motor
7 vehicle franchisor or the person under the control of the motor
8 vehicle franchisor an interest in or option with respect to the real
9 property on which a motor vehicle franchise is operated, or to
10 restrict the uses to which the facility at which the motor vehicle
11 franchise is operated is put, provided that separate and valuable
12 consideration is paid for such interest, option or restriction.

13 l. To require or attempt to require a motor vehicle franchisee
14 to relocate his franchise or to implement any facility or operational
15 modification or to take or withhold or threaten to take or withhold
16 any action, impose or threaten to impose any penalty, or deny or
17 threaten to deny any benefit as a result of the failure or refusal of
18 such motor vehicle franchisee to agree to any such relocation or
19 modification, unless the motor vehicle franchisor can demonstrate
20 that: (1) funds are generally available to the franchisee for the
21 relocation or modification on reasonable terms; and (2) the motor
22 vehicle franchisee will be able, in the ordinary course of business as
23 conducted by such motor vehicle franchisee, to earn a reasonable
24 return on his total investment in such facility or from such
25 operational modification, and the full return of his total investment
26 in such facility or from such operational modifications within 10
27 years; or (3) the modification is required so that the motor vehicle
28 franchisee can effectively sell and service a motor vehicle offered
29 by the motor vehicle franchisor based on the specific technology of
30 the motor vehicle. This subsection shall not be construed as
31 requiring a motor vehicle franchisor to guarantee that the return as
32 provided in paragraph (2) of this subsection will be realized.

33 m. Directly, or through any financial institution having any
34 commonality of ownership with the motor vehicle franchisor, to
35 require or attempt to require, or to take or withhold or threaten to
36 take or withhold any action, impose or threaten to impose any
37 penalty, or deny or threaten to deny any benefit, as a result of the
38 failure or refusal of a motor vehicle franchisee to maintain working
39 capital, equity, floor plan financing or other indications of financial
40 condition, greater than the lesser of (1) the minimum required to
41 operate the motor vehicle franchise based on the operations of the
42 franchise over the prior 12-month period; or (2) an increase of no
43 more than **【5%】** five percent over the prior calendar year, unless
44 the motor vehicle franchisor, or the financial institution having any
45 commonality of ownership with a motor vehicle franchisor, can
46 establish that such failure or refusal prevents the franchisee from
47 operating the franchise in the ordinary course of business. This
48 subsection shall not apply if the working capital, equity, floor plan

1 financing or other indication of financial condition is the result of
2 an accommodation by the motor vehicle franchisor, or financial
3 institution with a commonality of ownership with the motor vehicle
4 franchisor, to the motor vehicle franchisee, containing specific
5 terms and deadlines for the restoration of the motor vehicle
6 franchisee's working capital, inventory, floor plan financing or
7 other indication of financial condition, which accommodation is
8 agreed to in writing by the motor vehicle franchisee.

9 n. To impose or attempt to impose any conditions on the
10 approval of the transfer of a motor vehicle franchise, except as
11 provided in section 6 of P.L.1971, c.356 (C.56:10-6).

12 o. To amend or modify the franchise of a motor vehicle
13 franchisee, or any lease or agreement ancillary or collateral to such
14 franchise, including in connection with the renewal of a franchise, if
15 such amendment or modification is not in good faith, is not for good
16 cause, or would adversely and substantially alter the rights,
17 obligations, investment or return on investment of the motor vehicle
18 franchisee.

19 p. To take or withhold or threaten to take or withhold any
20 action, impose or threaten to impose any penalty, or deny or
21 threaten to deny any benefit, because the motor vehicle franchisee
22 sold or leased a motor vehicle to a customer who exported the
23 vehicle to a foreign country or who resold the vehicle, unless the
24 motor vehicle franchisor can establish that the motor vehicle
25 franchisee knew or reasonably should have known, prior to the sale
26 or lease, that the customer intended to export or resell the motor
27 vehicle; provided, however, that it shall be presumed that the motor
28 vehicle franchisee did not know or should not have reasonably
29 known that the vehicle would be exported if the vehicle is titled or
30 registered in any state or the District of Columbia.

31 q. To require a motor vehicle franchisee, at the time of entering
32 into a franchise arrangement, any lease or agreement ancillary or
33 collateral to a motor vehicle franchise, or any amendment,
34 modification, renewal or termination thereof, to assent to a release,
35 assignment, novation, waiver or estoppel, which would relieve any
36 person from liability imposed by P.L.1971, c.356 (C.56:10-1 et
37 seq.); provided that nothing in this subsection shall be deemed to
38 prohibit a voluntary agreement between the motor vehicle
39 franchisor and the motor vehicle franchisee which contains a
40 release, assignment, novation, waiver or estoppel for which separate
41 and valuable consideration is paid by the motor vehicle franchisor
42 to the motor vehicle franchisee.

43 r. To provide any term or condition in any motor vehicle
44 franchise, in any lease or other agreement ancillary or collateral to a
45 motor vehicle franchise or in any renewal, amendment or
46 modification thereof, which term or condition directly or indirectly
47 violates P.L.1971, c.356 (C.56:10-1 et seq.).

1 s. To allocate vehicles to or evaluate the performance of a
2 motor vehicle franchise based on, or offer any discount, incentive,
3 bonus, program, allowance or credit that differentiates between
4 vehicle sales by a motor vehicle franchisee within a territory or
5 geographic area assigned to the motor vehicle franchisee and
6 vehicle sales outside of such territory or geographic area.

7 t. To take or withhold, or threaten to take or withhold, any
8 action; impose, or threaten to impose, any penalty; or deny or limit,
9 or threaten to deny or limit any benefit to a motor vehicle franchisee
10 who discloses to a customer any recall or any information related to
11 a condition that may affect the safety, emissions, or operability of a
12 motor vehicle, including, but not limited to, the provision of notice
13 pursuant to section 4 of P.L. , c. (C.) (pending before the
14 Legislature as this bill).

15 u. To reduce the amount of compensation otherwise owed to a
16 motor vehicle franchisee, whether through a chargeback, removal
17 from an incentive program, reduction in amount owed under an
18 incentive program, or any other means, because the motor vehicle
19 franchisee has submitted a claim for reimbursement under
20 subsection c. of this section or was otherwise compensated for a
21 motor vehicle subject to a recall.

22 (cf: P.L.2015, c.24, s.2)

23
24 8. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read
25 as follows:

26 3. If any motor vehicle franchise shall require or permit motor
27 vehicle franchisees to perform labor services or provide parts in
28 satisfaction of a warranty [issued], extended warranty,
29 maintenance, or other service-related plan offered by the motor
30 vehicle franchisor:

31 a. The motor vehicle franchisor shall reimburse each motor
32 vehicle franchisee for such labor services, including diagnostic
33 work, as are rendered and for such parts as are supplied, in an
34 amount equal to the greater of the adequate and fair compensation
35 calculated pursuant to subsection j. of this section or the prevailing
36 retail price charged by such motor vehicle franchisee for such labor
37 services and parts in circumstances where such labor services are
38 rendered or such parts supplied other than pursuant to warranty;
39 provided that such motor vehicle franchisee's prevailing retail price
40 is not unreasonable when compared with that of the holders of
41 motor vehicle franchises from the same motor vehicle franchisor for
42 identical merchandise or services in the geographic area in which
43 the motor vehicle franchisee is engaged in business.

44 b. The motor vehicle franchisor shall not by agreement, by
45 restrictions upon reimbursement, or otherwise, restrict the nature
46 and extent of labor services to be rendered or parts to be provided
47 so that such restriction prevents the motor vehicle franchisee from
48 satisfying the warranty by rendering labor services in a good and

1 workmanlike manner and providing parts which are required in
2 accordance with generally accepted standards. Any such restriction
3 shall constitute a prohibited practice hereunder.

4 c. The motor vehicle franchisor shall reimburse the motor
5 vehicle franchisee pursuant to subsection a. of this section, without
6 deduction, for labor services performed on, and parts supplied for, a
7 motor vehicle by the motor vehicle franchisee in good faith and in
8 accordance with generally accepted standards, notwithstanding any
9 requirement that the motor vehicle franchisor accept the return of
10 the motor vehicle or make payment to a consumer with respect to
11 the motor vehicle pursuant to the provisions of P.L.1988, c.123
12 (C.56:12-29 et seq.).

13 d. For the purposes of this section, the "prevailing retail price"
14 charged by: (1) a motor vehicle franchisee for parts means the price
15 paid by the motor vehicle franchisee for those parts, including all
16 shipping and other charges, multiplied by the sum of 1.0 and the
17 franchisee's average percentage parts markup over the price paid by
18 the motor vehicle franchisee for parts purchased by the motor
19 vehicle franchisee from the motor vehicle franchisor and sold at
20 retail. The motor vehicle franchisee may establish average
21 percentage parts markup under this section by submitting to the
22 motor vehicle franchisor 100 sequential customer paid service
23 repair orders or 90 days of customer paid service repair orders,
24 whichever is less, covering repairs made no more than 180 days
25 before the submission, and declaring **【what】** the average percentage
26 parts markup **【is】**. The average percentage parts markup so
27 declared shall go into effect 30 days following the declaration
28 subject to audit of the submitted repair orders by the motor vehicle
29 franchisor and adjustment of the average percentage parts markup
30 based on that audit. Only retail sales not involving warranty
31 repairs, parts covered by subsection e. of this section, or parts
32 supplied for routine vehicle maintenance, shall be considered in
33 calculating average percentage parts markup. No motor vehicle
34 franchisor shall require a motor vehicle franchisee to establish
35 average percentage parts markup by a methodology, or by requiring
36 information, that is unduly burdensome or time consuming to
37 provide, including, but not limited to, part by part or transaction by
38 transaction calculations. A motor vehicle franchisee shall not
39 request a change in the average percentage parts markup more than
40 twice in one calendar year; and (2) a recreational motor vehicle
41 franchisee for parts means actual wholesale cost, plus a minimum
42 **30【%】** percent handling charge and any freight costs incurred to
43 return the removed parts to the motor vehicle franchisor.

44 e. If a motor vehicle franchisor supplies a part or parts for use
45 in a repair rendered under a warranty other than by sale of that part
46 or parts to the motor vehicle franchisee, the motor vehicle
47 franchisee shall be entitled to compensation equivalent to the motor
48 vehicle franchisee's average percentage parts markup on the part or

1 parts, as if the part or parts had been sold to the motor vehicle
2 franchisee by the motor vehicle franchisor. The requirements of
3 this section shall not apply to entire engine assemblies and entire
4 transmission assemblies. In the case of those **【assemblies】** parts,
5 the motor vehicle franchisor shall reimburse the motor vehicle
6 franchisee in the amount of 30**【%】** percent of what the motor
7 vehicle franchisee would have paid the motor vehicle franchisor for
8 **【the assembly】** a part if the **【assembly】** part had not been supplied
9 by the franchisor other than by the sale of that **【assembly】** part to
10 the motor vehicle franchisee.

11 f. The motor vehicle franchisor shall reimburse the motor
12 vehicle franchisee for parts supplied and labor services rendered
13 under a warranty within 30 days after approval of a claim for
14 reimbursement. All claims for reimbursement shall be approved or
15 disapproved within 30 days after receipt of the claim by the motor
16 vehicle franchisor. When a claim is disapproved, the motor vehicle
17 franchisee shall be notified in writing of the grounds for the
18 disapproval. No claim that has been approved and paid shall be
19 charged back to the motor vehicle franchisee unless it can be shown
20 that the claim was false or fraudulent, that the labor services were
21 not properly performed, that the parts or labor services were
22 unnecessary to correct the defective condition, or that the motor
23 vehicle franchisee failed to reasonably substantiate the claim in
24 accordance with reasonable written requirements of the motor
25 vehicle franchisor, provided that the motor vehicle franchisee had
26 been notified of the requirements prior to the time the claim arose
27 and the requirements were in effect at the time the claim arose. A
28 motor vehicle franchisor shall not audit a claim after the expiration
29 of 12 months following the payment of the claim unless the motor
30 vehicle franchisor has reasonable grounds to believe that the claim
31 was fraudulent.

32 g. The obligations imposed on motor vehicle franchisors by
33 this section shall apply to any parent, subsidiary, affiliate or agent
34 of the motor vehicle franchisor, any person under common
35 ownership or control, any employee of the motor vehicle franchisor
36 and any person holding 1**【%】** percent or more of the shares of any
37 class of securities or other ownership interest in the motor vehicle
38 franchisor, if a warranty or service or repair plan is issued by that
39 person instead of or in addition to one issued by the motor vehicle
40 franchisor.

41 h. **【The provisions of this section shall also apply to franchisor**
42 **administered service and repair plans:**

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

45 (2) if the motor vehicle franchisee is paid its prevailing retail
46 price for all service or repair plans the motor vehicle franchisee
47 offers for sale to purchasers of new motor vehicles; or

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

5 (4) for motor vehicles covered by a franchisor administered
6 service or repair plan, if the motor vehicle franchisee does not offer
7 for sale the franchisor administered service or repair plan.】

8 With respect to franchisor administered service or repair plans
9 covering only routine maintenance service, this section applies only
10 to those plans sold to customers on or after the effective date of
11 P.L.1999, c.45.

12 i. A motor vehicle franchisor shall make payment to a motor
13 vehicle franchisee pursuant to incentive, bonus, sales, performance
14 or other programs within 30 days after receipt of a claim from the
15 motor vehicle franchisee. When a claim is disapproved, the motor
16 vehicle franchisee shall be notified in writing of the grounds for
17 disapproval. No claim shall be disapproved unless it can be shown
18 that the claim was false or fraudulent, or that the motor vehicle
19 franchisee failed to reasonably substantiate the claim in accordance
20 with reasonable written requirements of the motor vehicle
21 franchisor, provided that the motor vehicle franchisee had been
22 notified of the requirements prior to the time the claim arose and the
23 requirements were in effect at the time the claim arose. A motor
24 vehicle franchisor shall not audit a claim after the expiration of 12
25 months following the payment of the claim.

26 j. (1) Except as otherwise provided in subsection a. of this
27 section, the motor vehicle franchisor shall provide adequate and fair
28 compensation to each motor vehicle franchisee for labor services
29 rendered in a repair in an amount not less than the amount the retail
30 customer pays for the same labor services with regard to rate and
31 time.

32 (2) Any time guide agreed to before the effective date of P.L. ,
33 c. (C.) (pending before the Legislature as this bill) by the
34 motor vehicle franchisor and the motor vehicle franchisee for
35 repairs may be used in lieu of actual time expended. If a time guide
36 has not been agreed to before the effective date of P.L. , c.
37 (C.) (pending before the Legislature as this bill) or the time
38 guide does not define the time for an applicable repair, the motor
39 vehicle franchisor's time guide shall be used, except that the
40 definition of time for an applicable repair shall be multiplied by 1.5.

41 (3) A motor vehicle franchisor shall pay the motor vehicle
42 franchisee an hourly rate for labor services performed in connection
43 with repairs in an amount that is the greater of:

44 (a) the franchisee's hourly labor rate for retail customer repairs,
45 determined by dividing the amount of the franchisee's total labor
46 sales for retail customer repairs by the number of total labor hours
47 that generated such sales for the month preceding the request,
48 excluding the work specified in subsection k. of this section; or

1 **(b)** an amount equal to the franchisee's markup over cost that
2 results in the same gross profit percentage for labor hours
3 performed in work covered by subparagraph (a) of this paragraph as
4 the franchisee receives for labor performed in its retail customer
5 repairs, as evidenced by the average of the franchisee's gross profit
6 percentage in the franchisee's financial statements provided to the
7 franchisor for the two months preceding the franchisee's written
8 request. In the written request, the franchisee shall provide the
9 arithmetic mean of the hourly wage paid to all franchisee
10 technicians during the preceding two months preceding the request,
11 which arithmetic mean shall be the franchisee cost used in the
12 calculation of an hourly rate for labor services pursuant to this
13 paragraph.

14 **k.** The average percentage parts markup and labor rate declared
15 pursuant to this section shall become effective 30 days following
16 their declaration, subject to an audit of the submitted repair orders
17 by the motor vehicle franchisor and a proposed adjustment of the
18 average percentage parts markup or labor rate if the motor vehicle
19 franchisee's submission fails to comply with the respective
20 calculation described in this section. Only retail sales not involving
21 warranty repairs, parts covered by subsection h. of this section, or
22 parts supplied for routine vehicle maintenance, shall be considered
23 in calculating average percentage parts markup and labor rate. No
24 motor vehicle franchisor shall require a motor vehicle franchisee to
25 establish average percentage parts markup or labor rate by using a
26 methodology, or by requiring information, that is unduly
27 burdensome or time consuming to provide, including, but not
28 limited to, part-by-part or transaction-by-transaction calculations.
29 A motor vehicle franchisee shall not request a change in the average
30 percentage parts markup and labor rate more than twice in one
31 calendar year.

32 **l.** A motor vehicle franchisor shall not recover its costs, except
33 as provided in this section, from a motor vehicle franchisee within
34 this State, including, but not limited to, an increase in the wholesale
35 price of a vehicle or a surcharge imposed on a motor vehicle
36 franchisee solely, which increase is intended to recover the cost of
37 reimbursing a franchisee for parts and service pursuant to this
38 section, provided that a motor vehicle franchisor shall not be
39 prohibited from increasing prices for vehicles or parts in the normal
40 course of business.

41 **m.** A motor vehicle franchisor shall not charge back any claim
42 paid for labor services and parts provided in the performance of an
43 open recall, warranty, or other services agreement for an incentive,
44 bonus, sales, performance, or other program without providing
45 written notice to the franchisee within 30 days from the on-site
46 audit, which written notice explains in detail the basis for each of
47 the proposed chargebacks and the methodology by which the
48 franchisee was selected for audit or review. After all internal

1 dispute resolution processes provided through the franchisor have
2 been resolved, the franchisor shall provide final notice to the
3 franchisee of the final amount of the proposed chargeback. If the
4 franchisee or its representative institutes an administrative or
5 judicial action for a violation of P.L.1971, c.356 (C.56:10-1 et seq.),
6 as amended and supplemented, challenging the chargeback within
7 30 days of the receipt of the final notice, the total proposed
8 chargeback amounts shall be stayed, without bond, until the final
9 judgment has been rendered in such action. A franchisor shall not
10 deny or charge back a claim paid for labor services and parts
11 provided in the performance of an open recall, warranty, or other
12 service agreement or for an incentive, bonus, sales, performance, or
13 other program unless the franchisor satisfies its burden of proof that
14 the franchisee did not make a good faith effort to comply with the
15 reasonable written procedures of the franchisor, that the franchisee
16 did not actually perform the work, or that the claim was materially
17 false or fraudulent. A franchisor shall not deny or charge back a
18 claim due to an administrative or scrivener's error in the submission
19 of the claim.

20 n. A motor vehicle franchisor shall not unilaterally reduce or
21 otherwise manipulate the price of parts required for warranty or
22 open recall services in a manner that unfairly and unilaterally
23 allows the franchisor to reduce the level of compensation paid to
24 franchisees for warranty and open recall services the motor vehicle
25 franchisees provide to consumers within 60 or fewer days preceding
26 an announcement of an open recall, any time after an open recall, or
27 after a warranty claim has arisen.

28 (cf: P.L.2011, c.66, s.5)

29

30 9. This act shall take effect immediately and shall apply to all
31 motor vehicle franchise agreements in effect on or after the
32 effective date of P.L. , c. (C.) (pending before the
33 Legislature as this bill) but shall not apply retroactively to any
34 cause of action that shall have arisen prior to the effective date of
35 P.L. , c. (C.) (pending before the Legislature as this bill).

36

37

38 STATEMENT

39

40 This bill establishes the "Motor Vehicle Open Recall Notice and
41 Fair Compensation Act," which supplements the "Franchise
42 Practices Act," N.J.S.A.56:10-1 et seq. (the act) and amends various
43 sections of law concerning franchise practices. The bill also
44 updates a findings and declarations section in the act. The bill is to
45 take effect immediately and apply to all motor vehicle franchise
46 agreements in effect on or after the bill's effective date. However,
47 the bill is not to apply retroactively to any cause of action that arose
48 prior to the bill's effective date.

1 *National Highway Traffic Safety Administration Recall Information*

2 The bill requires a motor vehicle franchisee or dealer to access
3 information on open recalls available on the Internet website of the
4 National Highway Traffic Safety Administration (NHTSA) prior to
5 selling a used motor vehicle. If a recall is discovered, a franchisee
6 or dealer is required to inform a prospective purchaser by providing
7 a printed copy of the recall information. A franchisee or dealer is
8 prohibited from selling a used motor vehicle that is subject to a
9 stop-sale notice, do-not-drive notice, or similar notice or
10 designation issued by the NHTSA.

11 The bill creates an irrebuttable presumption that a franchisee or
12 dealer had no knowledge of the existence of an open recall, stop-
13 sale notice, do-not-drive notice, or similar notice or designation on
14 a used motor vehicle if, at the time of sale: (1) the franchisee or
15 dealer accessed the Internet website of the NHTSA; and (2) the
16 franchisee or dealer's search using the specific vehicle
17 identification number of the motor vehicle yielded no indication of
18 an open recall, stop-sale notice, do-not-drive notice, or similar
19 notice or designation. The bill does not create a legal duty or
20 liability upon a franchisee or dealer related to the accuracy, errors,
21 or omissions of the Internet website. The bill does not require a
22 franchisee or dealer to provide a prospective purchaser with recall
23 information added to the Internet website after providing the printed
24 information on recalls at the time of sale.

