

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

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Date

Committee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

HB10-1049 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 4, after line 2 insert:

2 "SECTION 2. 12-6-102, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **12-6-102. Definitions.** As used in this part 1 and in part 5 of this  
5 article, unless the context or section 12-6-502 otherwise requires:

6 (9.7) "FRANCHISE" MEANS THE AUTHORITY TO SELL OR SERVICE  
7 AND REPAIR MOTOR VEHICLES OF A DESIGNATED LINE-MAKE GRANTED  
8 THROUGH A SALES, SERVICE, AND PARTS AGREEMENT WITH A  
9 MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER REPRESENTATIVE."

10 Renumber succeeding sections accordingly.

11 Page 5, line 24, after "AREA" insert "DUE TO THE INSOLVENCY OF THE  
12 MANUFACTURER OR DISTRIBUTOR".

13 Page 6, line 19, strike "amended" and substitute "amended, and the said  
14 12-6-120.5 (2) is further amended BY THE ADDITION OF A NEW  
15 PARAGRAPH,".

16 Page 6, after line 24 insert:

1           (f) OPERATION OF A MOTOR VEHICLE DEALER IF THE  
2 MANUFACTURER WAS OPERATING THE DEALER ON JANUARY 1, 2009, SO  
3 LONG AS THE DEALER IS IN CONTINUOUS OPERATION AFTER JANUARY 1,  
4 2009.

5           **SECTION 6.** 12-6-126 (1) and (2), Colorado Revised Statutes,  
6 are amended to read:

7           **12-6-126. Audit reimbursement limitations - dealer claims.**

8 (1) (a) A manufacturer, distributor, or manufacturer representative shall  
9 have the right to audit warranty, sales, or incentive claims of a motor  
10 vehicle dealer for ~~fifteen months~~ ONE HUNDRED EIGHTY DAYS after the  
11 date the claim was submitted.

12           (b) A manufacturer, distributor, or manufacturer representative  
13 shall not require documentation for warranty, sales, or incentive claims  
14 or audit warranty, sales, or incentive claims of a motor vehicle dealer  
15 more than ~~twenty-four~~ TWELVE months after the date the claim was  
16 submitted, nor shall the manufacturer require a charge back,  
17 reimbursement, or credit against a future transaction arising out of an  
18 audit or request for documentation arising more than ~~fifteen months~~ ONE  
19 HUNDRED EIGHTY DAYS after the date the claim was submitted.

20           (2) The motor vehicle dealer shall have ~~fifteen months~~ ONE  
21 HUNDREDEIGHTYDAYS after making a sale or providing service to submit  
22 warranty, sales, or incentive claims to the manufacturer, distributor, or  
23 manufacturer representative."

24 Renumber succeeding sections accordingly.

25 Page 7, strike lines 1 through 6 and substitute the following:

26           **"12-6-128. Payout exemption to execution.** A MOTOR VEHICLE  
27 DEALER'S RIGHT TO RECEIVE PAYMENTS FROM A MANUFACTURER OR  
28 DISTRIBUTOR REQUIRED BY SECTION 12-6-120 (1) (l) AND (1) (r) IS NOT  
29 LIABLE TO ATTACHMENT OR EXECUTION AND MAY NOT OTHERWISE BE  
30 SEIZED, TAKEN, APPROPRIATED, OR APPLIED IN A LEGAL OR EQUITABLE  
31 PROCESS OR BY OPERATION OF LAW TO PAY THE DEBTS OR LIABILITIES OF  
32 THE MANUFACTURER OR DISTRIBUTOR. THIS SECTION SHALL NOT".

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