

Senate File 2293 - Reprinted

SENATE FILE 2293

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 3170)

(As Amended and Passed by the Senate March 6, 2018)

A BILL FOR

1 An Act relating to motor vehicles, including provisions
2 concerning record retention at established places of
3 business of motor vehicle dealers, electronic titling and
4 registration of motor vehicles, and warranties and recalls
5 of motor vehicle franchises.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.1, subsection 23, Code 2018, is
2 amended to read as follows:

3 23. *“Established place of business”* means the place actually
4 occupied either continuously or at regular periods by a
5 dealer or manufacturer where the dealer’s or manufacturer’s
6 books and records are kept and a large share of the dealer’s
7 or manufacturer’s business is transacted. If a dealer has
8 designated one established place of business for purposes of
9 keeping all the dealer’s books and records pursuant to section
10 321.63, “established place of business” also includes any place
11 actually occupied either continuously or at regular periods
12 by the dealer where a large share of the dealer’s business is
13 transacted but not where the dealer’s books and records are
14 kept.

15 Sec. 2. Section 321.20, subsections 2 and 4, Code 2018, are
16 amended to read as follows:

17 2. Notwithstanding contrary provisions of [this chapter](#)
18 or [chapter 326](#) regarding titling and registration by means
19 other than electronic means, the department shall, by ~~January~~
20 July 1, 2018 2019, develop and implement a program to allow
21 for electronic applications, titling, registering, and funds
22 transfers for vehicles subject to registration in order to
23 improve the efficiency and timeliness of the processes and to
24 reduce costs for all parties involved. The program shall also
25 provide for the electronic submission of any statement required
26 by [this section](#), except where prohibited by federal law.

27 4. Notwithstanding [this section](#) or any other provision of
28 law to the contrary, if the program required by subsection
29 2 is not implemented by ~~January~~ July 1, 2018 2019, an owner
30 of a vehicle subject to registration may apply to the county
31 treasurer of a county contiguous to the county designated for
32 the owner under [subsection 1](#) for registration and issuance of
33 a certificate of title.

34 Sec. 3. Section 321.63, Code 2018, is amended to read as
35 follows:

1 **321.63 Different places of business.**

2 1. If a transporter or dealer has an established place of
3 business in more than one city, the transporter or dealer shall
4 secure a separate and distinct certificate of registration and
5 number plates for each such place of business.

6 2. If a dealer has more than one established place of
7 business, the dealer may designate one such location in this
8 state for purposes of keeping all the dealer's books and
9 records, regardless of the line-make of motor vehicles to
10 which such books and records pertain, by submitting a written
11 certification to the department in a manner approved by the
12 department.

13 Sec. 4. Section 322A.5, Code 2018, is amended to read as
14 follows:

15 **322A.5 Warranties and recalls.**

16 1. Every franchiser and franchisee shall fulfill the
17 terms of any express or implied warranty concerning the sale
18 of a motor vehicle to the public of the line-make which is
19 the subject of a contract or franchise agreement between the
20 parties. If it is determined by the district court that either
21 the franchiser or franchisee, or both, have violated an express
22 or implied warranty, the court shall add to any award or relief
23 granted an additional award for reasonable attorney fees and
24 other necessary expenses for maintaining the litigation.

25 2. a. A franchiser shall specify in writing to each of
26 the franchiser's franchisees operating in this state the
27 franchisee's obligations for preparation, delivery, and
28 warranty services related to the franchiser's products. The
29 franchiser shall compensate the franchisee for the warranty
30 services the franchiser requires the franchisee to provide,
31 including warranty and recall obligations related to repairing
32 and servicing motor vehicles of the franchiser and all parts
33 and components authorized by the manufacturer to be installed
34 in or manufactured for installation in such motor vehicles.

35 b. The franchiser shall provide to the franchisee a

1 schedule of compensation that specifies reasonable compensation
2 the franchiser will pay to the franchisee for such warranty
3 services, including for parts, labor, and diagnostics.

4 (1) In determining the schedule of compensation for parts,
5 the franchiser may multiply the price paid by the franchisee
6 for parts, including all shipping costs and other charges, by
7 the sum of one and the franchisee's average percentage markup.
8 The franchisee's average percentage markup is calculated by
9 subtracting one from the result of dividing the total amounts
10 charged by the franchisee for parts used in warranty-like
11 repairs by the total cost to the franchisee for the parts in
12 the retail service orders submitted pursuant to subparagraph
13 (3).