25 Any motor vehicle franchisor or dealer offering motor vehicles
26 for sale in this State is required to provide the Chief Administrator
27 of the New Jersey Motor Vehicle Commission (commission) with a
28 list of motor vehicles registered in this State that are subject to an
29 open recall for which the necessary repairs remain uncompleted for
30 a period of six months or longer after the initial notice of recall
31 issued by the manufacturer. At a minimum, this list is to identify
32 each motor vehicle by year, make, model, and vehicle identification
33 number. A motor vehicle franchisor or dealer is required to provide
34 an updated list to the commission every 180 days after submission
35 of the initial list.

36 Within 30 days of receiving the lists, the commission is required
37 to direct the motor vehicle franchisor or dealer to send a notice on
38 official commission letterhead, at the motor vehicle franchisor or
39 dealer's expense, to all registered owners of the listed motor
40 vehicles. The bill provides the form to be used for this notice,
41 which is to inform recipients of an open recall and the options
42 available to resolve the issue, including contact information for the
43 NHTSA.

44

45 *Compensation for Recall Costs*

46 Under current law, a motor vehicle franchisor is required to
47 compensate a motor vehicle franchisee for all reasonable costs
48 incurred by the franchisee in complying with the requirements

1 imposed by the franchisor relating to a product recall. In addition
2 to these compensation requirements, the bill also provides guidance
3 on certain costs that must be remitted to a motor vehicle franchisee
4 in the event of a recall.

5 The bill provides that for certain new motor vehicles, or used
6 motor vehicles of the same line make as the motor vehicle
7 franchisor and motor vehicle franchisee, and subject to a stop-sale
8 notice, do-not-drive notice, or similar notice or designation for
9 which a part or remedy is not reasonably available, which motor
10 vehicles are held for sale by the motor vehicle franchisee, the costs
11 of the motor vehicle franchisee are to equal 1.75 percent of the
12 value of each motor vehicle per month, or per portion of a month.
13 This requirement applies when not preempted by federal law or
14 regulation. For the purposes of this calculation, a motor vehicle's
15 value is to be the motor vehicle franchisor's suggested retail price,
16 or for a used motor vehicle, the value is to be the average trade-in
17 value as indicated in an independent third-party guide for the year,
18 make, model, and mileage. Under the bill, a motor vehicle
19 franchisor may compensate its motor vehicle franchisees under a
20 national recall compensation program if the compensation thereby
21 provided is at least the value provided for by this requirement.

22 The bill prohibits a motor vehicle franchisor from reducing the
23 amount of compensation otherwise owed to a motor vehicle
24 franchisee because the motor vehicle franchisee has submitted a
25 claim for reimbursement pursuant to the new guidance on
26 compensation for recalls.

27

28 *Reimbursement for Certain Expenses*

29 Under current law, certain requirements are triggered if a motor
30 vehicle franchise requires or permits motor vehicle franchisees to
31 perform services or provide parts in satisfaction of a warranty
32 issued by the motor vehicle franchisor. This bill amends this
33 requirement to extend to the satisfaction of a warranty, extended
34 warranty, maintenance, or other service-related plan offered by the
35 motor vehicle franchisor.

36 Under the bill, labor services to be reimbursed include diagnostic
37 work. In the case of entire engine and entire transmission
38 assemblies, the bill provides that the motor vehicle franchisor is
39 required to reimburse the motor vehicle franchisee in the amount of
40 30 percent of what the motor vehicle franchisee would have paid
41 the motor vehicle franchisor for a part if the part had not been
42 supplied by the franchisor other than by the sale of that part to the
43 motor vehicle franchisee. The bill removes franchisor administered
44 service and repair plans from consideration of reimbursement.

45 The bill amends certain provisions of law concerning the process
46 for calculating average percentage parts markup. Specifically, the
47 bill provides that franchisor-administered service or repair plans
48 covering only routine maintenance service on plans sold to

1 customers after March 12, 1999 are relevant to this calculation.
2 Additionally, the prohibition on a motor vehicle franchisor to
3 require a franchisee to establish average percentage parts markup
4 and labor rate by an unduly burdensome or time consuming
5 methodology is amended to prohibit a demand for part-by-part or
6 transaction-by-transaction calculations.

7 The bill provides that adequate and fair compensation for labor
8 services rendered in a repair requires the motor vehicle franchisor to
9 pay each motor vehicle franchisee no less than the amount the retail
10 customer pays for the same labor services with regard to rate and
11 time. In calculating this amount, the bill permits the use of a time
12 guide, entered into by the franchisor and franchisee, in lieu of the
13 actual time expended on the repair. In the event that a time guide
14 has not been agreed to for repairs or the time guide does not specify
15 a time for the applicable repair, the motor vehicle franchisor's time
16 guide is to be used, except that the motor vehicle franchisor's
17 definition of time for an applicable repair is multiplied by 1.5.

18 Additionally, the bill provides that a motor vehicle franchisor is
19 to pay a motor vehicle franchisee an hourly rate for labor services
20 performed in connection with repairs. The hourly rate is to be the
21 greater of: (1) an amount calculated by dividing the amount of the
22 franchisee's total labor sales for retail customer repairs by the
23 number of total labor hours that generated such sales for the month
24 preceding a request for reimbursement; or (2) an amount equal to
25 the franchisee's markup over cost that results in the same gross
26 profit percentage for labor hours performed for retail customer
27 repairs. For the second of these options, the franchisee's gross
28 profit percentage comes from the franchisee's financial statements
29 provided to the franchisor for the two months preceding the
30 franchisee's written request, and the franchisee is required to
31 provide in the written request the arithmetic mean of the hourly
32 wage paid to all its technicians during the preceding two months
33 preceding the request. The arithmetic mean is the franchisee cost
34 used in the calculation of an hourly rate for labor services
35 performed in connection with repairs.

36

37 *Restrictions on Reimbursement*

38 A motor vehicle franchisor is prohibited under the bill from
39 recovering its costs from a motor vehicle franchisee, except in
40 certain circumstances. However, a motor vehicle franchisor's right
41 to increase prices for vehicles or parts in the normal course of
42 business is preserved.

43 A motor vehicle franchisor is prohibited under the bill from
44 charging back any claim paid for labor services and parts provided
45 in the performance of an open recall, warranty, or other services
46 agreement for an incentive, bonus, sales, performance, or other
47 program without providing written notice to the franchisee within
48 30 days from the on-site audit, which written notice explains in

1 detail the basis for each of the proposed chargebacks and the
2 methodology by which the franchisee was selected for audit or
3 review. After all internal dispute resolution processes provided
4 through the franchisor have been resolved, the franchisor is required
5 to provide final notice to the franchisee of the final amount of the
6 proposed chargeback. If the franchisee or its representative
7 institutes an administrative or judicial action for a violation of the
8 act, challenging the chargeback within 30 days of the receipt of the
9 final notice, the total proposed chargeback amounts are to be
10 stayed, without bond, until the final judgment has been rendered.

11 A franchisor is not permitted to deny or charge back a claim paid
12 for labor services and parts provided in the performance of an open
13 recall, warranty, or other service agreement or for an incentive,
14 bonus, sales, performance, or other program unless the franchisor
15 satisfies its burden of proof that the franchisee did not make a good
16 faith effort to comply with the reasonable written procedures of the
17 franchisor, that the franchisee did not actually perform the work, or
18 that the claim was materially false or fraudulent. A franchisor is
19 not permitted to deny or charge back a claim due to an
20 administrative or scrivener's error in the submission of the claim.

21 Under the bill, a motor vehicle franchisor is not to unilaterally
22 reduce or manipulate the price of parts required for warranty or
23 open recall services in a manner that unfairly and unilaterally
24 allows the franchisor to reduce the level of compensation paid to
25 motor vehicle franchisees for warranty and open recall services
26 within 60 or fewer days preceding an announcement of an open
27 recall, any time after an open recall, or after a warranty claim has
28 arisen.

29

30 *Standing of Certain Corporations or Associations*

31 The bill provides that any corporation or association which is
32 primarily owned by or comprised of motor vehicle franchises has
33 standing to file an administrative petition, or to bring an action
34 before any court of competent jurisdiction, for itself or by, for, or
35 on behalf of any motor vehicle franchisee or group of motor vehicle
36 franchisees for any alleged violation of the act.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4380

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MARCH 6, 2025

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman JOHN DIMAIO

District 23 (Hunterdon, Somerset and Warren)

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

Co-Sponsored by:

Assemblymen Azzariti Jr., Inganamort, Barranco, Miller, Calabrese, Assemblywoman Ramirez, Assemblyman Marengo, Assemblywoman Donlon, Assemblyman Schnall, Assemblywoman Bagolie, Assemblymen Rumpf, DePhillips, Barlas, Assemblywoman Quijano, Assemblyman Myhre, Assemblywomen N.Munoz, Dunn, Matsikoudis, Assemblymen Hutchison, Greenwald, Danielsen, Verrelli, Karabinchak, Assemblywoman Reynolds-Jackson, Assemblymen Atkins, Spearman, Assemblywomen Haider, Fantasia, Assemblyman Clifton, Assemblywomen Hall, Swain, Assemblymen Webber, Torrissi, Assemblywomen Park, Peterpaul, Assemblymen Bailey, Kanitra, Assemblywoman Simmons, Assemblyman Auth, Assemblywoman Flynn, Assemblyman Egan, Assemblywoman Pintor Marin, Assemblyman Tully and Assemblywoman Speight

SYNOPSIS

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

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Consumer Affairs Committee.

(Sponsorship Updated As Of: 6/19/2025)

1 **AN ACT** concerning motor vehicle open recalls and motor vehicle
2 franchises, and supplementing and amending various parts of the
3 statutory law.

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 4 of P.L. , c.
14 (C.) (pending before the Legislature as this bill):

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

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

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

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

26 “Open recall” means a recall that has not been corrected or
27 addressed.

28 “Recall” means a safety or emissions recall on a specific vehicle
29 that requires (1) manufacturer notification pursuant to 49 U.S.C.
30 s.30118, 49 U.S.C. s.30119, or as prescribed by federal law or
31 regulation; and, (2) requires repairs or modification to a motor
32 vehicle.

33 “Retail” does not include wholesale sales, sales between dealers,
34 or sales to owners or operators of motor vehicle junk businesses or
35 motor vehicle junk yards, as those terms are defined in R.S.39:11-2,
36 or any other person engaged in the business of dismantling,
37 destroying, or recycling motor vehicles.

38 “Stop-sale notice” means a notification issued by a motor vehicle
39 franchisor to its motor vehicle franchisee stating that certain used
40 vehicles in inventory shall not be sold or leased, at either retail or
41 wholesale, due to a federal safety recall for a defect or
42 noncompliance, or a federal emissions recall.

43 “Time of sale” means the period of time when the buyer executes
44 a retail order form for the purchase, or lease agreement for the
45 lease, of a used motor vehicle.

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.

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

3
4 3. (New section) Any corporation or association that is
5 primarily owned by or comprised of motor vehicle franchisees,
6 which corporation or association primarily represents the interests
7 of motor vehicle franchisees, shall have standing to file an
8 administrative proceeding or protest, or to bring an action before
9 any court of competent jurisdiction, for itself or by, for, or on behalf
10 of any motor vehicle franchisee or group of motor vehicle
11 franchisees for any violation of P.L.1971, c.356 (C.56:10-1 et seq.)
12 allegedly conducted by a franchisor with motor vehicle franchisees.
13

14 4. (New section) a. If a part or parts necessary to perform a
15 recall service are not reasonably available to perform a recall
16 service or repair on a used motor vehicle held for sale by a motor
17 vehicle franchisee authorized to sell and service new motor vehicles
18 of the same line-make within 30 days of the motor vehicle
19 franchisor issuing the initial recall notice, and the motor vehicle
20 franchisor has issued a stop-sale notice or do-not-drive notice on the
21 motor vehicle, the motor vehicle franchisor shall compensate the
22 motor vehicle franchisee at a prorated rate of at least 1.5 percent of
23 the value of the used motor vehicle per month beginning 30 days
24 after the motor vehicle franchisor issued the stop-sale notice or do-
25 not-drive notice to the motor vehicle franchisee until the earlier of
26 either:

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

29 (2) the date that the motor vehicle franchisor sells, trades, or
30 otherwise disposes of a used motor vehicle that is subject to a stop-
31 sale notice or do-not-sell notice used motor vehicle.

32 b. The value of a used motor vehicle shall be the average trade-
33 in value for used motor vehicles as indicated in an independent
34 third-party guide for the year, make, and model of the recalled
35 motor vehicle.

36 c. (1) This section shall only apply to a used motor vehicle:

37 (a) that is subject to an open recall;

38 (b) for which a stop-sale notice or do-not-drive notice has been
39 issued; and

40 (c) for which repair parts or parts or parts necessary to perform
41 recall service remain unavailable for 30 days or more.

42 (2) This section shall only apply to a motor vehicle franchisee
43 that holds an affected used motor vehicle for sale, which used motor
44 vehicle is of a line-make that the motor vehicle franchisee is
45 franchised to sell or on which the motor vehicle franchisee is
46 authorized to perform recall repairs.

47 d. Subject to the provisions of section 3 of P.L.1977, c.84
48 (C.56:10-15), it shall be a violation of this section for a motor

1 vehicle franchisor to reduce the amount of compensation otherwise
2 owed to an individual motor vehicle franchisee through a
3 chargeback, a removal of the individual motor vehicle franchisee
4 from an incentive program, or a reduction in the amount owed
5 under an incentive program because the motor vehicle franchisee
6 has submitted a claim for reimbursement pursuant to this section.
7 Nothing in this subsection shall prohibit a motor vehicle franchisor
8 from discontinuing an incentive program.

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

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

20 (2) the motor vehicle franchisor and motor vehicle franchisee
21 otherwise agree.

22 f. A motor vehicle franchisor may direct the manner and
23 method in which a motor vehicle franchisee is required to
24 demonstrate the inventory status of an affected used motor vehicle
25 to determine eligibility under this section, provided that the manner
26 and method may not be unduly burdensome and may not require
27 information that is unduly burdensome to provide.

28 g. Nothing in this section shall require a motor vehicle
29 franchisor to provide total compensation to a motor vehicle
30 franchisee, which compensation would exceed the total average
31 trade-in value of the affected used motor vehicle as originally
32 determined pursuant to subsection b. of this section.

33 h. Any remedy provided to a motor vehicle franchisee under
34 this section is exclusive and may not be combined with any other
35 State or federal recall compensation remedy.

36

37 5. (New section) a. As used in this section:

38 “Chief administrator” means the Chief Administrator of the New
39 Jersey Motor Vehicle Commission.

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

45 “Manufacturer” means an entity engaged in the business of
46 making or assembling new motor vehicles, which under normal
47 business conditions, manufactures or assembles at least 10 new
48 motor vehicles per year.

1 “Open recall” means a safety-related recall, for which
2 notification by a manufacturer is required pursuant to 49 U.S.C.
3 s.30118 or 49 U.S.C. s.30119, that requires a repair or modification
4 to a motor vehicle by an authorized motor vehicle dealer. For the
5 purposes of this section, “open recall” shall not include: a recall
6 related to defects or failures to comply with labeling or notification
7 requirements in a motor vehicle owner’s manual; or a recall where
8 the remedy prescribed is for the manufacturer to repurchase the
9 motor vehicle or otherwise provide financial compensation to the
10 owner of the motor vehicle.

11 b. Prior to issuing a motor vehicle registration or registration
12 renewal notice, the commission shall review information made
13 available by the National Highway Traffic Safety Administration to
14 determine whether a motor vehicle is subject to an open recall. For
15 a vehicle that is subject to an open recall, the commission shall
16 provide the owner of the motor vehicle with written notice of each
17 open recall applicable to the motor vehicle. The open recall notice
18 shall be provided at the time the motor vehicle is registered, except
19 that for registration renewals, the open recall notice shall be
20 included in the registration renewal notice. The open recall notice
21 shall include the following:

22 (1) a description of each open recall; and
23 (2) a statement indicating that each open recall may be repaired
24 by a dealer approved by the manufacturer of the motor vehicle at no
25 cost to the owner of the motor vehicle, except as provided pursuant
26 to 49 U.S.C. s.30120.

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

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

36 d. In the event that any funding sources acquired pursuant to
37 subsection c. of this section do not cover the commission’s costs to
38 implement the provisions of this section, the chief administrator
39 shall require each manufacturer that conducts business in the State
40 to pay a fee to the commission, except that the total fees collected
41 shall not exceed the actual costs incurred by the commission each
42 year to implement the provisions of this section. The amount of the
43 fee shall be determined by the chief administrator each year based
44 on documentation of the actual costs incurred by the commission to
45 implement the provisions of this section, which documentation shall
46 be published annually on the commission’s Internet website and
47 provided directly to each manufacturer that conducts business in the
48 State.

1 e. The commission may adopt, pursuant to the “Administrative
2 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
3 regulations that are necessary to implement this section, which rules
4 and regulations may include enforcement and penalty provisions for
5 violations.

6 f. Nothing in this section shall alter the liability under common
7 law of a manufacturer or dealer approved by the manufacturer to
8 repair an open recall.

9 g. The commission shall not be liable to any person for any act
10 or omission related to the open recall notice provided pursuant to
11 this section, except for cases of gross negligence.

12
13 6. Section 1 of P.L.1989, c.24 (C.56:10-7.2) is amended to read
14 as follows:

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

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

25 b. This inequality of bargaining power enables motor vehicle
26 franchisors to compel motor vehicle franchisees to execute
27 franchises and related leases and agreements which contain terms
28 and conditions that would not routinely be agreed to by the motor
29 vehicle franchisees absent the compulsion and duress which arise
30 out of the inequality of bargaining power. These terms and
31 conditions are detrimental to the interests of the motor vehicle
32 franchisees in that they require the motor vehicle franchisees to
33 relinquish their rights which have been established by the
34 "Franchise Practices Act" and supplemental legislation and other
35 statutes and laws of this State.

36 c. As a result, motor vehicle franchisees have been denied the
37 opportunity to have disputes with their motor vehicle franchisors
38 arising out of the franchisor-franchisee relationship heard in an
39 appropriate venue, convenient to both parties, by tribunals
40 established by statute for the resolution of these disputes. It is
41 therefore necessary and in the public interest to ensure that motor
42 vehicle franchisees voluntarily determine whether to agree to
43 certain terms and conditions contained in franchises and related
44 leases and agreements presented to them by motor vehicle
45 franchisors and under circumstances unaffected by the compulsion
46 which arises from the inequality of bargaining power.

47 d. The distribution, sale, and service of new motor vehicles in
48 the State of New Jersey vitally affects the general economy of this

1 State, and there is a compelling public interest in providing a
2 system of new motor vehicle franchisees to foster competition and
3 promote motor vehicle and highway safety by ensuring there are
4 qualified facilities to provide independently owned and operated
5 sales, warranty, open recall, and routine service for motor vehicles.

6 e. The new motor vehicle franchise system encourages local
7 investment in motor vehicle dealerships, creates jobs and economic
8 activity in virtually every community in this State, and advances the
9 public interest by fostering an extensive network of independent
10 new motor vehicle franchisees who compete for motor vehicle sales
11 and service business, offer ready access to open recall repair service
12 and warranty service, when needed, and provide routine
13 maintenance to ensure motor vehicle and highway safety.

14 f. There remains, however, a vast disparity in bargaining
15 power between motor vehicle franchisors and their franchisees,
16 which, if left unchecked, will discourage local investment in the
17 motor vehicle franchise system and result in fewer new motor
18 vehicle franchisees, less competition in the motor vehicle
19 marketplace, and diminished consumer access to qualified motor
20 vehicle warranty services, open recall repair services, and routine
21 service facilities.

22 g. Despite prior enactments, many motor vehicle franchisees
23 have found it either too risky to oppose their supplier or too
24 burdensome to take on a legal challenge to their motor vehicle
25 franchisors, who control the exclusive supply of motor vehicles,
26 parts, and special equipment to motor vehicle franchisees.

27 h. As a result, it is necessary for the Legislature to further
28 revise the laws pertaining to motor vehicle franchisees to strengthen
29 and clarify certain provisions of existing law intended to protect the
30 public from marketplace behavior that has the potential to restrict
31 competition for sales and threaten highway safety by limiting
32 consumer access to essential warranty and open recall service
33 provided by neighborhood dealers of new motor vehicles.

