

# HOUSE BILL No. 6498

November 27, 2018, Introduced by Reps. Iden, Webber and Leutheuser and referred to the Committee on Regulatory Reform.

A bill to amend 1981 PA 118, entitled

"An act to regulate motor vehicle manufacturers, distributors, wholesalers, dealers, and their representatives; to regulate dealings between manufacturers and distributors or wholesalers and their dealers; to regulate dealings between manufacturers, distributors, wholesalers, dealers, and consumers; to prohibit unfair practices; to provide remedies and penalties; and to repeal certain acts and parts of acts,"

by amending sections 1, 2, 3, 4, 6, 7, 8, 13, 14, 15, 16, 17, 19, and 22a (MCL 445.1561, 445.1562, 445.1563, 445.1564, 445.1566, 445.1567, 445.1568, 445.1573, 445.1574, 445.1575, 445.1576, 445.1577, 445.1579, and 445.1582a), sections 2, 3, and 4 as amended by 2010 PA 140, section 6 as amended by 2010 PA 139, section 13 as amended by 2010 PA 141, section 14 as amended by 2014 PA 354, sections 15 and 17 as amended by 2010 PA 138, sections 16 and 19 as

amended by 1983 PA 188, and section 22a as added by 1998 PA 456, and by adding sections 14b, 17a, and 17b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. **(1) THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE**  
2 **"MOTOR VEHICLE FRANCHISE ACT".**

3           **(2)** For the purposes of this act, the words and phrases  
4 defined in sections 2 to 6 have the meanings ascribed to them in  
5 those sections, except where the context clearly indicates a  
6 different meaning.

7           Sec. 2. (1) "Closed dealership" means a new motor vehicle  
8 dealer whose dealer agreement has been terminated, canceled,  
9 discontinued, or not renewed.

10           (2) "Coerce" means to compel or attempt to compel a person to  
11 act in a given manner or to refrain from acting in a given manner  
12 by pressure, intimidation, or threat of harm, damage, breach of  
13 contract, or other adverse consequences, including, but not limited  
14 to, the loss of any benefit available to other new motor vehicle  
15 dealers of the same ~~line-make~~ **LINE-MAKE** in this state. The term  
16 does not include any of the following actions by a manufacturer:

17           (a) Without conditions, making a good faith recommendation,  
18 exposition, or argument or persuading or attempting to persuade a  
19 person.

20           (b) Giving notice in good faith to a new motor vehicle dealer  
21 of that dealer's violation of the terms or provisions of a dealer  
22 agreement.

23           (c) Engaging in any conduct the manufacturer is permitted to  
24 engage in under this act.

1           (3) "Dealer agreement" means an agreement or contract in  
2 writing between a distributor and a new motor vehicle dealer,  
3 between a manufacturer and a distributor or a new motor vehicle  
4 dealer, or between an importer and a distributor or a new motor  
5 vehicle dealer, that purports to establish the legal rights and  
6 obligations of the parties to the agreement or contract and under  
7 which the dealer purchases and resells new motor vehicles and  
8 conducts service operations. The term includes the sales and  
9 service agreement, regardless of the terminology used to describe  
10 that agreement, and any addenda to the dealer agreement, including  
11 all schedules, attachments, exhibits, and agreements incorporated  
12 by reference into the dealer agreement.

13           (4) "Designated family member" means any of the following:

14           (a) If a new motor vehicle dealer who dies or becomes  
15 incapacitated has designated a successor under section 15(6), that  
16 designated successor.

17           (b) If a new motor vehicle owner dies and has not designated a  
18 successor under section 15(6), the spouse or a child, grandchild,  
19 parent, brother, or sister of a deceased new motor vehicle dealer,  
20 who is entitled to inherit the deceased dealer's ownership interest  
21 in the new motor vehicle dealership under the terms of the dealer's  
22 will, who has otherwise been designated in writing by a deceased  
23 dealer to succeed the deceased dealer in the new motor vehicle  
24 dealership, or who is entitled to inherit under the laws of  
25 intestate succession of this state or the appointed and qualified  
26 personal representative or testamentary trustee of the deceased new  
27 motor vehicle dealer.

1 (c) If a new motor vehicle dealer becomes incapacitated and  
2 has not designated a successor under section 15(6), the person  
3 appointed by the court as the legal representative of the dealer.