14 (2) In determining the schedule of compensation for
15 labor-related warranty services, the franchiser may calculate
16 the franchisee's retail labor rate by dividing the total
17 amount of retail sales attributable to labor for warranty-like
18 services by the number of hours of labor spent to generate the
19 retail sales in the retail service orders submitted pursuant to
20 subparagraph (3).

21 (3) (a) The franchisee may establish its average percentage
22 markup for parts or its labor rate by submitting to the
23 franchiser copies of one hundred sequential retail service
24 orders paid by the franchisee's customers, or all of the
25 franchisee's retail service orders paid by the franchisee's
26 customers in a ninety-day period, whichever is less, for
27 services provided within the previous one-hundred-eighty-day
28 period. The franchiser shall not consider retail service
29 orders or portions of retail service orders attributable to
30 routine maintenance such as tire service or oil service.

31 (b) Within thirty days of receiving the franchisee's
32 submission, the franchiser may choose to audit the submitted
33 orders. The franchiser shall then approve or deny the
34 establishment of the franchisee's average percentage markup
35 or labor rate. If the franchiser approves the establishment

1 of the franchisee's average percentage markup or labor rate,
2 the markup or rate calculated under this subparagraph shall go
3 into effect forty-five days after the date of the franchiser's
4 approval. If the franchiser denies the establishment of the
5 franchisee's average percentage markup or labor rate, the
6 franchisee may file a complaint with the department and a
7 hearing shall be held before the department of inspections
8 and appeals. The franchiser shall have the burden of proof
9 to establish that the franchiser's denial was reasonable. If
10 the department of inspections and appeals finds the denial
11 was not reasonable, the denial shall be deemed a violation of
12 this chapter and the department of inspections and appeals
13 shall determine the franchisee's average percentage markup or
14 labor rate for purposes of calculating a reasonable schedule of
15 compensation. In making such a determination, the department
16 of inspections and appeals shall not consider retail service
17 orders or portions of retail service orders attributable to
18 routine maintenance such as tire service or oil service.

19 (c) A franchiser shall not require a franchisee to
20 establish an average percentage markup or labor rate by a
21 methodology, or by requiring the submission of information,
22 that is unduly burdensome or time-consuming to the franchisee,
23 including but not limited to requiring part-by-part or
24 transaction-by-transaction calculations.

25 (d) A franchisee shall not request a change in the
26 franchisee's average percentage markup or labor rate more than
27 once in any one-year period.

28 (4) The compensation to the franchisee for warranty parts
29 and labor shall not be less than the rates charged by the
30 franchisee for like parts and services to retail customers,
31 provided the rates are reasonable.

32 3. A franchiser shall not do any of the following:

33 a. Fail to perform any warranty obligation.

34 b. Fail to compensate any of the franchiser's franchisees
35 operating in this state for repairs relating to a recall.

1 4. a. A claim made by a franchisee for warranty services
2 pursuant to this section shall be paid within thirty days after
3 the claim's approval. A franchiser shall either approve or
4 deny a claim within thirty days after the franchiser receives
5 a claim if the claim is submitted on a proper form generally
6 used by the franchiser and the claim contains the information
7 required by the franchiser. If a franchiser does not deny
8 a claim in writing within thirty days after the receipt of
9 the claim, the claim shall be deemed to be approved by the
10 franchiser and payment shall be made to the franchisee within
11 thirty days.

12 b. A franchiser may deny a franchisee's claim for
13 compensation for warranty or recall services if the
14 franchisee's claim is based on a repair not related to warranty
15 or recall services, the repair was not properly performed, the
16 franchisee lacks the reasonably required documentation for
17 the claim, the franchisee fails to comply with the terms and
18 conditions of the franchiser's warranty or recall compensation
19 program, or the franchiser has a bona fide belief based on
20 factual evidence that the franchisee's claim was submitted
21 containing an intentionally false or fraudulent statement or
22 misrepresentation. A franchiser may reject, but shall not
23 deny, a claim based solely on a franchisee's unintentional
24 failure to comply with a specific claim processing requirement,
25 such as a clerical error, that does not otherwise affect the
26 legitimacy of the claim. If a claim is rejected for such a
27 failure, the franchisee may resubmit a corrected claim in a
28 timely manner to the franchiser.

29 c. The requirement to approve a claim within thirty days
30 or to pay an approved claim within thirty days as provided in
31 this subsection shall not be construed to preclude denials,
32 reductions, or chargebacks not otherwise prohibited under
33 section 322.3, subsection 13.

34 5. The obligations set forth in this section shall apply to
35 any franchiser as defined in this chapter and any franchiser of

1 new motor vehicle transmissions, engines, or rear axles that
2 separately warrants such components to customers.