

8-2415. Correction of warranty defects; compensation to dealer; promotional allowances or incentive payments; claim for reimbursement from dealer. (a) A first or second stage manufacturer or distributor shall pay reasonable compensation to any authorized new vehicle dealer who performs work to rectify warranty defects in the first or second stage manufacturer's or distributor's product.

(b) A first or second stage manufacturer or distributor shall pay any authorized new vehicle dealer all promotional allowances or other incentive payments submitted by the dealer as provided by the applicable provisions of such programs subject to the applicable requirements of this act.

(c) In the determination of what constitutes reasonable compensation for warranty work under this act, among the factors to be considered shall be: The rate or charge which the authorized vehicle dealer in good faith is charging other customers for the same type of service or repair work, the compensation being paid by other first or second stage manufacturers or distributors to their vehicle dealers for the same work or service, and the prevailing wage or labor rate being paid or charged by all vehicle dealers licensed to operate in the city or community in which said authorized vehicle dealer is doing business.

(d) A first or second stage manufacturer or distributor shall not require unreasonable proof to establish compensation under this section, nor act unreasonably to delay payments or adjustments in the rate or charge for particular warranty work, promotional allowances or other incentive payments as circumstances or changes may justify or require such adjustments. A claim for compensation shall not be divided or the amount to be reimbursed reduced if the new vehicle dealer has reasonably substantiated the claim. A new vehicle dealer's failure to comply with the specific requirements of processing a claim may not constitute grounds for denial of the claim or reduction of the amount of compensation paid to the dealer if the dealer presents reasonable documentation or other evidence to substantiate the claim. If the claim is for warranty work, whether or not it includes parts, repairs or services, then the amount of compensation for the claims shall not be reduced or disallowed on the grounds the dealer failed to submit the claim fewer than 60 days after the dealer completed the work underlying the claim.

(e) A claim made by a new motor vehicle dealer for compensation under this section shall be either approved or disapproved within 30 days after the claim is submitted to the first or second stage manufacturer or distributor in the manner and on the forms the first or second stage manufacturer or distributor reasonably prescribes. An approved claim shall be paid within 30 days after its approval. If a claim is not specifically disapproved in writing or by electronic transmission within 30 days after the date on which the first or second stage manufacturer or distributor receives it, the claim shall be considered to be approved and payment shall follow within 30 days. A first or second stage manufacturer or distributor retains the right to audit claims for warranty work for a period of one year after the date on which the claim is paid and to chargeback any amounts paid on claims that are false or unsubstantiated. A first or second stage manufacturer or distributor retains the right to audit claims for promotional allowances or other incentive payments submitted by the dealer for a period of one year after the date on which the claim is paid and to chargeback any amounts paid on claims that are false or unsubstantiated. If there is evidence of fraud, this subsection does not limit the right of the manufacturer to audit for longer periods and chargeback for any fraudulent claim, subject to the limitation period under paragraph (3) of subsection (a) of K.S.A. 60-513, and amendments thereto, in addition to any other available remedy. A claim for reimbursement by the first or second stage manufacturer or distributor of sums due following an audit must be presented to the dealer within 90 days of the audit of the item subject to the claim. A first or second stage manufacturer or distributor may not setoff or otherwise take control over funds owned, or under the control of the new vehicle dealer, or which are in an account designated for the new vehicle dealer when such action is based upon the findings of an audit or other claim with respect thereto until a final decision is issued with respect to any challenge or appeal by either party of any such audit or claim. This section may be enforced pursuant to K.S.A. 8-2411, and amendments thereto.

History: L. 1980, ch. 36, § 15; L. 1994, ch. 302, § 7; L. 2010, ch. 71, § 5; Apr. 15.