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

35
36 7. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read
37 as follows:

38 3. If any motor vehicle franchise shall require or permit motor
39 vehicle franchisees to perform labor services or provide parts in
40 satisfaction of a warranty **【issued】**, extended warranty,
41 maintenance, or other service-related plan offered by the motor
42 vehicle franchisor, or recall or other work reimbursed by the motor
43 vehicle franchisor:

44 a. The motor vehicle franchisor shall reimburse each motor
45 vehicle franchisee for such labor services, including diagnostic
46 work, as are rendered and for such parts as are supplied, in an
47 amount equal to the prevailing retail price **【charged by such motor**
48 vehicle franchisee for such services and parts in circumstances

1 where such services are rendered or such parts supplied other than
2 pursuant to warranty; provided that such motor vehicle franchisee's
3 prevailing retail price is not unreasonable when compared with that
4 of the holders of motor vehicle franchises from the same motor
5 vehicle franchisor for identical merchandise or services in the
6 geographic area in which the motor vehicle franchisee is engaged in
7 business] calculated pursuant to subsections d., e., and j. of this
8 section. The average retail labor rate, average retail labor time
9 allowance, and parts markup so declared by the motor vehicle
10 franchisee shall become effective 30 days following the declaration,
11 subject to audit by the motor vehicle franchisor only of the sample
12 submitted by the motor vehicle franchisee and any adjustment of the
13 average retail labor rate, the average retail labor time allowance, or
14 the parts markup made by the motor vehicle franchisor shall be
15 based only on an audit of that sample.

16 b. The motor vehicle franchisor shall not by agreement, by
17 restrictions upon reimbursement, or otherwise, restrict the nature
18 and extent of labor services to be rendered or parts to be provided
19 so that such restriction prevents the motor vehicle franchisee from
20 satisfying the warranty by rendering labor services in a good and
21 workmanlike manner and providing parts which are required in
22 accordance with generally accepted standards. Any such restriction
23 shall constitute a prohibited practice hereunder.

24 c. The motor vehicle franchisor shall reimburse the motor
25 vehicle franchisee pursuant to subsection a. of this section, without
26 deduction, for labor services performed on, and parts supplied for, a
27 motor vehicle by the motor vehicle franchisee in good faith and in
28 accordance with generally accepted standards, notwithstanding any
29 requirement that the motor vehicle franchisor accept the return of
30 the motor vehicle or make payment to a consumer with respect to
31 the motor vehicle pursuant to the provisions of P.L.1988, c.123
32 (C.56:12-29 et seq.).

33 d. For the purposes of this section, the "prevailing retail price"
34 charged by: (1) a motor vehicle franchisee for parts means the price
35 paid by the motor vehicle franchisee for those parts, including all
36 shipping and other charges, multiplied by the sum of 1.0 and the
37 franchisee's average percentage parts markup over the price paid by
38 the motor vehicle franchisee for parts purchased by the motor
39 vehicle franchisee from the motor vehicle franchisor and sold at
40 retail. The motor vehicle franchisee may establish average
41 percentage parts markup under this section by submitting to the
42 motor vehicle franchisor 100 sequential customer paid service
43 repair orders or 90 days of customer paid service repair orders,
44 whichever is less, covering repairs made no more than 180 days
45 before the submission, and declaring **what** the average percentage
46 parts markup **is**. The average percentage parts markup so
47 declared shall go into effect 30 days following the declaration
48 subject to audit **of** the submitted repair orders by the motor vehicle

1 franchisor and adjustment of the average percentage markup based
2 on that audit. Only retail sales not involving warranty repairs, parts
3 covered by subsection e. of this section, or parts supplied for
4 routine vehicle maintenance, shall be considered in calculating
5 average percentage markup. No motor vehicle franchisor shall
6 require a motor vehicle franchisee to establish average percentage
7 markup by a methodology, or by requiring information, that is
8 unduly burdensome or time consuming to provide, including, but
9 not limited to, part by part or transaction by transaction
10 calculations **】** by the motor vehicle franchisor only of the sample
11 submitted by the motor vehicle franchisee and any adjustment of the
12 average parts markup by the motor vehicle franchisor based only on
13 an audit of that sample. A motor vehicle franchisee shall not
14 request a change in the average percentage parts markup more than
15 twice in one calendar year; and (2) a recreational motor vehicle
16 franchisee for parts means actual wholesale cost, plus a minimum
17 **【30%】** 30 percent handling charge and any freight costs incurred to
18 return the removed parts to the motor vehicle franchisor.

19 e. If a motor vehicle franchisor supplies, or causes to be
20 supplied, a part or parts for use in a repair rendered under a
21 warranty **【**other than by sale of that part or parts to the motor
22 vehicle franchisee, the motor vehicle franchisee shall be entitled to
23 compensation equivalent to the motor vehicle franchisee's average
24 percentage markup on the part or parts, as if the part or parts had
25 been sold to the motor vehicle franchisee by the motor vehicle
26 franchisor.**】** , an extended warranty service, a maintenance, or
27 service-related plan offered by the motor vehicle franchisor, or a
28 recall, or other work reimbursed by the motor vehicle franchisor at
29 no cost or at a reduced cost for use in performing the repair work,
30 the franchisor shall compensate the motor vehicle franchisee in the
31 same manner as the franchisor compensates the franchisee under
32 this section by paying the motor vehicle franchisee for the
33 franchisee's cost of the part, if any, plus an amount equal to the
34 franchisee's parts markup, multiplied by the wholesale value of the
35 part. The wholesale value of the part shall be the greater of:

36 (1) the amount the franchisee paid for the part or a substantially
37 identical part;

38 (2) the cost of the part in a current or prior established price
39 schedule issued by the franchisor or issued by third party that has
40 previously supplied the part to the motor vehicle franchisee;

41 (3) the cost of a substantially identical part in a current or prior
42 established price schedule issued by the franchisor or by a third
43 party; or

44 (4) the reasonable wholesale price for the part.

45 The requirements of this section shall not apply to electric
46 propulsion batteries, entire engine assemblies, and entire
47 transmission assemblies. In the case of those **【assemblies】** parts,

1 the motor vehicle franchisor shall reimburse the motor vehicle
2 franchisee in the amount of **【30%】** 30 percent of what the motor
3 vehicle franchisee would have paid the motor vehicle franchisor for
4 the **【assembly】** part if the **【assembly】** part had not been supplied by
5 the franchisor other than by the sale of that **【assembly】** part to the
6 motor vehicle franchisee.

7 f. The motor vehicle franchisor shall reimburse the motor
8 vehicle franchisee for parts supplied and labor services rendered
9 under a warranty, extended warranty, maintenance, or other service-
10 related plan offered by the motor vehicle franchisor within 30 days
11 after approval of a claim for reimbursement. All claims for
12 reimbursement shall be approved or disapproved within 30 days
13 after receipt of the claim by the motor vehicle franchisor. When a
14 claim is disapproved, the motor vehicle franchisee shall be notified
15 in writing of the grounds for the disapproval. No claim that has
16 been approved and paid shall be charged back to the motor vehicle
17 franchisee unless it can be shown that the claim was false or
18 fraudulent, that the labor services were not properly performed, that
19 the parts or labor services were unnecessary to correct the defective
20 condition, or that the motor vehicle franchisee failed to reasonably
21 substantiate the claim in accordance with reasonable written
22 requirements of the motor vehicle franchisor, provided that the
23 motor vehicle franchisee had been notified of the requirements prior
24 to the time the claim arose and the requirements were in effect at
25 the time the claim arose. A motor vehicle franchisor shall not audit
26 a claim after the expiration of 12 months following the payment of
27 the claim unless the motor vehicle franchisor has reasonable
28 grounds to believe that the claim was fraudulent.

29 g. The obligations imposed on motor vehicle franchisors by
30 this section shall apply to any parent, subsidiary, affiliate or agent
31 of the motor vehicle franchisor, any person under common
32 ownership or control, any employee of the motor vehicle franchisor
33 and any person holding **【1%】** one percent or more of the shares of
34 any class of securities or other ownership interest in the motor
35 vehicle franchisor, if a warranty or service or repair plan is issued
36 by that person instead of or in addition to one issued by the motor
37 vehicle franchisor.

38 h. The provisions of this section shall also apply to franchisor
39 administered service and repair plans:

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

42 (2) if the motor vehicle franchisee is paid its prevailing retail
43 price for all service or repair plans the motor vehicle franchisee
44 offers for sale to purchasers of new motor vehicles; or

45 (3) for the first 36,000 miles of coverage under the franchisor
46 administered service or repair plan, if the warranty offered by the
47 motor vehicle franchisor on the motor vehicle provides coverage for
48 less than 36,000 miles; or

1 (4) for motor vehicles covered by a franchisor administered
2 service or repair plan, if the motor vehicle franchisee does not offer
3 for sale the franchisor administered service or repair plan.

4 With respect to franchisor administered service or repair plans
5 covering only routine maintenance service, this section applies only
6 to those plans sold to customers on or after the effective date of
7 P.L.1999, c.45.

8 i. A motor vehicle franchisor shall make payment to a motor
9 vehicle franchisee pursuant to incentive, bonus, sales, performance
10 or other programs within 30 days after receipt of a claim from the
11 motor vehicle franchisee. When a claim is disapproved, the motor
12 vehicle franchisee shall be notified in writing of the grounds for
13 disapproval. No claim shall be disapproved unless it can be shown
14 that the claim was false or fraudulent, or that the motor vehicle
15 franchisee failed to reasonably substantiate the claim in accordance
16 with reasonable written requirements of the motor vehicle
17 franchisor, provided that the motor vehicle franchisee had been
18 notified of the requirements prior to the time the claim arose and the
19 requirements were in effect at the time the claim arose. A motor
20 vehicle franchisor shall not audit a claim after the expiration of 12
21 months following the payment of the claim.

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

24 (a) discounts for retail customer repairs or special or
25 promotional events offered by a manufacturer, manufacturer
26 branch, distributor or distributor branch;

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

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

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

33 (e) vehicle reconditioning;

34 (f) accessories;

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

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

39 (i) vehicle emission inspections required by law;

40 (j) manufacturer-approved goodwill or policy repairs or
41 replacements;

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

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

46 (m) repairs on aftermarket parts;

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

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

- 1 (h) parts sold or repairs performed for insurance carriers;
- 2 (i) vehicle emission inspections required by law;
- 3 (j) manufacturer-approved goodwill or policy repairs or
- 4 replacements;
- 5 (k) repairs for a government agency or a service contract
- 6 provider employed as an agent of a government agency;
- 7 (l) repairs with aftermarket parts when calculating a retail parts
- 8 rate but not when calculating a retail labor rate;
- 9 (m) repairs on aftermarket parts;
- 10 (n) replacement of tires or work on tires, including wheel
- 11 alignments or tire rotations; or
- 12 (o) repairs of motor vehicles owned by the franchisee or an
- 13 employee of the franchisee at the time of the repair.
- 14 k. (1) A franchisor shall not:
- 15 (a) impose unreasonable handling procedures or unreasonable
- 16 handling charges upon its franchisees for return or disposal of any
- 17 part, including electric propulsion batteries, dangerous or
- 18 unexploded air bag units, or seat belt tensioners;
- 19 (b) penalize or charge a franchisee for the return of a defective
- 20 electric propulsion battery that is returned to the franchisor within
- 21 60 days of its removal from a vehicle under warranty service,
- 22 extended warranty service, a maintenance, or service-related plan
- 23 offered by the motor vehicle franchisor, or recall, or other work
- 24 reimbursed by the motor vehicle franchisor; or
- 25 (c) charge a dealer more for a late return than the wholesale
- 26 price charged to the dealer for the electric propulsion battery.
- 27 (2) A franchisor shall compensate a franchisee for labor time to
- 28 package and return ship an electric propulsion battery and shall
- 29 supply the franchisee with appropriate packaging to facilitate the
- 30 return.
- 31 l. For the purposes of this section, the prevailing retail price
- 32 for labor shall be the average hourly labor rate charged to retail
- 33 customers. A motor vehicle franchisee may establish its average
- 34 labor rate under this section by submitting to the motor vehicle
- 35 franchisor 100 sequential customer paid service repair orders or 90
- 36 days of customer paid service repair orders, whichever is less,
- 37 covering customer paid repairs made no more than 180 days before
- 38 the submission. The average retail labor rate shall be calculated by
- 39 multiplying the total labor charges in the sample by 1.0 and
- 40 dividing that amount by the total number of labor hours in the
- 41 sample. The average retail labor rate so declared shall go into effect
- 42 30 days following the declaration subject to audit by the motor
- 43 vehicle franchisor only of the sample submitted by the motor
- 44 vehicle franchisee and any adjustment of the average retail labor
- 45 rate made by the motor vehicle franchisor based solely on an audit
- 46 of that sample.
- 47 m. A motor vehicle franchisor shall provide adequate and fair
- 48 compensation to each motor vehicle franchisee for labor services

1 rendered for a repair in an amount not less than the amount a retail
2 customer pays for the same labor services with regard to labor time.
3 A franchisee may apply to its franchisor to be reimbursed for labor
4 time according to, at the franchisee's discretion:

5 (1) a franchisor's labor time guide as adequate and fair
6 compensation for labor services rendered for repairs in an amount
7 equal to the amount a retail customer pays for the same labor
8 services with regard to labor time, multiplied by 1.5;

9 (2) the use of a third party time guide in lieu of the franchisor's
10 labor time guide to arrive at an adequate and fair compensation for
11 labor services rendered for repairs in an amount equal to the amount
12 a retail customer pays for the same labor services with regard to
13 labor time; or

14 (3) an established average retail labor time allowance in lieu of
15 the franchisor's labor time guide for franchisor-paid repairs or
16 service by submitting to the motor vehicle franchisor 100 sequential
17 customer paid service repair orders or 90 days of customer paid
18 service repair orders, whichever is less, covering repairs made no
19 more than 180 days before the submission, and dividing the number
20 of hours permitted by the franchisor for any such repairs under the
21 franchisor's labor time guide for franchisor-paid repairs or service.
22 The resulting quotient shall be applied to the franchisor's labor time
23 guide to establish the franchisee's average retail labor time
24 allowance. The average retail labor time allowance so declared
25 shall go into effect 30 days following the declaration subject to
26 audit by the motor vehicle franchisor only of the sample submitted
27 by the motor vehicle franchisee and any adjustment of the average
28 labor time allowance made by the motor vehicle franchisor based
29 only on an audit of that sample.

30 Upon payment of a claim for labor services under this section by
31 the franchisor to the motor vehicle franchisee, the motor vehicle
32 franchisee shall compensate its factory certified flat rate technicians
33 performing work on a warranty, an extended warranty service,
34 maintenance, or service-related plan offered by the motor vehicle
35 franchisor, or recall or other work.

36 n. A motor vehicle franchisee shall not request a change in the
37 average percentage parts markup, labor time allowance, or retail
38 labor rate more than twice in one calendar year.

39 o. A motor vehicle franchisor shall not recover its costs, except
40 as provided in this section, from a motor vehicle franchisee within
41 this State, including, but not limited to, an increase in the wholesale
42 price of a vehicle or a surcharge imposed on a motor vehicle
43 franchisee solely, which increase is intended to recover the cost of
44 reimbursing a franchisee for parts and service pursuant to this
45 section, provided, however, that a motor vehicle franchisor shall not
46 be prohibited from increasing prices for vehicles or parts in the
47 normal course of business.

1 p. A motor vehicle franchisor shall not charge back any claim
2 paid for labor services and parts provided in the performance of a
3 warranty, an extended warranty, or other maintenance, or other
4 service-related plan offered by the motor vehicle franchisor, recall
5 or other work reimbursed by the motor vehicle franchisor for an
6 incentive, bonus, sales, performance, or other program without
7 providing written notice to the franchisee within 30 days from the
8 audit, which explains in detail the basis for each of the proposed
9 chargebacks and the methodology by which the franchisee was
10 selected for audit or review. After all internal dispute resolution
11 processes provided through the franchisor have been resolved, the
12 franchisor shall provide final notice to the franchisee of the final
13 amount of the proposed chargeback. If the franchisee or its
14 representative institutes an administrative or judicial action for a
15 violation of P.L.1971, c.356 (C.56:10-1 et seq.) challenging the
16 chargeback within 30 days of the receipt of the final notice, the total
17 proposed chargeback amounts shall be stayed, without bond, until
18 the final judgment has been rendered in such action. A franchisor
19 shall not deny or charge back a claim paid for labor services and
20 parts provided in the performance of an open recall, warranty, or
21 other service agreement or for an incentive, bonus, sales,
22 performance, or other program unless the franchisor satisfies its
23 burden of proof that the franchisee did not make a good faith effort
24 to comply with the reasonable written procedures of the franchisor,
25 that the franchisee did not actually perform the work, or that the
26 claim was materially false or fraudulent. A franchisor shall not
27 deny or charge back a claim due to an administrative or scrivener's
28 error in the submission of the claim.

29 q. A motor vehicle franchisor shall not unilaterally reduce or
30 otherwise manipulate the price of parts required for a warranty, an
31 extended warranty, maintenance, or other services-related plan
32 offered by the motor vehicle franchisor, a recall or other work
33 reimbursed by the motor vehicle franchisor in a manner that
34 unfairly and unilaterally allows the franchisor to reduce the level of
35 compensation paid to franchisees, including changes to price within
36 60 day or fewer days preceding an announcement of a recall, any
37 time after a recall, or after a warranty claim has arisen. A motor
38 vehicle franchisor shall not manipulate the price of parts required
39 for warranty or open recall services by creating a new or additional
40 part number for the same part used in warranty or recall repair in a
41 manner that unfairly and unilaterally allows the franchisor to reduce
42 the level of compensation paid to franchisees for warranty and open
43 recall services the motor vehicle franchisees provide to consumers.
44 (cf: P.L.2011, c.66, s.5)

45
46 8. This act shall take effect on the first day of the fourth month
47 following enactment, and shall apply to motor vehicle franchise
48 agreements in effect on or after the effective date of P.L. , c.

1 (C.) (pending before the Legislature as this bill) but shall not
2 apply retroactively to any cause of action that shall have arisen
3 prior to the effective date of P.L. , c. (C.) (pending before
4 the Legislature as this bill).

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4380

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MARCH 6, 2025

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Assemblyman JOHN DIMAIO

District 23 (Hunterdon, Somerset and Warren)

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

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Assemblymen Bailey, Kanitra, Assemblywoman Simmons, Assemblyman
Auth, Assemblywoman Flynn, Assemblyman Egan, Assemblywoman
Pintor Marin, Assemblyman Tully, Assemblywomen Speight and Carter**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 19, 2025, with amendments.

(Sponsorship Updated As Of: 6/26/2025)

1 **AN ACT** concerning motor vehicle open recalls and motor vehicle
2 franchises, **‘[and]’** supplementing **‘Title 56 and Title 39 of the**
3 **Revised Statutes,’** and amending **‘[various parts of the statutory**
4 **law] P.L.1989, c.24 and P.L.1977, c.84.’**
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*
8

9 1. (New section) Sections 1 through 5 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall be known and may
11 be cited as the “Motor Vehicle Open Recall Notice and Fair
12 Compensation Act.”
13

14 2. (New section) As used in sections 2 through 4 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill):

16 “Dealer” means a person who is actively engaged in the retail
17 business of buying, selling, or exchanging new **‘motor vehicles’** or
18 used motor vehicles.

19 **‘Do-not-drive notice’** means a notification issued by a motor
20 vehicle franchisor, or the National Highway Traffic Safety
21 Administration, to a motor vehicle franchisee, which notice states
22 **that certain used motor vehicles in inventory are unsafe to drive and**
23 **shall not be sold or leased, at either retail or wholesale, due to a**
24 **recall.**¹

25 “Motor vehicle franchisee” means the same as **‘[the] that’** term
26 is defined in section 1 of P.L.1977, c.84 (C.56:10-13).

27 “Motor vehicle franchisor” means the same as **‘[the] that’** term
28 is defined in section 1 of P.L.1977, c.84 (C.56:10-13).

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

33 “Open recall” means a recall that has not been corrected or
34 addressed.

35 “Recall” means a safety or emissions recall on a specific **‘motor’**
36 vehicle that requires **‘¹’** (1) manufacturer notification pursuant to
37 49 U.S.C. s.30118, 49 U.S.C. s.30119, or **‘[as prescribed by] any**
38 **other’** federal law or regulation; and **‘[,.]’** (2) **‘[requires]’** repairs
39 or **‘[modification] modifications’** to a motor vehicle.

40 “Retail” does not include wholesale sales, sales between dealers,
41 or sales to owners or operators of motor vehicle junk businesses or
42 motor vehicle junk yards, as those terms are defined in R.S.39:11-2,

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 AAP committee amendments adopted June 19, 2025.

1 or any other person engaged in the business of dismantling,
2 destroying, or recycling motor vehicles.

3 “Stop-sale notice” means a notification issued by a motor vehicle
4 franchisor to its motor vehicle franchisee stating that certain used
5 ‘motor’ vehicles in inventory shall not be sold or leased, at either
6 retail or wholesale, due to a ‘[federal safety recall for a defect or
7 noncompliance, or a federal emissions]’ recall.

8 “Time of sale” means the period of time when the buyer executes
9 a retail order form for the purchase, or lease agreement for the
10 lease, of a used motor vehicle.

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

13
14 3. (New section) Any corporation or association that is
15 primarily owned by or comprised of motor vehicle franchisees,
16 which corporation or association primarily represents the interests
17 of motor vehicle franchisees, shall have standing to file an
18 administrative ‘[proceeding or protest] petition’, or to bring an
19 action before any court of competent jurisdiction, for itself or by,
20 for, or on behalf of any motor vehicle franchisee or group of motor
21 vehicle franchisees for any violation of ‘the “Franchise Practices
22 Act,”’ P.L.1971, c.356 (C.56:10-1 et seq.) ’, as amended and
23 supplemented, which violation was’ allegedly conducted by a
24 ‘motor vehicle’ franchisor with motor vehicle franchisees ’, if:

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

27 b. the interests that the administrative petition or action seeks
28 to protect are germane to the corporation’s or association’s purpose;
29 and

30 c. neither the claim asserted nor the relief requested requires
31 any individual members of the corporation or association to
32 participate in the administrative petition or action’.