4 Sec. 3. (1) "Distributor" means any person, including  
5 importer, that is located in or outside of this state and is  
6 engaged in the business of offering for sale, selling, or  
7 distributing new and unaltered motor vehicles to a new motor  
8 vehicle dealer under a dealer agreement, that maintains a factory  
9 representative that is located in or outside of this state for  
10 purposes of conducting that business, or that controls a person  
11 that is located in or outside of this state and offers for sale,  
12 sells, or distributes new and unaltered motor vehicles to a new  
13 motor vehicle dealer. Distributor does not include a person that  
14 alters or converts motor vehicles for sale to a new motor vehicle  
15 dealer.

16 (2) "Established place of business" means a permanent,  
17 enclosed commercial building located in this state that is easily  
18 accessible and open to the public at all reasonable times and at  
19 which a new motor vehicle dealer may legally conduct business,  
20 including the display and repair of motor vehicles, in compliance  
21 with the terms of all applicable buildings codes, zoning, and other  
22 land-use regulatory ordinances.

23 (3) "Executive manager" means ~~an~~ **ANY OF THE FOLLOWING:**

24 **(A) AN** individual **WHO IS** employed by a new motor vehicle  
25 dealer in an executive capacity and who has a written employment  
26 agreement with the dealer that includes a right for the executive  
27 manager to purchase a controlling interest in the ~~dealership~~ **DEALER**

1 at a future time or on the death or incapacity of the dealer.

2 **(B) AN INDIVIDUAL WHO IS DESIGNATED BY THE NEW MOTOR VEHICLE**  
3 **DEALER WITH APPROVAL BY THE MANUFACTURER TO OPERATE THE DEALERSHIP**  
4 **ON A DAY-TO-DAY BASIS.**

5 (4) "Factory branch" means an office maintained by a  
6 manufacturer or distributor for the purpose of selling or offering  
7 to sell vehicles to a distributor, wholesaler, or new motor vehicle  
8 dealer or for directing or supervising any factory or distributor  
9 representatives. The term includes any sales promotion organization  
10 maintained by a manufacturer or distributor that is engaged in  
11 promoting the sale of a particular make of new motor vehicles in  
12 this state to new motor vehicle dealers.

13 (5) "Factory representative" means an agent or employee of a  
14 manufacturer, distributor, or factory branch retained or employed  
15 for the purpose of making or promoting the sale of new motor  
16 vehicles or for supervising or contracting with new motor vehicle  
17 dealers or proposed motor vehicle dealers.

18 Sec. 4. (1) "Good faith" means that term as defined in section  
19 ~~2103-1201~~ of the uniform commercial code, 1962 PA 174, MCL  
20 ~~440-2103-440.1201~~.

21 **(2) "GOOD MORAL CHARACTER" MEANS GOOD MORAL CHARACTER AS**  
22 **DEFINED IN AND DETERMINED UNDER 1974 PA 381, MCL 338.41 TO 338.47.**

23 **(3) "LINE-MAKE" MEANS A COLLECTION OF MODELS, A SERIES, OR A**  
24 **GROUP OF MOTOR VEHICLES MANUFACTURED BY OR FOR A PARTICULAR**  
25 **MANUFACTURER, DISTRIBUTOR, OR IMPORTER THAT ARE OFFERED FOR SALE,**  
26 **LEASE, OR DISTRIBUTION UNDER A COMMON BRAND NAME OR MARK. ALL OF**  
27 **THE FOLLOWING APPLY TO THE TERM "LINE-MAKE":**

1 (A) MULTIPLE BRAND NAMES OR MARKS MAY CONSTITUTE A SINGLE  
2 LINE-MAKE, BUT ONLY IF THEY ARE INCLUDED IN A COMMON DEALER  
3 AGREEMENT AND THE MANUFACTURER, DISTRIBUTOR, OR IMPORTER OFFERS ALL  
4 OF THE VEHICLES THAT BEAR THE MULTIPLE NAMES OR MARKS TO ITS  
5 AUTHORIZED DEALERS TOGETHER, AND NOT SEPARATELY.

