

**Product Distribution and Franchise Team**

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## **DIFFERENT STROKES FOR DIFFERENT FOLKS: STATE WARRANTY REIMBURSEMENT LAWS MAKE IT DIFFICULT TO MANAGE A SYSTEM-WIDE WARRANTY PROGRAM**

Manufacturers often require that their authorized dealers provide post-sale warranty service for the manufacturers' products. Manufacturers typically have written warranty policies describing how they pay the dealers for the labor and replacement parts used during the warranty service. Most manufacturers' warranty policies apply to all warranty work, regardless of where the dealer is located. But many states have enacted individual warranty reimbursement laws that make such uniform warranty policies much more challenging.

Warranty reimbursement laws generally ensure that dealers make a profit even when performing warranty work. This may come as a big surprise because manufacturers often pay dealers only for their out-of-pocket costs.

Warranty reimbursement laws often require that manufacturers reimburse dealers for labor using the same hourly rate that the dealers charge for nonwarranty service. Other laws require manufacturers to pay the dealer for labor at the prevailing labor rate in the dealer's market. Either way, the required rate can be far in excess of the manufacturer's chosen standard labor rate.

Warranty reimbursement laws also may require that manufacturers pay dealers the cost of all warranty parts plus a specific profit margin. State laws are not consistent here either, so the required "profit margin" for parts used in the warranty process can vary, often ranging from 15% to 40% of the cost of the part, depending on the state where the dealer is located. This can be quite a departure from manufacturers' standard warranty policies, many of which call for reimbursement of parts only at the dealer's cost.

Many warranty reimbursement laws also require that manufacturers follow prescribed procedures for processing warranty reimbursement claims. For example, most laws impose strict limits on the time manufacturers have to accept, reject and pay a dealer's request for reimbursement and how often a manufacturer may conduct audits of a dealer's warranty claim records. If a manufacturer misses the deadline, it may waive its right to object to a reimbursement claim and its ability to conduct an audit.

These laws also include requirements for dealers. For example, some laws require dealers to notify their manufacturers in advance of their current hourly labor rates. Others obligate dealers to charge no more than their actual posted labor rates and to substantiate the labor rate charged at any given time.

Some state warranty reimbursement laws apply only to products like motor vehicles, watercraft, agricultural equipment, outdoor power machinery and other types of equipment. Other states, like Rhode Island and Minnesota, go further and have warranty reimbursement laws for all consumer products. Also, some warranty reimbursement laws are not restricted to dealers, but apply to any service provider who performs warranty work. While some states have no warranty reimbursement laws, more and more states are enacting them.

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So, if you are a manufacturer, you should update your warranty programs to ensure compliance with applicable state laws. Warranty reimbursement laws often override contrary provisions in written dealer agreements. You may be faced with tough decisions about whether to have different warranty reimbursement calculations for dealers in different states or to create one uniform system-wide program that pays the maximum amount required by the state with the most generous reimbursement provisions for all dealers even if many dealers' own state laws require less. If you are a dealer or other authorized warranty service provider, you should review applicable warranty reimbursement laws so that you follow the proper procedures and maintain appropriate records to assure reimbursement.

Complying with warranty-related laws can be frustrating and time-consuming. Reinhart's Product Distribution and Franchise Team helps companies develop and manage warranty programs and navigate the warranty reimbursement and other warranty related laws. Please feel free to contact a team member to help with your warranty programs.

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