

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS & INDUSTRY**

**Call to Order:** By Chairman J.D. Lynch, on March 5, 1991, at  
10:00 a.m.

**ROLL CALL**

**Members Present:**

J.D. Lynch, Chairman (D)  
John Jr. Kennedy, Vice Chairman (D)  
Betty Bruski (D)  
Eve Franklin (D)  
Delwyn Gage (R)  
Thomas Hager (R)  
Jerry Noble (R)  
Gene Thayer (R)  
Bob Williams (D)

**Members Excused:** None

**Staff Present:** Bart Campbell (Legislative Council).

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Announcements/Discussion:** None

**HEARING ON HOUSE JOINT RESOLUTION 27**

**Presentation and Opening Statement by Sponsor:**

Representative Bob Bachini, sponsor of the bill, stated that the immigration and naturalization is considering charging border fees crossing into Canada, from Canada into the United States. It would also include Americans going into Canada and coming back. (See Exhibit 1).

**Proponents' Testimony:**

None

**Opponents' Testimony:**

None

Questions From Committee Members:

Senator Lynch asked if they do charge the fee, where does the fee go.

Representative Bachini stated that the fee would go to the immigration and naturalization to fund their border station.

Closing by Sponsor:

Representative Bachini closed by saying that he spoke with congressman Pat Williams and brought this issue up to him. He was not aware of congress telling immigration and naturalization to do this. Senator Kennedy will carry house joint resolution 27 if it passes.

HEARING ON HOUSE BILL 258

Presentation and Opening Statement by Sponsor:

Representative Bob Bachini, sponsor of the bill, stated that this is 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. The motor vehicle dealers have been captive to the manufacturers in using a manual that they have to abide by. Their manuals do not allow a time for the warranty work. Page three of the bill from lines eleven through twenty five, the auto dealers of Montana are asking that they be allowed to use the three noted manuals that are printed by independents. When they do use one of those manuals they should use the same manual for warranty work and for parts work.

Proponents' Testimony:

Ed Leipheimer, a car dealer from Butte and also the president of the Montana auto dealers association, spoke in favor of the bill (See Exhibit 2).

Gary Rebal, president-elect of the Montana auto dealers association and an auto dealer in Great Falls spoke in favor of the bill (See Exhibit 3).

Don Dahl, a technician for grimes motors, stated that he wants the committee to look at this bill at a technician's point of view as well as a dealers. The waists of most technicians are tied directly to the flat rate system, and there is great discrepancy that exists between warranty time which is established by the manufacturer, and shall be flat rate time. He used a 1988 dodge aries as an example with a labor rate of thirty eight dollars an hour. For a rear brake job, warranty would pay eight tenths which would be thirty dollars and forty cents. Chilton's would pay one point five hours, which would be fifty seven dollars for a forty seven percent difference. For a water pump it would be an hour on warranty compared to one sixth on

chilton.

Larry Tobieson, representing triple A of Montana, stated that they support this measure.

Representative Norm Wallin spoke in favor of the bill as a retired auto dealer. After forty years, he knows the problem, and this bill is a fair bill. The opposition is going to tell you that the books that they print are copied by the chilton's, and it has also been raised that it would take advantage of the retail customers. This is not so. It takes a very experienced mechanic to keep up with the time allowed by chiltons. This bill passed with no opposition in the house.

Steve Gilreath, representing Hjelm's body shop in Helena, stated that he would like to confirm that some of the work they do for the dealers in town are at a much different rate than the factory rates.

Steve Turkiewicz, executive vice president of the Montana auto dealers association, spoke in favor of the bill (See Exhibit 4).

#### Opponents' Testimony:

Earl Quist, representing Toyota motor sales USA, inc. stated that Toyota's single concern with this measure is the specific statement requiring use of three different books. The bill should be amended to a provide reasonableness standard to warranty rates. He also proposed an amendment to add a clause on line one, page four which continues the sentence now ending "work". as follows: "provided that those rates are reasonable".

Tom Valley, representing the motor vehicle manufacturing association, stated that Earl Quist echoed their sediments. The use of the none factory manuals is something that concerns them very deeply, and the issue of reasonableness is also one that concerns them in terms of the pricing structures. The dealer would have the ability to create the pricing structures himself. Although they still oppose this legislation because of the use of retail rates for parts, and the use of the manuals, he thinks that an amendment on page four, line one, after "work" state "provided that those rates are reasonable".

Tom Schwertfeger, regional government affairs manager for ford motor company, spoke in opposition of the bill (See Exhibit 5).

