

IN THE HOUSE

MARCH 16, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 18, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 258
 2 INTRODUCED BY Bachin NATHR Along NATHR Lynch
 3 Smith Sallya J. Brown The Hon. Kasten
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT
 5 COMPENSATION PAID BY MOTOR VEHICLE MANUFACTURERS TO MOTOR
 6 VEHICLE DEALERS FOR PARTS AND SERVICES PERFORMED UNDER
 7 WARRANTY MUST BE AT THE SAME RATE CHARGED BY THE DEALER FOR
 8 RETAIL WORK; PROVIDING ADMINISTRATIVE PENALTIES; AND
 9 AMENDING SECTIONS 61-4-204 AND 61-4-210, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 61-4-204, MCA, is amended to read:

13 "61-4-204. Filing agreement -- product liability. (1) A
 14 franchisee must, at the time he applies for a new motor
 15 vehicle dealer license under the provisions of 61-4-101,
 16 file with the department a certified copy of his written
 17 agreement with a manufacturer and a certificate of
 18 appointment as dealer or distributor. The certificate of
 19 appointment must be signed by an authorized agent of the
 20 manufacturer of domestic vehicles whenever there is a direct
 21 manufacturer dealer agreement or by an authorized agent of
 22 the distributor whenever the manufacturer is wholesaling
 23 through an appointed distributorship. The certificate must
 24 be signed by an authorized agent of the importer of foreign
 25 made vehicles whenever there is a direct importer-dealer

1 agreement or by an authorized agent of the distributor
 2 whenever there is an indirect distributor-dealer agreement.
 3 The distributor's certificate of appointment must be signed
 4 by an authorized agent of the manufacturer of domestically
 5 manufactured vehicles or by an authorized agent of the
 6 manufacturer or importer of foreign made vehicles.

7 (2) A franchisee need not file a written agreement or
 8 certificate of appointment if the manufacturer on direct
 9 dealerships or distributor on indirect dealerships or
 10 importer on direct dealerships uses the identical basic
 11 agreement for all its franchised dealers or distributors in
 12 this state and certifies in the certificate of appointment
 13 that the blanket agreement is on file and the written
 14 agreement with the particular dealer or distributor,
 15 respectively, is identical with the filed blanket agreement
 16 and that he has filed with the department one such agreement
 17 together with a list of franchised dealers or distributors.

18 (3) A manufacturer, distributor, or importer shall
 19 notify the department within 30 days of any revision of or
 20 addition to the basic agreement on file or of any franchise
 21 supplement to the agreement. Annual renewal of a certificate
 22 filed as provided in this section is not required.

23 (4) A manufacturer must file with the department a copy
 24 of the delivery and preparation obligations required to be
 25 performed by a dealer prior to the delivery of a new motor.

1 vehicle to a buyer. These delivery and preparation
 2 obligations constitute the dealer's only responsibility for
 3 product liability as between the dealer and the
 4 manufacturer. Any mechanical, body, or parts defects arising
 5 from an express or implied warranty of the manufacturer
 6 constitute the manufacturer's product or warranty liability
 7 only; provided, however, that this section shall not affect
 8 the obligations of new motor vehicle dealers to perform such
 9 warranty repair and maintenance as may be required by law or
 10 contract. The manufacturer must compensate an authorized
 11 dealer for labor, parts, and other expenses incurred by a
 12 dealer who performs work to rectify the manufacturer's
 13 product or warranty defect or for delivery and preparation
 14 obligations at the ~~dealer's regular established retail~~ same
 15 rate the dealer charges to its retail customers for similar
 16 nonwarranty work of a like kind, based upon retail flat rate
 17 labor time guides contained in the most recent volumes of
 18 Motors, Mitchell, or Chilton manuals.

19 (5) The dealer must furnish the purchaser of a new
 20 vehicle with a signed copy of the manufacturer's delivery
 21 and preparation requirements indicating that each of those
 22 requirements has been performed."

23 **Section 2.** Section 61-4-210, MCA, is amended to read:

24 "61-4-210. Penalties -- administrative penalties. (1)
 25 Except as provided in subsection (2), a person who violates

1 any provision of this part is guilty of a misdemeanor and
 2 upon conviction shall be fined not less than \$500 or more
 3 than \$1,000 for each violation. Each day that a violation
 4 continues or occurs constitutes a separate violation.

