

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1273 be amended to read as follows:

- 1           Page 1, between lines 7 and 8, begin a new paragraph and insert:  
2           "SECTION 2. IC 9-13-2-19.5 IS ADDED TO THE INDIANA  
3           CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
4           [EFFECTIVE JULY 1, 2011]: **Sec. 19.5. "Charge back", for**  
5           **purposes of IC 9-23-3, has the meaning set forth in IC 9-23-3-0.2.**  
6           SECTION 3. IC 9-23-3-0.2 IS ADDED TO THE INDIANA CODE  
7           AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
8           1, 2011]: **Sec. 0.2. As used in this chapter, "charge back" means a**  
9           **manufacturer induced return of incentive payments to a**  
10           **manufacturer by a dealer. The term includes a manufacturer**  
11           **drawing funds from an account of a dealer.**  
12           SECTION 4. IC 9-23-3-15, AS AMENDED BY P.L.76-2007,  
13           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14           JULY 1, 2011]: Sec. 15. (a) It is an unfair practice for a manufacturer  
15           or distributor to:  
16           (1) fail to pay all claims made by dealers for compensation for:  
17            (A) delivery and preparation work; ~~and~~  
18            (B) warranty work; **and**  
19            (C) **incentive payments;**  
20           within thirty (30) days after approval;  
21           (2) fail to approve or disapprove the claims within thirty (30) days  
22           after receipt; or  
23           (3) disapprove a claim without notice to the dealer in writing of  
24           the grounds for disapproval.  
25           (b) **Subject to subsection (c),** a manufacturer or distributor may:  
26           (1) audit claims made by a dealer **for warranty work or**  
27           **incentive payments for up to one (1) year after the date on**  
28           **which a claim is paid;** or  
29           (2) charge back to a dealer any amounts paid on false or  
30           unsubstantiated claims **for warranty work or incentive**

1           **payments.**  
2           for up to two (2) years after the date on which a claim is paid.  
3           However, the limitations of this subsection do not apply if the  
4           manufacturer or distributor can prove fraud on a claim. A manufacturer  
5           or distributor shall not discriminate among dealers with regard to  
6           auditing or charging back claims.  
7           **(c) The limitations of subsection (b) do not apply if the**  
8           **manufacturer or distributor can prove fraud on a claim."**  
9           Renumber all SECTIONS consecutively.  
            (Reference is to EHB 1273 as printed April 1, 2011.)

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Senator MERRITT