

MOTOR VEHICLE FRANCHISE ACT (EXCERPT)
Act 118 of 1981

445.1577 Dealer's obligations for preparation, delivery, and warranty service; written specifications; compensating dealer for required warranty service; schedule of compensation; prohibited conduct; claims for labor and parts; payment; approval or disapproval; charge back for false or fraudulent claims; records of warranty repairs; compensation and claims for promotion events, programs, or activities; approval or disapproval of claims; meeting; disclosure of proprietary or confidential information; audit.

Sec. 17. (1) A manufacturer shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, recall service, and warranty service on its products. A manufacturer shall compensate a new motor vehicle dealer for recall or warranty service required of the dealer by the manufacturer. A manufacturer shall provide a new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, work, and service, and the time allowance for the performance of the work and service. A manufacturer shall also include in the schedule of compensation a reasonable time allowance for labor for diagnostic work and repair work, included in the manufacturer's labor time allowance or listed as a separate compensable item. A dealer may submit a request for an additional time allowance for either diagnostic or repair time, that includes any information and documentation reasonably required by the manufacturer, and a manufacturer shall not unreasonably deny that request. The schedule of compensation shall include reasonable compensation for parts reimbursement and labor rates as determined under section 17a(1).

(2) A manufacturer shall not do any of the following:

(a) Fail to perform any recall or warranty obligation.

(b) Fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of the defects.

(c) Fail to compensate a new motor vehicle dealer licensed in this state for repairs made in connection with the recall.

(3) A manufacturer shall pay a claim made by a new motor vehicle dealer under this section for labor and parts within 30 days after its approval. A manufacturer shall either approve or disapprove a claim within 30 days after receiving the claim, submitted on the form generally used by the manufacturer and containing the information usually required in the form. Any claim not specifically disapproved in writing within 30 days after the manufacturer receives the claim form is considered approved, and the manufacturer shall pay the claim within 30 days.

(4) Subject to subsections (5) and (10), if a manufacturer has approved and paid a new motor vehicle dealer for a claim, the manufacturer may only charge the claim back to the dealer if 1 of the following is met:

(a) The manufacturer shows that the claim is fraudulent. However, the manufacturer may not charge back the amount paid if the claim is found to be fraudulent more than 6 years after payment.

(b) The manufacturer shows that the claim is false, unsubstantiated, lacks proper documentation, or shows an improper diagnosis process or improper repair procedures. However, the manufacturer may not charge back the amount paid if the claim is found to be false, unsubstantiated, to lack proper documentation, or show an improper diagnosis process or repair procedures more than 12 months after payment.

(5) If a manufacturer seeks to charge back a claim under subsection (4) on the basis that the claim is false, unsubstantiated, or lacks proper documentation, or shows an improper diagnosis process or improper repair procedures, a new motor vehicle dealer has 14 days after the date the new motor vehicle dealer receives notice of the chargeback to supply documentation that meets the manufacturer's requirements to support the validity of the claim, and if the claim is valid, the manufacturer shall not charge back the claim to the new motor vehicle dealer.

(6) A manufacturer may not deny a claim made under this section because of a new motor vehicle dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error, that does not call into question the legitimacy of the claim.

(7) A new motor vehicle dealer shall maintain all records of warranty repairs, including the related time records of its employees, for at least 2 years following payment of any warranty claim.

(8) A manufacturer shall compensate a new motor vehicle dealer for any sales or service promotion events, incentives, programs, or activities sponsored by the manufacturer, in accordance with established guidelines for those events, incentives, programs, or activities.

(9) A manufacturer shall pay a claim for compensation owed to a new motor vehicle dealer under subsection (8) for a promotion event, incentive, program, or activity within 15 days after its approval. A manufacturer shall either approve or disapprove a claim for compensation described in this subsection within 30 days after receiving the claim, submitted on the form generally used by the manufacturer and containing the information usually required in the form. Any claim for compensation the manufacturer does not specifically disapprove in writing within 30 days after receiving the claim form is considered approved, and the manufacturer shall pay the amount of the claim within 30 days. A manufacturer may only charge back a claim for compensation described in this subsection under subsection (4).

(10) A manufacturer may not charge a claim back to a new motor vehicle dealer after the claim is paid unless a representative of the manufacturer first meets in person or by video teleconference or telephone with an officer or employee of the dealer designated by the new motor vehicle dealer, or responds in writing to any dealer written request for information. All of the following apply if a meeting is held under this subsection:

(a) At the meeting, the manufacturer shall provide a detailed explanation, with supporting documentation, of the basis for each proposed chargeback of a claim to the dealer and a written statement containing the basis on which the claim or claims of the dealer were selected for audit or review by the manufacturer. However, the manufacturer is not required to disclose proprietary or confidential information about a customer or other dealer under this subdivision, and is not required to disclose any information if disclosure is prohibited by law.

(b) After the meeting, the manufacturer shall provide the motor vehicle dealer's representative a reasonable period of time of at least 45 days to respond to the proposed chargebacks. The manufacturer shall provide a longer period of time for the dealer to respond if warranted by the volume of proposed chargebacks.

(c) An unexcused failure or refusal of the dealer or designated officer or employee of the dealer to schedule, attend, or participate in the meeting with the manufacturer relieves the manufacturer from any further obligation under this subsection.

(11) A manufacturer may conduct an audit of the records of a new motor vehicle dealer relating to a warranty or promotion claim submitted by a new motor vehicle dealer under this section, but the manufacturer may only conduct that audit in the time periods allowed for warranty or promotional claim chargebacks under this section.

History: 1981, Act 118, Imd. Eff. July 19, 1981;—Am. 1983, Act 188, Imd. Eff. Nov. 1, 1983;—Am. 2010, Act 138, Imd. Eff. Aug. 4, 2010;—Am. 2018, Act 668, Eff. Mar. 28, 2019.