5 (2) A manufacturer on direct dealerships, distributor
 6 on indirect dealerships, or importer on direct dealerships
 7 who has filed with the department an agreement used by all
 8 its franchisees in this state together with a list of all
 9 such franchisees and who fails to notify the department
 10 within 30 days of any revision, change, or addition thereto
 11 is guilty of a misdemeanor and upon conviction shall be
 12 fined not to exceed \$500.

13 (3) If any new motor vehicle dealer incurs pecuniary
 14 loss due to a violation of this part by a manufacturer,
 15 distributor, importer, or factory branch or representative
 16 or agent thereof, the dealer may recover damages therefor in
 17 a court of competent jurisdiction in amount equal to three
 18 times the pecuniary loss, together with costs including
 19 reasonable attorney's fees.

20 (4) In addition to any other penalty provided for in
 21 this part, the department may take appropriate enforcement
 22 action on its own initiative in accordance with the
 23 contested case procedures of Title 2, chapter 4. A person
 24 who violates the provisions of this part may be subject to
 25 administrative action and a civil penalty not to exceed \$500

LC 0668/01

1 for each violation."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0258, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The proposed legislation would require that compensation paid by motor vehicle manufacturers to motor vehicle dealers for parts and services performed under warranty must be at the same rate charged by the dealer for retail work. The bill also provides for additional administrative action and civil penalty for each violation.

ASSUMPTIONS:

1. The fiscal impact is based upon the assumption that the Attorney General would have a significant role in cases against motor vehicle manufacturers under this bill. However, if motor vehicle dealers rely primarily on private attorneys rather than the Attorney General, there may be minimal impact on the Department of Justice caseload.
2. Current law is represented by the executive budget recommendation for the Legal Services Division of the Department of Justice.
3. The 2.50 FTE increase as a result of this bill include a 0.50 FTE attorney (Grade 19, Step 2), 1.00 investigator (Grade 16, Step 2), and 1.00 FTE clerical (Grade 9, Step 2). Employee benefits are calculated at a rate of 21%.


FISCAL IMPACT:

Department of Justice-Legal Services Division

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	25.50	28.00	2.50	25.50	28.00	2.50
Personal Services	990,601	1,066,801	76,200	989,277	1,069,477	80,200
Operating Costs	242,328	261,028	18,700	237,743	256,443	18,700
Equipment	12,975	20,475	7,500	12,704	12,704	0
Total	1,245,904	1,348,304	102,400	1,239,724	1,338,624	98,900
<u>Funding:</u>						
General Fund (01)	1,245,904	1,348,304	102,400	1,239,724	1,338,624	98,900
General Fund Impact			(102,400)			(98,900)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None.

 1-26-91
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 BOB BACHINI, PRIMARY SPONSOR DATE

Fiscal Note for HB0258, as introduced

HB 258

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0258, third reading.

DESCRIPTION OF PROPOSED LEGISLATION:

The proposed legislation would require that compensation paid by motor vehicle manufacturers to motor vehicle dealers for parts and services performed under warranty must be at the same rate charged by the dealer for retail work. The bill also provides for additional administrative action and civil penalty for each violation.


ASSUMPTIONS:

1. The fiscal impact is based upon the assumption that the Attorney General would have a significant role in cases against motor vehicle manufacturers under this bill. However, if motor vehicle dealers rely primarily on private attorneys rather than the Attorney General, there may be minimal impact on the Department of Justice caseload.
2. Current law is represented by the executive budget recommendation for the Legal Services Bureau of the Department of Justice. Operating expense increases are calculated on the basis of \$7,500 per FTE. Equipment increases are based upon adding a personal computer and office furniture for three persons.
3. The 2.50 FTE increase as a result of this bill include a 0.50 FTE attorney (Grade 19, Step 2), 1.00 investigator (Grade 16, Step 2), and 1.00 FTE clerical (Grade 9, Step 2). Employee benefits are calculated at a rate of 22%.