#### Questions From Committee Members:

Senator Kennedy asked if the technicians find that the time recommended in the manufacturers manuals too low.

Don Dahl replied that probably eighty to ninety percent of the time the time that they recommend is too low.

Senator Kennedy asked if a job takes an hour, and the manufacturers warranty says it should take an hour and a half do the dealers bill the manufacturer for the hour or for the hour and a half.

Gary Rebal stated that if the job takes an hour or five

hours for a one point five hour job, they would bill one point five hours.

Senator Lynch stated that he was confused on how the mechanics make money. A mechanic, for example, makes eight dollars a day, but they can make more than that if they do a faster job.

Gary Rebal stated that the mechanic is punched in for eight hours, and he does twelve hours as a flat rate job. Instead of getting paid eighty dollars in a day, he would get paid one hundred dollars. If he punched in for six hours, he would be paid sixty dollars.

Don Dahl stated that in Helena, they get paid a flat ten dollars and twenty five cents. They have a twelve dollar and fifty cent bonus system if they make flat rate time. They are guaranteed eighty dollars a week.

Senator Noble asked if the times in each of the manuals vary.

Gary Rebal stated that the times do vary with the manuals.

Senator Noble stated that the bill excludes truck dealers.

Representative Bachini stated that they excluded trucks at the request of navastar.

Tom Valley stated that two of the members of his association are navastar. Their contracts are very much like the automobile contracts, and do prescribe the warranty reimbursement for parts and labor. The reason that navastar asked to be pulled from this legislation is that a significant amount is done where they sell a large quantity of a vehicles to a trucking firm. They also price their parts at a fleet price depending on the number of vehicles that you may or may not sell.

Senator Lynch stated that he has never seen a publishers name be mentioned in a law as this bill would do. Is this the only state in the union that would have these three names be mentioned in the law.

Representative Bachini stated there are other states that are looking at this type of legislation. They could also include later on another manual. These are manuals used by insurance companies nationwide.

Senator Lynch asked why they would exclude the manufacturers books.

Representative Bachini stated that the manufacturer books are not excluded.

Steve Turkiewicz stated that the dealer can choose to use the flat rate or he can use the retail because of the amendment that general motors proposed.

Ed Leipheimer stated that if the bill doesn't read that way, then the manufacturers will come in and say that theirs is a nationally recognized flat rate manual, and you stay on the manual that you are on.

Senator Williams asked if there are other national publishers other than the three mentioned.

Gary Rebal stated that he does not know of any other books on the market right now.

Closing by Sponsor:

Representative Bachini closed by saying that there are some reasons why the bill should pass as is, with no amendments. This bill is not premature, this bill is actually twenty five to thirty years late. Because of the extended warranty they have on the cars, as a car gets older it is harder to work on. Auto dealers are being asked to take care of warranty work from a car bought in Idaho brought back into Montana. The Montana auto dealers, and the auto dealers nationwide have been captive to the manufacturers too long. This is a pro-consumer bill, because if the auto dealer is not compensated properly, then the consumer will pick up the difference on the warranty work.

HEARING ON HOUSE BILL 683Presentation and Opening Statement by Sponsor:

Representative Dick Simpkins, sponsor of the bill, stated that this bill is a consumer bill that standardizes some procedures concerning the use of repair parts. Repair parts that are talked about are the external type. The situation that exists today is you have a manufactured part put out by general motors, and then you have duplicate parts put out by Taiwan, China, and some manufacturers in the United States. For a period of time, insurance companies were getting into the habit of specifying using cheaper parts without identification of where the parts are manufactured. This bill does one thing, and it doesn't prevent the use of other parts made overseas, but it does require disclosure that the using consumer have to be made aware that the parts that are being used in their car are used parts.

Proponents' Testimony:

Steve Browning, representing state farm insurance companies, inc., stated that this bill will help reduce the cost of auto parts, and will reduce upwards pressure on auto insurance premiums. It is a good bill, with one small problem. State farm would like to see the enforcement section (new section 5) amended to have the enforcement coordinated with the Montana insurance commissioner. State farm is accustomed to being regulated by the Montana insurance commissioner's office, and not by the Montana department of commerce. State farm believes that it will be less expensive to its policy holders if the enforcement can be coordinated with the Montana insurance commissioner.