33
34 4. (New section) a. If a part or ‘the’ parts necessary to perform
35 a recall service are not reasonably available to perform a recall
36 service or repair on a used motor vehicle held for sale by a motor
37 vehicle franchisee authorized to sell and service new motor vehicles
38 of the same line-make within 30 days of the motor vehicle
39 franchisor issuing the initial recall notice, and the motor vehicle
40 franchisor has issued a stop-sale notice or do-not-drive notice on the
41 motor vehicle, the motor vehicle franchisor shall compensate the
42 motor vehicle franchisee at a prorated rate of at least 1.5 percent of
43 the value of the used motor vehicle per month beginning 30 days
44 after the motor vehicle franchisor issued the stop-sale notice or do-
45 not-drive notice to the motor vehicle franchisee until the earlier of
46 either:

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

3 (2) the date that the motor vehicle franchisor sells, trades, or
4 otherwise disposes of a used motor vehicle that is subject to a stop-
5 sale notice or **'[do-not-sell] do-not-drive'** notice **'[used motor**
6 **vehicle]'**.

7 b. The value of a used motor vehicle shall be the average trade-
8 in value for used motor vehicles as indicated in an independent
9 third-party guide for the year, make, and model of the recalled
10 motor vehicle.

11 c. **'[(1)** This section shall only apply to a used motor vehicle:

12 (a) that is subject to an open recall;

13 (b) for which a stop-sale notice or do-not-drive notice has been
14 issued; and

15 (c) for which repair parts or parts or parts necessary to perform
16 recall service remain unavailable for 30 days or more.

17 (2) This section shall only apply to a motor vehicle franchisee
18 that holds an affected used motor vehicle for sale, which used motor
19 vehicle is of a line-make that the motor vehicle franchisee is
20 franchised to sell or on which the motor vehicle franchisee is
21 authorized to perform recall repairs.

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

32 **'[e.] d.'** All reimbursement claims made by motor vehicle
33 franchisees pursuant to this section for recall remedies or repairs, or
34 for compensation where no part or repair is reasonably available
35 and the motor vehicle is subject to a stop-sale notice or do-not-drive
36 notice **'₂'** shall be subject to the same limitations and requirements
37 as a warranty reimbursement claim made under section 3 of
38 P.L.1977, c.84 (C.56:10-15). As an alternative, a motor vehicle
39 franchisor may compensate its motor vehicle franchisees under a
40 national recall compensation program, provided that:

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

43 (2) the motor vehicle franchisor and motor vehicle franchisee
44 otherwise agree.

45 **'[f.] e.'** A motor vehicle franchisor may direct the manner
46 and method in which a motor vehicle franchisee is required to
47 demonstrate the inventory status of an affected used motor vehicle

1 to determine eligibility under this section **‘[**, provided that**’** .
 2 However,¹ the manner and method **‘[may] shall’** not be unduly
 3 burdensome and **‘[may] shall’** not require information that is
 4 unduly burdensome to provide.

5 **‘[g.] f.’** Nothing in this section shall require a motor vehicle
 6 franchisor to provide total compensation to a motor vehicle
 7 franchisee, which compensation would exceed the total average
 8 trade-in value of the affected used motor vehicle as originally
 9 determined pursuant to subsection b. of this section.

10 **‘[h.] g.’** Any remedy provided to a motor vehicle franchisee
 11 under this section is exclusive and **‘[may] shall’** not be combined
 12 with any other State or federal recall compensation remedy.
 13

14 5. (New section) a. As used in this section:

15 “Chief administrator” means the Chief Administrator of the New
 16 Jersey Motor Vehicle Commission.

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

22 “Manufacturer” means an entity engaged in the business of
 23 making or assembling new motor vehicles **‘[**, which under normal
 24 business conditions,**]** and that¹ manufactures or assembles at least
 25 10 new motor vehicles per year ‘under normal business conditions’¹.

26 “Open recall” means a safety-related recall **‘[**, for which**]** that
 27 requires:¹ notification by a manufacturer **‘[is required]’** pursuant
 28 to 49 U.S.C. s.30118 or 49 U.S.C. s.30119 **‘[**, that requires**]** and¹ a
 29 repair or modification to a motor vehicle by an authorized **‘[motor**
 30 **vehicle]’** dealer. **‘[For the purposes of this section, “open recall”**
 31 **shall not include: a recall related to defects or failures to comply**
 32 **with labeling or notification requirements in a motor vehicle**
 33 **owner’s manual; or a recall where the remedy prescribed is for the**
 34 **manufacturer to repurchase the motor vehicle or otherwise provide**
 35 **financial compensation to the owner of the motor vehicle.]’**¹

36 b. **‘[Prior to] When’** issuing a motor vehicle registration or
 37 registration renewal notice, the commission shall **‘[review**
 38 **information made available by] also issue an open recall notice to**
 39 **inform a motor vehicle owner that**¹ the National Highway Traffic
 40 Safety Administration **‘[to] maintains a recall database through**
 41 **which motor vehicle owners can**¹ determine whether a motor
 42 vehicle is subject to an open recall. **‘[For a vehicle that is subject**
 43 **to an open recall, the commission shall provide the owner of the**
 44 **motor vehicle with written notice of each open recall applicable to**
 45 **the motor vehicle. The open recall notice shall be provided at the**

1 time the motor vehicle is registered, except that for registration
2 renewals, the open recall notice shall be included in the registration
3 renewal notice.】¹ The open recall notice shall also¹ include **【the**
4 **following】**¹:

5 (1) a **【description of each open recall】** link to the Internet
6 website through which a motor vehicle owner can access the
7 National Highway Traffic Safety Administration’s recall database¹;
8 and

9 (2) a statement indicating that each open recall may be repaired
10 by a dealer approved by the manufacturer of the motor vehicle at no
11 cost to the owner of the motor vehicle, except as provided pursuant
12 to 49 U.S.C. s.30120.

13 c. (1) The commission **【shall】** may¹ apply for any funding
14 that may be available to defray the costs to implement the
15 provisions of this section, which may include, but shall not be
16 limited to, federal grants.

17 (2) A manufacturer that conducts business in the State shall
18 assist the commission with its application for any funding that may
19 be available to **【totally】**¹ defray the costs of implementing the
20 provisions of this section, as provided in paragraph (1) of this
21 subsection.

22 d. In the event that any funding sources acquired pursuant to
23 subsection c. of this section do not cover the commission’s costs to
24 implement the provisions of this section, the chief administrator
25 **【shall】** may¹ require each manufacturer that conducts business in
26 the State to pay a fee to the commission, except that the total fees
27 collected shall not exceed the actual costs incurred by the
28 commission each year to implement the provisions of this section.
29 The amount of the fee shall be determined by the chief
30 administrator each year based on documentation of the actual costs
31 incurred by the commission to implement the provisions of this
32 section, which documentation shall be published annually on the
33 commission’s Internet website and provided directly to each
34 manufacturer that conducts business in the State.

35 e. The commission may adopt, pursuant to the “Administrative
36 Procedure Act,” P.L.1968, c.410 **【(C.52:14B-1 et seq.)】**
37 (C.52:14B-1 et seq.)¹, rules and regulations that are necessary to
38 implement this section, which rules and regulations may include
39 enforcement and penalty provisions for violations.

40 f. Nothing in this section shall alter the liability under common
41 law of a manufacturer or dealer approved by the manufacturer to
42 repair an open recall.

43 g. The commission shall not be liable to any person for any act
44 or omission related to the open recall notice provided pursuant to
45 this section **【, except for cases of gross negligence】**¹.

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

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

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

13 b. This inequality of bargaining power enables motor vehicle
14 franchisors to compel motor vehicle franchisees to execute
15 franchises and related leases and agreements ¹**['which] that**¹ contain
16 terms and conditions that would not routinely be agreed to by the
17 motor vehicle franchisees absent the compulsion and duress
18 ¹**['which] that**¹ arise out of the inequality of bargaining power.
19 These terms and conditions are detrimental to the interests of the
20 motor vehicle franchisees in that they require the motor vehicle
21 franchisees to relinquish their rights ¹**['which] that**¹ have been
22 established by the "Franchise Practices Act" and supplemental
23 legislation and other statutes and laws of this State.

24 c. As a result, motor vehicle franchisees have been denied the
25 opportunity to have disputes with their motor vehicle franchisors
26 arising out of the franchisor-franchisee relationship heard in an
27 appropriate venue, convenient to both parties by tribunals
28 established by statute for the resolution of these disputes. It is
29 therefore necessary and in the public interest to ensure that motor
30 vehicle franchisees voluntarily determine whether to agree to
31 certain terms and conditions contained in franchises and related
32 leases and agreements presented to them by motor vehicle
33 franchisors and under circumstances unaffected by the compulsion
34 ¹**['which] that**¹ arises from the inequality of bargaining power.

35 d. The distribution, sale, and service of new motor vehicles in
36 the State of New Jersey vitally affects the general economy of this
37 State, and there is a compelling public interest in providing a
38 system of new motor vehicle franchisees to foster competition and
39 promote motor vehicle and highway safety by ensuring there are
40 qualified facilities to provide independently owned and operated
41 sales, warranty, open recall, and routine service for motor vehicles.

42 e. The new motor vehicle franchise system encourages local
43 investment in motor vehicle dealerships, creates jobs and economic
44 activity in virtually every community in this State, and advances the
45 public interest by fostering an extensive network of independent
46 new motor vehicle franchisees who compete for motor vehicle sales
47 and service business, offer ready access to open recall repair service

1 and warranty service, when needed, and provide routine
2 maintenance to ensure motor vehicle and highway safety.

3 f. There remains, however, a vast disparity in bargaining
4 power between motor vehicle franchisors and their franchisees,
5 which, if left unchecked, will discourage local investment in the
6 motor vehicle franchise system and result in fewer new motor
7 vehicle franchisees, less competition in the motor vehicle
8 marketplace, and diminished consumer access to qualified motor
9 vehicle warranty services, open recall repair services, and routine
10 service facilities.

11 g. Despite prior enactments, many motor vehicle franchisees
12 have found it either too risky to oppose their supplier or too
13 burdensome to take on a legal challenge to their motor vehicle
14 franchisors, who control the exclusive supply of motor vehicles,
15 parts, and special equipment to motor vehicle franchisees.

16 h. As a result, it is necessary for the Legislature to further
17 revise the laws pertaining to motor vehicle franchisees to strengthen
18 and clarify certain provisions of existing law intended to protect the
19 public from marketplace behavior that has the potential to restrict
20 competition for sales and threaten highway safety by limiting
21 consumer access to essential warranty and open recall service
22 provided by neighborhood dealers of new motor vehicles.

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

24
25 7. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read
26 as follows:

27 3. If any motor vehicle franchise shall require or permit motor
28 vehicle franchisees to perform labor services or provide parts in
29 satisfaction of 'a repair service offered and reimbursed by the motor
30 vehicle franchisor, including, but not limited to,' a warranty
31 ['issued] , 'an' extended warranty, 'a' maintenance 'plan' , '【or
32 other】 a' service-related plan '【offered by the motor vehicle
33 franchisor, or】 , or a' recall' 【or other work reimbursed by the
34 motor vehicle franchisor】':

35 a. '【The】 the' motor vehicle franchisor shall reimburse each
36 motor vehicle franchisee for such labor services , including
37 diagnostic work, as are rendered and for such parts as are supplied,
38 in an amount equal to the prevailing retail price 【charged by such
39 motor vehicle franchisee for such services and parts in
40 circumstances where such services are rendered or such parts
41 supplied other than pursuant to warranty; provided that such motor
42 vehicle franchisee's prevailing retail price is not unreasonable when
43 compared with that of the holders of motor vehicle franchises from
44 the same motor vehicle franchisor for identical merchandise or
45 services in the geographic area in which the motor vehicle
46 franchisee is engaged in business】 calculated pursuant to
47 subsections d., e., and j. of this section. The average retail labor

1 rate, average retail labor time allowance, and parts markup **'[so]** .
 2 as¹ declared by the motor vehicle franchisee ¹ shall become
 3 effective 30 days following the declaration subject to audit by the
 4 motor vehicle franchisor only of the sample submitted by the motor
 5 vehicle franchisee **'[and any]** . Any proposed¹ adjustment of the
 6 average retail labor rate, the average retail labor time allowance, or
 7 the parts markup made by the motor vehicle franchisor shall be
 8 based only on an audit of that sample **'[.] :**¹

9 b. **'[The]** the¹ motor vehicle franchisor shall not by agreement,
 10 by restrictions upon reimbursement, or otherwise **'[.]**¹ restrict the
 11 nature and extent of labor services to be rendered or parts to be
 12 provided so that such restriction prevents the motor vehicle
 13 franchisee from satisfying the warranty by rendering labor services
 14 in a good and workmanlike manner and providing parts **'[which]**
 15 that¹ are required in accordance with generally accepted standards.
 16 Any such restriction shall constitute a prohibited practice hereunder
 17 **'[.] :**¹

18 c. **'[The]** the¹ motor vehicle franchisor shall reimburse the
 19 motor vehicle franchisee pursuant to subsection a. of this section,
 20 without deduction, for labor services performed on, and parts
 21 supplied for, a motor vehicle by the motor vehicle franchisee in
 22 good faith and in accordance with generally accepted standards,
 23 notwithstanding any requirement that the motor vehicle franchisor
 24 accept the return of the motor vehicle or make payment to a
 25 consumer with respect to the motor vehicle pursuant to the
 26 provisions of P.L.1988, c.123 (C.56:12-29 et seq.) **'[.] :**¹

27 d. **'[For]** for¹ the purposes of this section, the "prevailing
 28 retail price" charged by: (1) a motor vehicle franchisee for parts
 29 means the price paid by the motor vehicle franchisee for those parts,
 30 including all shipping and other charges, multiplied by the sum of
 31 1.0 and the franchisee's average percentage parts markup over the
 32 price paid by the motor vehicle franchisee for parts purchased by
 33 the motor vehicle franchisee from the motor vehicle franchisor and
 34 sold at retail. The motor vehicle franchisee may establish average
 35 percentage parts markup under this section by submitting to the
 36 motor vehicle franchisor 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 declaring **[what]** the average percentage
 40 parts markup **[is]**. The average percentage parts markup so
 41 declared shall go into effect 30 days following the declaration
 42 subject to audit **[of the submitted repair orders by the motor vehicle**
 43 **franchisor and adjustment of the average percentage markup based**
 44 **on that audit. Only retail sales not involving warranty repairs, parts**
 45 **covered by subsection e. of this section, or parts supplied for**
 46 **routine vehicle maintenance, shall be considered in calculating**

1 average percentage markup. No motor vehicle franchisor shall
 2 require a motor vehicle franchisee to establish average percentage
 3 markup by a methodology, or by requiring information, that is
 4 unduly burdensome or time consuming to provide, including, but
 5 not limited to, part by part or transaction by transaction
 6 calculations] by the motor vehicle franchisor only of the sample
 7 submitted by the motor vehicle franchisee ¹~~["and any"]~~ . Any
 8 proposed¹ adjustment of the average parts markup by the motor
 9 vehicle franchisor ¹shall be¹ based only on an audit of that sample.
 10 A motor vehicle franchisee shall not request a change in the average
 11 percentage parts markup more than twice in one calendar year; and
 12 (2) a recreational motor vehicle franchisee for parts means actual
 13 wholesale cost, plus a minimum ~~["30%"]~~ 30 percent handling charge
 14 and any freight costs incurred to return the removed parts to the
 15 motor vehicle franchisor ¹~~[""]~~ :

16 e. ¹~~["If"]~~ (1) if¹ a motor vehicle franchisor supplies , or causes
 17 to be supplied, a part or parts for use in a repair rendered under a
 18 warranty ~~["other than by sale of that part or parts to the motor~~
 19 ~~vehicle franchisee, the motor vehicle franchisee shall be entitled to~~
 20 ~~compensation equivalent to the motor vehicle franchisee's average~~
 21 ~~percentage markup on the part or parts, as if the part or parts had~~
 22 ~~been sold to the motor vehicle franchisee by the motor vehicle~~
 23 ~~franchisor.]~~ , an extended warranty ¹~~["service"]~~ ¹ , a maintenance ¹~~["~~
 24 ~~or"]~~ plan, a¹ service-related plan ¹~~["offered by the motor vehicle~~
 25 ~~franchisor, or"]~~ ¹ , a recall, or other work ¹that is also offered and¹
 26 reimbursed by the motor vehicle franchisor ¹ , ¹ at no cost or at a
 27 reduced cost for use in performing the repair work, the franchisor
 28 shall compensate the motor vehicle franchisee in the same manner
 29 as the ¹motor vehicle¹ franchisor compensates the ¹motor vehicle¹
 30 franchisee under this section by paying the motor vehicle franchisee
 31 for the franchisee's cost of the part, if any, plus an amount equal to
 32 the franchisee's parts markup ¹~~[""]~~ ¹ multiplied by the wholesale
 33 value of the part. The wholesale value of the part shall be the
 34 greater of:

35 ¹~~["(1)"]~~ (a)¹ the amount the ¹motor vehicle¹ franchisee paid for
 36 the part or a substantially identical part;

37 ¹~~["(2)"]~~ (b)¹ the cost of the part in a current or prior established
 38 price schedule issued by the ¹motor vehicle¹ franchisor or issued by
 39 ¹a¹ third party that has previously supplied the part to the motor
 40 vehicle franchisee;

41 ¹~~["(3)"]~~ (c)¹ the cost of a substantially identical part in a current
 42 or prior established price schedule issued by the ¹motor vehicle¹
 43 franchisor or by a third party; or

44 ¹~~["(4)"]~~ (d)¹ the reasonable wholesale price for the part.

45 ¹(2)¹ The requirements of this section shall not apply to electric
 46 propulsion batteries, entire engine assemblies, and entire

1 transmission assemblies. In the case of those **assemblies** parts,
 2 the motor vehicle franchisor shall reimburse the motor vehicle
 3 franchisee in the amount of **30%** 30 percent of what the motor
 4 vehicle franchisee would have paid the motor vehicle franchisor for
 5 the **assembly** part if the **assembly** part had not been supplied by
 6 the franchisor other than by the sale of that **assembly** part to the
 7 motor vehicle franchisee **'[.]'**

8 f. **'[The] the'** motor vehicle franchisor shall reimburse the
 9 motor vehicle franchisee for parts supplied and labor services
 10 rendered under a warranty, **'an'** extended warranty, **'a'**
 11 maintenance plan, or other service-related plan offered by the
 12 motor vehicle franchisor within 30 days after approval of a claim
 13 for reimbursement. All claims for reimbursement shall be approved
 14 or disapproved within 30 days after receipt of the claim by the
 15 motor vehicle franchisor. When a claim is disapproved, the motor
 16 vehicle franchisee shall be notified in writing of the grounds for the
 17 disapproval. No claim that has been approved and paid shall be
 18 charged back to the motor vehicle franchisee unless it can be shown
 19 that the claim was false or fraudulent, that the labor services were
 20 not properly performed, that the parts or labor services were
 21 unnecessary to correct the defective condition, or that the motor
 22 vehicle franchisee failed to reasonably substantiate the claim in
 23 accordance with reasonable written requirements of the motor
 24 vehicle franchisor, provided that the motor vehicle franchisee had
 25 been notified of the requirements prior to the time the claim arose
 26 and the requirements were in effect at the time the claim arose. A
 27 motor vehicle franchisor shall not audit a claim after the expiration
 28 of 12 months following the payment of the claim unless the motor
 29 vehicle franchisor has reasonable grounds to believe that the claim
 30 was fraudulent **'[.]'**

31 g. **'[The] the'** obligations imposed on motor vehicle
 32 franchisors by this section shall apply to any parent, subsidiary,
 33 affiliate **'.'** or agent of the motor vehicle franchisor, any person
 34 under common ownership or control, any employee of the motor
 35 vehicle franchisor and any person holding **1%** one percent
 36 or more of the shares of any class of securities or other ownership
 37 interest in the motor vehicle franchisor, if a warranty or service or
 38 repair plan is issued by that person instead of or in addition to one
 39 issued by the motor vehicle franchisor **'[.]'**

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

42 (1) if the motor vehicle franchisee offers for sale only the
 43 'motor vehicle' franchisor administered service or repair plan; or

44 (2) if the motor vehicle franchisee is paid its prevailing retail
 45 price for all service or repair plans **'that'** the motor vehicle

1 franchisee offers for sale to purchasers of new motor vehicles;
2 **'[or]'**

3 (3) for the first 36,000 miles of coverage under the **'motor**
4 **vehicle'** franchisor administered service or repair plan, if the
5 warranty offered by the motor vehicle franchisor on the motor
6 vehicle provides coverage for less than 36,000 miles; or

7 (4) for motor vehicles covered by a **'motor vehicle'** franchisor
8 administered service or repair plan, if the motor vehicle franchisee
9 does not offer for sale the **'motor vehicle'** franchisor administered
10 service or repair plan.