FISCAL IMPACT:

Department of Justice-Legal Services Bureau

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
FTE	19.50	22.00	2.50	19.50	22.00	2.50
Personal Services	774,000	820,700	76,700	743,000	823,800	80,800
Operating Costs	166,000	184,800	18,800	161,400	180,200	18,800
Equipment	13,000	23,500	10,500	12,700	12,700	0
Total	923,000	1,029,000	106,000	917,100	1,016,700	99,600
<u>Funding:</u>						
General Fund	923,000	1,029,000	106,000	917,100	1,016,700	99,600
General Fund Impact			(106,000)			(99,600)


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning
 DATE 2-22-91

BOB BACHINI, PRIMARY SPONSOR
 DATE

Fiscal Note for HB0258, third reading

HB 258
THIRD READING

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 258

INTRODUCED BY BACHINI, NATHE, STANG, WALLIN, LYNCH, DRISCOLL, HALLIGAN, J. BROWN, THAYER, KASTEN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT COMPENSATION PAID BY MOTOR VEHICLE MANUFACTURERS TO MOTOR VEHICLE DEALERS FOR PARTS AND SERVICES PERFORMED UNDER WARRANTY MUST BE AT THE SAME RATE CHARGED BY THE DEALER FOR RETAIL WORK; PROVIDING ADMINISTRATIVE PENALTIES; AND AMENDING SECTIONS 61-4-204 AND 61-4-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-4-204, MCA, is amended to read:

"61-4-204. Filing agreement -- product liability. (1) A franchisee must, at the time he applies for a new motor vehicle dealer license under the provisions of 61-4-101, file with the department a certified copy of his written agreement with a manufacturer and a certificate of appointment as dealer or distributor. The certificate of appointment must be signed by an authorized agent of the manufacturer of domestic vehicles whenever there is a direct manufacturer dealer agreement or by an authorized agent of the distributor whenever the manufacturer is wholesaling through an appointed distributorship. The certificate must be signed by an authorized agent of the importer of foreign

made vehicles whenever there is a direct importer-dealer agreement or by an authorized agent of the distributor whenever there is an indirect distributor-dealer agreement. The distributor's certificate of appointment must be signed by an authorized agent of the manufacturer of domestically manufactured vehicles or by an authorized agent of the manufacturer or importer of foreign made vehicles.

(2) A franchisee need not file a written agreement or certificate of appointment if the manufacturer on direct dealerships or distributor on indirect dealerships or importer on direct dealerships uses the identical basic agreement for all its franchised dealers or distributors in this state and certifies in the certificate of appointment that the blanket agreement is on file and the written agreement with the particular dealer or distributor, respectively, is identical with the filed blanket agreement and that he has filed with the department one such agreement together with a list of franchised dealers or distributors.

(3) A manufacturer, distributor, or importer shall notify the department within 30 days of any revision of or addition to the basic agreement on file or of any franchise supplement to the agreement. Annual renewal of a certificate filed as provided in this section is not required.

(4) A manufacturer must file with the department a copy of the delivery and preparation obligations required to be

SECOND READING



1 performed by a dealer prior to the delivery of a new motor
 2 vehicle to a buyer. These delivery and preparation
 3 obligations constitute the dealer's only responsibility for
 4 product liability as between the dealer and the
 5 manufacturer. Any mechanical, body, or parts defects arising
 6 from an express or implied warranty of the manufacturer
 7 constitute the manufacturer's product or warranty liability
 8 only; provided, however, that this section shall not affect
 9 the obligations of new motor vehicle dealers to perform such
 10 warranty repair and maintenance as may be required by law or
 11 contract. The EXCEPT AS REGARDS HOUSEHOLD APPLIANCES,
 12 INCLUDING BUT NOT LIMITED TO RANGES, REFRIGERATORS, AND
 13 WATER HEATERS, IN A RECREATIONAL VEHICLE, AS DEFINED IN
 14 61-1-132, AND EXCEPT AS REGARDS A TRUCK RATED AT MORE THAN
 15 10,000 POUNDS GROSS VEHICLE WEIGHT, THE manufacturer must
 16 compensate an authorized dealer for labor, parts, and other
 17 expenses incurred by a dealer who performs work to rectify
 18 the manufacturer's product or warranty defect or for
 19 delivery and preparation obligations at the dealer's-regular
 20 established--retail same rate the dealer charges to its
 21 retail customers for similar nonwarranty work of a like
 22 kind, based upon retail flat rate labor time guides
 23 contained in the most recent volumes of Motors, Mitchell, or
 24 Chilton manuals IF THE DEALER USES THE MANUAL AS THE BASIS
 25 FOR COMPUTING CHARGES FOR BOTH WARRANTY WORK AND RETAIL

1 WORK.

2 (5) The dealer must furnish the purchaser of a new
 3 vehicle with a signed copy of the manufacturer's delivery
 4 and preparation requirements indicating that each of those
 5 requirements has been performed."

