

190.046 Compensation to dealer for work performed under warranty -- "Reasonable compensation" -- Proof.

- (1) Notwithstanding the terms of any franchise agreement, each motor vehicle manufacturer or distributor, doing business within this Commonwealth, shall assume all responsibility for and shall defend, indemnify, and hold harmless its motor vehicle dealers against any loss, damages, and expenses, including legal costs, arising out of complaints, claims, recall repairs or modifications or factory authorized or directed repairs, or lawsuits resulting from warranty defects, which shall include structural or production defects; defects in the assembly; or design of motor vehicles, parts, accessories; or other functions beyond the control of the dealer, including without limitation, the selection of parts or components for the vehicle. Each manufacturer or distributor shall pay reasonable compensation to any authorized dealer who performs work to repair defects, or to repair any damage to the manufacturer's or distributor's product sustained while the product is in transit to the dealer, when the carrier or the means of transportation is designated by the manufacturer or distributor. Each manufacturer or distributor shall provide to its dealers with each model year a schedule of time allowances for the performance of warranty repair work and services, which shall include time allowances for the diagnosis and performance of warranty work and service time, and shall be reasonable and adequate for the work to be performed.
- (2) In the determination of what constitutes "reasonable compensation" under this section, the principal factor to be considered shall be the amount of money that the dealer is charging its other customers for the same type service or repair work. Other factors may be considered, including the compensation being paid by other manufacturers or distributors to their dealers for work; and the prevailing amount of money being paid or charged by the dealers in the city or community in which the authorized dealer is doing business. "Reasonable compensation" shall include diagnosing the defect; repair service; labor; parts and administrative and clerical costs. The compensation of a dealer shall not be less than the amount charged by the dealer for like services and parts, which minimum compensation for parts shall be dealer cost plus thirty percent (30%) gross profit, to retail customers for nonwarranty service and repairs, or less than the amounts indicated for work on the schedule of warranty compensation required to be filed by the manufacturer with the commission as a part of the manufacturer's license application by KRS 190.030.
- (3) A manufacturer or distributor shall not require unreasonable proof to establish "reasonable compensation" or delay reimbursement of payment to the dealer beyond thirty-five (35) days from the submission by mail of a valid warranty claim. If a valid warranty claim is not paid within forty-five (45) days, the dealer may give the manufacturer one (1) copy of the dealer's related repair order bearing the customer's signature, the dealer's signature, the date the work was completed, the vehicle serial number or identification number, the odometer reading, the date of delivery of the vehicle, a list of the parts and supplies used if applicable, a brief general description of the defect, and the amount of money charged the manufacturer or distributor for the work. If, after fifteen (15) days, the valid warranty claim is still not paid, the

dealer may deduct a like amount from any moneys due or owing to the manufacturer or distributor. The dealer shall hold the defective part for inspection by the manufacturer or distributor for a period of time not to exceed ninety (90) days from the time the warranty claim is submitted. The manufacturer or distributor shall not unfairly discriminate against any dealer in the application of warranty, policy, and procedure or deny any valid warranty order claim submitted by a franchised dealer within thirty (30) days from completion of the work or longer if existing manufacturer-dealer relationships apply. Upon the written request of the dealer for valid reasons, the manufacturer shall extend the submission time. Any dispute between the dealer and the manufacturer or distributor shall be subject to the provisions of KRS 190.057.

- (4) All audits by a manufacturer shall be limited to a period of one (1) year prior to the date of the audit.

Effective: February 22, 2000

History: Amended 2000 Ky. Acts ch. 23, sec. 4, effective February 22, 2000. -- Amended 1992 Ky. Acts ch. 452, sec. 5, effective July 14, 1992. -- Amended 1982 Ky. Acts ch. 373, sec. 7, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 182, sec. 2, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 107, sec. 1. -- Created 1972 Ky. Acts ch. 75, sec. 2.