

2020 Kansas Statutes

8-2446. Recall repairs; compensation by manufacturer. (a) As used in this section:

- (1) "Manufacturer" means a first or second stage manufacturer of vehicles, factory branch, distributor or factory representative, officer or agent or any representative thereof or any other person acting on their behalf;
- (2) "stop-sale order" means a notification or its equivalent issued by a manufacturer to its franchised new vehicle dealer stating that certain motor vehicles in inventory shall not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or noncompliance or a federal emissions recall; and
- (3) "do-not-drive order" means a notification or its equivalent issued by the national highway traffic safety administration that prohibits the sale or operation of certain motor vehicles held in inventory due to a federal safety recall for a defect or non-compliance or a federal emissions recall.

(b) (1) A manufacturer shall compensate its new vehicle dealers for all labor and parts required to perform recall repairs. Compensation for recall repairs shall be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a vehicle dealer authorized to sell and service new vehicles of the same line-make within 30 days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a stop-sale or do-not-drive order on the vehicle, then the manufacturer shall compensate the dealer at the prorated rate of at least 1% of the value of the vehicle per month beginning on the date that is 30 days after the date on which the stop-sale or do-not-drive order was provided to the dealer until the earlier of either:

- (A) The date the recall or remedy parts are made available; or
 - (B) the date the dealer sells, trades or otherwise disposes of the affected used motor vehicle.
- (2) The value of a used vehicle shall be the average trade-in value for used vehicles as indicated in an independent third party guide for the year, make and model of the recalled vehicle.

(3) In the alternative, a manufacturer may compensate its new vehicle dealers subject to a stop-sale or do-not-drive order under a national recall compensation program, provided that the compensation under the program is equal to or greater than that provided under this subsection, or the manufacturer and dealer otherwise agree.

(c) This section shall apply only to used vehicles subject to safety or emissions recalls pursuant to, and recalled in accordance with, federal law as well as rules and regulations adopted thereunder where a stop-sale or do-not-drive order has been issued and repair parts or remedy parts remain unavailable for 30 days or longer. Furthermore, this section shall apply only to new vehicle dealers holding an affected used vehicle for sale:

- (1) In inventory at the time the stop-sale or do-not-drive order was issued; or
- (2) that was taken into the used vehicle inventory of the dealer as a consumer trade-in incident to the purchase of a new vehicle from the dealer after the stop-sale or do-not-drive order was issued; and
- (3) that are a line-make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs.

(d) It shall be a violation of this section for a manufacturer to reduce the amount of compensation otherwise owed to a new vehicle dealer, or otherwise retaliate, whether through a chargeback, removal of the individual dealer from an incentive program or reduction in the amount owed under an incentive program or any other means, solely because the new vehicle dealer has made or submitted a claim for reimbursement under this section. This subsection shall not apply to an action by a manufacturer that is applied uniformly among all dealers of the same line-make in the state.

(e) A manufacturer may direct the manner and method in which a vehicle dealer must demonstrate the inventory status and identification of the affected used vehicle to determine eligibility under this section, provided that the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to provide.

(f) Nothing in this section shall require a manufacturer to provide total compensation to a vehicle dealer for any single unit that would exceed the total average trade-in value of the affected used motor vehicle as originally determined under subsection (b).

(g) Any remedy provided to a vehicle dealer under this section is exclusive and may not be combined with any other state or federal recall compensation remedy. It shall not be deemed to supersede or otherwise replace the provisions of K.S.A. 8-2419, and amendments thereto.

(h) This section shall be a part of and supplement to the vehicle dealers and manufacturers licensing act.

History: L. 2018, ch. 49, § 2; Apr. 19.