6 **Section 2.** Section 61-4-210, MCA, is amended to read:

7 **"61-4-210. Penalties -- administrative penalties.** (1)
 8 Except as provided in subsection (2), a person who violates
 9 any provision of this part is guilty of a misdemeanor and
 10 upon conviction shall be fined not less than \$500 or more
 11 than \$1,000 for each violation. Each day that a violation
 12 continues or occurs constitutes a separate violation.

13 (2) A manufacturer on direct dealerships, distributor
 14 on indirect dealerships, or importer on direct dealerships
 15 who has filed with the department an agreement used by all
 16 its franchisees in this state together with a list of all
 17 such franchisees and who fails to notify the department
 18 within 30 days of any revision, change, or addition thereto
 19 is guilty of a misdemeanor and upon conviction shall be
 20 fined not to exceed \$500.

21 (3) If any new motor vehicle dealer incurs pecuniary
 22 loss due to a violation of this part by a manufacturer,
 23 distributor, importer, or factory branch or representative
 24 or agent thereof, the dealer may recover damages therefor in
 25 a court of competent jurisdiction in amount equal to three

1 times the pecuniary loss, together with costs including
2 reasonable attorney's fees.

3 (4) In addition to any other penalty provided for in
4 this part, the department may take appropriate enforcement
5 action on its own initiative in accordance with the
6 contested case procedures of Title 2, chapter 4. A person
7 who violates the provisions of this part may be subject to
8 administrative action and a civil penalty not to exceed \$500
9 for each violation."

-End-

HOUSE BILL NO. 258

INTRODUCED BY BACHINI, NATHE, STANG, WALLIN, LYNCH,
DRISCOLL, HALLIGAN, J. BROWN, THAYER, KASTEN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT
COMPENSATION PAID BY MOTOR VEHICLE MANUFACTURERS TO MOTOR
VEHICLE DEALERS FOR PARTS AND SERVICES PERFORMED UNDER
WARRANTY MUST BE AT THE SAME RATE CHARGED BY THE DEALER FOR
RETAIL WORK; PROVIDING ADMINISTRATIVE PENALTIES; AND
AMENDING SECTIONS 61-4-204 AND 61-4-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-4-204, MCA, is amended to read:

"61-4-204. Filing agreement -- product liability. (1) A
franchisee must, at the time he applies for a new motor
vehicle dealer license under the provisions of 61-4-101,
file with the department a certified copy of his written
agreement with a manufacturer and a certificate of
appointment as dealer or distributor. The certificate of
appointment must be signed by an authorized agent of the
manufacturer of domestic vehicles whenever there is a direct
manufacturer dealer agreement or by an authorized agent of
the distributor whenever the manufacturer is wholesaling
through an appointed distributorship. The certificate must
be signed by an authorized agent of the importer of foreign

made vehicles whenever there is a direct importer-dealer
agreement or by an authorized agent of the distributor
whenever there is an indirect distributor-dealer agreement.
The distributor's certificate of appointment must be signed
by an authorized agent of the manufacturer of domestically
manufactured vehicles or by an authorized agent of the
manufacturer or importer of foreign made vehicles.

(2) A franchisee need not file a written agreement or
certificate of appointment if the manufacturer on direct
dealerships or distributor on indirect dealerships or
importer on direct dealerships uses the identical basic
agreement for all its franchised dealers or distributors in
this state and certifies in the certificate of appointment
that the blanket agreement is on file and the written
agreement with the particular dealer or distributor,
respectively, is identical with the filed blanket agreement
and that he has filed with the department one such agreement
together with a list of franchised dealers or distributors.

(3) A manufacturer, distributor, or importer shall
notify the department within 30 days of any revision of or
addition to the basic agreement on file or of any franchise
supplement to the agreement. Annual renewal of a certificate
filed as provided in this section is not required.

