

RECREATIONAL VEHICLE FRANCHISE ACT (EXCERPT)
Act 33 of 2009

***** 445.1947.new THIS NEW SECTION IS EFFECTIVE DECEMBER 1, 2009 *****

445.1947.new Violation of act; civil action; attorney fees; venue; mediation; written demand; service; selection of mediator; filing of complaint, petition, protest, or other action; order suspending action; costs.

Sec. 27. (1) A dealer, manufacturer, or warrantor injured by another party's violation of this act may bring a civil action in circuit court to recover its actual damages. The court shall award attorney's fees and costs to the prevailing party in a civil action under this section.

(2) The venue for a civil action under this section involving 1 dealer is the county in which the dealer's business is located. In an action involving more than 1 dealer, any county in which the business of any dealer that is party to the action is located is a proper venue for that action.

(3) Before bringing a civil action under this section, the party bringing suit for an alleged violation of this act shall serve a written demand for mediation on the offending party. The demand for mediation shall include a brief statement of the dispute and the relief sought by the party making the demand. The party making the demand for mediation shall serve the demand by certified mail to 1 of the following addresses:

(a) In an action between a dealer and a manufacturer, the address stated in the dealer agreement between the parties.

(b) In an action between a dealer and a warrantor that is not a manufacturer, the address stated in any agreement between the parties.

(c) In an action between 2 dealers, the address of the offending dealer in the records of the department.

(4) Within 20 days after a demand for mediation is served under subsection (3), the parties shall mutually select an independent mediator who is approved by the department, and meet with that mediator for the purpose of attempting to resolve the dispute at a location in this state selected by the mediator. The mediator may extend the date of the meeting for good cause shown by either party or if the parties agree to the extension.

(5) The service of a demand for mediation under subsection (3) tolls the time for the filing of any complaint, petition, protest, or other action under this act until representatives of both parties have met with the mediator selected under subsection (4) for the purpose of attempting to resolve the dispute. If a complaint, petition, protest, or other action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the mediation meeting has occurred and may, if all of the parties to the proceeding or action stipulate in writing that they wish to continue to mediate under this section, enter an order suspending the proceeding or action for as long a period as the court considers appropriate. The court may modify, extend, or revoke a suspension order issued under this subsection if it considers that action appropriate.

(6) Each of the parties to the mediation under this section is responsible for its own attorney fees. The parties shall equally divide the cost of the mediator.

History: 2009, Act 33, Eff. Dec. 1, 2009.