6 (B) MOTOR VEHICLES THAT SHARE A COMMON BRAND NAME OR MARK MAY  
7 CONSTITUTE SEPARATE LINE-MAKES IF THOSE VEHICLES ARE OF DIFFERENT  
8 VEHICLE TYPES OR ARE INTENDED FOR DIFFERENT TYPES OF USE, AND  
9 EITHER OF THE FOLLOWING APPLIES:

10 (i) THE MANUFACTURER HAS EXPRESSLY DEFINED OR COVERED THE  
11 SUBJECT LINE-MAKES OF VEHICLES AS SEPARATE AND DISTINCT LINE-MAKES  
12 IN THE APPLICABLE DEALER AGREEMENTS.

13 (ii) THE MANUFACTURER HAS CONSISTENTLY CHARACTERIZED THE  
14 SUBJECT VEHICLES AS CONSTITUTING SEPARATE AND DISTINCT LINE-MAKES  
15 TO ITS DEALER NETWORK.

16 (4) "LOCAL MARKET CONDITIONS" MEANS CERTAIN RELEVANT AND  
17 MATERIAL CONDITIONS, CRITERIA, DATA, AND FACTS THAT HAVE AN IMPACT  
18 ON A NEW MOTOR VEHICLE DEALER'S ASSIGNED MARKET AREA, WHERE A NEW  
19 MOTOR VEHICLE DEALER OFFERS VEHICLES FOR SALE OR LEASE AND IN WHICH  
20 DECISIONS MADE BY A MANUFACTURER IMPACT A NEW MOTOR VEHICLE  
21 DEALERSHIP. THE TERM INCLUDES, BUT IS NOT LIMITED TO, EACH OF THE  
22 FOLLOWING:

23 (A) DEMOGRAPHICS IN A NEW MOTOR VEHICLE DEALER'S MARKET AREA.

24 (B) GEOGRAPHICAL AND MARKET CHARACTERISTICS IN A NEW MOTOR  
25 VEHICLE DEALER'S MARKET AREA.

26 (C) LOCAL SOCIAL AND ECONOMIC CIRCUMSTANCES.

27 (D) THE PROXIMITY OF OTHER NEW MOTOR VEHICLE DEALERS OF THE

1 SAME MANUFACTURER.

2 (E) THE PROXIMITY OF MOTOR VEHICLE MANUFACTURING FACILITIES TO  
3 A NEW MOTOR VEHICLE DEALER.

4 (F) THE BUYING PATTERNS AND PREFERENCES OF MOTOR VEHICLE  
5 PURCHASERS OR LESSEES.

6 (G) CUSTOMER DRIVE TIME TO AND DRIVE DISTANCE FROM A NEW MOTOR  
7 VEHICLE DEALER.

8 (H) THE SIZE OF THE NEW MOTOR VEHICLE DEALER'S SALES TERRITORY  
9 AS ASSIGNED BY THE MANUFACTURER.

10 (I) THE NUMBER OF SALES OR LEASES TO EMPLOYEES OF ALL  
11 MANUFACTURERS WITHIN A NEW MOTOR VEHICLE DEALER'S SALES TERRITORY.

12 (5) ~~(2)~~—"Manufacturer" means a person that manufactures or  
13 assembles new motor vehicles or a distributor, factory branch, or  
14 factory representative.

15 (6) ~~(3)~~—"Motor vehicle" means that term as defined in section  
16 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33, but does  
17 not include a bus, a tractor, or farm equipment.

18 (7) ~~(4)~~—"Motor vehicle service and repair facility" means a  
19 motor vehicle repair facility, as defined in section 2 of the motor  
20 vehicle service and repair act, 1974 PA 300, MCL 257.1302. The term  
21 does not include a motor vehicle dealer performing maintenance,  
22 diagnosis, vehicle body work, repairs, or other service or repair  
23 work on motor vehicles under the terms of a dealer agreement.

24 Sec. 6. (1) "Relevant market area" means 1 of the following:

25 (a) In a county that has a population of more than 150,000,  
26 the area within a radius of 9 miles of the site of the intended  
27 place of business of a proposed new vehicle dealer or the intended

1 place of business of a new vehicle dealer that plans to relocate  
2 its place of business. For purposes of this section, the 9-mile  
3 distance is determined by measuring the distance between the  
4 nearest surveyed boundary of an existing new motor vehicle dealer's  
5 principal place of business and the nearest surveyed boundary line  
6 of the proposed or relocated new motor vehicle dealer's principal  
7 place of business.