(4) A manufacturer must file with the department a copy
of the delivery and preparation obligations required to be

THIRD READING



1 performed by a dealer prior to the delivery of a new motor
 2 vehicle to a buyer. These delivery and preparation
 3 obligations constitute the dealer's only responsibility for
 4 product liability as between the dealer and the
 5 manufacturer. Any mechanical, body, or parts defects arising
 6 from an express or implied warranty of the manufacturer
 7 constitute the manufacturer's product or warranty liability
 8 only; provided, however, that this section shall not affect
 9 the obligations of new motor vehicle dealers to perform such
 10 warranty repair and maintenance as may be required by law or
 11 contract. The EXCEPT AS REGARDS HOUSEHOLD APPLIANCES,
 12 INCLUDING BUT NOT LIMITED TO RANGES, REFRIGERATORS, AND
 13 WATER HEATERS, IN A RECREATIONAL VEHICLE, AS DEFINED IN
 14 61-1-132, AND EXCEPT AS REGARDS A TRUCK RATED AT MORE THAN
 15 10,000 POUNDS GROSS VEHICLE WEIGHT, THE manufacturer must
 16 compensate an authorized dealer for labor, parts, and other
 17 expenses incurred by a dealer who performs work to rectify
 18 the manufacturer's product or warranty defect or for
 19 delivery and preparation obligations at the dealer's-regular
 20 established--retail same rate the dealer charges to its
 21 retail customers for similar nonwarranty work of a like
 22 kind, based upon retail flat rate labor time guides
 23 contained in the most recent volumes of Motors, Mitchell, or
 24 Chilton manuals IF THE DEALER USES THE MANUAL AS THE BASIS
 25 FOR COMPUTING CHARGES FOR BOTH WARRANTY WORK AND RETAIL

1 WORK.

2 (5) The dealer must furnish the purchaser of a new
 3 vehicle with a signed copy of the manufacturer's delivery
 4 and preparation requirements indicating that each of those
 5 requirements has been performed."

6 **Section 2.** Section 61-4-210, MCA, is amended to read:

7 **"61-4-210. Penalties -- administrative penalties.** (1)

8 Except as provided in subsection (2), a person who violates
 9 any provision of this part is guilty of a misdemeanor and
 10 upon conviction shall be fined not less than \$500 or more
 11 than \$1,000 for each violation. Each day that a violation
 12 continues or occurs constitutes a separate violation.

13 (2) A manufacturer on direct dealerships, distributor
 14 on indirect dealerships, or importer on direct dealerships
 15 who has filed with the department an agreement used by all
 16 its franchisees in this state together with a list of all
 17 such franchisees and who fails to notify the department
 18 within 30 days of any revision, change, or addition thereto
 19 is guilty of a misdemeanor and upon conviction shall be
 20 fined not to exceed \$500.

21 (3) If any new motor vehicle dealer incurs pecuniary
 22 loss due to a violation of this part by a manufacturer,
 23 distributor, importer, or factory branch or representative
 24 or agent thereof, the dealer may recover damages therefor in
 25 a court of competent jurisdiction in amount equal to three

1 times the pecuniary loss, together with costs including
2 reasonable attorney's fees.

3 (4) In addition to any other penalty provided for in
4 this part, the department may take appropriate enforcement
5 action on its own initiative in accordance with the
6 contested case procedures of Title 2, chapter 4. A person
7 who violates the provisions of this part may be subject to
8 administrative action and a civil penalty not to exceed \$500
9 for each violation."

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 258 (third reading copy -- blue), respectfully report that House Bill No. 258 be amended and as so amended be concurred in:

1. Page 3, line 20.

Following: "rate"

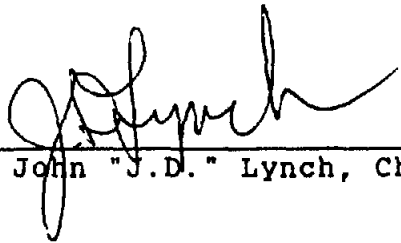
Insert: "and time"

2. Page 3, lines 22 through page 4, line 1.

Strike: "retail" on line 22 through "work" on line 1

Insert: "a published, nationally recognized, retail flat rate labor time guide manual"

Signed: _____



John "J.D." Lynch, Chairman

~~Jan~~ 3-7-91
Cmd. Coord.