11 With respect to **'motor vehicle'** franchisor administered service
12 or repair plans covering only routine maintenance service, this
13 section applies only to those plans sold to customers on or after the
14 effective date of P.L.1999, c.45 **'[.]'**

15 i. **'[A] a'** motor vehicle franchisor shall make payment to a
16 motor vehicle franchisee pursuant to incentive, bonus, sales,
17 performance **'.'** or other programs within 30 days after receipt of a
18 claim from the motor vehicle franchisee. When a claim is
19 disapproved, the motor vehicle franchisee shall be notified in
20 writing of the grounds for disapproval. No claim shall be
21 disapproved unless it can be shown that the claim was false or
22 fraudulent, or that the motor vehicle franchisee failed to reasonably
23 substantiate the claim in accordance with reasonable written
24 requirements of the motor vehicle franchisor, provided that the
25 motor vehicle franchisee had been notified of the requirements prior
26 to the time the claim arose and the requirements were in effect at
27 the time the claim arose. A motor vehicle franchisor shall not audit
28 a claim after the expiration of 12 months following the payment of
29 the claim **'[.]'**

30 j. (1) **'[A] a'** calculation of the retail rate customarily charged
31 by the dealer for parts markup shall not include the following:

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

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

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

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

41 (e) vehicle reconditioning;

42 (f) accessories;

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

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

- 1 (i) vehicle emission inspections required by law;
- 2 (j) manufacturer-approved goodwill or policy repairs or
- 3 replacements;
- 4 (k) repairs for a government agency or a service contract
- 5 provider employed as an agent of a government agency;
- 6 (l) repairs with aftermarket parts when calculating a retail parts
- 7 rate, not when calculating a retail labor rate;
- 8 (m) repairs on aftermarket parts;
- 9 (n) replacement of tires or work on tires, including wheel
- 10 alignments or tire rotations; or
- 11 (o) repairs of motor vehicles owned by the franchisee or an
- 12 employee of a franchisee at the time of the repair '1.1';
- 13 (2) '1.A' a calculation of the retail labor time allowance
- 14 customarily charged by the dealer for customer paid repairs shall
- 15 not include the following:
- 16 (a) discounts for retail customer repairs or special or promotional
- 17 events offered by a manufacturer, manufacturer branch, distributor
- 18 '1.1' or distributor branch;
- 19 (b) parts sold or repairs performed at wholesale;
- 20 (c) routine maintenance, including '1.1' but not limited to '1.1' the
- 21 replacement of brakes, bulbs, fluids, filters, batteries, and belts that
- 22 are not provided in the course of '1.1' or related to a repair;
- 23 (d) items that do not have individual part numbers, including '1.1'
- 24 but not limited to, nuts, bolts '1.1' and fasteners;
- 25 (e) vehicle reconditioning;
- 26 (f) accessories;
- 27 (g) repairs of conditions caused by a collision, a road hazard,
- 28 natural forces, vandalism, theft, or negligent or deliberate damage
- 29 by an owner, operator, or third party;
- 30 (h) parts sold or repairs performed for insurance carriers;
- 31 (i) vehicle emission inspections required by law;
- 32 (j) manufacturer-approved goodwill or policy repairs or
- 33 replacements;
- 34 (k) repairs for a government agency or a service contract
- 35 provider employed as an agent of a government agency;
- 36 (l) repairs with aftermarket parts when calculating a retail parts
- 37 rate, not when calculating a retail labor rate;
- 38 (m) repairs on aftermarket parts;
- 39 (n) replacement of tires or work on tires, including wheel
- 40 alignments or tire rotations; or
- 41 (o) repairs of motor vehicles owned by the franchisee or an
- 42 employee of a franchisee at the time of the repair '1.1'; and
- 43 (3) '1.A' a calculation of the retail labor rate customarily
- 44 charged by the dealer for customer paid repairs shall not include the
- 45 following:

- 1 (a) discounts for retail customer repairs or special or promotional
- 2 events offered by a manufacturer, manufacturer branch, distributor
- 3 ¹, ¹ or distributor branch;
- 4 (b) parts sold or repairs performed at wholesale;
- 5 (c) routine maintenance, including, but not limited to ¹, ¹ the
- 6 replacement of brakes, bulbs, fluids, filters, batteries, and belts that
- 7 are not provided in the course of or related to a repair;
- 8 (d) items that do not have individual part numbers, including, but
- 9 not limited to, nuts, bolts, and fasteners;
- 10 (e) vehicle reconditioning;
- 11 (f) accessories;
- 12 (g) repairs of conditions caused by a collision, a road hazard,
- 13 natural forces, vandalism, theft, or negligent or deliberate damage
- 14 by an owner, operator, or third party;
- 15 (h) parts sold or repairs performed for insurance carriers;
- 16 (i) vehicle emission inspections required by law;
- 17 (j) manufacturer-approved goodwill or policy repairs or
- 18 replacements;
- 19 (k) repairs for a government agency or a service contract
- 20 provider employed as an agent of a government agency;
- 21 (l) repairs with aftermarket parts when calculating a retail parts
- 22 rate but not when calculating a retail labor rate;
- 23 (m) repairs on aftermarket parts;
- 24 (n) replacement of tires or work on tires, including wheel
- 25 alignments or tire rotations; or
- 26 (o) repairs of motor vehicles owned by the franchisee or an
- 27 employee of the franchisee at the time of the repair ¹ **[.]** ¹
- 28 k. (1) ¹ **[A]** a motor vehicle¹ franchisor shall not:
- 29 (a) impose unreasonable handling procedures or unreasonable
- 30 handling charges upon its ¹motor vehicle¹ franchisees for return or
- 31 disposal of any part, including electric propulsion batteries,
- 32 dangerous or unexploded air bag units, or seat belt tensioners;
- 33 (b) penalize or charge a ¹motor vehicle¹ franchisee for the return
- 34 of a defective electric propulsion battery that is returned to the
- 35 ¹motor vehicle¹ franchisor within 60 days of its removal from a
- 36 vehicle under warranty service, extended warranty service, a
- 37 maintenance ¹plan¹ , ¹ **[or]** a¹ service-related plan ¹ **[offered by the**
- 38 motor vehicle franchisor, or] , a¹ recall, or other work ¹that is also
- 39 offered and¹ reimbursed by the motor vehicle franchisor; or
- 40 (c) charge a dealer more for a late return than the wholesale price
- 41 charged to the dealer for the electric propulsion battery.
- 42 (2) A franchisor shall compensate a franchisee for labor time to
- 43 package and return ship an electric propulsion battery and shall
- 44 supply the franchisee with appropriate packaging to facilitate the
- 45 return ¹ **[.]** ¹
- 46 l. ¹ **[For]** for¹ the purposes of this section, the prevailing retail
- 47 price for labor shall be the average hourly labor rate charged to

1 retail customers. A motor vehicle franchisee may establish its
2 average labor rate under this section by submitting to the motor
3 vehicle franchisor 100 sequential customer paid service repair
4 orders or 90 days of customer paid service repair orders, whichever
5 is less, covering customer paid repairs made no more than 180 days
6 before the submission. The average retail labor rate shall be
7 calculated by multiplying the total labor charges in the sample by
8 1.0 and dividing that amount by the total number of labor hours in
9 the sample. The average retail labor rate so declared shall go into
10 effect 30 days following the declaration subject to audit by the
11 motor vehicle franchisor only of the sample submitted by the motor
12 vehicle franchisee ¹and any ¹. Any proposed¹ adjustment of the
13 average retail labor rate made by the motor vehicle franchisor ¹shall
14 be ¹based solely on an audit of that sample ¹; ¹

15 m. ¹[A] a ¹motor vehicle franchisor shall provide adequate and
16 fair compensation to each motor vehicle franchisee for labor
17 services rendered for a repair in an amount not less than the amount
18 a retail customer pays for the same labor services with regard to
19 labor time. A ¹motor vehicle ¹franchisee may apply to its ¹motor
20 vehicle ¹franchisor to be reimbursed for labor time according to, at
21 the ¹motor vehicle ¹franchisee's discretion ¹;

22 (1) a franchisor's labor time guide as adequate and fair
23 compensation for labor services rendered for repairs in an amount
24 equal to the amount a retail customer pays for the same labor
25 services with regard to labor time, multiplied by 1.5;

26 (2) the use of a third party time guide in lieu of the franchisor's
27 labor time guide to arrive at an adequate and fair compensation for
28 labor services rendered for repairs in an amount equal to the amount
29 a retail customer pays for the same labor services with regard to
30 labor time; or

31 (3) ¹], an established average retail labor time allowance ¹, in
32 lieu of the ¹motor vehicle ¹franchisor's labor time guide for
33 franchisor-paid repairs or service ¹, by submitting to the motor
34 vehicle franchisor ¹the multiplier established by taking the number
35 of hours billed in ¹100 sequential customer paid service repair
36 orders or 90 days of customer paid service repair orders, whichever
37 is less, covering repairs made no more than 180 days before the
38 submission, and dividing ¹that by ¹the number of hours permitted
39 by the ¹motor vehicle ¹franchisor for any such repairs under the
40 motor vehicle ¹franchisor's labor time guide for franchisor-paid
41 repairs or service. The resulting quotient shall be applied to the
42 motor vehicle ¹franchisor's labor time guide to establish the
43 motor vehicle ¹franchisee's average retail labor time allowance.
44 The average retail labor time allowance so declared shall go into
45 effect 30 days following the declaration subject to audit by the
46 motor vehicle franchisor only of the sample submitted by the motor

1 vehicle franchisee **'[and any]** . Any proposed¹ adjustment of the
2 average labor time allowance made by the motor vehicle franchisor
3 'shall be' based only on an audit of that sample.

4 Upon payment of a claim for labor services under this section by
5 the 'motor vehicle' franchisor to the motor vehicle franchisee, the
6 motor vehicle franchisee shall compensate its **'[factory certified]**
7 factory-certified' flat rate technicians performing work on a
8 warranty, an extended warranty **'[service]'** , 'a' maintenance **'[,**
9 or] plan, a service-related plan **'[offered by the motor vehicle**
10 franchisor, or] , a recall **';**¹ or other work **'[.]** that is also offered
11 and reimbursed by the motor vehicle franchisor;¹

12 n. **'[A]** a motor vehicle franchisee shall not request a change
13 in the average percentage parts markup, labor time allowance, or
14 retail labor rate more than twice in one calendar year **'[.]** ;¹

15 o. **'[A]** a motor vehicle franchisor shall not recover its costs,
16 except as provided in this section, from a motor vehicle franchisee
17 within this State, including, but not limited to, an increase in the
18 wholesale price of a vehicle or a surcharge imposed on a motor
19 vehicle franchisee solely, which increase is intended to recover the
20 cost of reimbursing a 'motor vehicle' franchisee for parts and
21 service pursuant to this section **'[, provided, however, that]** .
22 However,¹ a motor vehicle franchisor shall not be prohibited from
23 increasing prices for vehicles or parts in the normal course of
24 business **'[.]** ;¹

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

1 shall not deny or charge back a claim paid for labor services and
 2 parts provided in the performance of an open recall, warranty, or
 3 other service agreement or for an incentive, bonus, sales,
 4 performance, or other program unless the 'motor vehicle'
 5 franchisor satisfies its burden of proof that the 'motor vehicle'
 6 franchisee did not make a good faith effort to comply with the
 7 reasonable written procedures of the 'motor vehicle' franchisor,
 8 that the 'motor vehicle' franchisee did not actually perform the
 9 work, or that the claim was materially false or fraudulent. A 'motor
 10 vehicle' franchisor shall not deny or charge back a claim due to an
 11 administrative or scrivener's error in the submission of the claim
 12 '[.] ; and'

13 q. '[A] a' motor vehicle franchisor shall not unilaterally
 14 reduce or otherwise manipulate the price of parts required for a
 15 warranty, an extended warranty, 'a' maintenance '[, or other
 16 services-related] plan, a service-related' plan '[offered by the
 17 motor vehicle franchisor]', a recall ',' or other work 'that is also
 18 offered and' reimbursed by the motor vehicle franchisor in a
 19 manner that unfairly and unilaterally allows the 'motor vehicle'
 20 franchisor to reduce the level of compensation paid to 'motor
 21 vehicle' franchisees, including changes to price within 60 '[day]'
 22 or fewer days preceding an announcement of a recall, any time after
 23 a recall, or after a warranty claim has arisen. A motor vehicle
 24 franchisor shall not manipulate the price of parts required for
 25 warranty or open recall services by creating a new or additional part
 26 number for the same part used in warranty or recall repair in a
 27 manner that unfairly and unilaterally allows the 'motor vehicle'
 28 franchisor to reduce the level of compensation paid to 'motor
 29 vehicle' franchisees for warranty and open recall services 'that' the
 30 motor vehicle franchisees provide to consumers.

31 (cf: P.L.2011, c.66, s.5)

32
 33 8. This act shall take effect on the first day of the fourth month
 34 following enactment '[,]' and shall apply to motor vehicle
 35 franchise agreements in effect on or after the effective date of
 36 P.L. , c. (C.) (pending before the Legislature as this bill)
 37 but shall not apply retroactively to any cause of action that shall
 38 have arisen prior to the effective date of P.L. , c. (C.)
 39 (pending before the Legislature as this bill).

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4380

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MARCH 6, 2025

Sponsored by:

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District 19 (Middlesex)

Assemblyman JOHN DIMAIO

District 23 (Hunterdon, Somerset and Warren)

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

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Assemblymen Bailey, Kanitra, Assemblywoman Simmons, Assemblyman
Auth, Assemblywoman Flynn, Assemblyman Egan, Assemblywoman
Pintor Marin, Assemblyman Tully, Assemblywomen Speight, Carter and
Murphy**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 26, 2025, with amendments.

(Sponsorship Updated As Of: 6/27/2025)

1 **AN ACT** concerning motor vehicle open recalls and motor vehicle
2 franchises, **¹["and"]** supplementing ¹Title 56 and Title 39 of the
3 Revised Statutes,¹ and amending ¹**["various parts of the statutory**
4 **law"]** P.L.1989, c.24 and P.L.1977, c.84.¹
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*
8

9 1. (New section) Sections 1 through 5 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall be known and may
11 be cited as the “Motor Vehicle Open Recall Notice and Fair
12 Compensation Act.”
13

14 2. (New section) As used in sections 2 through ²**[4]** ²5 of
15 P.L. , c. (C.) (pending before the Legislature as this bill):

16 ²**["Dealer"]** means a person who is actively engaged in the retail
17 business of buying, selling, or exchanging new ¹motor vehicles¹ or
18 used motor vehicles**]**

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

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

23 ¹“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 that
26 certain used motor vehicles in inventory are unsafe to drive and shall
27 not be sold or leased, at either retail or wholesale, due to a recall.¹

28 ²“Manufacturer” means an entity engaged in the business of
29 making or assembling new motor vehicles that manufactures or
30 assembles at least 10 new motor vehicles per year under normal
31 business conditions.²

32 “Motor vehicle franchisee” means the same as ¹**["the"]** that¹ term is
33 defined in section 1 of P.L.1977, c.84 (C.56:10-13).

34 “Motor vehicle franchisor” means the same as ¹**["the"]** that¹ term is
35 defined in section 1 of P.L.1977, c.84 (C.56:10-13).

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

39 ²“New motor vehicle dealer” means the same as that term is
40 defined pursuant to R.S.39:10-2.²

41 “Open recall” means a recall that has not been corrected or
42 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 AAP committee amendments adopted June 19, 2025.

²Assembly ABU committee amendments adopted June 26, 2025.

1 “Recall” means a safety or emissions recall on a specific ¹motor¹
2 vehicle that requires ¹:¹ (1) manufacturer notification pursuant to 49
3 U.S.C. s.30118, 49 U.S.C. s.30119, or ¹**as prescribed by** ¹any other¹
4 federal law or regulation; and ¹**[,]**¹ (2) ¹**requires**¹ repairs or
5 ¹**modification** ¹modifications¹ to a motor vehicle ²by an authorized
6 new motor vehicle dealer or an authorized used motor vehicle dealer².

7 “Retail” does not include wholesale sales, sales between ²new
8 motor vehicle dealers or used motor vehicle² dealers, or sales to
9 owners or operators of motor vehicle junk businesses or motor vehicle
10 junk yards, as those terms are defined in R.S.39:11-2, or any other
11 person engaged in the business of dismantling, destroying, or recycling
12 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 ¹motor¹ vehicles in inventory shall not be sold or leased, at either retail
16 or wholesale, due to a ¹**federal safety recall for a defect or**
17 **noncompliance, or a federal emissions**¹ recall.

18 ²**“Time of sale” means the period of time when the buyer**
19 **executes a retail order form for the purchase, or lease agreement for**
20 **the lease, of a used motor vehicle.**²

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

23 ²“Used motor vehicle dealer” means the same as that term is
24 defined pursuant to R.S.39:10-2.²

25
26 3. (New section) Any corporation or association that is primarily
27 owned by or comprised of motor vehicle franchisees, which
28 corporation or association primarily represents the interests of motor
29 vehicle franchisees, shall have standing to ²**file an administrative**
30 ¹**proceeding or protest** ¹petition¹, or to ²**bring an action before any**
31 **court of competent jurisdiction, for itself or by, for, or on behalf of any**
32 **motor vehicle franchisee or group of motor vehicle franchisees for any**
33 **violation of** ¹the “Franchise Practices Act,”¹ P.L.1971, c.356 (C.56:10-
34 1 et seq.) ¹, as amended and supplemented, which violation was¹
35 allegedly conducted by a ¹motor vehicle¹ franchisor with motor
36 vehicle franchisees ¹, if:

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

39 b. the interests that the ²**administrative petition or**² **action seeks**
40 to protect are germane to the corporation’s or association’s purpose;
41 and

42 c. neither the claim asserted nor the relief requested requires any
43 individual members of the corporation or association to participate in
44 the ²**administrative petition or**² **action**¹.

1 4. (New section) a. If a part or ¹the parts necessary to perform a
2 recall service are not reasonably available to perform a recall service
3 or repair on a used motor vehicle held for sale by a motor vehicle
4 franchisee authorized to sell and service new motor vehicles of the
5 same line-make within 30 days of the motor vehicle franchisor issuing
6 the initial recall notice, and the motor vehicle franchisor has issued a
7 stop-sale notice or do-not-drive notice on the motor vehicle, the motor
8 vehicle franchisor shall compensate the motor vehicle franchisee at a
9 prorated rate of at least 1.5 percent of the value of the used motor
10 vehicle per month beginning 30 days after the motor vehicle franchisor
11 issued the stop-sale notice or do-not-drive notice to the motor vehicle
12 franchisee until the earlier of either:

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

15 (2) the date that the motor vehicle ²**[franchisor]** franchisee² sells,
16 trades, or otherwise disposes of a used motor vehicle that is subject to
17 a stop-sale notice or ¹**[do-not-sell]** do-not-drive¹ notice ¹**[used motor**
18 **vehicle]**¹.

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

23 c. ¹**[**(1) This section shall only apply to a used motor vehicle:

24 (a) that is subject to an open recall;

25 (b) for which a stop-sale notice or do-not-drive notice has been
26 issued; and

27 (c) for which repair parts or parts or parts necessary to perform
28 recall service remain unavailable for 30 days or more.

29 (2) This section shall only apply to a motor vehicle franchisee that
30 holds an affected used motor vehicle for sale, which used motor
31 vehicle is of a line-make that the motor vehicle franchisee is
32 franchised to sell or on which the motor vehicle franchisee is
33 authorized to perform recall repairs.

34 d. ¹**[** Subject to the provisions of section 3 of P.L.1977, c.84
35 (C.56:10-15), it shall be a violation of this section for a motor vehicle
36 franchisor to reduce the amount of compensation otherwise owed to
37 ¹**[an individual]** a¹ motor vehicle franchisee through a chargeback,
38 ¹**[a]** the¹ removal of the ¹**[individual]**¹ motor vehicle franchisee from
39 an incentive program, or a reduction in the amount owed under an
40 incentive program because the motor vehicle franchisee has submitted
41 a claim for reimbursement pursuant to this section. Nothing in this
42 subsection shall prohibit a motor vehicle franchisor from discontinuing
43 an incentive program.

44 ¹**[e.]** d.¹ All reimbursement claims made by motor vehicle
45 franchisees pursuant to this section for recall remedies or repairs, or
46 for compensation where no part or repair is reasonably available and
47 the motor vehicle is subject to a stop-sale notice or do-not-drive notice

1 ¹ shall be subject to the same limitations and requirements as a
 2 warranty reimbursement claim made under section 3 of P.L.1977, c.84
 3 (C.56:10-15). As an alternative, a motor vehicle franchisor may
 4 compensate its motor vehicle franchisees under a national recall
 5 compensation program, provided that:

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

8 (2) the motor vehicle franchisor and motor vehicle franchisee
 9 otherwise agree.

10 ¹~~[(f.) e.]~~ A motor vehicle franchisor may direct the manner and
 11 method in which a motor vehicle franchisee is required to demonstrate
 12 the inventory status of an affected used motor vehicle to determine
 13 eligibility under this section ¹~~[(, provided that)]~~ However,¹ the
 14 manner and method ¹~~[(may)]~~ shall¹ not be unduly burdensome and
 15 ¹~~[(may)]~~ shall¹ not require information that is unduly burdensome to
 16 provide.

