September 8, 2025

New Jersey Legislature Approves Bill Amending Franchise Practices Act: The Motor Vehicle Open Recall Notice and Fair Compensation Act

The New Jersey Senate and Assembly have approved Senate Bill 3309, the Motor Vehicle Open Recall Notice and Fair Compensation Act (the Act), which now awaits Gov. Phil Murphy's signature. Recognizing the inequality of bargaining power among motor vehicle franchisors and franchisees, the Act modifies the New Jersey Franchise Practices Act in several significant respects, including the manner in which franchisees are compensated for warranty work and work performed pursuant to recall notices. If signed into law, the Act will take effect on the first day of the seventh month following enactment.

Key Provision

Expanded Reimbursement Rights

For services offered and reimbursed by manufacturer-franchisors under warranties, extended warranties, service plans and recall programs, the Act revises reimbursement standards to require a franchisor to pay a franchisee the average retail labor rate, average retail time allowance and average percentage parts markup for the services performed. A franchisee may establish such averages by submitting to a franchisor either 100 sequential customer-paid repair orders or 90 days of customer-paid service repair orders, whichever is less, covering repairs performed within the 180 days before the submission. The declared rates take effect 30 days after submission and may be challenged only through an audit of the samples submitted by the franchisee. A franchisee shall not request a change to its average percentage parts markup, labor time allowance or retail labor rate more than twice per calendar year. Previously, franchisees were generally compensated for such work on an at-cost basis, resulting in significantly lower compensation than franchisees would receive for service work generally.

Dealer Compensation for Stop-Sale or Do-Not-Drive Vehicles

If a franchisor issues a stop-sale or do-not-drive notice for a used motor vehicle held by a franchisee (authorized to sell and service new vehicles of the same line or make) and the necessary recall parts are not reasonably available within 30 days of the initial recall notice, the franchisor must compensate the franchisee at a prorated monthly rate of at least 1.5 percent of the vehicle's average trade-in value. Payments continue until repair parts are available or the date of disposition of the affected vehicle. Total compensation is capped at the vehicle's average trade-in value. Franchisees will no longer be forced to bear the entire cost when the franchisor's inability to supply parts in connection with a recall forces the franchisee to hold inventory.

Protection Against Chargebacks and Manipulative Pricing

For warranty, extended warranty, service plan or recall work offered and reimbursed by a franchisor, the franchisor may not through the use of chargebacks, incentive program exclusions or unilateral parts pricing adjustments unfairly reduce compensation levels to a franchisee. The Act also prohibits a franchisor from manipulating the prices of parts or the part numbers required for such services in ways that unfairly reduce franchisee compensation, including price changes made

within 60 or fewer days before a recall announcement, after a recall or after a warranty claim has arisen. These protections bolster the provisions discussed above by ensuring that franchisors cannot end-run the provisions of the Act by penalizing franchisees for utilizing them.

Recall Notifications to Vehicle Owners

The New Jersey Motor Vehicle Commission will be required to include an open recall notice with registration and renewal documents that are sent to vehicle owners. The notice will direct vehicle owners to the National Highway Traffic Safety Administration's recall database and emphasize that recall repairs can be performed at no cost by manufacturer-approved dealers, except as provided pursuant to 49 U.S.C. § 30120.

Standing for Dealer Associations

The Act grants standing to dealer associations to bring claims under the Franchise Practices Act on behalf of their members, provided certain standing criteria are met. This will enable the New Jersey Coalition of Automotive Retailers (NJCAR) to challenge, on behalf of its members, franchisor practices deemed to violate the Franchise Practices Act, overturning the recent decision by the New Jersey Supreme Court in *New Jersey Coalition of Automotive Retailers, Inc. v. Ford Motor Company*, (A-7-24) (089378) (July 29, 2025), which held that NJCAR lacked standing under the Franchise Practices Act to sue on behalf of its members.

If signed into law by Gov. Murphy, the Act will materially rebalance obligations in the franchisor-franchisee relationship, particularly with respect to recall handling and compensation for recall, warranty, extended warranty and service plan work.

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