SB 3-7 3:40
Sec. of Senate

HB 258

SENATE

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 12, 1991 3:08 pm

Mr. Chairman: I move to amend House Bill No. 258 (reference copy -- salmon) as follows:

1. Page 4, line 2.

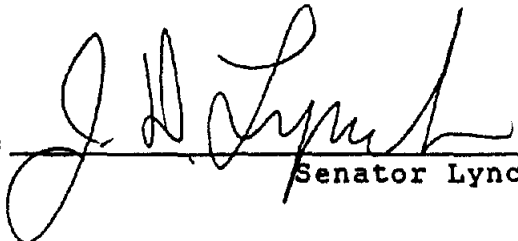
Following: "MANUAL"

Insert: ", if the dealer uses the manual as the basis for computing charges for both warranty and retail work"

ADOPT

REJECT

Signed:



Senator Lynch

~~AM~~ 3-13-91
Amd. Coord.

SB 3-13 9:55
Sec. of Senate

SENATE
HB 258

1 HOUSE BILL NO. 258

2 INTRODUCED BY BACHINI, NATHE, STANG, WALLIN, LYNCH,

3 DRISCOLL, HALLIGAN, J. BROWN, THAYER, KASTEN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT
6 COMPENSATION PAID BY MOTOR VEHICLE MANUFACTURERS TO MOTOR
7 VEHICLE DEALERS FOR PARTS AND SERVICES PERFORMED UNDER
8 WARRANTY MUST BE AT THE SAME RATE CHARGED BY THE DEALER FOR
9 RETAIL WORK; PROVIDING ADMINISTRATIVE PENALTIES; AND
10 AMENDING SECTIONS 61-4-204 AND 61-4-210, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 **Section 1.** Section 61-4-204, MCA, is amended to read:

14 *61-4-204. Filing agreement -- product liability. (1) A
15 franchisee must, at the time he applies for a new motor
16 vehicle dealer license under the provisions of 61-4-101,
17 file with the department a certified copy of his written
18 agreement with a manufacturer and a certificate of
19 appointment as dealer or distributor. The certificate of
20 appointment must be signed by an authorized agent of the
21 manufacturer of domestic vehicles whenever there is a direct
22 manufacturer dealer agreement or by an authorized agent of
23 the distributor whenever the manufacturer is wholesaling
24 through an appointed distributorship. The certificate must
25 be signed by an authorized agent of the importer of foreign

1 made vehicles whenever there is a direct importer-dealer
2 agreement or by an authorized agent of the distributor
3 whenever there is an indirect distributor-dealer agreement.
4 The distributor's certificate of appointment must be signed
5 by an authorized agent of the manufacturer of domestically
6 manufactured vehicles or by an authorized agent of the
7 manufacturer or importer of foreign made vehicles.

8 (2) A franchisee need not file a written agreement or
9 certificate of appointment if the manufacturer on direct
10 dealerships or distributor on indirect dealerships or
11 importer on direct dealerships uses the identical basic
12 agreement for all its franchised dealers or distributors in
13 this state and certifies in the certificate of appointment
14 that the blanket agreement is on file and the written
15 agreement with the particular dealer or distributor,
16 respectively, is identical with the filed blanket agreement
17 and that he has filed with the department one such agreement
18 together with a list of franchised dealers or distributors.

19 (3) A manufacturer, distributor, or importer shall
20 notify the department within 30 days of any revision of or
21 addition to the basic agreement on file or of any franchise
22 supplement to the agreement. Annual renewal of a certificate
23 filed as provided in this section is not required.

24 (4) A manufacturer must file with the department a copy
25 of the delivery and preparation obligations required to be

1 performed by a dealer prior to the delivery of a new motor
 2 vehicle to a buyer. These delivery and preparation
 3 obligations constitute the dealer's only responsibility for
 4 product liability as between the dealer and the
 5 manufacturer. Any mechanical, body, or parts defects arising
 6 from an express or implied warranty of the manufacturer
 7 constitute the manufacturer's product or warranty liability
 8 only; provided, however, that this section shall not affect
 9 the obligations of new motor vehicle dealers to perform such
 10 warranty repair and maintenance as may be required by law or
 11 contract. The EXCEPT AS REGARDS HOUSEHOLD APPLIANCES,
 12 INCLUDING BUT NOT LIMITED TO RANGES, REFRIGERATORS, AND
 13 WATER HEATERS, IN A RECREATIONAL VEHICLE, AS DEFINED IN
 14 61-1-132, AND EXCEPT AS REGARDS A TRUCK RATED AT MORE THAN
 15 10,000 POUNDS GROSS VEHICLE WEIGHT, THE manufacturer must
 16 compensate an authorized dealer for labor, parts, and other
 17 expenses incurred by a dealer who performs work to rectify
 18 the manufacturer's product or warranty defect or for
 19 delivery and preparation obligations at the dealer's-regular
 20 established--retail same rate AND TIME the dealer charges to
 21 its retail customers for similar nonwarranty work of a like
 22 kind, based upon retail--flat--rate--labor--time--guides
 23 contained-in-the-most-recent-volumes-of-Motors,-Mitchell-or
 24 Chilton-manuals IF-THE-DEALER-USES-THE-MANUAL-AS--THE--BASIS
 25 FOR-COMPUTING-CHARGES-FOR-BOTH-WARRANTY-WORK-AND-RETAIL-WORK