Jacqueline Terrell, representing the American insurance association, stated that escalating automobile repair costs, and high auto insurance premiums are being aggressively attacked by insurance companies in many ways, including the use of quality automobile repair parts manufactured by companies that are in competition with the original manufacturer. The original manufacturers primarily represent the major auto makers. The use of the less expensive, quality after market spare parts, whether

produced by the original manufacturers or not, had lead to increased competition. The availability of those quality parts has also been lead to decrease in prices for the replacement parts. As consumers, you expect the right to purchase quality replacement parts from sources other than the original manufacturer.

Gene Phillips, representing the National association of independent insurers and the alliance of American insurers, stated that this is a good legislation that would benefit the consumers of the state, and it fosters competition which will have the effect of driving down the costs of repairs. He also supports the amendment proposed by state farm.

Thomas Valley, representing the motor vehicle manufacturer's association, stated that this legislation currently exists in thirty four states.

Steve Turkiewicz, representing the Montana auto dealer's association, stated that the association supports the bill.

#### Opponents' Testimony:

None

#### Questions From Committee Members:

Senator Noble asked about page two, lines ten through fourteen, where it says the part has to have a logo, or the parts manufacturer must be visible after installation. Is this going to hinder competition, maybe minor manufacturers won't send their parts into Montana.

Representative Simpkins replied that it was mentioned that other states do have this law. The bill states "when practical", and by putting the word "practical" in there leaves it in that situation. A logo must be identifiable at some point when that part is put into that car.

Senator Noble asked where the language from this bill comes from.

Tom Valley responded by saying this legislation is model legislation that was developed with the assistance of the insurance industries opposed to the motor vehicle manufacturers. The language is the language that has been used in the states. The fenders of general motors can be stamped either with the GM symbol, and also the serial number of that part.

Senator Williams asked if some enterprising business decided to manufacture parts for foreign made automobiles, how would that be affected.

Tom Valley stated that is occurring today overseas as well as in the United States. There are American manufacturers of a non original equipment parts. Those parts do not meet the same standards.

Senator Gage asked if there is a whole wrath of this happening that this is such a big deal, that we have to put this whole thing into statute. If it has been working up to now, and the competition has been so good, why will competition be made so much better if they do this.

Tom Valley stated that this has been going on for a while. It is a growing concern from a consumer prospective, and from a dealer prospective. The ability of some of those products to hold up under the test of time has not been proven.

Senator Lynch asked if section eight of the bill could be stricken. He asked if representative Simpkins had any idea what this does to the codes to have some dates sixty days after passage. Could we strike it, and go the normal October 1 deadline.

Representative Simpkins stated that would be fine.

Senator Thayer stated that he was having trouble trying to figure out why this bill is such a consumer protection bill. The consumer will know that somebody is proposing a non original part when they go it fix their car. The consumer can't insist on original parts if it happens to be the low bid.

Representative Simpkins stated that line fourteen, page two, states that the insurer may not specify the use of non original equipment. That is consumer protection.

Steve Browning stated that he had called state farm to ask them what they would do in the situation where there are three estimates with two of the estimates being original parts and a higher estimate, and one being a non original part with a lower estimate. In this situation, state farm would have the consumer take the lower estimate on two conditions. One being, state farm provides guarantee to the insurer that the part will preform the same as an original equipment manufactured part. Secondly, they require the repair shop to make the same guarantee.

#### Closing by Sponsor:

Representative Simpkins closed by saying the non original part does two things. Those people of manufactured non original parts have to maintain standards to meet original parts. The consumer should be able to make the decision to have an original part or a substitute part. It was mentioned the idea of changing this over to the insurance commissioner. This is very difficult to do, because most of this action will be done in a repair facility, which would fall under the department of commerce.

#### EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 27

#### Motion:

Senator Noble moved HJR 27 be concurred in.

#### Discussion:

None

#### Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion that HJR 27 be concurred in passed unanimously.

EXECUTIVE ACTION ON HOUSE BILL 683

Motion:

Senator Williams moved that HB 683 be concurred in.

Senator Williams withdrew his motion.

Senator Noble moved to amend HB 683 by taking out section eight.

Senator Williams moved HB 683 be concurred in as amended.

Senator Hager moved HB 683 not be concurred in as amended.

Discussion:

Senator Kennedy stated that he feels that section eight should be stricken.

Amendments, Discussion, and Votes:

The motion to amend HB 683 by taking out section eight passed unanimously.

Senator Kennedy asked if the typo on line twenty two page two should be corrected.

Bart Campbell stated that as long as he is going to make that amendment, he will fix the typo.

