

190A.040 Recreational vehicle manufacturer may terminate or not renew a new recreational vehicle dealer's agreement with good cause -- Determination of good cause -- Notice of termination or nonrenewal of dealer agreement.

- (1) A recreational vehicle manufacturer, directly or through any officer, agent, or employee, may terminate or not renew a new recreational vehicle dealer's agreement with good cause.
- (2) A recreational vehicle manufacturer has the burden of showing good cause when terminating or not renewing a dealer agreement for cause. For the purpose of determining whether there is good cause for the proposed action, any of the following factors may be considered:
 - (a) The extent of the penetration of the dealer in the area of sales responsibility;
 - (b) The extent and quality of the service of the dealer under recreational vehicle warranties;
 - (c) The nature and extent of the investment of the dealer in the business of the dealer;
 - (d) The adequacy of the service facilities, equipment, parts, supplies, and personnel of the dealer;
 - (e) The effect of the proposed action on the community;
 - (f) Whether the dealer fails to follow agreed-upon procedures or standards related to the overall operation of the dealership; and
 - (g) The performance by the dealer under the terms of the dealer agreement.
- (3)
 - (a) Except as provided in paragraph (d) or (e) of this subsection, the manufacturer shall provide written notice at least ninety (90) days before the effective date of the termination or nonrenewal of the dealer agreement in the event the dealer is being terminated for good cause.
 - (b) The notice shall state all of the reasons for the termination or nonrenewal of the dealer agreement.
 - (c) The notice shall state that if the dealer provides to the manufacturer within thirty (30) days after the dealer receives the original notice a written notification of the intent of the dealer to cure all claimed deficiencies, the dealer shall have ninety (90) days from the receipt of the original notice to correct the claimed deficiencies. If all of the deficiencies are corrected within the ninety (90) day time period, the notice shall be deemed void and the manufacturer shall not terminate or not renew the dealer agreement because of the claimed deficiencies stated in the notice. If the dealer does not provide a notification of intent to cure deficiencies within the thirty (30) day time period, the termination or nonrenewal of the dealer agreement shall take effect thirty (30) days from the dealer's receipt of the original notice.
 - (d) A manufacturer may reduce the notice period of this subsection from ninety (90) days to thirty (30) days if the grounds for termination or nonrenewal of the dealer agreement by the manufacturer are any of the following factors:

1. A conviction of a felony or a plea of guilty or nolo contendere to a felony by a dealer or an owner of a dealership of a crime that was committed during the time frame of the current dealer agreement; provided there is full disclosure, in writing, of any felony conviction or plea of guilty or nolo contendere to any such felony crime that occurred within ten (10) years of entering into such dealer agreement;
 2. The abandonment or closing of the business operations of the dealer for ten (10) consecutive business days without contacting the manufacturer prior to the closing unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the dealer has no control;
 3. A misrepresentation to the manufacturer by the dealer that materially affects the business relationship between the dealer and the manufacturer;
 4. A suspension or revocation of the dealer's license, or refusal to renew the dealer's license, by the Motor Vehicle Commission; or
 5. A material violation of this chapter which is not cured within thirty (30) days after the written notice by the manufacturer.
- (e) A manufacturer shall not be required to provide notice or an opportunity to correct deficiencies under this subsection if the grounds for termination or nonrenewal of the dealer agreement by the manufacturer include one (1) of the following:
1. The dealer becomes insolvent;
 2. The dealer is bankrupt; or
 3. The dealer makes an assignment for the benefit of creditors.

Effective: January 1, 2015

History: Created 2014 Ky. Acts ch. 27, sec. 4, effective January 1, 2015.

Legislative Research Commission Note (1/1/2015). Under the authority of KRS 7.136(1), the Reviser of Statutes has restructured subsection (3) of this statute and changed references therein to correspond. No substantive change has been made.