

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1288
92ND GENERAL ASSEMBLY

Reported from the Committee on Transportation and Motor Vehicles, March 9, 2004, with recommendation that the House Committee Substitute for House Bill No. 1288 Do Pass by Consent.

STEPHEN S. DAVIS, Chief Clerk

4237L.04C

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to compensation agreements between franchisors and franchisees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be
2 known as section 407.1047, to read as follows:

**407.1047. 1. The provisions of this section shall apply to franchisors and
2 franchisees engaged in the sale of motorcycles and all-terrain vehicles.**

**3 2. Each franchisor shall specify in writing to each of its franchisees in this state the
4 franchisee's obligations for preparation, delivery, and warranty service on its products.
5 The franchisor shall compensate the franchisee for warranty service required of the
6 franchisee by the franchisor.**

**7 3. The franchisor shall provide the franchisee with the schedule of compensation
8 to be paid to the franchisee for parts, work, and service, and the time allowance for the
9 performance of the work and service. The schedule of compensation shall include
10 reasonable compensation for diagnostic work, as well as repair service and labor. Time
11 allowances for the diagnosis and performance of warranty work and service shall be
12 reasonable and adequate for the work performed. In the determination of what
13 constitutes reasonable compensation under this section, the principal factor to be given
14 consideration shall be the prevailing wage rates being paid by the franchisees in the
15 community in which the franchisee is doing business, and in no event shall the
16 compensation of a franchisee for warranty labor be less than the rates charged by the
17 franchisee for like service to retail customers for nonwarranty service and repairs,**

18 provided that such rates are reasonable.

19 4. A franchisor shall not:

20 (1) Fail to perform any warranty obligation;

21 (2) Fail to include in written notices of franchisor recalls to owners of new
22 motorcycles and all-terrain vehicles the expected date by which necessary parts and
23 equipment will be available to franchisees for the correction of the defects; or

24 (3) Fail to compensate any of the franchisees in this state for repairs effected by
25 the recall.

26 5. All claims made by a franchisee pursuant to this section for labor and parts
27 shall be paid within thirty days after their approval. All claims shall be either approved
28 or disapproved by the franchisor within thirty days after their receipt on a proper form
29 generally used by the franchisor and containing the usually required information therein.

30 Any claims not specifically disapproved in writing within thirty days after the receipt of
31 the form shall be considered to be approved and payment shall be made within thirty days.

32 A claim that has been approved and paid may not be charged back to the franchisee
33 unless the franchisor can show that the claim was fraudulent, false, or unsubstantiated,
34 except that a charge back for false or fraudulent claims shall not be made more than two
35 years after payment, and a charge back for unsubstantiated claims shall not be made more
36 than fifteen months after payment. A franchisee shall maintain all records of warranty
37 repairs, including the related time records of its employees, for at least two years following
38 payment of any warranty claim.

39 6. A franchisor shall compensate the franchisee for franchisor-sponsored sales or
40 service promotion events, programs, or activities in accordance with established guidelines
41 for such events, programs, or activities.

42 7. All claims made by a franchisee pursuant to subsection 5 of this section for
43 promotion events, programs, or activities shall be paid within ten days after their approval.

44 All claims shall be either approved or disapproved by the franchisor within thirty days
45 after their receipt on a proper form generally used by the franchisor and containing the
46 usually required information therein. Any claim not specifically disapproved in writing
47 within thirty days after the receipt of this form shall be considered to be approved, and
48 payment shall be made within thirty days. The franchisor has the right to charge back any
49 claim for twelve months after the later of either the close of the promotion event, program,
50 or activity, or the date of the payment.