
SENATE BILL No. 494

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-23-3.

Synopsis: Vehicle manufacturers and distributors. Provides that it is an unfair practice for an automotive manufacturer or distributor to: (1) fail to pay all claims made by an automotive dealer (dealer) for compensation for incentive payments within 30 days after approval; or (2) rely on registration data as a basis for determining chargeback. Authorizes an automotive manufacturer or distributor to: (1) audit claims made by a dealer for warranty work or incentive payments; or (2) charge back to a dealer any amounts paid on false or materially unsubstantiated claims for warranty work or incentive payments; for up to one year after the date on which a claim is paid.

Effective: July 1, 2011.

Merritt

January 13, 2011, read first time and referred to Committee on Commerce & Economic Development.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 494



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-19.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2011]: **Sec. 19.5. "Chargeback", for purposes of IC 9-23-3, has**
- 4 **the meaning set forth in IC 9-23-3-0.2.**
- 5 SECTION 2. IC 9-13-2-77.3 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 2011]: **Sec. 77.3. "Incentive payments", for purposes of**
- 8 **IC 9-23-3, has the meaning set forth in IC 9-23-3-0.4.**
- 9 SECTION 3. IC 9-13-2-150.7 IS ADDED TO THE INDIANA
- 10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2011]: **Sec. 150.7. "Registration data", for**
- 12 **purposes of IC 9-23-3, has the meaning set forth in IC 9-23-3-0.6.**
- 13 SECTION 4. IC 9-23-3-0.2 IS ADDED TO THE INDIANA CODE
- 14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 15 1, 2011]: **Sec. 0.2. As used in this chapter, "chargeback" means a**
- 16 **manufacturer induced return of incentive payments to a**
- 17 **manufacturer by a dealer. The term includes a manufacturer**



1 **drawing funds from an account of a dealer.**
 2 SECTION 5. IC 9-23-3-0.4 IS ADDED TO THE INDIANA CODE
 3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 4 1, 2011]: **Sec. 0.4. As used in this chapter, "incentive payments"**
 5 **means money:**
 6 (1) **earned by;**
 7 (2) **due to; or**
 8 (3) **remitted to;**
 9 **a dealer for the benefit of the dealer or the customer of the dealer**
 10 **under a program or procedure announced or communicated by a**
 11 **manufacturer.**
 12 SECTION 6. IC 9-23-3-0.6 IS ADDED TO THE INDIANA CODE
 13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2011]: **Sec. 0.6. As used in this chapter, "registration data"**
 15 **means information regarding the registration of a vehicle under**
 16 **IC 9-18 that has been released by the bureau.**
 17 SECTION 7. IC 9-23-3-15, AS AMENDED BY P.L.76-2007,
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2011]: **Sec. 15. (a) It is an unfair practice for a manufacturer**
 20 **or distributor to:**
 21 (1) fail to pay all claims made by dealers for compensation for:
 22 (A) **delivery and preparation work; and**
 23 (B) **warranty work; and**
 24 (C) **incentive payments;**
 25 within thirty (30) days after approval;
 26 (2) fail to approve or disapprove the claims within thirty (30) days
 27 after receipt; ~~or~~
 28 (3) disapprove a claim without notice to the dealer in writing of
 29 the grounds for disapproval; ~~or~~
 30 (4) **rely on registration data as a basis for determining a**
 31 **chargeback.**
 32 (b) **Subject to subsection (c),** a manufacturer or distributor may:
 33 (1) **audit claims made by a dealer for warranty work or**
 34 **incentive payments; or**
 35 (2) **charge back to a dealer any amounts paid on false or**
 36 **materially unsubstantiated claims for warranty work or**
 37 **incentive payments;**
 38 **for up to two (2) years one (1) year** after the date on which a claim is
 39 **paid. However, the limitations of this subsection do not apply if the**
 40 **manufacturer or distributor can prove fraud on a claim.** A manufacturer
 41 or distributor shall not discriminate among dealers with regard to
 42 auditing or charging back claims.

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- 1 **(c) The limitations of subsection (b):**
- 2 **(1) do not apply if the manufacturer or distributor can prove**
- 3 **fraud on a claim; and**
- 4 **(2) limit the recovery of the manufacturer to recovery on a**
- 5 **specific claim proved fraudulent and will not disqualify a**
- 6 **dealer for an incentive to which the dealer is otherwise**
- 7 **entitled.**

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