

RÉSUMÉ DIGEST

ACT 244 (SB 470)

2020 Regular Session

Morris

Prior law, relative to recreational vehicles, provided that it is a violation for a manufacturer, a distributor, a wholesaler, or factory branch, or officer, agent or other representative thereof, to fail to adequately and fairly compensate its recreational vehicle dealers for labor, parts, and other expenses incurred by such dealer to perform under and comply with a manufacturer's or a distributor's warranty agreement. Prior law provided that in no event shall any manufacturer or distributor pay its recreational vehicle dealers at a price or rate for warranty work that is less than that charged by the recreational vehicle dealer to the retail customers of the recreational vehicle dealer for nonwarranty work of like kind. Provides that warranty work includes parts and labor performed. Required that all claims made by the recreational vehicle dealer for compensation be paid within 30 days after approval and be approved or denied within 30 days after receipt. Required that when any claim is denied, the recreational vehicle dealer be notified in writing of the grounds for denial. Prior law provided that the obligations above may be modified by contract.

New law provides that these obligations may not be modified by contract. Otherwise retains prior law.

Prior law provided that notwithstanding the terms of any franchise agreement, warranty, and sales incentive, audits of recreational vehicle dealer records may be conducted by the manufacturer, distributor, or factory branch. Required that any audit for warranty parts or service compensation be for the 12-month period immediately following the date of the payment of the claim by the manufacturer or distributor. However, provided that a recreational vehicle dealer shall not be held liable by virtue of an audit for failure to retain parts for a period in excess of six months. Provided that any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall be only for the 12-month period immediately following the date of the final payment to the recreational vehicle dealer under a promotion, event, program, or activity. Provided that in no event shall the manufacturer, distributor, or factory branch fail to allow the recreational vehicle dealer to make corrections to the sales data in less than 120 days from the program period. Further, no penalty other than amounts advanced on a recreational vehicle reported incorrectly shall be due in connection with the audit. Provided that with respect to recreational vehicles sold during the time period subject to the audit, but submitted incorrectly to the manufacturer, distributor, or wholesale distributor branch or factory branch, the recreational vehicle dealer shall be charged back for the amount reported incorrectly and credited with the amount due, if anything, on the actual sale date. Provided that no claim which has been approved and paid may be charged back to the recreational vehicle dealer unless it can be shown that the claim was false or fraudulent, the repairs were not properly made, the repairs were unnecessary to correct the defective condition under generally accepted standards of workmanship, the recreational vehicle dealer failed to reasonably substantiate the repair in accordance with reasonable written requirements of the manufacturer or distributor, or if the recreational vehicle dealer was notified of the requirements prior to the time the claim arose and if the requirements were in effect at the time the claim arose.

Prior law provided that a manufacturer or distributor shall not deny a claim solely based on a recreational vehicle dealer's incidental failure to comply with a specific claim processing requirement, or a clerical error, or other administrative technicality.

Prior law provided that limitations on warranty parts or service compensation, sales incentive audits, rebates, or other forms of incentive compensation, chargebacks for warranty parts or service compensation, and service incentives and chargebacks for sales compensation only shall not be effective in the case of intentionally false or fraudulent claims.

Prior law provided that it shall be deemed an unfair act relative to the distribution and sale of motor vehicles, to audit a recreational vehicle dealer more frequently than two sales-related and two service-related audits in a 12-month period. Provided that nothing shall limit a manufacturer's or distributor's ability to perform routine claim reviews in the normal course of business.

Prior law provided that no claim may be rejected as late if it has been submitted within 60 days of the date the repair order was written.

New law provides that no claim may be rejected as late if it has been submitted within 60 days of the date the repair order was completed. Otherwise retains prior law.

Effective August 1, 2020.

(Amends R.S. 32:1270.23(A)(5) and (B)(6))