1 A PUBLISHED, NATIONALLY RECOGNIZED, RETAIL FLAT RATE LABOR
 2 TIME GUIDE MANUAL.

3 (5) The dealer must furnish the purchaser of a new
 4 vehicle with a signed copy of the manufacturer's delivery
 5 and preparation requirements indicating that each of those
 6 requirements has been performed."

7 **Section 2.** Section 61-4-210, MCA, is amended to read:

8 "61-4-210. Penalties -- administrative penalties. (1)
 9 Except as provided in subsection (2), a person who violates
 10 any provision of this part is guilty of a misdemeanor and
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 12 than \$1,000 for each violation. Each day that a violation
 13 continues or occurs constitutes a separate violation.

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 17 its franchisees in this state together with a list of all
 18 such franchisees and who fails to notify the department
 19 within 30 days of any revision, change, or addition thereto
 20 is guilty of a misdemeanor and upon conviction shall be
 21 fined not to exceed \$500.

22 (3) If any new motor vehicle dealer incurs pecuniary
 23 loss due to a violation of this part by a manufacturer,
 24 distributor, importer, or factory branch or representative
 25 or agent thereof, the dealer may recover damages therefor in

1 a court of competent jurisdiction in amount equal to three
2 times the pecuniary loss, together with costs including
3 reasonable attorney's fees.

4 (4) In addition to any other penalty provided for in
5 this part, the department may take appropriate enforcement
6 action on its own initiative in accordance with the
7 contested case procedures of Title 2, chapter 4. A person
8 who violates the provisions of this part may be subject to
9 administrative action and a civil penalty not to exceed \$500
10 for each violation."

-End-

1 HOUSE BILL NO. 258

2 INTRODUCED BY BACHINI, NATHE, STANG, WALLIN, LYNCH,
3 DRISCOLL, HALLIGAN, J. BROWN, THAYER, KASTEN
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT
6 COMPENSATION PAID BY MOTOR VEHICLE MANUFACTURERS TO MOTOR
7 VEHICLE DEALERS FOR PARTS AND SERVICES PERFORMED UNDER
8 WARRANTY MUST BE AT THE SAME RATE CHARGED BY THE DEALER FOR
9 RETAIL WORK; PROVIDING ADMINISTRATIVE PENALTIES; AND
10 AMENDING SECTIONS 61-4-204 AND 61-4-210, MCA."
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 61-4-204, MCA, is amended to read:

14 **"61-4-204. Filing agreement -- product liability.** (1) A
15 franchisee must, at the time he applies for a new motor
16 vehicle dealer license under the provisions of 61-4-101,
17 file with the department a certified copy of his written
18 agreement with a manufacturer and a certificate of
19 appointment as dealer or distributor. The certificate of
20 appointment must be signed by an authorized agent of the
21 manufacturer of domestic vehicles whenever there is a direct
22 manufacturer dealer agreement or by an authorized agent of
23 the distributor whenever the manufacturer is wholesaling
24 through an appointed distributorship. The certificate must
25 be signed by an authorized agent of the importer of foreign

1 made vehicles whenever there is a direct importer-dealer
2 agreement or by an authorized agent of the distributor
3 whenever there is an indirect distributor-dealer agreement.
4 The distributor's certificate of appointment must be signed
5 by an authorized agent of the manufacturer of domestically
6 manufactured vehicles or by an authorized agent of the
7 manufacturer or importer of foreign made vehicles.

8 (2) A franchisee need not file a written agreement or
9 certificate of appointment if the manufacturer on direct
10 dealerships or distributor on indirect dealerships or
11 importer on direct dealerships uses the identical basic
12 agreement for all its franchised dealers or distributors in
13 this state and certifies in the certificate of appointment
14 that the blanket agreement is on file and the written
15 agreement with the particular dealer or distributor,
16 respectively, is identical with the filed blanket agreement
17 and that he has filed with the department one such agreement
18 together with a list of franchised dealers or distributors.

