

13-35-204 Franchisor's obligations related to service -- Franchisor audits -- Time limits.

- (1) Each franchisor shall specify in writing to each of its franchisees licensed as a new powersport vehicle dealer in this state:
 - (a) the franchisee's obligations for new powersport vehicle preparation, delivery, and warranty service on its products;
 - (b) the schedule of compensation to be paid to the franchisee for parts, work, and service; and
 - (c) the time allowance for the performance of work and service.
- (2)
 - (a) The schedule of compensation described in Subsection (1) shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor.
 - (b) Time allowances described in Subsection (1) for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed.
- (3)
 - (a) In the determination of what constitutes reasonable compensation under this section, the principal factor to be considered is the prevailing wage rates being paid by franchisees in the relevant market area in which the franchisee is doing business.
 - (b) Compensation of the franchisee for warranty service work may not be less than the amount charged by the franchisee for like parts and service to retail or fleet customers, if the amounts are reasonable. For purposes of this Subsection (3)(b), the term "cost" shall be that same price paid by a franchisee to a franchisor or supplier for the part when the part is purchased for a nonwarranty repair.
- (4) A franchisor may not fail to:
 - (a) perform any warranty obligation;
 - (b) include in written notices of franchisor's recalls to new powersport vehicle owners and franchisees the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; or
 - (c) compensate any of the franchisees for repairs effected by the recall.
- (5) If a franchisor disallows a franchisee's claim for a defective part, alleging that the part is not defective, the franchisor at its option shall:
 - (a) return the part to the franchisee at the franchisor's expense; or
 - (b) pay the franchisee the cost of the part.
- (6)
 - (a) A claim made by a franchisee pursuant to this section for labor and parts shall be paid within 30 days after its approval.
 - (b)
 - (i) A claim shall be either approved or disapproved by the franchisor within 30 days after receipt of the claim on a form generally used by the franchisor and containing the generally required information.
 - (ii) Any claim not specifically disapproved of in writing within 30 days after the receipt of the form is considered to be approved, and payment shall be made within 30 days.
- (7) Warranty service audits of franchisee records may be conducted by the franchisor on a reasonable basis.
- (8) A franchisee's claim for warranty compensation may not be denied except for good cause such as performance of nonwarranty repairs, lack of material documentation, fraud, or misrepresentation.
- (9)

- (a) Any charge backs for warranty parts or service compensation and service incentives shall only be enforceable for the 12-month period immediately following the date the payment for warranty reimbursement was made by the franchisor.
- (b) Except as provided in Subsection (9)(c), all charge backs levied by a franchisor for sales compensation or sales incentives arising out of the sale or lease of a powersport vehicle sold by a franchisee shall be compensable only if written notice of the charge back is received by the franchisee within 24 months immediately following the date when payment for the sales compensation was made by the franchisor.
- (c) The time limitations of this Subsection (9) do not preclude charge backs for any fraudulent claim that was previously paid.

Amended by Chapter 131, 2003 General Session