17 ¹~~[(g.) f.]~~ Nothing in this section shall require a motor vehicle
 18 franchisor to provide total compensation to a motor vehicle franchisee,
 19 which compensation would exceed the total average trade-in value of
 20 the affected used motor vehicle as originally determined pursuant to
 21 subsection b. of this section.

22 ¹~~[(h.) g.]~~ Any remedy provided to a motor vehicle franchisee
 23 under this section is exclusive and ¹~~[(may)]~~ shall¹ not be combined
 24 with any other State or federal recall compensation remedy.
 25

26 5. (New section) a. As used in this section ²~~[(~~:

27 “Chief administrator” means the Chief Administrator of the New
 28 Jersey Motor Vehicle Commission.

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

31 “Dealer” means a person who is actively engaged in the retail
 32 business of buying, selling, or exchanging new ¹motor vehicles¹ or
 33 used motor vehicles.

34 “Manufacturer” means an entity engaged in the business of making
 35 or assembling new motor vehicles ¹~~[(, which under normal business~~
 36 ~~conditions,)]~~ and that¹ manufactures or assembles at least 10 new
 37 motor vehicles per year ¹under normal business conditions¹.

38 “Open recall” means a safety-related recall ¹~~[(, for which)]~~ that
 39 requires:¹ notification by a manufacturer ¹~~[(is required)]~~¹ pursuant to
 40 49 U.S.C. s.30118 or 49 U.S.C. s.30119 ¹~~[(, that requires)]~~ and¹ a repair
 41 or modification to a motor vehicle by an authorized ¹~~[(motor vehicle)]~~¹
 42 dealer. ¹~~[(For the purposes of this section, “open recall” shall not~~
 43 ~~include: a recall related to defects or failures to comply with labeling~~
 44 ~~or notification requirements in a motor vehicle owner’s manual; or a~~
 45 ~~recall where the remedy prescribed is for the manufacturer to~~
 46 ~~repurchase the motor vehicle or otherwise provide financial~~

1 compensation to the owner of the motor vehicle. **1** “chief
 2 administrator,” “commission,” “manufacturer,” “new motor vehicle
 3 dealer,” “open recall,” and “recall” have the same meaning as those
 4 terms are defined in section 2 of P.L. , c. (C.) (pending before
 5 the Legislature as this bill).²

6 b. **1** “Prior to” **1** When¹ issuing a motor vehicle registration or
 7 registration renewal notice, the commission shall **1** review information
 8 made available by **1** also issue an open recall notice to inform a motor
 9 vehicle owner that¹ the National Highway Traffic Safety
 10 Administration **1** to **1** maintains a recall database through which motor
 11 vehicle owners can¹ determine whether a motor vehicle is subject to an
 12 open recall. **1** For a vehicle that is subject to an open recall, the
 13 commission shall provide the owner of the motor vehicle with written
 14 notice of each open recall applicable to the motor vehicle. The open
 15 recall notice shall be provided at the time the motor vehicle is
 16 registered, except that for registration renewals, the open recall notice
 17 shall be included in the registration renewal notice.¹ The open recall
 18 notice shall **1** also¹ include **1** the following¹:

19 (1) a **1** description of each open recall **1** link to the Internet website
 20 through which a motor vehicle owner can access the National
 21 Highway Traffic Safety Administration’s recall database¹; and

22 (2) a statement indicating that each open recall may be repaired by
 23 a **2** new motor vehicle² dealer approved by the manufacturer of the
 24 motor vehicle at no cost to the owner of the motor vehicle, except as
 25 provided pursuant to 49 U.S.C. s.30120.

26 c. (1) The commission **1** shall **1** may¹ apply for any funding that
 27 may be available to defray the costs to implement the provisions of
 28 this section, which may include, but shall not be limited to, federal
 29 grants.

30 (2) A manufacturer that conducts business in the State shall assist
 31 the commission with its application for any funding that may be
 32 available to **1** totally¹ defray the costs of implementing the
 33 provisions of this section, as provided in paragraph (1) of this
 34 subsection.

35 d. In the event that any funding sources acquired pursuant to
 36 subsection c. of this section do not cover the commission’s costs to
 37 implement the provisions of this section, the chief administrator
 38 **1** shall **1** may¹ require each manufacturer that conducts business in the
 39 State to pay a fee to the commission, except that the total fees
 40 collected shall not exceed the actual costs incurred by the commission
 41 each year to implement the provisions of this section. The amount of
 42 the fee shall be determined by the chief administrator each year based
 43 on documentation of the actual costs incurred by the commission to
 44 implement the provisions of this section, which documentation shall be
 45 published annually on the commission’s Internet website and provided
 46 directly to each manufacturer that conducts business in the State.

1 e. The commission may adopt, pursuant to the “Administrative
2 Procedure Act,” P.L.1968, c.410 ¹[(C.52:14B-1 et seq.)] (C.52:14B-1
3 et seq.)¹, rules and regulations that are necessary to implement this
4 section, which rules and regulations may include enforcement and
5 penalty provisions for violations.

6 f. Nothing in this section shall alter the liability under common
7 law of a manufacturer or ²a new motor vehicle² dealer approved by the
8 manufacturer to repair an open recall.

9 g. The commission shall not be liable to any person for any act or
10 omission related to the open recall notice provided pursuant to this
11 section ¹[, except for cases of gross negligence]¹.

12
13 6. Section 1 of P.L.1989, c.24 (C.56:10-7.2) is amended to read
14 as follows:

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

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

25 b. This inequality of bargaining power enables motor vehicle
26 franchisors to compel motor vehicle franchisees to execute
27 franchises and related leases and agreements ¹[which] that¹ contain
28 terms and conditions that would not routinely be agreed to by the
29 motor vehicle franchisees absent the compulsion and duress
30 ¹[which] that¹ arise out of the inequality of bargaining power.
31 These terms and conditions are detrimental to the interests of the
32 motor vehicle franchisees in that they require the motor vehicle
33 franchisees to relinquish their rights ¹[which] that¹ have been
34 established by the "Franchise Practices Act" and supplemental
35 legislation and other statutes and laws of this State.

36 c. As a result, motor vehicle franchisees have been denied the
37 opportunity to have disputes with their motor vehicle franchisors
38 arising out of the franchisor-franchisee relationship heard in an
39 appropriate venue, convenient to both parties by tribunals
40 established by statute for the resolution of these disputes. It is
41 therefore necessary and in the public interest to ensure that motor
42 vehicle franchisees voluntarily determine whether to agree to
43 certain terms and conditions contained in franchises and related
44 leases and agreements presented to them by motor vehicle
45 franchisors and under circumstances unaffected by the compulsion
46 ¹[which] that¹ arises from the inequality of bargaining power.

1 d. The distribution, sale, and service of new motor vehicles in
2 the State of New Jersey vitally affects the general economy of this
3 State, and there is a compelling public interest in providing a
4 system of new motor vehicle franchisees to foster competition and
5 promote motor vehicle and highway safety by ensuring there are
6 qualified facilities to provide independently owned and operated
7 sales, warranty, open recall, and routine service for motor vehicles.

8 e. The new motor vehicle franchise system encourages local
9 investment in motor vehicle dealerships, creates jobs and economic
10 activity in virtually every community in this State, and advances the
11 public interest by fostering an extensive network of independent
12 new motor vehicle franchisees who compete for motor vehicle sales
13 and service business, offer ready access to open recall repair service
14 and warranty service, when needed, and provide routine
15 maintenance to ensure motor vehicle and highway safety.

16 f. There remains, however, a vast disparity in bargaining
17 power between motor vehicle franchisors and their franchisees,
18 which, if left unchecked, will discourage local investment in the
19 motor vehicle franchise system and result in fewer new motor
20 vehicle franchisees, less competition in the motor vehicle
21 marketplace, and diminished consumer access to qualified motor
22 vehicle warranty services, open recall repair services, and routine
23 service facilities.

24 g. Despite prior enactments, many motor vehicle franchisees
25 have found it either too risky to oppose their supplier or too
26 burdensome to take on a legal challenge to their motor vehicle
27 franchisors, who control the exclusive supply of motor vehicles,
28 parts, and special equipment to motor vehicle franchisees.

29 h. As a result, it is necessary for the Legislature to further
30 revise the laws pertaining to motor vehicle franchisees to strengthen
31 and clarify certain provisions of existing law intended to protect the
32 public from marketplace behavior that has the potential to restrict
33 competition for sales and threaten highway safety by limiting
34 consumer access to essential warranty and open recall service
35 provided by neighborhood dealers of new motor vehicles.

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

37
38 7. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read
39 as follows:

40 3. If any motor vehicle franchise shall require or permit motor
41 vehicle franchisees to perform labor services or provide parts in
42 satisfaction of 'a repair service offered and reimbursed by the motor
43 vehicle franchisor, including, but not limited to,' a warranty
44 ['issued] , 'an' extended warranty, 'a' maintenance 'plan' , '【or
45 other】 a' service-related plan '【offered by the motor vehicle
46 franchisor, or】 , or a' recall' 【or other work reimbursed by the
47 motor vehicle franchisor】':

1 a. ¹~~["The"]~~ the¹ motor vehicle franchisor shall reimburse each
2 motor vehicle franchisee for such labor services , including
3 diagnostic work, as are rendered and for such parts as are supplied,
4 in an amount equal to the prevailing retail price ~~["charged by such~~
5 motor vehicle franchisee for such services and parts in
6 circumstances where such services are rendered or such parts
7 supplied other than pursuant to warranty; provided that such motor
8 vehicle franchisee's prevailing retail price is not unreasonable when
9 compared with that of the holders of motor vehicle franchises from
10 the same motor vehicle franchisor for identical merchandise or
11 services in the geographic area in which the motor vehicle
12 franchisee is engaged in business~~"]~~ calculated pursuant to
13 subsections d., e., and j. of this section. The average retail labor
14 rate, average retail labor time allowance, and parts markup ¹~~["so"]~~ ,
15 as¹ declared by the motor vehicle franchisee ¹, shall become
16 effective 30 days following the declaration subject to audit by the
17 motor vehicle franchisor only of the sample submitted by the motor
18 vehicle franchisee ¹~~["and any"]~~ . Any proposed¹ adjustment of the
19 average retail labor rate, the average retail labor time allowance, or
20 the parts markup made by the motor vehicle franchisor shall be
21 based only on an audit of that sample ¹~~["."] ;~~¹

22 b. ¹~~["The"]~~ the¹ motor vehicle franchisor shall not by agreement,
23 by restrictions upon reimbursement, or otherwise ¹~~["."]~~¹ restrict the
24 nature and extent of labor services to be rendered or parts to be
25 provided so that such restriction prevents the motor vehicle
26 franchisee from satisfying the warranty by rendering labor services
27 in a good and workmanlike manner and providing parts ¹~~["which"]~~
28 that¹ are required in accordance with generally accepted standards.
29 Any such restriction shall constitute a prohibited practice hereunder
30 ¹~~["."] ;~~¹

31 c. ¹~~["The"]~~ the¹ motor vehicle franchisor shall reimburse the
32 motor vehicle franchisee pursuant to subsection a. of this section,
33 without deduction, for labor services performed on, and parts
34 supplied for, a motor vehicle by the motor vehicle franchisee in
35 good faith and in accordance with generally accepted standards,
36 notwithstanding any requirement that the motor vehicle franchisor
37 accept the return of the motor vehicle or make payment to a
38 consumer with respect to the motor vehicle pursuant to the
39 provisions of P.L.1988, c.123 (C.56:12-29 et seq.) ¹~~["."] ;~~¹

40 d. ¹~~["For"]~~ for¹ the purposes of this section, the "prevailing
41 retail price" charged by: (1) a motor vehicle franchisee for parts
42 means the price paid by the motor vehicle franchisee for those parts,
43 including all shipping and other charges, multiplied by the sum of
44 1.0 and the franchisee's average percentage parts markup over the
45 price paid by the motor vehicle franchisee for parts purchased by
46 the motor vehicle franchisee from the motor vehicle franchisor and

1 sold at retail. The motor vehicle franchisee may establish average
2 percentage parts markup under this section by submitting to the
3 motor vehicle franchisor 100 sequential customer paid service
4 repair orders or 90 days of customer paid service repair orders,
5 whichever is less, covering repairs made no more than 180 days
6 before the submission, and declaring **what** the average percentage
7 parts markup **is**. The average percentage parts markup so
8 declared shall go into effect 30 days following the declaration
9 subject to audit **of the submitted repair orders by the motor vehicle**
10 **franchisor and adjustment of the average percentage markup based**
11 **on that audit. Only retail sales not involving warranty repairs, parts**
12 **covered by subsection e. of this section, or parts supplied for**
13 **routine vehicle maintenance, shall be considered in calculating**
14 **average percentage markup. No motor vehicle franchisor shall**
15 **require a motor vehicle franchisee to establish average percentage**
16 **markup by a methodology, or by requiring information, that is**
17 **unduly burdensome or time consuming to provide, including, but**
18 **not limited to, part by part or transaction by transaction**
19 **calculations** by the motor vehicle franchisor only of the sample
20 submitted by the motor vehicle franchisee **and any** . Any
21 proposed¹ adjustment of the average parts markup by the motor
22 vehicle franchisor ¹shall be¹ based only on an audit of that sample.
23 A motor vehicle franchisee shall not request a change in the average
24 percentage parts markup more than twice in one calendar year; and
25 (2) a recreational motor vehicle franchisee for parts means actual
26 wholesale cost, plus a minimum **30%** 30 percent handling charge
27 and any freight costs incurred to return the removed parts to the
28 motor vehicle franchisor **;**¹

29 e. **If** (1) if¹ a motor vehicle franchisor supplies , or causes
30 to be supplied, a part or parts for use in a repair rendered under a
31 warranty **other than by sale of that part or parts to the motor**
32 **vehicle franchisee, the motor vehicle franchisee shall be entitled to**
33 **compensation equivalent to the motor vehicle franchisee's average**
34 **percentage markup on the part or parts, as if the part or parts had**
35 **been sold to the motor vehicle franchisee by the motor vehicle**
36 **franchisor.** **,** an extended warranty **service**¹ , a maintenance **,**
37 **or** plan, a¹ service-related plan **offered by the motor vehicle**
38 **franchisor, or** **,**¹ a recall, or other work ¹that is also offered and¹
39 reimbursed by the motor vehicle franchisor ¹,¹ at no cost or at a
40 reduced cost for use in performing the repair work, the franchisor
41 shall compensate the motor vehicle franchisee in the same manner
42 as the ¹motor vehicle¹ franchisor compensates the ¹motor vehicle¹
43 franchisee under this section by paying the motor vehicle franchisee
44 for the franchisee's cost of the part, if any, plus an amount equal to
45 the franchisee's parts markup **;**¹ multiplied by the wholesale

1 value of the part. The wholesale value of the part shall be the
2 greater of:

3 '[(1)] (a)' the amount the 'motor vehicle' franchisee paid for
4 the part or a substantially identical part;

5 '[(2)] (b)' the cost of the part in a current or prior established
6 price schedule issued by the 'motor vehicle' franchisor or issued by
7 'a' third party that has previously supplied the part to the motor
8 vehicle franchisee;

9 '[(3)] (c)' the cost of a substantially identical part in a current
10 or prior established price schedule issued by the 'motor vehicle'
11 franchisor or by a third party; or

12 '[(4)] (d)' the reasonable wholesale price for the part.

13 '(2)' The requirements of this section shall not apply to electric
14 propulsion batteries, entire engine assemblies, and entire
15 transmission assemblies. In the case of those [assemblies] parts,
16 the motor vehicle franchisor shall reimburse the motor vehicle
17 franchisee in the amount of [30%] 30 percent of what the motor
18 vehicle franchisee would have paid the motor vehicle franchisor for
19 the [assembly] part if the [assembly] part had not been supplied by
20 the franchisor other than by the sale of that [assembly] part to the
21 motor vehicle franchisee '[.]':

22 f. '[The] the' motor vehicle franchisor shall reimburse the
23 motor vehicle franchisee for parts supplied and labor services
24 rendered under a warranty, 'an' extended warranty, 'a'
25 maintenance 'plan' , or other service-related plan offered by the
26 motor vehicle franchisor within 30 days after approval of a claim
27 for reimbursement. All claims for reimbursement shall be approved
28 or disapproved within 30 days after receipt of the claim by the
29 motor vehicle franchisor. When a claim is disapproved, the motor
30 vehicle franchisee shall be notified in writing of the grounds for the
31 disapproval. No claim that has been approved and paid shall be
32 charged back to the motor vehicle franchisee unless it can be shown
33 that the claim was false or fraudulent, that the labor services were
34 not properly performed, that the parts or labor services were
35 unnecessary to correct the defective condition, or that the motor
36 vehicle franchisee failed to reasonably substantiate the claim in
37 accordance with reasonable written requirements of the motor
38 vehicle franchisor, provided that the motor vehicle franchisee had
39 been notified of the requirements prior to the time the claim arose
40 and the requirements were in effect at the time the claim arose. A
41 motor vehicle franchisor shall not audit a claim after the expiration
42 of 12 months following the payment of the claim unless the motor
43 vehicle franchisor has reasonable grounds to believe that the claim
44 was fraudulent '[.]':

45 g. '[The] the' obligations imposed on motor vehicle
46 franchisors by this section shall apply to any parent, subsidiary,

1 affiliate ¹,¹ or agent of the motor vehicle franchisor, any person
2 under common ownership or control, any employee of the motor
3 vehicle franchisor and any person holding **[1%]** one percent or
4 more of the shares of any class of securities or other ownership
5 interest in the motor vehicle franchisor, if a warranty or service or
6 repair plan is issued by that person instead of or in addition to one
7 issued by the motor vehicle franchisor **'[.]**;¹

8 h. **'[The]** the¹ provisions of this section shall also apply to
9 'motor vehicle'¹ franchisor administered service and repair plans:

10 (1) if the motor vehicle franchisee offers for sale only the
11 'motor vehicle'¹ franchisor administered service or repair plan; or

12 (2) if the motor vehicle franchisee is paid its prevailing retail
13 price for all service or repair plans 'that'¹ the motor vehicle
14 franchisee offers for sale to purchasers of new motor vehicles;
15 **'[or]**¹

16 (3) for the first 36,000 miles of coverage under the 'motor
17 vehicle'¹ franchisor administered service or repair plan, if the
18 warranty offered by the motor vehicle franchisor on the motor
19 vehicle provides coverage for less than 36,000 miles; or

20 (4) for motor vehicles covered by a 'motor vehicle'¹ franchisor
21 administered service or repair plan, if the motor vehicle franchisee
22 does not offer for sale the 'motor vehicle'¹ franchisor administered
23 service or repair plan.

24 With respect to 'motor vehicle'¹ franchisor administered service
25 or repair plans covering only routine maintenance service, this
26 section applies only to those plans sold to customers on or after the
27 effective date of P.L.1999, c.45 **'[.]**;¹

28 i. **'[A]** a¹ motor vehicle franchisor shall make payment to a
29 motor vehicle franchisee pursuant to incentive, bonus, sales,
30 performance ¹,¹ or other programs within 30 days after receipt of a
31 claim from the motor vehicle franchisee. When a claim is
32 disapproved, the motor vehicle franchisee shall be notified in
33 writing of the grounds for disapproval. No claim shall be
34 disapproved unless it can be shown that the claim was false or
35 fraudulent, or that the motor vehicle franchisee failed to reasonably
36 substantiate the claim in accordance with reasonable written
37 requirements of the motor vehicle franchisor, provided that the
38 motor vehicle franchisee had been notified of the requirements prior
39 to the time the claim arose and the requirements were in effect at
40 the time the claim arose. A motor vehicle franchisor shall not audit
41 a claim after the expiration of 12 months following the payment of
42 the claim **'[.]**;¹

43 j. (1) '[A] a' calculation of the retail rate customarily charged
44 by the dealer for parts markup shall not include the following:

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

1 (b) penalize or charge a 'motor vehicle' franchisee for the return
2 of a defective electric propulsion battery that is returned to the
3 'motor vehicle' franchisor within 60 days of its removal from a
4 vehicle under warranty service, extended warranty service, a
5 maintenance 'plan' , '【or】 a' service-related plan '【offered by the
6 motor vehicle franchisor, or】 , a' recall, or other work 'that is also
7 offered and' reimbursed by the motor vehicle franchisor; or

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

10 (2) A franchisor shall compensate a franchisee for labor time to
11 package and return ship an electric propulsion battery and shall
12 supply the franchisee with appropriate packaging to facilitate the
13 return '【.】 ;'

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

30 m. '【A】 a' motor vehicle franchisor shall provide adequate and
31 fair compensation to each motor vehicle franchisee for labor
32 services rendered for a repair in an amount not less than the amount
33 a retail customer pays for the same labor services with regard to
34 labor time. A 'motor vehicle' franchisee may apply to its 'motor
35 vehicle' franchisor to be reimbursed for labor time according to, at
36 the 'motor vehicle' franchisee's discretion '【.】 ;

37 (1) a franchisor's labor time guide as adequate and fair
38 compensation for labor services rendered for repairs in an amount
39 equal to the amount a retail customer pays for the same labor
40 services with regard to labor time, multiplied by 1.5;

41 (2) the use of a third party time guide in lieu of the franchisor's
42 labor time guide to arrive at an adequate and fair compensation for
43 labor services rendered for repairs in an amount equal to the amount
44 a retail customer pays for the same labor services with regard to
45 labor time; or

1 (3) 1 , an established average retail labor time allowance 1 ,¹ in
 2 lieu of the 1motor vehicle¹ franchisor's labor time guide for
 3 franchisor-paid repairs or service 1 ,¹ by submitting to the motor
 4 vehicle franchisor 1the multiplier established by taking the number
 5 of hours billed in¹ 100 sequential customer paid service repair
 6 orders or 90 days of customer paid service repair orders, whichever
 7 is less, covering repairs made no more than 180 days before the
 8 submission, and dividing 1that by¹ the number of hours permitted
 9 by the 1motor vehicle¹ franchisor for any such repairs under the
 10 1motor vehicle¹ franchisor's labor time guide for franchisor-paid
 11 repairs or service. The resulting quotient shall be applied to the
 12 1motor vehicle¹ franchisor's labor time guide to establish the
 13 1motor vehicle¹ franchisee's average retail labor time allowance.
 14 The average retail labor time allowance so declared shall go into
 15 effect 30 days following the declaration subject to audit by the
 16 motor vehicle franchisor only of the sample submitted by the motor
 17 vehicle franchisee 1[and any] . Any proposed¹ adjustment of the
 18 average labor time allowance made by the motor vehicle franchisor
 19 1shall be¹ based only on an audit of that sample.