8 (b) In a county that has a population of 150,000 or fewer, the  
9 area within a radius of 15 miles of the site of the intended place  
10 of business of a proposed new vehicle dealer or the intended place  
11 of business of a new vehicle dealer that plans to relocate its  
12 place of business. For purposes of this section, the 15-mile  
13 distance is determined by measuring the distance between the  
14 nearest surveyed boundary line of an existing new motor vehicle  
15 dealer's principal place of business and the nearest surveyed  
16 boundary line of the proposed or relocated new motor vehicle  
17 dealer's principal place of business.

18 (2) **"STOP-SALE ORDER" MEANS A NOTIFICATION ISSUED BY A**  
19 **MANUFACTURER TO ITS FRANCHISED NEW MOTOR VEHICLE DEALERS STATING**  
20 **THAT CERTAIN USED VEHICLES IN INVENTORY SHALL NOT BE DRIVEN, SOLD,**  
21 **OR LEASED, AT EITHER RETAIL OR WHOLESALE, DUE TO A FEDERAL SAFETY**  
22 **RECALL OR MANUFACTURER ISSUED RECALL FOR A DEFECT OR A**  
23 **NONCOMPLIANCE, OR A FEDERAL EMISSIONS RECALL.**

24 (3) ~~(2)~~—"Successor manufacturer" means a manufacturer that  
25 acquires, succeeds to, or assumes any part of the business of  
26 another manufacturer as the result of any of the following:

27 (a) A change in ownership, operation, or control of a



1 predecessor manufacturer by sale or transfer of assets, corporate  
2 stock, or other equity interest, assignment, merger, consolidation,  
3 combination, joint venture, redemption, court-approved sale,  
4 operation of law, or any other means.

5 (b) Termination, suspension, or cessation of a part or all of  
6 the business operations of a predecessor manufacturer.

7 (c) Discontinuance of the sale of a product line.

8 (d) A change in distribution system by a predecessor  
9 manufacturer, whether through a change in distributor or the  
10 predecessor manufacturer's decision to cease conducting any  
11 business through a particular distributor.

12 (4) ~~(3)~~—"Used motor vehicle" means a motor vehicle that is not  
13 a new motor vehicle.

14 (5) ~~(4)~~—"Used motor vehicle dealer" means a person that is  
15 engaged in the business of purchasing, selling, exchanging, or  
16 dealing in used motor vehicles and that has an established place of  
17 business in this state at which it conducts that business. The term  
18 does not include a new motor vehicle dealer purchasing, selling,  
19 exchanging, or dealing in used motor vehicles as part of its  
20 business of purchasing, selling, exchanging, or dealing in new  
21 motor vehicles.

22 Sec. 7. (1) Notwithstanding any agreement, a manufacturer or  
23 distributor shall not cancel, terminate, fail to renew, or refuse  
24 to continue any dealer agreement with a new motor vehicle dealer  
25 unless the manufacturer or distributor ~~has complied with~~ **MEETS** all  
26 of the following:

27 (a) ~~Satisfied~~ **HAS SATISFIED** the notice requirement of section

1 10.

2 (b) ~~Acted~~ **HAS ACTED** in good faith.

3 (c) Has good cause for the cancellation, termination,  
4 nonrenewal, or discontinuance.

5 (2) Notwithstanding any agreement, good cause ~~shall exist~~  
6 **EXISTS** for the purposes of a termination, cancellation, nonrenewal,  
7 or discontinuance under subsection (1)(c) when both of the  
8 following occur:

9 (a) ~~there~~ **THERE** is a failure by the new motor vehicle dealer  
10 to comply with a provision of the dealer agreement and the  
11 provision is both reasonable and of material significance to the  
12 relationship between the manufacturer or distributor and the new  
13 motor vehicle dealer. ~~and~~

14 (b) ~~the~~ **THE** manufacturer or distributor first acquired actual  
15 or constructive knowledge of the failure not more than 2 years  
16 ~~prior to~~ **BEFORE** the date on which notification was given ~~pursuant~~  
17 ~~to~~ **UNDER** section 10.

