

WEST VIRGINIA CODE: §17a-6A-15C

§17A-6A-15c. Manufacturer performance standards; uniform application; prohibited practices.

A manufacturer may not require dealer adherence to a performance standard or standards which are not applied uniformly to other similarly situated dealers. In addition to any other requirements of the law, the following shall apply:

- (1) A performance standard, sales objective, or program for measuring dealer performance used by a manufacturer, distributor, or factory branch in determining a dealer's compliance with the dealer agreement shall be reasonable and based on accurate information, including, but not limited to, the dealer's specific local market circumstances and geographical characteristics. A manufacturer, distributor, or factory branch may not impose unreasonable restrictions on a dealer relative to compliance with a sales performance standard or sales objective.
- (2) Upon written request from a dealer participating in the program, the manufacturer shall provide in writing the dealer's performance requirement or sales goal or objective, which shall include a reasonable and general explanation of the methodology, criteria, and calculations used.
- (3) A manufacturer shall allocate a reasonable and appropriate supply of vehicles to assist the dealer in achieving any performance standards established by the manufacturer and distributor.
- (4) The manufacturer or distributor has the burden of proving by a preponderance of the evidence that the performance standard, sales objective, or program for measuring dealership performance complies with this article.