Senator Thayer stated that all this bill does is make the consumer aware that they aren't getting original parts, but the insurance companies can still take the lowest bid, and non original parts could be used.

Senator Kennedy stated that this is basically just a disclosure bill.

Recommendation and Vote:

The motion that HB 683 be concurred in as amended failed 5 to 4 votes.

The motion that HB 683 not be concurred in passed 5 to 4 votes.

ADJOURNMENT

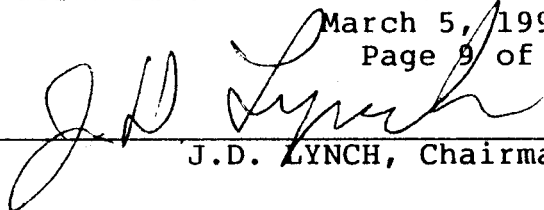
Adjournment At: 12:00 a.m.



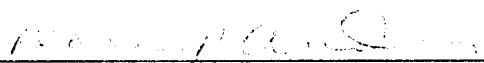
SENATE BUSINESS & INDUSTRY COMMITTEE

March 5, 1991

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J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE 3/5/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	✓		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

4/2/91

## BUSINESS & INDUSTRY

## VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

### WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 5<sup>th</sup> day of March, 1991.

Name: Steve Browning

Address: Box 1697

Helena, MT 59624

Telephone Number: 449-6220

Representing whom?

State Farm Insurance Companies, Inc

Appearing on which proposal?

HB 683

Do you: Support? ☒ Amend? ☒ Oppose? ☐

Comments:

This bill will keep reducing the cost of auto parts  
and will reduce upwards pressure on auto insurance  
premiums. It is a good bill, with one small problem:

(1) State Farm would like to see the enforcement  
section ("New Section 5") amended to have the  
enforcement coordinated with the MT Insurance  
Commissioner. State Farm is accustomed to  
being regulated by the MT Insurance Commissioner's  
office and not by the MT Dept of Commerce.  
State Farm believes that it will be less expensive  
to its policy holders if the enforcement can be  
coordinated with the MT Ins Commissioner.

Thank you.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Amendments to House Bill No. 683  
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell  
March 5, 1991

1. Title, line 8.  
Following: "PENALTIES;"  
Insert: "AND"
2. Title, lines 8 and 9.  
Following: "MCA"  
Strike: "; AND" on line 8 through "DATE" on line 9
3. Page 2, line 22.  
Strike: "provide"  
Insert: "provided"
4. Page 4, lines 19 and 20.  
Strike: section 8 in its entirety

### WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 5 day of March, 1991.

Name: Thomas L. VALLEY

Address: 411 Main Street Suite 215  
St. Paul Minnesota 55102

Telephone Number: 612-227-0077

Representing whom?

Motor Vehicle Manufacturers Ass'n - Ford, GM, Chrysler, Dodge, Nissan, PACOR,

Appearing on which proposal?

H.B. 258 H.B. 683

Do you: Support? Amend? Oppose? ☒

Comments: →

Amended to add ppg 4 line 1 after Work.  
"provided that those rates are reasonable"

pp. 3 line strike, parts and other expenses incurred  
by a dealer

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 5<sup>th</sup> day of March, 1991.

Name: Earl Guist

Address: Toyota Motor Sales, USA, Inc.

1850 M ST, N.W., SUITE 600, WASHINGTON, DC 20036

Telephone Number: 202-775-1700

Representing whom?

TOYOTA

Appearing on which proposal?

HB 258

Do you: Support?        Amend? X Oppose?       

Comments:

Bill should be amended to provide reasonableness  
standard to warranty rates

Add clause on line 1, page 4 which continues  
the sentence and now ending "WORK." as follows:  
" provided that those rates are reasonable. "

**WITNESS STATEMENT**

To be completed by a person testifying or a person who wants  
their testimony entered into the record.

Dated this 5 day of March, 1991.

Name: Tom Schwerfeger

Address: 1560 Broadway, Suite 890  
Denver, CO 80202

Telephone Number: 303-860-8888

## Representing whom?

Ford

Appearing on which proposal?

H-258

Do you: Support? \_\_\_\_\_ Amend? ✓ Oppose? ✓

Comments:

[illegible]

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



## Border-crossing fees may start in the spring

VANCOUVER, British Columbia (CP) — The United States plans to collect user fees from people entering the country from Canada under a pilot project likely beginning next spring, a U.S. immigration spokesman said Tuesday.

