

190.062 Action for damages -- Power of commission -- Applicability of chapter and KRS Chapter 190A -- Written demand for mediation required before civil action involving recreational vehicle franchise issues may be brought.

- (1) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, or the terms or provisions of any waiver, any person who is injured in his business or property by a violation of this section or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this section, may bring a civil action in the Franklin Circuit Court to enjoin further violations, to recover the actual damages sustained by him, together with costs of the suit, including a reasonable attorney's fee.
- (2) The commission may order, deny, suspend, or revoke the license of any new motor vehicle dealer, new recreational vehicle dealer, manufacturer, distributor, factory branch, or factory representative for failing to comply with any provisions of KRS 190.010 to 190.080 or KRS Chapter 190A, as such provisions apply, respectively, to new motor vehicle dealers, new recreational vehicle dealers, manufacturers, distributors, factory branches, or factory representatives; or in lieu thereof, or in addition thereto, may assess monetary penalties of a civil nature not to exceed one thousand dollars (\$1,000) for each violation.
- (3) The provisions of KRS 190.010 to 190.080 and KRS Chapter 190A, as such provisions apply, respectively, to new motor vehicle dealers, new recreational vehicle dealers, manufacturers, distributors, factor branches, or factory representatives, shall apply to all persons required to be licensed under the terms herein, and to dealerships and contracts between new motor vehicle dealers, new recreational vehicle dealers, and manufacturers, distributors, factory branches, or factory representatives at the time of its passage, and to all such future new motor vehicle dealerships and contracts.
- (4) (a) In addition to the provisions of this section, before a civil action involving recreational vehicle franchise issues is brought, the party bringing suit for an alleged violation of this chapter shall serve a written demand for mediation on the offending party. The demand for mediation shall include a brief statement of the dispute and the relief sought by the party making the demand. The party making the demand shall serve the demand by certified mail to one (1) of the following addresses:
 1. In an action between a new recreational vehicle dealer and a manufacturer, the address stated in the dealer agreement between the parties;
 2. In an action between a new recreational vehicle dealer and a warrantor that is not a manufacturer, the address stated in any agreement between the parties; or
 3. In an action between two (2) new recreational vehicle dealers, the address of the offending dealer in the records of the commission.
- (b) Within twenty (20) days after a demand for mediation is served under this subsection, the parties shall mutually select an independent mediator who is approved by the commission and meet with that mediator for the

purpose of attempting to resolve the dispute at a location in this state selected by the mediator. The mediator may extend the date of the meeting for good cause shown by either party or if the parties agree to the extension.

- (c) The service of a demand for mediation under this subsection tolls the time for the filing of any complaint, petition, protest, or other action under this chapter until representatives of both parties have met with the mediator selected pursuant to paragraph (b) of this subsection for the purpose of attempting to resolve the dispute. If a complaint, petition, protest, or other action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the mediation meeting has occurred and may, if all the parties to the proceeding or action stipulate in writing that they wish to continue to mediate under this subsection, enter an order suspending the proceeding or action for as long a period as the court considers appropriate.
- (d) Each of the parties to the mediation under this subsection is responsible for its own attorney fees. The parties shall equally divide the cost of the mediator.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 27, sec. 20, effective January 1, 2015. --
Created 1982 Ky. Acts ch. 374, sec. 3, effective July 15, 1982.