

Information About New Warranty Reimbursement Law

IADA and CATA promoted legislation (Public Act 102-232 <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0232>) to increase dealer compensation for warranty repairs will take effect on January 1, 2022. The following article summarizes the upcoming changes to warranty reimbursement and provides guidance on steps that dealers can take now to best take advantage of those changes.

Background

The Motor Vehicle Franchise Act (MVFA) requires manufacturers to provide dealers with “Fair and Adequate Compensation” for warranty repairs. Under current law, fair and adequate compensation for warranty repairs is loosely defined as reasonable compensation for parts, time allowances, and labor rates. Starting January 1, 2022, the formula for calculating warranty compensation and provides that such compensation shall be no less than the amount charged to a retail customer the same parts and service. Starting January 1st, the new formula will also apply to recall and “stop-sale” repairs.

Part I.—Parts Reimbursement

Parts Reimbursement—Current Law

Under current law, dealers have 2 options for warranty parts reimbursement.

Dealer can elect either of the following options:

- (1) Sign Uniform Warranty Reimbursement Agreement (UWRA) and accept the markup percentage offered by the manufacturer, which is significantly lower than the markup on parts used for customer-pay repairs. A dealer who signs on to the UWRA, which is a 3-year agreement, cannot be subject to a cost recovery surcharge on new vehicle invoices.
- (2) Retail Rate (Formally-The prevailing retail price charged by that dealer for the same parts). The dealer can calculate his or her average percentage markup for parts used in customer-pay repairs and apply that markup to parts used for warranty repairs. The methodology for calculating the average percentage markup is discussed on Part II of this article. If, and only if, a majority of line make dealers agree to a UWRA with a manufacturer, the manufacturer can impose a cost recovery surcharge on the invoice price of new vehicles purchased by any dealer of the same line-make who elects to get reimbursed at his or her retail rate. If fewer than half of the same line make dealers sign on to the UWRA, then cost recovery surcharges are prohibited.

Regardless of which option a dealership elects, the reimbursement for entire engine assemblies and entire transmission assemblies is set at a standard 30% markup.

Parts Reimbursement—New Law

Starting January 1, 2022, every dealer will be able to charge his or her retail rate for warranty (and recall and stop-sale) parts, including entire engine assemblies and entire transmission assemblies. Manufacturers cannot, under any circumstances, impose cost recovery surcharges.

Parts Reimbursement Formula

The formula for calculating the dealer's retail rate on parts will remain the same, but starting January 1, 2022, the formula will be expanded to parts used for recall repairs and manufacturers will be prohibited from penalizing dealers who collect their retail rate.

The parts reimbursement formula is the dealer's purchase price, including shipping and other costs, multiplied by the sum of 1 plus the dealer's average percentage markup for customer pay repairs. Put another way:

$$\text{Retail Rate} = \text{Price} (1 + \text{Av. \%age Markup})$$

How to Begin Collecting Retail Rate

A dealer can establish his or her average percentage markup by submitting to the manufacturer 100 sequential customer pay repair orders, or 90 days of repair orders, whichever is less, for repairs made within 180 days prior to submission and declaring the dealer's average percentage markup based on the above formula. The dealer gets to elect the batch of RO's used to calculate the retail rate, as long as they are 100 consecutive RO's (or 90 consecutive days of RO's) and are from repairs made within 180 days of submission. Parts used for routine maintenance such as replacement of fluids, filters, batteries, light bulbs are excluded from the calculation.

After a dealer submits a set of RO's to establish the APM to the manufacturer, it automatically takes effect 30 days after submission unless the manufacturer audits the submitted RO's and objects to the declared APM.

Part II.—Time Standards

Time Allowances—Current Law

Currently, manufacturer time allowances for warranty repair jobs must be:

- "Reasonable and adequate" for the diagnosis and work performed.
- UWRA can include adoption of a "Uniform Time Standards Guide" (aka factory time guide).
- A manufacturer must have a "reasonable and fair" process for dealers to request modification of a time standard.

