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.

WV Legislature