The Peace Arch crossing near Blaine, Wash., 25 miles southeast of Vancouver, is a leading candidate for the project, said Duke Austin, of the U.S. Immigration and Naturalization Service.

"We've been directed by Congress to do it and we're going to do it," Austin said in an interview from Washington, D.C.

Negotiations are under way with Canadian officials, he said, but the site of the test project has not been determined.

No fees have been set and no methods of handling the border traffic have been determined.

Austin said the fees for motorists will be nominal and a similar pilot project will be set up at a crossing on the U.S.-Mexico border.

"We're not looking at anything anywhere near \$5 per person," he said.

Waits exceeding an hour are common at Blaine on holiday

weekends as Canadians head south to shop.

Richard Smith, a U.S. customs and immigration district director in Seattle, said 5.1 million cars — 14,000 a day — were handled by U.S. customs officers at Blaine in the year ending Sept. 30.

That compares with 4.4 million cars — or 12,000 a day — the previous year.

"The money (raised from the fees) would enable us to increase our resources and expedite travel," Austin said.

Smith said 13 customs officers were added this year to a staff of 100 for five crossings into southwestern British Columbia between Sumas, Wash., and Point Roberts, Wash.

Under the three-year test, Austin said people who work or shop frequently in the U.S. may be able to use express lanes with commuter cards.

Or motorists could line up in a no-fee lane or pay a fee to use an express lane. Charges might be levied against carloads or individuals.

Austin said another possibility is conducting the pilot project at a border point where traffic volumes are lower.

The fees would apply to all people entering the United States, including Americans.

# HOUSE BILL 258: RETAIL LABOR AND PARTS WARRANTY

Ed Lelpheimer, President, MADA  
March 5, 1991

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2

DATE 3/5/91

BILL NO. HB 258

Our dealers support this bill for these primary reasons:

FIRST: As dealers, we find ourselves in the position of having to subsidize the manufacturers' warranties. Years ago the Montana legislature enacted the Montana Franchise Law to protect the business people of Montana. As part of that law, motor vehicle manufacturers were required to reimburse their dealers at the dealer's prevailing retail labor rate. Unfortunately, the law did not address the other two items which make up the cost of a warranty repair. Those two items are the time allowed to perform the work (referred to as Flat Rate Time) and the price of the parts required to complete the repair. The labor times allowed by the typical factory flat rate guide are about 30 percent less than the prevailing nationally-recognized retail flat rate manuals. The reimbursement for parts used in a warranty repair is typically 23 percent gross profit compared to a normal retail selling price, as suggested by the manufacturer, of 40 percent gross profit. Therefore, the dealer receives approximately half as much gross profit on parts in a warranty repair before considering any overhead expense.

SECOND: We support this bill because we are forced to ask our technicians and service and parts employees to also subsidize the factories' warranties. Technicians are paid based upon Flat Rate Time and, therefore, receive about 30 percent less while doing warranty repair work as compared to normal customer retail work. This is not fair to our employees!

THIRD: We support this bill for reasons related to our consumers. With the manufacturers required to pay retail rates and the patently unfair labor times and parts reimbursement, there is a constant upward push on retail rates which are ultimately paid by the consumer. This also has the tendency to push consumers away from the dealerships for regular service work. This situation is very similar to the way insufficient Medicare payments by the federal government tends to push up health care costs for the average person.

We are also concerned about the level of service our consumers can expect. Consider for a minute a consumer's vehicle with a serious paint defect. Many dealers do not have

body and paint shops and must therefore send this type of work out to the independent body shops. Those shops base their estimates and repair costs on the nationally-recognized body repair manuals. This is true for retail consumer work and insurance work, and is, of course, what the dealership will have to pay to repair the consumer's vehicle. The dealer, however, will be reimbursed based upon the factory Flat Rate Time. In many cases, this will be 40-50 percent less than that charged by the body shop.

What level of service can that consumer expect, especially if the vehicle in question was not purchased from the dealer doing the repair?

Dealers and manufacturers alike are extremely concerned with customer satisfaction. But the question remains as to who is going to pay!

Oblviously this situation has existed for a long time, so why do we come to you now? Primarily two reasons.

FIRST: A smaller pie----dealers across this country are struggling to survive. Nationally, net profit margins are just over one percent for the average new car dealership. In Montana I'm certain it is below that level. As more and more dealerships close their doors, there is an obvious negative impact on the state's economy and a hardship imposed upon our consumers and employees alike.