20 Upon payment of a claim for labor services under this section by
 21 the 1motor vehicle¹ franchisor to the motor vehicle franchisee, the
 22 motor vehicle franchisee shall compensate its 1[factory certified]
 23 factory-certified¹ flat rate technicians performing work on a
 24 warranty, an extended warranty 1[service]¹ , 1a¹ maintenance 1[,
 25 or] plan, a¹ service-related plan 1[offered by the motor vehicle
 26 franchisor, or] , a¹ recall 1 ,¹ or other work 1[.] that is also offered
 27 and reimbursed by the motor vehicle franchisor;¹

28 n. 1[A] a¹ motor vehicle franchisee shall not request a change
 29 in the average percentage parts markup, labor time allowance, or
 30 retail labor rate more than twice in one calendar year 1[.] ;¹

31 o. 1[A] a¹ motor vehicle franchisor shall not recover its costs,
 32 except as provided in this section, from a motor vehicle franchisee
 33 within this State, including, but not limited to, an increase in the
 34 wholesale price of a vehicle or a surcharge imposed on a motor
 35 vehicle franchisee solely, which increase is intended to recover the
 36 cost of reimbursing a 1motor vehicle¹ franchisee for parts and
 37 service pursuant to this section 1[, provided, however, that] .
 38 However,¹ a motor vehicle franchisor shall not be prohibited from
 39 increasing prices for vehicles or parts in the normal course of
 40 business 1[.] ;¹

41 p. 1[A] a¹ motor vehicle franchisor shall not charge back any
 42 claim paid for labor services and parts provided in the performance
 43 of a warranty, an extended warranty, 1[or other] a¹ maintenance 1[,
 44 or other] plan, a¹ service-related plan 1[offered by the motor
 45 vehicle franchisor,] , a¹ recall 1 ,¹ or other work 1that is also offered

1 and¹ reimbursed by the motor vehicle franchisor for an incentive,
2 bonus, sales, performance, or other program without providing
3 written notice to the ¹motor vehicle¹ franchisee within 30 days from
4 the audit, which explains in detail the basis for each of the proposed
5 chargebacks and the methodology by which the franchisee was
6 selected for audit or review. After all internal dispute resolution
7 processes provided through the ¹motor vehicle¹ franchisor have
8 been resolved, the ¹motor vehicle¹ franchisor shall provide final
9 notice to the ¹motor vehicle¹ franchisee of the final amount of the
10 proposed chargeback. If the ¹motor vehicle¹ franchisee or its
11 representative institutes an administrative or judicial action for a
12 violation of ¹the “Franchise Practices Act,”¹ P.L.1971, c.356
13 (C.56:10-1 et seq.) ¹, ¹ challenging the chargeback within 30 days of
14 the receipt of the final notice, the total proposed chargeback
15 amounts shall be stayed, without bond, until the final judgment has
16 been rendered in ¹[such] the¹ action. A ¹motor vehicle¹ franchisor
17 shall not deny or charge back a claim paid for labor services and
18 parts provided in the performance of an open recall, warranty, or
19 other service agreement or for an incentive, bonus, sales,
20 performance, or other program unless the ¹motor vehicle¹
21 franchisor satisfies its burden of proof that the ¹motor vehicle¹
22 franchisee did not make a good faith effort to comply with the
23 reasonable written procedures of the ¹motor vehicle¹ franchisor,
24 that the ¹motor vehicle¹ franchisee did not actually perform the
25 work, or that the claim was materially false or fraudulent. A ¹motor
26 vehicle¹ franchisor shall not deny or charge back a claim due to an
27 administrative or scrivener’s error in the submission of the claim
28 ¹[.] ; and¹
29 q. ¹[A] a¹ motor vehicle franchisor shall not unilaterally
30 reduce or otherwise manipulate the price of parts required for a
31 warranty, an extended warranty, ¹a¹ maintenance ¹[., or other
32 services-related] plan, a service-related¹ plan ¹[offered by the
33 motor vehicle franchisor]¹, a recall ¹,¹ or other work ¹that is also
34 offered and¹ reimbursed by the motor vehicle franchisor in a
35 manner that unfairly and unilaterally allows the ¹motor vehicle¹
36 franchisor to reduce the level of compensation paid to ¹motor
37 vehicle¹ franchisees, including changes to price within 60 ¹[day]¹
38 or fewer days preceding an announcement of a recall, any time after
39 a recall, or after a warranty claim has arisen. A motor vehicle
40 franchisor shall not manipulate the price of parts required for
41 warranty or open recall services by creating a new or additional part
42 number for the same part used in warranty or recall repair in a
43 manner that unfairly and unilaterally allows the ¹motor vehicle¹
44 franchisor to reduce the level of compensation paid to ¹motor

1 vehicle¹ franchisees for warranty and open recall services ¹that¹ the
2 motor vehicle franchisees provide to consumers.

3 (cf: P.L.2011, c.66, s.5)

4

5 8. This act shall take effect on the first day of the ²**[fourth]**
6 seventh² month following enactment ¹**[,]**¹ and shall apply to motor
7 vehicle franchise agreements in effect on or after the effective date of
8 P.L. , c. (C.) (pending before the Legislature as this bill) but
9 shall not apply retroactively to any cause of action that shall have
10 arisen prior to the effective date of P.L. , c. (C.) (pending
11 before the Legislature as this bill).

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 4380

STATE OF NEW JERSEY

DATED: MARCH 6, 2025

The Assembly Consumer Affairs Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4380.

This committee substitute establishes the “Motor Vehicle Open Recall Notice and Fair Compensation Act,” which supplements the “Franchise Practices Act,” P.L.1971, c.356 (the act), and amends various sections of law concerning franchise practices. The committee substitute also updates a findings and declarations section in the act. The committee substitute is effective on the first day of the fourth month following enactment, and applies to all motor vehicle franchise agreements in effect on or after the committee substitute’s effective date. However, the committee substitute is not to apply retroactively to any cause of action that arose prior to the committee substitute’s effective date.

Sections 1 through 5 of the committee substitute comprise the “Motor Vehicle Open Recall Notice and Fair Compensation Act,” which grants certain provisions to motor vehicle franchisees.

Under the committee substitute, the “Motor Vehicle Open Recall Notice and Fair Compensation Act”:

1) provides that any corporation or association which is primarily owned by or comprised of motor vehicle franchises has standing to file an administrative proceeding or protest in any court of competent jurisdiction;

2) entitles motor vehicle franchisees to certain compensation if the parts required to perform a recall service or repair are unavailable, or the franchisor has issued a stop-sale or do-not-drive notice; and

3) establishes new requirements for recall notification by the Motor Vehicle Commission (MVC).

Standing of Certain Corporations or Associations

The committee substitute provides that any corporation or association which is primarily owned by or comprised of motor vehicle franchises has standing to file an administrative petition, or to bring an action before any court of competent jurisdiction, for itself or by, for, or on behalf of any motor vehicle franchisee or group of motor vehicle franchisees for any alleged violation of the act.

Motor Vehicle Commission Requirements

Under the committee substitute, prior to issuing a motor vehicle registration or renewal notice, the MVC is required to review information available on the Internet website of the National Highway Traffic Safety Administration (NHTSA) regarding recalls. For a vehicle subject to an open recall, the commission is required to provide the owner of the motor vehicle with written notice of each open recall applicable to the motor vehicle. The notice is required to include the following:

- (1) a description of each open recall; and
- (2) a statement indicating that each open recall may be repaired by a dealer approved by the manufacturer of the motor vehicle at no cost to the owner of the motor vehicle, except as provided pursuant to 49 U.S.C. s.30120.

Under section 5 of the committee substitute, the MVC is also required to apply for any available funding, including federal grants, which may be available to cover the costs to implement the recall notification requirements of the committee substitute. Manufacturers operating in this State are also required by section 5 of the committee substitute to assist the MVC with any application for funding. The committee substitute provides that if funding sources acquired pursuant to the provisions of section 5 of the committee substitute are not enough to cover the costs of implementing the committee substitute's provisions, the MVC shall require each manufacturer that conducts business in this State to pay a fee to the commission to cover the difference. The chief administrator of the MVC is required to determine the amount of the fee each year based on documentation of the actual costs incurred to implement the provisions of section 5 of the committee substitute.

Compensation for Recall Costs

Under current law, a motor vehicle franchisor is required to compensate a motor vehicle franchisee for all reasonable costs incurred by the franchisee in complying with the requirements imposed by the franchisor relating to a product recall. In addition to these compensation requirements, the committee substitute also provides guidance on certain costs that must be remitted to a motor vehicle franchisee in the event of a recall.

The committee substitute provides that for certain motor vehicles of the same line make as the motor vehicle franchisor and motor vehicle franchisee, and subject to a stop-sale notice, do-not-drive notice, or similar notice or designation for which a part or parts for recall is not reasonably available, which motor vehicles are held for sale by the motor vehicle franchisee, the costs of the motor vehicle franchisee are to equal 1.5 percent of the value of each motor vehicle per month, or per portion of a month. This requirement applies when not preempted by federal law or regulation. For the purposes of this

calculation, a motor vehicle's value is to be the motor vehicle franchisor's suggested retail price, or for a used motor vehicle, the value is to be the average trade-in value as indicated in an independent third-party guide for the year, make, model, and mileage. Under the committee substitute, a motor vehicle franchisor may compensate its motor vehicle franchisees under a national recall compensation program if the compensation thereby provided is at least the value provided for by this requirement.

The committee substitute prohibits a motor vehicle franchisor from reducing the amount of compensation otherwise owed to a motor vehicle franchisee because the motor vehicle franchisee has submitted a claim for reimbursement pursuant to the new guidance on compensation for recalls.

Reimbursement for Certain Expenses

Under current law, certain requirements are triggered if a motor vehicle franchise requires or permits motor vehicle franchisees to perform services or provide parts in satisfaction of a warranty issued by the motor vehicle franchisor. This committee substitute amends this requirement to extend to the satisfaction of a warranty, extended warranty, maintenance, or other service-related plan offered by the motor vehicle franchisor and recall and other work reimbursed by motor vehicle franchisor.

Under the committee substitute, labor services to be reimbursed include diagnostic work. In the case of entire engine and entire transmission assemblies and electric propulsion batteries, the committee substitute provides that the motor vehicle franchisor is required to reimburse the motor vehicle franchisee in the amount of 30 percent of what the motor vehicle franchisee would have paid the motor vehicle franchisor for a part if the part had not been supplied by the franchisor other than by the sale of that part to the motor vehicle franchisee.

The committee substitute amends certain provisions of law concerning the process for calculating average percentage parts markup, the retail labor time allowance, and the retail labor rate.

The committee substitute provides that adequate and fair compensation for labor services rendered in a repair requires the motor vehicle franchisor to pay each motor vehicle franchisee no less than the amount the retail customer pays for the same labor services with regard to labor time. The committee substitute provides that a motor vehicle franchisee may choose from three options for reimbursement from a motor vehicle franchisor:

(1) a franchisor's labor time guide as adequate and fair compensation for labor services rendered for repairs in an amount equal to the amount a retail customer pays for the same labor services with regard to labor time, multiplied by 1.5;

(2) the use of a third party time guide in lieu of the franchisor's labor time guide to arrive at an adequate and fair compensation for labor services rendered for repairs in an amount equal to the amount a retail customer pays for the same labor services with regard to labor time; or

(3) an established average retail labor time allowance in lieu of the franchisor's labor time guide for franchisor-paid repairs or service by submitting to the motor vehicle franchisor 100 sequential customer paid service repair orders or 90 days of customer paid service repair orders, whichever is less, covering repairs made no more than 180 days before the submission, and dividing the number of hours permitted by the franchisor for any such repairs under the franchisor's labor time guide for franchisor-paid repairs or service. The resulting quotient shall be applied to the franchisor's labor time guide to establish the franchisee's average retail labor time allowance. The average retail labor time allowance so declared shall go into effect 30 days following the declaration subject to audit by the motor vehicle franchisor only of the sample submitted by the motor vehicle franchisee and any adjustment of the average labor time allowance made by the motor vehicle franchisor based only on an audit of that sample.

Restrictions on Reimbursement

A motor vehicle franchisor is prohibited under the committee substitute from recovering its costs from a motor vehicle franchisee, except in certain circumstances. However, a motor vehicle franchisor's right to increase prices for vehicles or parts in the normal course of business is preserved.

A motor vehicle franchisor is prohibited under the committee substitute from charging back any claim paid for labor services and parts provided in the performance of a recall, warranty, extended warranty, or other maintenance or other services agreement for an incentive, bonus, sales, performance, or other program without providing written notice to the franchisee within 30 days from the audit, which written notice explains in detail the basis for each of the proposed chargebacks and the methodology by which the franchisee was selected for audit or review.

After all internal dispute resolution processes provided through the franchisor have been resolved, the franchisor is required to provide final notice to the franchisee of the final amount of the proposed chargeback. If the franchisee or its representative institutes an administrative or judicial action for a violation of the act, challenging the chargeback within 30 days of the receipt of the final notice, the total proposed chargeback amounts are to be stayed, without bond, until the final judgment has been rendered.

A franchisor is not permitted to deny or charge back a claim paid for labor services and parts provided in the performance of an open

recall, warranty, or other service agreement or for an incentive, bonus, sales, performance, or other program unless the franchisor satisfies its burden of proof that the franchisee did not make a good faith effort to comply with the reasonable written procedures of the franchisor, that the franchisee did not actually perform the work, or that the claim was materially false or fraudulent. A franchisor is not permitted to deny or charge back a claim due to an administrative or scrivener's error in the submission of the claim.

Under the committee substitute, a motor vehicle franchisor is not to unilaterally reduce or manipulate the price of parts required for warranty or open recall services in a manner that unfairly and unilaterally allows the franchisor to reduce the level of compensation paid to motor vehicle franchisees for warranty and open recall services within 60 or fewer days preceding an announcement of a recall, any time after a recall, or after a warranty claim has arisen.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 4380**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 2025

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4380 ACS.

As amended and reported, the bill establishes the “Motor Vehicle Open Recall Notice and Fair Compensation Act” and revises motor vehicle franchise agreements. The bill also updates a findings and declarations section under current law. The bill is to become effective on the first day of the fourth month following enactment and apply to all motor vehicle franchise agreements in effect on or after the bill’s effective date. However, the bill is not to apply retroactively to any cause of action that arose prior to the bill’s effective date.

Standing of Certain Corporations or Associations

The bill provides that, in certain circumstances outlined in the bill, any corporation or association that is primarily owned by or comprised of motor vehicle franchisees has standing to file an administrative petition, or to bring an action before any court of competent jurisdiction, for itself or by, for, or on behalf of any motor vehicle franchisee or group of motor vehicle franchisees for any alleged violation of the “Franchise Practices Act.” However, a corporation or association is only permitted to file such petition or bring such action in certain circumstances outlined in the bill.

Motor Vehicle Commission Requirements

Under the bill, when issuing a motor vehicle registration or renewal notice, the New Jersey Motor Vehicle Commission (MVC) is also to issue an open recall notice to inform a motor vehicle owner that the National Highway Traffic Safety Administration (NHTSA) maintains a recall database through which motor vehicle owners can determine whether a motor vehicle is subject to an open recall. The open recall notice is also required to include: (1) a link to the Internet website through which a motor vehicle owner can access the NHTSA recall database; and (2) a statement indicating that each open recall may be repaired by a dealer approved by the manufacturer of the motor vehicle at no cost to the owner of the motor vehicle, except as

provided under certain provisions of federal law. The bill permits the MVC to apply for any available funding to help the MVC cover the costs to effectuate the open recall notice requirements. Manufacturers operating in this State are required to assist the MVC with any application for funding under the bill. However, if the MVC is unable to acquire sufficient funding to cover the costs of implementing the open recall notice requirement, the chief administrator of the MVC is permitted to require each manufacturer that conducts business in the State to pay a fee to the MVC to cover the difference. The chief administrator of the MVC is required to determine the amount of the fee each year based on documentation of the actual costs incurred to implement the open recall notice requirement under the bill.

Compensation for Recall Costs

Under the bill, if the part or parts necessary to perform a recall service are unavailable to perform a recall service or repair on a used motor vehicle within 30 days of the franchisor issuing the first recall notice, a motor vehicle franchisor is to compensate a motor vehicle franchisee at a prorated rate of at least 1.5 percent of the value of the used motor vehicle. However, this prorated rate is only to apply to used motor vehicles that are subject to an open recall, for which a stop-sale notice or do-not-drive notice has been issued, and for which a franchisee is authorized to sell and service new motor vehicles of the same line-make. The franchisor is to compensate a franchisee at the prorated rate each month beginning 30 days after the franchisor issued the stop-sale notice or do-not-drive notice to the franchisee until the earlier of: (1) the date that the part or parts necessary to perform the recall service become available; or (2) the date that the franchisor sells, trades, or otherwise disposes of the used motor vehicle that is subject to the stop-sale notice or do-not-drive notice. For the purposes of this calculation, a used motor vehicle's value is to be the average trade-in value as indicated in an independent third-party guide for the year, make, and model of the used motor vehicle.

Alternatively, the bill permits a franchisor to compensate its franchisees under a national recall compensation program, provided that: (1) compensation under the program is equal to or greater than the compensation provided under the prorated rate; or (2) the franchisor and the franchisee otherwise reach an agreement relating to compensation.

In addition, the bill prohibits a franchisor from reducing, through various means outlined in the bill, the amount of compensation otherwise owed to a franchisee because the franchisee has submitted a claim for reimbursement pursuant to the new guidance on compensation for recall costs.

Reimbursement for Certain Expenses

Under current law, certain requirements are triggered if a motor vehicle franchise requires or permits franchisees to perform services or provide parts in satisfaction of a warranty issued by the franchisor. This bill amends current law to extend these requirements to the satisfaction of a repair service offered and reimbursed by the franchisor (repair service), including, but not limited to, a warranty, an extended warranty, a maintenance plan, a service-related plan, or a recall.

Under the bill, labor services to be reimbursed include diagnostic work. In the case of entire engine and entire transmission assemblies and electric propulsion batteries, the bill requires the franchisor to reimburse the franchisee in the amount of 30 percent of what the franchisee would have paid the franchisor for a part if the part had not been supplied by the franchisor other than by the sale of that part to the franchisee.

The bill amends certain provisions of law concerning the process for calculating the prevailing retail price, average percentage parts markup, the retail labor time allowance, and the retail labor rate. Under the bill, a franchisee is not to request a change in the average percentage parts markup, retail labor time allowance, or retail labor rate more than twice in one calendar year.

The bill requires a franchisor to provide adequate and fair compensation to each franchisee for labor services rendered for a repair in an amount not less than the amount a retail customer pays for the same labor services with regard to labor time. A franchisee may apply to its franchisor for reimbursement for labor services according to an established average retail labor time allowance instead of the franchisor's labor time guide for franchisor-paid repairs or service. As part of its application, a franchisee is to submit certain information to the franchisor in order to establish an average retail labor time allowance pursuant to calculations outlined in the bill. The average retail labor time allowance, once declared, is to become effective 30 days following the declaration subject to audit by the franchisor only of the sample submitted by the franchisee. Any proposed adjustment of the average labor time allowance made by the franchisor is to be based only on an audit of that sample.

Under the bill, if a franchisor supplies, or causes to be supplied, a part or parts for use in a repair rendered under a repair service, at no cost or at a reduced cost, the franchisor is to compensate the franchisee in the same manner as the franchisor compensates the franchisee for the franchisee's cost of the part, if any. However, in addition to the cost of the part, the franchisor is to compensate the franchisee an amount equal to the franchisee's parts markup multiplied by the wholesale value of the part, which value is to be determined by calculations outlined in the bill.

Restrictions on Reimbursement

A franchisor is prohibited under the bill from recovering its costs from a franchisee, except in certain circumstances. However, the bill preserves a franchisor's right to increase prices for motor vehicles or parts in the normal course of business.

