

367.865 Informal dispute resolution system.

- (1) Effective January 1, 1983, each motor vehicle manufacturer shall offer to the buyer a comprehensive informal dispute resolution system. By transacting business in the Commonwealth of Kentucky, each manufacturer is deemed to have voluntarily consented to participate in the system. Each system shall operate pursuant to written rules and procedures which:
 - (a) Ensure that the system is impartial, accessible to the buyer, and expeditious, and shall operate at no cost to the buyer;
 - (b) Provide that if the buyer elects to submit the dispute to the system, the manufacturer shall not refuse to submit the dispute to the system as long as the subject of the dispute occurred during the first two (2) years or twenty-five thousand (25,000) miles, whichever occurs first, of the buyer's ownership of the motor vehicle involved in the dispute;
 - (c) Provide that the system shall provide for an oral hearing, unless the buyer agrees in writing that the system shall render a decision based solely on documents submitted to it;
 - (d) Shall include, but is not limited to, procedures for informing the buyer of the existence of the system, preparing the agreement between the buyer and the manufacturer whereby the dispute may be submitted to the system, selecting the members of the decision-making panel, notifying the parties of the complaint, investigating the complaint, providing for hearings, rendering a fair and expeditious decision, and informing parties of the decision.
- (2) The decision of the system shall be legally binding on the manufacturer. The decision of the system shall not be legally binding on the buyer, unless the manufacturer elects to have its system binding on all buyers who submit their disputes to the system. If the system is to be binding to both parties, the written agreement between the buyer and the manufacturer whereby the dispute is submitted to the system shall include in conspicuous, bold-faced type the following statement:

"YOU SHOULD REMEMBER THAT BY ENTERING INTO THIS AGREEMENT YOU ARE DECIDING TO USE THIS DISPUTE RESOLUTION SYSTEM TO SETTLE YOUR DISPUTE INSTEAD OF GOING TO COURT. AFTER A DECISION BY AN ARBITRATOR, NORMALLY A COURT WILL REFUSE TO HEAR THE FACTS IN A CASE IN ALL BUT THE MOST UNUSUAL SITUATIONS. YOUR SIGNATURE IS REQUIRED IMMEDIATELY BELOW TO INDICATE THAT YOU HAVE READ THIS DISCLOSURE.

-----"

SIGNATURE OF BUYER

- (3) Before a dispute may be submitted to a system which is legally binding on both parties, the buyer shall sign the disclosure statement required by subsection (2) of this section.
- (4) Each manufacturer shall take steps reasonably calculated to make the buyer aware

of the existence of the system at the time the dispute arises.

- (5) Each manufacturer shall take all steps necessary to ensure that the system is sufficiently insulated from the manufacturer so that the decisions of the system are not influenced by the manufacturer. The system's decision-making panel shall be composed of members at least fifty-one percent (51%) of whom have no involvement in the manufacture, distribution or sale of motor vehicles. No member deciding a dispute shall be a party to the dispute; nor shall any member deciding a dispute be an employee or agent of a party to the dispute, unless solely for the purpose of impartially deciding disputes.
- (6) Nothing herein shall prohibit the manufacturer from participating in a system sponsored or administered by an impartial third party having no direct involvement in the manufacture, distribution, sale, or service of motor vehicles.
- (7) Each dispute resolution system shall provide to the office of the Attorney General, upon request, the name and address of each buyer whose complaint is resolved through its system. The Attorney General shall have the authority to monitor each dispute resolution system as well as review the records on each complaint, upon request. An annual report shall be prepared and published by the office of the Attorney General evaluating the performance, effectiveness, and benefits of the system, and shall include in this report recommendations for continuing, modifying, or terminating the requirement of this section.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 360, sec. 1, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 193, sec. 2, effective July 15, 1982.