SECOND: Probably more important--regarding why we are here now--is the length of the warranties we are subsidizing. When warranties only lasted one year, and with the reliability of today's vehicles, our subvention was tolerable at best. But now, with warranties running as long as seven years, our shops are fast becoming nothing but warranty repair centers. We are doing the same work at a tremendous discount to the manufacturer that would have formerly been retail work to our technicians.

If the manufacturers want to play warranty wars, let them bare the cost of their marketing decisions.

**I urge you to support this bill.**

# ~~Rebal~~ Auto Center

March 5, 1991

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 3/5/91

BILL NO. HB 258

I'm Gary Rebal President-elect of the Montana Auto Dealers Association and auto dealer in Great Falls that sells both domestic and import cars and trucks. HB-258 is necessary to the Montana new car and truck dealers because it will allow us to charge the manufacturers fair flat rate hours for the warranty work we're required to perform.

Let me take a moment to explain flat rate. Each job a mechanic performs has a time allocation assigned called flat rate. The technician is paid by multiplying his hourly pay rate times the flat rate allocated to the job. The manufacturers flat rate is less than other nationally published books for most jobs.

This bill is fair to the mechanics where pay checks are determined by the flat rate manual under which they are working. The manufacturers flat rate manual gives less time for the same job than other nationally recognized flat rate manuals, so the mechanic makes less money doing a warranty job than if he wasn't. For the work that mechanics perform on internal work- that is our <sup>own</sup> ~~won~~ used cars- they are paid out of the national books- not the manufacturers manual. I do this out of fairness to the worker. Also retail work is charged out of national manuals.

This bill is fair to the consumer because the low amounts paid by the factory puts upward pressure on our retail labor rate. The dealer is caught in the middle, we want to keep our labor rates as low as possible to keep our mechanics busy, but we do have to pay the bills.

# *Rebal* Auto Center

Page 2

While the manufacturers will oppose this bill, I believe long term<sup>ly</sup> will have little effect on them, as it will reduce the upward pressure on labor rates. Since in the long term the labor rates will increase at a much smaller rate, the manufacturers cost will be relatively the same in the long run. The manufacturers are opposing this bill because they've always done it their way and don't want to change. It really isn't a dollar issue with them, because they've told me just raise my labor rate as high as it needs to be and they'll approve it, as long as I use their books. In the real work you can't raise your labor rate too high because the customer won't pay it, and we'll lose business.

This bill is fair to the worker, the consumer, the auto dealer and will ultimately be fair to the factory.

Thank You.

TESTIMONY FOR HOUSE BILL 258  
STEVE TURKIEWICZ  
MONTANA AUTOMOBILE DEALER ASSOCIATION  
MARCH 5, 1991

In the past twenty years, the issue of warranty reimbursement has been before various state legislatures in various forms, including ours. The intent of the legislation was to reimburse the dealers at their prices for meeting the warranty obligations given by the manufacturers. In past years legislation has been passed that was thought to adequately address the issue.

Our current law, states, "The manufacturer must compensate an authorized dealer who performs work to rectify the manufacturer's product or warranty defect or delivery and preparation obligations at the dealer's regular established retail rate for similar work." We thought this language would reduce the dealer's subsidy for the factory. Since the bill was passed, the manufacturers have been pretty good in paying the "retail rate".

But every service job in a dealership is made up of three components: the rate - the cost per hour the shop charges; the flat rate - the time needed to complete the job; and thirdly the price of the parts replaced. But, even with our law, the manufacturers are not paying the full price of warranty work because they require the dealers to use the manufacturer's own flat rate manual to determine the time required to complete a job and the manufacturer's have their own schedule for reimbursement for parts. Part, that I might add, the manufacturer sells to the dealer at a profit and the dealer must use in warranty repairs.

Other legislatures have passed bills reflecting the necessary language to bring dealers reasonable compensation for their warranty work for the manufacturers. Still dealers are losing money on warranty work. One study indicates dealers lost \$19.17 on the parts and labor on the average warranty job and made \$2.95 on the parts and labor on the average retail job.

West Virginia now requires no manufacturer, "pay its dealers an amount less than that charged by the dealer to retail customers of the dealer for nonwarranty and nonrecall work of the like kind; and in no event shall any manufacturer compensate for warranty and retail work based on a flat rate figure that is less than what the dealer charges for retail work."

Texas law now states: In no event shall any manufacturer or distributor pay its dealers an amount of money for warranty work that is less than that charged for nonwarranty work of like kind."