In addition, a motor vehicle franchisor is prohibited under the bill from charging back any claim paid for labor services and parts provided in the performance of a repair service for an incentive, bonus, sales, performance, or other program without providing written notice to the franchisee within 30 days from the audit, which written notice explains in detail the basis for each of the proposed chargebacks and the methodology by which the franchisee was selected for audit or review.

After all internal dispute resolution processes provided through the franchisor have been resolved, the franchisor is required to provide final notice to the franchisee of the final amount of the proposed chargeback. If the franchisee or its representative institutes an administrative or judicial action for a violation of the "Franchise Practices Act," challenging the chargeback within 30 days of the receipt of the final notice, the total proposed chargeback amounts are to be stayed, without bond, until the final judgment has been rendered.

A franchisor is not permitted to deny or charge back a claim paid for labor services and parts provided in the performance of an open recall, warranty, or other service agreement or for an incentive, bonus, sales, performance, or other program unless the franchisor proves that certain conditions outlined in the bill were met. A franchisor is not permitted to deny or charge back a claim due to an administrative or scrivener's error in the submission of the claim.

Under the bill, a motor vehicle franchisor is not to unilaterally reduce or manipulate the price of parts required for a repair service in a manner that unfairly and unilaterally allows the franchisor to reduce the level of compensation paid to franchisees for such services within 60 or fewer days preceding an announcement of a recall, any time after a recall, or after a warranty claim has arisen.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) define "do-not-drive notice" to mean a notification issued by a motor vehicle franchisor, or the National Highway Traffic Safety Administration, to a motor vehicle franchisee, which notice states that certain used motor vehicles in inventory are unsafe to drive and are not to be sold or leased, at either retail or wholesale, due to a recall;

(2) permit a corporation or association that is primarily owned by or comprised of franchisees to petition, or to bring an action before any court of competent jurisdiction, for itself or by, for, or on behalf of any franchisee or group of franchisees for an alleged violation of the "Franchise Practices Act," if at least one of the

corporation's or association's members has independent standing to sue, the interests that the petition or action seeks to protect are germane to the corporation's or association's purpose, and neither the claim asserted nor the relief requested requires any individual members of the corporation or association to participate in the petition or action;

(3) change the definition of "open recall" in section 5 of the bill to mean a safety-related recall that requires notification by a manufacturer pursuant to certain provisions of federal law and a repair or modification to a motor vehicle by an authorized dealer;

(4) remove the requirement for the MVC to check the NHTSA's Internet website to determine if a motor vehicle is subject to an open recall prior to issuing a motor vehicle registration or registration renewal notice and notify a motor vehicle owner of open recalls specific to the owner's motor vehicle;

(5) require the MVC to issue an open recall notice when issuing a registration or registration renewal notice, which open recall notice is to notify motor vehicle owners that the NHTSA maintains a recall database that allows a motor vehicle owner to determine if a motor vehicle is subject to an open recall;

(6) require the open recall notice to include a link to the Internet website through which a motor vehicle owner can access the NHTSA's recall database, instead of a description of each open recall, and a statement indicating that each open recall can be repaired by a manufacturer-approved dealer at no cost to the motor vehicle owner, except whereas otherwise provided by certain provisions of federal law;

(7) permit, rather than require, the MVC to apply for any available funding to defray implementation costs associated with the open recall notice requirement under the bill;

(8) permit, rather than require, the Chief Administrator of the MVC to require a manufacturer fee if the MVC does not acquire sufficient funding to defray, rather than totally defray, implementation costs associated with the open recall notice requirement under the bill;

(9) provide that the MVC is not to be liable to any person for any act or omission related to the bill's open recall notice requirement under any circumstance;

(10) clarify that the bill amends current law to expand provisions that only apply to labor services performed or parts provided in satisfaction of a warranty issued by the franchisor to labor services performed or parts provided in satisfaction of a repair service offered and reimbursed by the franchisor, including, but not limited to, a warranty, an extended warranty, a maintenance plan, a service-related plan, or a recall;

(11) remove the option for a franchisee to apply to its franchisor for labor time reimbursement according to the franchisor's labor time guide for repairs in an amount equal to the amount a retail customer pays for the same labor services with regard to labor time, multiplied by 1.5;

(12) remove the option for a franchisee to apply to its franchisor for labor time reimbursement according to a third-party time guide;

(13) revise the calculation of the average retail labor time allowance for the purposes of determining adequate and fair compensation of a franchisee by a franchisor for the franchisee's labor services related to a repair;

(14) update the bill's title and synopsis; and

(15) make technical corrections.

FISCAL IMPACT:

The bill is not certified as requiring a fiscal note.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 4380**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2025

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4380 (1R).

As amended and reported, the bill establishes the “Motor Vehicle Open Recall Notice and Fair Compensation Act” and revises motor vehicle franchise agreements. The bill also updates a findings and declarations section under current law. The bill is to become effective on the first day of the seventh month following enactment and apply to all motor vehicle franchise agreements in effect on or after the bill’s effective date. However, the bill is not to apply retroactively to any cause of action that arose prior to the bill’s effective date.

Standing of Certain Corporations or Associations

The bill provides that, in certain circumstances outlined in the bill, any corporation or association that is primarily owned by or comprised of motor vehicle franchisees has standing to bring an action before any court of competent jurisdiction, for itself or by, for, or on behalf of any motor vehicle franchisee or group of motor vehicle franchisees for any alleged violation of the “Franchise Practices Act.” However, a corporation or association is only permitted to bring such action in certain circumstances outlined in the bill.

Motor Vehicle Commission Requirements

Under the bill, when issuing a motor vehicle registration or renewal notice, the New Jersey Motor Vehicle Commission (MVC) is also to issue an open recall notice to inform a motor vehicle owner that the National Highway Traffic Safety Administration (NHTSA) maintains a recall database through which motor vehicle owners can determine whether a motor vehicle is subject to an open recall. The open recall notice is also required to include: (1) a link to the Internet website through which a motor vehicle owner can access the NHTSA recall database; and (2) a statement indicating that each open recall may be repaired by a new motor vehicle dealer approved by the manufacturer

of the motor vehicle at no cost to the owner of the motor vehicle, except as provided under certain provisions of federal law. The bill permits the MVC to apply for any available funding to help the MVC cover the costs to effectuate the open recall notice requirements. Manufacturers operating in this State are required to assist the MVC with any application for funding under the bill. However, if the MVC is unable to acquire sufficient funding to cover the costs of implementing the open recall notice requirement, the chief administrator of the MVC is permitted to require each manufacturer that conducts business in the State to pay a fee to the MVC to cover the difference. The chief administrator of the MVC is required to determine the amount of the fee each year based on documentation of the actual costs incurred to implement the open recall notice requirement under the bill.

Compensation for Recall Costs

Under the bill, if the part or parts necessary to perform a recall service are unavailable to perform a recall service or repair on a used motor vehicle within 30 days of the franchisor issuing the first recall notice, a motor vehicle franchisor is to compensate a motor vehicle franchisee at a prorated rate of at least 1.5 percent of the value of the used motor vehicle. However, this prorated rate is only to apply to used motor vehicles that are subject to an open recall, for which a stop-sale notice or do-not-drive notice has been issued, and for which a franchisee is authorized to sell and service new motor vehicles of the same line-make. The franchisor is to compensate a franchisee at the prorated rate each month beginning 30 days after the franchisor issued the stop-sale notice or do-not-drive notice to the franchisee until the earlier of: (1) the date that the part or parts necessary to perform the recall service become available; or (2) the date that the franchisee sells, trades, or otherwise disposes of the used motor vehicle that is subject to the stop-sale notice or do-not-drive notice. For the purposes of this calculation, a used motor vehicle's value is to be the average trade-in value as indicated in an independent third-party guide for the year, make, and model of the used motor vehicle.

Alternatively, the bill permits a franchisor to compensate its franchisees under a national recall compensation program, provided that: (1) compensation under the program is equal to or greater than the compensation provided under the prorated rate; or (2) the franchisor and the franchisee otherwise reach an agreement relating to compensation.

In addition, the bill prohibits a franchisor from reducing, through various means outlined in the bill, the amount of compensation otherwise owed to a franchisee because the franchisee has submitted a claim for reimbursement pursuant to the new guidance on compensation for recall costs.

Reimbursement for Certain Expenses

Under current law, certain requirements are triggered if a motor vehicle franchise requires or permits franchisees to perform services or provide parts in satisfaction of a warranty issued by the franchisor. This bill amends current law to extend these requirements to the satisfaction of a repair service offered and reimbursed by the franchisor (repair service), including, but not limited to, a warranty, an extended warranty, a maintenance plan, a service-related plan, or a recall.

Under the bill, labor services to be reimbursed include diagnostic work. In the case of entire engine and entire transmission assemblies and electric propulsion batteries, the bill requires the franchisor to reimburse the franchisee in the amount of 30 percent of what the franchisee would have paid the franchisor for a part if the part had not been supplied by the franchisor other than by the sale of that part to the franchisee.

The bill amends certain provisions of law concerning the process for calculating the prevailing retail price, average percentage parts markup, the retail labor time allowance, and the retail labor rate. Under the bill, a franchisee is not to request a change in the average percentage parts markup, retail labor time allowance, or retail labor rate more than twice in one calendar year.

The bill requires a franchisor to provide adequate and fair compensation to each franchisee for labor services rendered for a repair in an amount not less than the amount a retail customer pays for the same labor services with regard to labor time. A franchisee may apply to its franchisor for reimbursement for labor services according to an established average retail labor time allowance instead of the franchisor's labor time guide for franchisor-paid repairs or service. As part of its application, a franchisee is to submit certain information to the franchisor in order to establish an average retail labor time allowance pursuant to calculations outlined in the bill. The average retail labor time allowance, once declared, is to become effective 30 days following the declaration subject to audit by the franchisor only of the sample submitted by the franchisee. Any proposed adjustment of the average labor time allowance made by the franchisor is to be based only on an audit of that sample.

Under the bill, if a franchisor supplies, or causes to be supplied, a part or parts for use in a repair rendered under a repair service, at no cost or at a reduced cost, the franchisor is to compensate the franchisee in the same manner as the franchisor compensates the franchisee for the franchisee's cost of the part, if any. However, in addition to the cost of the part, the franchisor is to compensate the franchisee an amount equal to the franchisee's parts markup multiplied by the wholesale value of the part, which value is to be determined by calculations outlined in the bill.

Restrictions on Reimbursement

A franchisor is prohibited under the bill from recovering its costs from a franchisee, except in certain circumstances. However, the bill preserves a franchisor's right to increase prices for motor vehicles or parts in the normal course of business.

In addition, a motor vehicle franchisor is prohibited under the bill from charging back any claim paid for labor services and parts provided in the performance of a repair service for an incentive, bonus, sales, performance, or other program without providing written notice to the franchisee within 30 days from the audit, which written notice explains in detail the basis for each of the proposed chargebacks and the methodology by which the franchisee was selected for audit or review.

After all internal dispute resolution processes provided through the franchisor have been resolved, the franchisor is required to provide final notice to the franchisee of the final amount of the proposed chargeback. If the franchisee or its representative institutes an administrative or judicial action for a violation of the "Franchise Practices Act," challenging the chargeback within 30 days of the receipt of the final notice, the total proposed chargeback amounts are to be stayed, without bond, until the final judgment has been rendered.

A franchisor is not permitted to deny or charge back a claim paid for labor services and parts provided in the performance of an open recall, warranty, or other service agreement or for an incentive, bonus, sales, performance, or other program unless the franchisor proves that certain conditions outlined in the bill were met. A franchisor is not permitted to deny or charge back a claim due to an administrative or scrivener's error in the submission of the claim.

Under the bill, a motor vehicle franchisor is not to unilaterally reduce or manipulate the price of parts required for a repair service in a manner that unfairly and unilaterally allows the franchisor to reduce the level of compensation paid to franchisees for such services within 60 or fewer days preceding an announcement of a recall, any time after a recall, or after a warranty claim has arisen.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove the definition of "dealer" and "time of sale" from the bill;

(2) provide definitions for "chief administrator," "commission," and "manufacturer" in section 2 of the bill, instead of in section 5 of the bill;

(3) define "new motor vehicle dealer" to mean, in part, the agent, distributor, or authorized dealer of the manufacturer of the new motor vehicle who has an established place of business;

(4) define "used motor vehicle dealer" to mean, in part, a person engaged in the business of selling, buying, or dealing in four or more used motor vehicles per year at an established place of business, but who is not a licensed new motor vehicle dealer;

(5) replace references to “dealer” with “new motor vehicle dealer” and “used motor vehicle dealer” in section 2 of the bill;

(6) remove a provision that permitted any corporation or association that is primarily owned by or comprised of motor vehicle franchisees, which corporation or association primarily represents the interests of motor vehicle franchisees, to file an administrative petition for itself or by, for, or on behalf of any motor vehicle franchisee or group of motor vehicle franchisees for any alleged violation of the “Franchise Practices Act”;

(7) clarify that the franchisor is to compensate a franchisee at the prorated rate each month beginning 30 days after the franchisor issued the stop-sale notice or do-not-drive notice to the franchisee until the earlier of: the date that the part or parts necessary to perform the recall service become available; or the date that the franchisee, rather than the franchisor, sells, trades, or otherwise disposes of the used motor vehicle that is subject to the stop-sale notice or do-not-drive notice;

(8) remove the definition section from section 5 of the bill and, instead, clarify that “chief administrator,” “commission,” “new motor vehicle dealer,” “manufacturer,” “open recall,” and “recall,” as used in section 5, have the same meaning as those terms are defined in section 2 of the bill; and

(9) require the bill to become effective on the first day of the seventh month, rather than the first day of the fourth month, following enactment.

FISCAL IMPACT:

The bill is not certified as requiring a fiscal note.

Governor Phil Murphy

Governor Murphy Takes Action on Legislation

Posted on - 09/11/2025

TRENTON – Today, Governor Murphy signed the following bills into law:

A-2390/S-2506 (Spearman, Stanley, Quijano/Burgess, Turner) - Requires municipalities in compliance with affordable housing obligations be provided priority consideration for certain State grants and assistance

S-4506/A-5692 (Sarlo, Singer/Calabrese, Drulis, Moen) - Exempts minor league baseball players from certain State wage laws under certain circumstances

A-4085/S-3007 (Conaway, Marengo, Speight/Vitale, Bramnick) - Allows for natural organic reduction and controlled supervised decomposition of human remains

SCS for S-3309/ACS for A-4380 (Scutari, Bucco/Coughlin, DiMaio, Sampson) - Establishes “Motor Vehicle Open Recall Notice and Fair Compensation Act”; revises motor vehicle franchise agreements

Governor Phil Murphy

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Posted on: September 11, 2025

Governor Signs Bucco Bill to Improve Customer Protections for Automotive Purchases

Legislation sponsored by Senate Republican Leader Anthony M. Bucco (R-25) establishing the “Motor Vehicle Open Recall Notice and Fair Compensation Act” was signed by Governor Murphy. The new law will shift the financial burden of owning a vehicle under recall from dealers and consumers to the automakers who are responsible for the defect.



“New Jersey consumers and dealers shouldn’t be stuck paying the price for a manufacturer’s mistake,” said Sen. Bucco. “This law will now ensure that the financial burden and responsibility of vehicle recalls falls on the automakers who are responsible for the defects. It’s a fair, commonsense solution that will now protect New Jersey automobile customers and provide support for local dealerships.”

Some highlights of the bill include:

1. Prior to issuing a motor vehicle registration or renewal notice, the Motor Vehicle Commission (MVC) would be required to verify whether the vehicle has an open recall.
2. For a vehicle subject to an open recall, the MVC would be required to notify the owner and inform them that the vehicle’s manufacturer will repair the vehicle at no cost by an approved dealer.

You can [read the full bill, S-3309, here](#).

Advocates Praise Speaker Coughlin, Sampson Bill on Vehicle Recalls Now Signed Into Law

The new law improves consumer safety notifications and ensures fairness for dealerships and vehicle technicians

(TRENTON) — In an effort to curb the risks posed by vehicle recalls and ensure fairness for New Jersey’s auto dealerships and workers, Governor Phil Murphy signed Bill **A4380**, the Motor Vehicle Open Recall Notice and Fair Compensation Act, into law last week. Sponsored by Assembly Speaker **Craig J. Coughlin** and Assemblyman **William Sampson**, the bill strengthens recall notification requirements for drivers and ensures dealerships and technicians are properly compensated.



“I’m proud to see this legislation signed into law because it delivers real protections for drivers in New Jersey, making sure they receive clear notice when a recall puts their safety at risk,” **said Assembly Speaker Coughlin (D-Middlesex)**. “At the same time, our neighborhood dealerships and their highly skilled technicians deserve fair compensation for the work they perform. This is about keeping our roads safe, standing up for working people, and ensuring fairness across the board.”

The law directs the Motor Vehicle Commission to review the federal recall database before issuing registrations and to notify owners in writing if their vehicle has an open recall. That notice must describe the recall and make clear that repairs can be completed at no cost to the owner by an authorized dealer.

“This law is a welcome step forward for both consumers and workers alike,”

said Assemblyman Sampson (D-Hudson), Chair of the Assembly Consumer Affairs Committee. “Drivers deserve to be notified right away when their car has a safety recall so they can get it fixed without delay and our local dealers, and their technicians, deserve to be paid fairly for their time and skill.”

Under the law, dealership technicians will be fairly compensated for work related to recalls, including diagnostic services, ensuring that highly skilled mechanics are paid what they deserve for their labor. As a result, dealerships will be able to continue to provide high-quality services at a reasonable cost to the consumer. In the past, manufacturers commonly reimbursed dealerships at rates below retail costs, forcing these local businesses to shoulder the burden themselves.

“This legislation represents a critical step forward in protecting consumers, leveling the playing field for locally owned dealerships, and ensuring that automakers fairly compensate those who fix their mistakes,” **said Laura Perrotta, President of New Jersey Coalition of Automotive Retailers**. “On behalf of our dealer

members across the state, I want to thank Governor Murphy, Senate President Nicholas Scutari, and Assembly Speaker Craig Coughlin for their leadership on this important issue."

"Mechanics impacted by this law will finally see a significant increase in pay and will no longer have to work under a quota system that often resulted in unpaid overtime," **said New Jersey State AFL-CIO President Charles Wowkanech.** "These workers are highly skilled, and this law will ensure that they are properly compensated."

"United Service Workers Union (USWU) applauds Speaker Coughlin for being a champion and sponsor of this crucial legislation. For too long auto manufacturers have exploited hard working auto technicians and this bill being signed into law has put that to an end and requires technicians be compensated fairly. This bill helps the labor movement, small businesses and the consumer. USWU is proud to stand with Speaker Coughlin, Senate President Scutari, Governor Murphy and all the legislators who helped pass these protections into law." **said Connor Shaw, Political Director, United Service Workers Union.**

"I thank Governor Murphy and the General Assembly for the support on this very important piece of pro-worker legislation now signed into law. The Motor Vehicle Open Recall Notice and Fair Compensation Act is about fairness for the hardworking men and women who keep New Jersey's cars and trucks safely on the road. Auto technicians deserve to be paid equally for their skills and labor, whether the work is under warranty or not,"

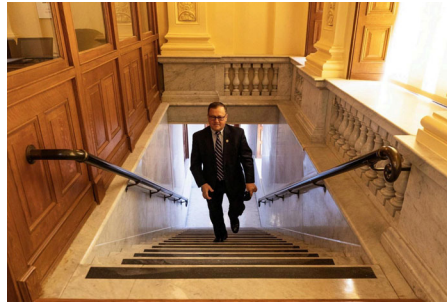
said IAM Union District 15 Area Director Cristino Vilorio, who also serves as the IAM's New Jersey State Council President.

Posted on: September 12, 2025

Bill That Ensures Dealerships Fairly Compensated for Recall Repairs Signed into Law

TRENTON, N.J. – A bill ensuring auto dealers are paid a fair retail rate for parts and labor on recall and warranty repairs was signed into law on Thursday.

Manufacturers often reimburse dealers at lower rates than what they charge retail customers, forcing dealers to absorb the cost difference. By ensuring fair retail reimbursement rates, the new law will prevent financial strain on dealerships and helps them continue providing quality service to consumers without unfair losses.



“Ensuring that both dealers and consumers are made aware of recalls, and those repairs are made, keeps our roads safe for everyone,” Assemblyman John DiMaio (R-Warren), the bill’s sponsor, said.

Additionally, used car dealers must ensure that cars sold are not subject to recall notices on the National Highway Traffic Safety Administration website. Dealers are protected from fraud complaints should the website have errors or omissions and are not required to alert consumers of recalls after a sale.

The bill (A4380) further requires that manufacturers provide the NJ Motor Vehicle Commission with a list of all recalled motor vehicles with uncompleted repairs. The MVC must give notice and options to resolve that issue to those owners, at manufacturer expense.

Vehicles are most often recalled over minor equipment or electrical system problems. However, major defects such as faulty brake systems or airbag explosions have also led to recalls. Manufacturers issued more than 1,000 recalls in 2023 alone; in New Jersey, nearly 10% of the state’s 6.65 million registered vehicles have been recalled.

“It’s incumbent upon us to hold manufacturers accountable for safety recalls and not burdening dealers or consumers by delays in either promptly providing parts or covering repair costs,” DiMaio added.