



February 16, 2011

SENATE BILL No. 494

DIGEST OF SB 494 (Updated February 14, 2011 11:16 am - DI 113)

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

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

Effective: July 1, 2011.

Merritt

January 13, 2011, read first time and referred to Committee on Commerce & Economic Development.
February 15, 2011, amended, reported favorably — Do Pass.

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SB 494—LS 7464/DI 96+



February 16, 2011

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. "Charge back", for purposes of IC 9-23-3, has**
- 4 **the meaning set forth in IC 9-23-3-0.2.**
- 5 SECTION 2. IC 9-23-3-0.2 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 2011]: **Sec. 0.2. As used in this chapter, "charge back" means a**
- 8 **manufacturer induced return of incentive payments to a**
- 9 **manufacturer by a dealer. The term includes a manufacturer**
- 10 **drawing funds from an account of a dealer.**
- 11 SECTION 3. IC 9-23-3-15, AS AMENDED BY P.L.76-2007,
- 12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2011]: Sec. 15. (a) It is an unfair practice for a manufacturer
- 14 or distributor to:
- 15 (1) fail to pay all claims made by dealers for compensation for:
- 16 (A) delivery and preparation work; ~~and~~
- 17 (B) warranty work; **and**

SB 494—LS 7464/DI 96+



1 **(C) incentive payments;**
 2 within thirty (30) days after approval;
 3 (2) fail to approve or disapprove the claims within thirty (30) days
 4 after receipt; or
 5 (3) disapprove a claim without notice to the dealer in writing of
 6 the grounds for disapproval.
 7 **(b) Subject to subsection (c), a manufacturer or distributor may:**
 8 (1) audit claims made by a dealer **for warranty work or**
 9 **incentive payments for up to one (1) year after the date on**
 10 **which a claim is paid; or**
 11 (2) charge back to a dealer any amounts paid on false or
 12 unsubstantiated claims **for warranty work or incentive**
 13 **payments.**
 14 for up to two (2) years after the date on which a claim is paid.
 15 However, the limitations of this subsection do not apply if the
 16 manufacturer or distributor can prove fraud on a claim. A manufacturer
 17 or distributor shall not discriminate among dealers with regard to
 18 auditing or charging back claims.
 19 **(c) The limitations of subsection (b) do not apply if the**
 20 **manufacturer or distributor can prove fraud on a claim.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Economic Development, to which was referred Senate Bill No. 494, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete ""Chargeback"" and insert ""**Charge back**"".

Page 1, delete lines 5 through 12.

Page 1, line 15, delete ""chargeback"" and insert ""**charge back**"".

Page 2, delete lines 2 through 42, begin a new paragraph and insert the following:

"SECTION 3. IC 9-23-3-15, AS AMENDED BY P.L.76-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15. (a) It is an unfair practice for a manufacturer or distributor to:

(1) fail to pay all claims made by dealers for compensation for:

(A) delivery and preparation work; ~~and~~

(B) warranty work; ~~and~~

(C) **incentive payments;**

within thirty (30) days after approval;

(2) fail to approve or disapprove the claims within thirty (30) days after receipt; or

(3) disapprove a claim without notice to the dealer in writing of the grounds for disapproval.

(b) **Subject to subsection (c)**, a manufacturer or distributor may:

(1) audit claims made by a dealer **for warranty work or incentive payments for up to one (1) year after the date on which a claim is paid;** or

(2) charge back to a dealer any amounts paid on false or unsubstantiated claims **for warranty work or incentive payments.**

for up to two (2) years after the date on which a claim is paid. However, the limitations of this subsection do not apply if the manufacturer or distributor can prove fraud on a claim. A manufacturer or distributor shall not discriminate among dealers with regard to auditing or charging back claims.

(c) **The limitations of subsection (b) do not apply if the manufacturer or distributor can prove fraud on a claim."**

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Page 3, delete lines 1 through 7.
Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to SB 494 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 7, Nays 0.

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