New Jersey law states: "The motor vehicle franchisor shall reimburse each motor vehicle franchisee for such services as are rendered and for such parts as are supplied, in an amount equal to the prevailing price charged by such motor vehicle franchisee for such services and parts in circumstances where such services are rendered or such parts supplied other than pursuant to warranty". The law goes on to state the retail price can't be unreasonable.

Five other states have adopted similar language to protect the dealers. And, at least seven current legislatures are considering bills to address the short fall in some facet of warranty reimbursement.

As part of the continued evolution of strengthening the dealers ability to recoup warranty work costs, our proposal specifies the manuals for flat rate time the dealers will be using in the repair equation that is their retail time. This clearly specifies to the dealer and the manufacturer what "retail" is and how it is to be derived.

The manuals specified in the proposal are Chilton's, Motors or Mitchell. These manuals are nationally recognized as the flat rate manuals used for retail labor times throughout the nation. These manuals determine their times by a program of continually surveying independent or retail automotive repair outlets. Their figures are accepted by insurance companies and independent extended warranty companies on a nationwide basis.

In various comparisons, we have found the differences between factory times and the independent manuals to range as low as 0% to 167% depending on the repair operation. But, by and large the average difference is in the 30-40% range. The times generally reflect the needs of an average trained auto mechanic using factory recommended tools and factory recommended repair procedures.

The times include allowances for vehicle repair preparation, normal clean-up associated with repair, verification of repair, mechanics personal needs, preventative measures and any other service that would normally accompany an individual operation.

Times don't include training or excessive reference time on unfamiliar operations. Nor do they include allowance for diagnosis, machine operations, booking the job or any special courtesy services that may be performed.

The labor times are determined by the manual's editors with extensive mechanical backgrounds in the automotive industry. Times are based on field research surveys, data supplied by the vehicle manufacturers and actual field studies.

Given the widespread acceptance of the specified manuals, they offer a credible source for determining the retail flat rate to be used by Montana's dealers in performing their warranty obligations. After all the point here is that it is not reasonable for the manufacturer to ask us to lose money fulfilling the promise made by them to Montana's auto consumer.

We ask your support and a "do pass" recommendation on House Bill 258.



Ford Motor Company  
Regional Governmental Relations Office

1560 Broadway — Suite 890  
Denver, Colorado 80202  
Telephone: 303/860-8888

## STATEMENT OF FORD MOTOR COMPANY

## Montana House Bill 258

Ford Motor Company respectfully submits the following comments with respect to Montana House Bill 258. Ford is opposed to the changes the bill would make with respect to a manufacturer's obligations to dealers for warranty work performed under our dealer franchise agreement. Such legislation is premature, unnecessary, and will likely result in higher prices to consumers.

The National Automobile Dealers Association (NADA) is currently conducting a national study of dealer warranty reimbursement, and state legislation on this subject is premature. A uniform national warranty program, including dealer reimbursement, which treats all dealers and consumers fairly, is the most reasonable and equitable. Any departure from a national program would be difficult and costly to administer. Manufacturers will not likely be able to absorb the increased cost, and such legislation could result in higher prices to consumers. The NADA is presently conducting a national study with groups of new vehicle dealers. Ford and other manufactureres have agreed to meet with NADA to review the results of that study, and expect that to be accomplished within the next thirty days. We would respectfully request that any legislative action on warranty reimbursement should be postponed to give the industry a chance to review the study results, meet to discuss them and to avoid a patchwork approach to the issue. *National program = less costly*

Changes to the warranty reimbursement law are unnecessary because the dealers' parts and service business is presently profitable and the trend in gross margins continues to improve. Ford dealer profitability on parts and service business, including warranty, has increased over the past five years by 45% and parts and service gross margins (sales, repairs, parts cost and technician wages) have increased 54% from 1985 through 1989. The average dealer gross margin for warranty repairs (on a percentage of sales basis) has improved from 39.8% in 1985 to 40.6% in 1989. Warranty gross margins have been higher than the average parts and service business. Any departure from our national warranty reimbursement program would result in higher costs that will have to be recovered through pricing action.



Ford's current level of warranty compensation is uniform, fair, and reasonable. Dealers are compensated for parts at cost plus a 30% markup and at their stated retail labor rate provided it is reasonable and competitive in their market. The increased costs resulting from proposed legislation would have to be recovered through pricing actions. Compensation on an individual dealer basis would result in a substantial administrative expense, resulting in a significant price increase. Dealers in your state may then find themselves in a non-competitive situation with respect to dealers outside your state. Ultimately, consumers in your state would bear the burden of this increased cost while receiving no additional benefit.