19 (3) A manufacturer, distributor, or importer shall
20 notify the department within 30 days of any revision of or
21 addition to the basic agreement on file or of any franchise
22 supplement to the agreement. Annual renewal of a certificate
23 filed as provided in this section is not required.

24 (4) A manufacturer must file with the department a copy
25 of the delivery and preparation obligations required to be

1 performed by a dealer prior to the delivery of a new motor
 2 vehicle to a buyer. These delivery and preparation
 3 obligations constitute the dealer's only responsibility for
 4 product liability as between the dealer and the
 5 manufacturer. Any mechanical, body, or parts defects arising
 6 from an express or implied warranty of the manufacturer
 7 constitute the manufacturer's product or warranty liability
 8 only; provided, however, that this section shall not affect
 9 the obligations of new motor vehicle dealers to perform such
 10 warranty repair and maintenance as may be required by law or
 11 contract. The EXCEPT AS REGARDS HOUSEHOLD APPLIANCES,
 12 INCLUDING BUT NOT LIMITED TO RANGES, REFRIGERATORS, AND
 13 WATER HEATERS, IN A RECREATIONAL VEHICLE, AS DEFINED IN
 14 61-1-132, AND EXCEPT AS REGARDS A TRUCK RATED AT MORE THAN
 15 10,000 POUNDS GROSS VEHICLE WEIGHT, THE manufacturer must
 16 compensate an authorized dealer for labor, parts, and other
 17 expenses incurred by a dealer who performs work to rectify
 18 the manufacturer's product or warranty defect or for
 19 delivery and preparation obligations at the dealer's regular
 20 established--retail same rate AND TIME the dealer charges to
 21 its retail customers for similar nonwarranty work of a like
 22 kind, based upon retail--flat--rate--labor--time--guides
 23 contained-in-the-most-recent-volumes-of-Motors,-Mitchell,-or
 24 Chilton-manuals IF-THE-DEALER-USES-THE-MANUAL-AS--THE--BASIS
 25 FOR-COMPUTING-CHARGES-FOR-BOTH-WARRANTY-WORK-AND-RETAIL-WORK

1 A PUBLISHED, NATIONALLY RECOGNIZED, RETAIL FLAT RATE LABOR
 2 TIME GUIDE MANUAL IF THE DEALER USES THE MANUAL AS THE BASIS
 3 FOR COMPUTING CHARGES FOR BOTH WARRANTY AND RETAIL WORK.

4 (5) The dealer must furnish the purchaser of a new
 5 vehicle with a signed copy of the manufacturer's delivery
 6 and preparation requirements indicating that each of those
 7 requirements has been performed."

8 **Section 2.** Section 61-4-210, MCA, is amended to read:

9 **"61-4-210. Penalties -- administrative penalties.** (1)
 10 Except as provided in subsection (2), a person who violates
 11 any provision of this part is guilty of a misdemeanor and
 12 upon conviction shall be fined not less than \$500 or more
 13 than \$1,000 for each violation. Each day that a violation
 14 continues or occurs constitutes a separate violation.

15 (2) A manufacturer on direct dealerships, distributor
 16 on indirect dealerships, or importer on direct dealerships
 17 who has filed with the department an agreement used by all
 18 its franchisees in this state together with a list of all
 19 such franchisees and who fails to notify the department
 20 within 30 days of any revision, change, or addition thereto
 21 is guilty of a misdemeanor and upon conviction shall be
 22 fined not to exceed \$500.

23 (3) If any new motor vehicle dealer incurs pecuniary
 24 loss due to a violation of this part by a manufacturer,
 25 distributor, importer, or factory branch or representative

1 or agent thereof, the dealer may recover damages therefor in
2 a court of competent jurisdiction in amount equal to three
3 times the pecuniary loss, together with costs including
4 reasonable attorney's fees.

5 (4) In addition to any other penalty provided for in
6 this part, the department may take appropriate enforcement
7 action on its own initiative in accordance with the
8 contested case procedures of Title 2, chapter 4. A person
9 who violates the provisions of this part may be subject to
10 administrative action and a civil penalty not to exceed \$500
11 for each violation."

-End-