

CHAPTER 204-B

WATERCRAFT MANUFACTURERS, DISTRIBUTORS AND DEALERS

§1196. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 631 (NEW).]

1. Distributor or wholesaler. "Distributor" or "wholesaler" means any person who sells or distributes new or used watercraft or engines for watercraft to watercraft dealers or who maintains distributor representatives within this State.

[PL 1991, c. 631 (NEW).]

2. Franchise. "Franchise" means an oral or written arrangement for a definite or indefinite period in which a manufacturer, distributor or wholesaler grants to a watercraft dealer a license to use a trade name, service mark or related characteristic, and in which there is a community of interest in the marketing of watercraft or engines for watercraft or services related to watercraft at wholesale, retail, leasing or otherwise.

[PL 1991, c. 631 (NEW).]

3. Franchisee. "Franchisee" means a watercraft dealer to whom a franchise is offered or granted.

[PL 1991, c. 631 (NEW).]

4. Franchisor. "Franchisor" means a manufacturer, distributor or wholesaler who grants a franchise to a watercraft dealer.

[PL 1991, c. 631 (NEW).]

5. Manufacturer. "Manufacturer" means any person, partnership, firm, association, corporation or trust, resident or nonresident, that manufactures or assembles new watercraft or engines for watercraft, or imports for distribution through distributors of watercraft, or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, that is controlled by the manufacturer. The term "manufacturer" includes the term "distributor" or "wholesaler."

[PL 1991, c. 631 (NEW).]

6. Watercraft. "Watercraft" means any type of vessel, boat or craft used or capable of being used as a means of transportation on water. "Watercraft" does not include a seaplane or a personal sports mobile as defined in section 1242, subsection 15.

[PL 1997, c. 473, §2 (AMD).]

7. Watercraft dealer. "Watercraft dealer" means any person who sells or solicits or advertises the sale of new or used watercraft or engines for watercraft. "Watercraft dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court or public officers while performing their duties as such officers.

[PL 1991, c. 631 (NEW).]

SECTION HISTORY

PL 1991, c. 631 (NEW). PL 1997, c. 473, §2 (AMD).

§1197. Warranty

1. Parts or labor; satisfaction of warranty. If a franchisor requires or permits a franchisee to perform labor or provide parts to satisfy a warranty created by the franchisor, the franchisor shall properly and promptly fulfill its warranty obligations and:

A. Reimburse the franchisee at the retail rate customarily charged for any parts provided by the franchisee to satisfy the warranty; and [PL 1991, c. 631 (NEW).]

B. Reimburse the franchisee for any labor performed by the franchisee to satisfy the warranty. Reimbursement for labor may not be less than the retail rate customarily charged by that franchisee for the same labor when not performed to satisfy a warranty. To be entitled to reimbursement under this section, a franchisee must post in a place conspicuous to service customers the rate for labor not performed to satisfy a warranty. [PL 1991, c. 631 (NEW).]

[PL 1991, c. 631 (NEW).]

2. Restrictions prohibited. A franchisor may not, by agreement, by restriction upon reimbursement or otherwise, restrict the nature or extent of labor performed or parts provided if such a restriction impairs the franchisee's ability to satisfy a warranty created by the franchisor by performing labor competently or by providing parts in accordance with generally accepted standards.

[PL 1991, c. 631 (NEW).]

3. Claim. A claim by a franchisee for compensation for parts provided or for reimbursement for labor performed to satisfy a warranty must be approved or disapproved within 30 days of receipt by the franchisor. A claim that is approved must be paid within 30 days of its approval. If a franchisor disapproves a claim, it shall notify the franchisee that submitted the claim within 30 days of disapproval of the specific reasons for disapproval.

[PL 1991, c. 631 (NEW).]

4. Costs; fees. If a franchisee brings a legal action to collect a disapproved claim and is successful in that action, the court shall award the franchisee the cost of the action and reasonable attorney's fees. Reasonable attorney's fees must be determined by the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the franchisee.

[PL 1991, c. 631 (NEW).]

SECTION HISTORY

PL 1991, c. 631 (NEW).

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