2 - Ford reimburses its dealers at the individual dealer's hourly retail labor rate provided it is fair, reasonable, and competitive. There are two elements to the amount charged for labor for a repair, whether it is a warranty repair or customer pay -- the hourly labor rate and the amount of time reasonably required to perform the repair. Ford reimburses its dealers at the individual dealer's hourly retail labor rate provided it is fair, reasonable, and competitive. Over 97% of Ford's warranty labor payments are at the dealer's stated retail labor rate. Time standards for warranty labor operations are set up using the Ford Labor Time Standards Manual. Ford labor time standards are developed by timing technician operations using actual vehicles in a dealership environment. A contingency allowance of 5% is added to the actual time for technician personal needs; then, an additional 20% is added for vehicle age, condition, and variations in technician proficiency.

1 McCall Other time standard manuals published by independents, such as Chilton and Motors, are used by many dealers for non-warranty retail repair work. These independents seldom, if ever, time any operations. Generally, they use surveys of independent and dealer service shops to establish labor time standards. From a review of their manuals, it appears that they take manufacturers' time standards and apply an increase factor. [Independent publishers have justified such higher allowances on the grounds that their manuals are primarily intended for independent repair shops, which are at a disadvantage to new car dealers in the areas of factory shop manuals, service bulletins, technical training, special tools and equipment and product specialization.]

The proposed legislation would require a dealer to use independent manuals for warranty repairs. There is no conceivable justification for doing so other than to enrich the dealer at the expense of the consumer.

Ford would urge that the proposed legislation not be enacted.

Respectfully submitted,

*Tom Schwertfeger*

Thomas Schwertfeger  
Regional Manager  
State Government Relations

3 - *Some standard  
of reasonableness*

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/5/91 Bill No. HJR 27 Time 10 a.m.

NAME

YES

NO

SENATOR WILLIAMS	✓	
SENATOR THAYER	✓	
SENATOR NOBLE	✓	
SENATOR HAGER	✓	
SENATOR GAGE	✓	
SENATOR FRANKLIN	✓	
SENATOR BRUSKI	✓	
SENATOR KENNEDY	✓	
SENATOR LYNCH	✓	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: Be CONCURRED IN

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/5/91 Bill No. H13683 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	✓	
SENATOR THAYER	✓	
SENATOR NOBLE	✓	
SENATOR HAGER	✓	
SENATOR GAGE	✓	
SENATOR FRANKLIN	✓	
SENATOR BRUSKI	✓	
SENATOR KENNEDY	✓	
SENATOR LYNCH	✓	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: To AMEND TAKE OUT SECT. 8

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/5/91 Bill No. HB 683 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		X
SENATOR GAGE		X
SENATOR FRANKLIN		X
SENATOR BRUSKI		X
SENATOR KENNEDY	X	
SENATOR LYNCH		X

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Williams  
Motion:

CONCUR IN AS AMENDED

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2/5/91 Bill No. HB683 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS		✓
SENATOR THAYER		X
SENATOR NOBLE		X
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY		X
SENATOR LYNCH	✓	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: NOT BE CONCURRED IN AS AMENDED

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 5, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 683 (third reading copy -- blue), respectfully report that House Bill No. 683 be amended and as so amended be not concurred in:

1. Title, line 8.

Following: "PENALTIES;"

Insert: "AND"

2. Title, lines 8 and 9.

Following: "MCA"

Strike: "; AND" on line 8 through "DATE" on line 9

3. Page 2, line 22.

Strike: "provide"

Insert: "provided"

4. Page 4, lines 19 and 20.

Strike: section 8 in its entirety

Signed: 

John "J.D." Lynch, Chairman

3-5-91  
And. Coord.

Sec. of Senate

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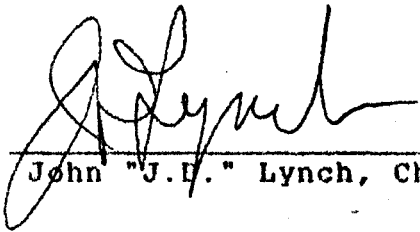
SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 5, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Joint Resolution No. 27 (third reading copy - blue), respectfully report that House Joint Resolution No. 27 be concurred in.

Signed:

  
John "J.J." Lynch, Chairman

44 3-5-91

Amd. Coord.

SR 3-5

Sec. of Senate