Time Allowances—New Law

Starting January 1, 2022, manufacturer time allowances for warranty repairs will be extended to recall repairs and manufacturer stop-sale orders and will be calculated as follows:

- The time allowance must be at least equal to the time allowance for retail customers for the same work.
- The time allowance for repairs replaces the factory time guide with an extended warranty time guide agreed to by the manufacturer and the dealer.
- If the parties cannot agree on an extended warranty guide (or the agreed guide does not cover a specific repair), then the time allowance is equal to the manufacturer's time guide multiplied by 1.5.
- Manufacturers must also compensate dealers for diagnostic time, including call time and on hold time with technical assistance centers.

How to Begin Collecting New Time Allowance

- Submit a request to use the time allowances in an extended warranty guide of your choosing, which will go into effect upon approval by the manufacturer; OR
- Submit a request to use the manufacturer's time guide multiplied by 1.5.
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Part III.—Labor Rates

Labor Rate—Current Law

Labor rates are currently based on the prevailing wage rates being paid in a dealer's relevant market area (10 miles for Cook and collar counties/15 miles downstate), but at least equal to the rate paid for service to retail customers.

Labor Rate—New Law

Starting January 1, 2022, will be more clearly defined as the same effective labor rate that the dealer charges for customer-pay repairs. The new warranty reimbursement law also clarifies that diagnostic time, including communication and on-hold time with a manufacturer's technical service hotline is compensable at the dealer's warranty labor rate.

How to Begin Collecting New Labor Rate

As with warranty parts reimbursement, a dealer can establish his or her warranty labor rate by submitting to the manufacturer 100 sequential customer pay repair orders, or 90 days of repair orders, whichever is less, for repairs made within 180 days prior to submission and declaring the dealer's effective labor rate. Routine maintenance repairs are excluded from the calculation.

After a dealer submits a set of RO's to establish the effective labor rate to the manufacturer, it automatically takes effect 30 days after submission unless the manufacturer audits the submitted RO's and objects to the declared effective labor rate. A dealer can submit for labor rate increases no more than once per year.

Part IV.—Additional Features

The new warranty reimbursement legislation includes some new features that will provide additional clarification for dealers starting on January 1, 2022.

- Manufacturers will be required to compensate dealers for interest and storage costs for new vehicles subject to recall or stop-sale order that prevents the sale of a vehicle until the vehicle is repaired and ready for sale.
- Manufacturers will be prohibited from reducing any warranty reimbursement payment based on preestablished market norms or market averages.
- Manufacturers will not be able to place restrictions on repair frequency based on failure rate indexes or national failure averages.
- A manufacturer will not be able to invalidate a timely submitted warranty claim solely because unavailability of parts caused additional use and mileage on a vehicle.
- Manufacturers will be prohibited from charging back any item on a warranty repair order absent a finding of fraud or illegal activity by the dealer.

- Manufacturers will be prohibited from imposing any form of cost recovery surcharges for (any) warranty reimbursement payments made to a dealer under the warranty reimbursement Section.
- Once a dealer submits a claim for warranty reimbursement, the manufacturer must approve or disapprove the claim within 30 days. If the manufacturer does not disapprove a claim within 30 days, the claim is approved. Approved claims must be paid within 30 days after the approval date.

Part V.—What You Can Do Right Now to Prepare

The new warranty reimbursement law will not become effective until January 1st, but you can start preparing now in order to maximize your reimbursement.

- Some manufacturers may contact you to try to lock you into a uniform warranty reimbursement agreement that could pay you much less than what you will be able to collect starting on January 1st. IADA recommends that you consult with private legal counsel before signing any such agreement.
- Start reviewing your customer pay repair orders to get an estimate of your average percentage parts markup and your effective labor rate. During your review, be sure to exclude routine maintenance repairs from your review, as those will artificially reduce your reimbursement rates. Third party companies and some private legal counsel can assist with the repair order review process to help you maximize your reimbursement. NOTE: IADA makes no representations about those companies.