18 (3) If the failure ~~by the~~ **OF A** new motor vehicle dealer to  
19 comply with a provision of the dealer agreement relates to the  
20 performance of the new motor vehicle dealer in sales or service,  
21 good cause ~~shall exist~~ **EXISTS** for the purposes of a termination,  
22 cancellation, nonrenewal, or discontinuance under subsection (1)  
23 when the new motor vehicle dealer fails to effectively carry out  
24 the performance provisions of the dealer agreement if all of the  
25 following have occurred:

26 (a) The new motor vehicle dealer was given written notice by  
27 the manufacturer or distributor of the failure.

1 (b) The notification stated that the notice of failure of  
2 performance was provided pursuant to ~~UNDER~~ this act **AND, IF**  
3 **REQUESTED IN WRITING BY THE DEALER, THE MANUFACTURER PROVIDED**  
4 **WRITTEN INFORMATION INDICATING THE METHODOLOGY AND DATA THE**  
5 **MANUFACTURER OR DISTRIBUTOR USED TO ACCOUNT FOR HOW LOCAL MARKET**  
6 **CONDITIONS AFFECT THE NEW MOTOR VEHICLE DEALER'S PERFORMANCE.**

7 (c) The new motor vehicle dealer was afforded a reasonable  
8 opportunity to exert good faith efforts to carry out the dealer  
9 agreement.

10 (d) The failure continued for more than 180 days after the  
11 date notification was given pursuant to ~~UNDER~~ subdivision (a).

12 **(E) THE NEW MOTOR VEHICLE DEALER WAS AFFORDED A REASONABLE**  
13 **OPPORTUNITY TO PRESENT EVIDENCE TO THE MANUFACTURER OR DISTRIBUTOR**  
14 **DEMONSTRATING THE EFFECT OF LOCAL MARKET CONDITIONS BEYOND THE**  
15 **REASONABLE CONTROL OF THE DEALER THAT MATERIALLY AND ADVERSELY**  
16 **AFFECTED THE DEALER'S PERFORMANCE.**

17 **(F) SUBJECT TO SUBDIVISION (G), IF THE MANUFACTURER USED A**  
18 **SURVEY OR INDEX TO MEASURE THE PERFORMANCE OF A NEW MOTOR VEHICLE**  
19 **DEALER, THE SURVEY OR INDEX WAS BASED ON A STATISTICALLY**  
20 **SIGNIFICANT AND VALID RANDOM SAMPLE.**

21 **(G) IF A PERFORMANCE SURVEY DESCRIBED IN SUBDIVISION (F)**  
22 **MEASURED CONSUMER SATISFACTION WITH A NEW MOTOR VEHICLE'S SALES OR**  
23 **SERVICE OPERATION, A MAJORITY OF THE SURVEY SAMPLE WERE NEW VEHICLE**  
24 **RETAIL SALES AND WARRANTY SERVICE CUSTOMERS OF THE DEALER.**

25 **(4) BEFORE A FINAL DETERMINATION BY A MANUFACTURER OR**  
26 **DISTRIBUTOR THAT A NEW MOTOR VEHICLE DEALER HAS FAILED TO ACHIEVE**  
27 **ANY PERFORMANCE CRITERIA FOR PURPOSES OF ANY ACTION UNDER THIS**

1 SECTION, THE MANUFACTURER MUST PROVIDE THE NEW MOTOR VEHICLE DEALER  
2 AN OPPORTUNITY TO PRESENT EVIDENCE THAT DEMONSTRATES THE EFFECT OF  
3 LOCAL MARKET CONDITIONS THAT MATERIALLY AND ADVERSELY AFFECTED THE  
4 DEALER'S PERFORMANCE. IF A MANUFACTURER MAKES A FINAL DECISION  
5 RELATED TO PERFORMANCE CRITERIA WITHOUT COMPLYING WITH SUBSECTION  
6 (3) (B) OR (E) OR ALLOWING THE NEW MOTOR VEHICLE DEALER A REASONABLE  
7 OPPORTUNITY TO PRESENT EVIDENCE, OR DOES NOT CONSIDER THE EFFECT OF  
8 LOCAL MARKET CONDITIONS ON THE DEALER'S PERFORMANCE, THE  
9 PERFORMANCE CRITERIA IS CONSIDERED UNREASONABLE AND GOOD CAUSE DOES  
10 NOT EXIST FOR PURPOSES OF THIS ACT.

11 Sec. 8. Notwithstanding any agreement, the following alone  
12 shall not constitute good cause for the termination, cancellation,  
13 nonrenewal, or discontinuance of a dealer agreement under section  
14 7(1) (c) :

15 (a) A change in ownership of the new motor vehicle dealer's  
16 dealership. This subdivision does not authorize any change in  
17 ownership ~~which~~ **THAT** would have the effect of a sale or an  
18 assignment of the dealer agreement or a change in the principal  
19 management of the dealership without the manufacturer's or  
20 distributor's prior written consent.

21 (b) The refusal of the new motor vehicle dealer to purchase or  
22 accept delivery of any new motor vehicle parts, accessories, or any  
23 other commodity or services not ordered by the new motor vehicle  
24 dealer.

25 (c) The fact that the new motor vehicle dealer owns, has an  
26 investment in, participates in the management of, or holds a dealer  
27 agreement for the sale of another make or line of new motor

1 vehicles, or that the new motor vehicle dealer has established  
2 another make or line of new motor vehicles in the same dealership  
3 facilities as those of the manufacturer or distributor, provided  
4 that the new motor vehicle dealer maintains a reasonable line of  
5 credit for each make or line of new motor vehicles, and that the  
6 new motor vehicle dealer remains in substantial compliance with the  
7 terms and conditions of the dealer agreement and with the  
8 reasonable facilities' requirements of the manufacturer or  
9 distributor.

10 (d) The fact that the new motor vehicle dealer sells or  
11 transfers ownership of the dealership or sells or transfers capital  
12 stock in the dealership to the new motor vehicle dealer's spouse,  
13 son, or daughter.  ~~, provided that the~~ **HOWEVER, A** sale or transfer  
14 ~~shall~~ **DESCRIBED IN THIS SUBDIVISION DOES** not have the effect of a  
15 sale or an assignment of the dealer agreement or a change in the  
16 principal management of the dealership without the manufacturer's  
17 or distributor's prior written consent.

18 **(E) THE FAILURE OF THE NEW MOTOR VEHICLE DEALER TO ACHIEVE ANY**  
19 **PERFORMANCE STANDARD OR CRITERIA THAT DO NOT CONSIDER THE EFFECT OF**  
20 **LOCAL MARKET CONDITIONS OR ARE UNREASONABLE, INEQUITABLE, OR**  
21 **DISCRIMINATORY.**

22 Sec. 13. (1) A manufacturer shall not require any new motor  
23 vehicle dealer in this state to do any of the following:

24 (a) Order or accept delivery of any new motor vehicle, a part  
25 or accessory of a new motor vehicle, equipment, or any other  
26 commodity not required by law that is not voluntarily ordered by  
27 the new motor vehicle dealer. This section does not prevent the

1 manufacturer from requiring that new motor vehicle dealers carry a  
2 reasonable inventory of models offered for sale by the  
3 manufacturer.

4 (b) Order or accept delivery of any new motor vehicle with  
5 special features, accessories, or equipment not included in the  
6 list price of the new motor vehicle as publicly advertised by the  
7 manufacturer.

8 (c) Participate monetarily in any advertising campaign or  
9 contest, purchase any promotional materials, display devices, or  
10 display decorations or materials, or pay or assume directly in  
11 connection with the sale of a new motor vehicle any part of the  
12 cost of a refund, rebate, or discount made by or lawfully imposed  
13 by the manufacturer to or in favor of a consumer, unless  
14 voluntarily agreed to by the dealer.

15 (d) Enter into any agreement with the manufacturer or do any  
16 other act prejudicial to the new motor vehicle dealer by  
17 threatening to terminate a dealer agreement or any contractual  
18 agreement or understanding existing between the dealer and the  
19 manufacturer. Notice in good faith to any dealer of the dealer's  
20 violation of any terms or provisions of the dealer agreement does  
21 not constitute a violation of this act.

22 (e) Change the capital structure of the new motor vehicle  
23 dealership or the means by or through which the dealer finances the  
24 operation of the dealership, if the dealership at all times meets  
25 any reasonable capital standards determined by the manufacturer in  
26 accordance with uniformly applied criteria.

27 (f) Refrain from participation in the management of,

1 investment in, or the acquisition of, any other line of new motor  
2 vehicles or related products at or in any of the following:

3 (i) At a location different from the location used by the  
4 dealer for the sale or service of new motor vehicles or related  
5 products of the manufacturer, if the dealer maintains a reasonable  
6 line of credit for each make or line of vehicle, remains in  
7 compliance with reasonable facilities requirements, remains in  
8 substantial compliance with capital requirements, and makes no  
9 change in the principal management of the dealer.

10 (ii) In facilities at the same location as, but separated  
11 from, the facilities used by the dealer for the sale or service of  
12 new motor vehicles or related products of the manufacturer, if the  
13 dealer maintains a reasonable line of credit for each make or line  
14 of vehicle, remains in compliance with minimum space requirements  
15 and reasonable facilities requirements, remains in substantial  
16 compliance with capital requirements, and does not make a change in  
17 the principal management of the dealer.

18 (iii) Unless the manufacturer otherwise objects based on other  
19 reasonable business considerations, in the same facilities used by  
20 the dealer for the sale or service of new motor vehicles or related  
21 products of the manufacturer, if the dealer maintains a reasonable  
22 line of credit for each make or line of vehicle, remains in  
23 compliance with reasonable facilities requirements, remains in  
24 substantial compliance with capital requirements, and does not make  
25 a change in the principal management of the dealer. The  
26 manufacturer has the burden of proving reasonable business  
27 considerations for purposes of this subparagraph.

1 (g) Change the location of the new motor vehicle dealership or  
2 make any substantial alterations to the dealership premises, if  
3 changing the location or making the alterations is unreasonable.

4 (h) Prospectively assent to a release, assignment, novation,  
5 waiver, or estoppel that would relieve any person from liability  
6 imposed by this act; require that any dealer agreement be governed  
7 by the laws of a state other than this state; or require referral  
8 of any controversy between a new motor vehicle dealer and a  
9 manufacturer to a person other than the duly constituted courts of  
10 this state, or of the United States located in this state, if the  
11 referral would be binding on the new motor vehicle dealer. This  
12 subdivision does not apply to an agreement between the parties,  
13 made at the time of a controversy, to refer the controversy to a  
14 court of the United States located outside this state or agree at  
15 the time of an arbitration to conduct the arbitration either in or  
16 outside of this state. A provision in a dealer agreement that  
17 violates this subdivision is void and unenforceable.

18 **(I) SUBJECT TO SUBSECTION (2), FOR A PERIOD OF 10 YEARS AFTER**  
19 **THE DATE OF COMPLETION OF A CONSTRUCTION PROJECT DESCRIBED IN**  
20 **SUBPARAGRAPH (ii), REQUIRE THE NEW MOTOR VEHICLE DEALER OR AN**  
21 **APPROVED SUCCESSOR OF THE DEALER TO COMPLY WITH ANY NEW OR REVISED**  
22 **FACILITIES REQUIREMENTS THAT WOULD REQUIRE CHANGES TO THE**  
23 **FACILITIES, SIGNS, OR IMAGE ELEMENTS INCLUDED IN THE COMPLETED**  
24 **CONSTRUCTION PROJECT IF ALL OF THE FOLLOWING ARE MET:**

25 **(i) THE MANUFACTURER ESTABLISHES A PROGRAM, STANDARD, OR**  
26 **POLICY OR IN ANY MANNER OFFERS A BONUS, INCENTIVE, REBATE, OR OTHER**  
27 **BENEFIT TO A NEW MOTOR VEHICLE DEALER THAT IS BASED, IN WHOLE OR IN**



1 PART, ON THE COMPLETION OF A CONSTRUCTION PROJECT.

2 (ii) IN RELIANCE ON THE PROGRAM, STANDARD, POLICY, BONUS,  
3 INCENTIVE, REBATE, OR OTHER BENEFIT DESCRIBED IN SUBPARAGRAPH (i),  
4 A NEW MOTOR VEHICLE DEALER COMPLETES THE CONSTRUCTION PROJECT.

5 (J) SUBJECT TO SUBSECTION (3), REQUIRE A NEW MOTOR VEHICLE  
6 DEALER TO PURCHASE GOODS OR SERVICES TO MAKE IMPROVEMENTS TO THE  
7 DEALER'S FACILITIES FROM A VENDOR THAT IS SELECTED, IDENTIFIED, OR  
8 DESIGNATED BY THE MANUFACTURER OR AN AFFILIATE OF THE MANUFACTURER,  
9 UNLESS THE DEALER IS ALLOWED TO OBTAIN THE GOODS OR SERVICES FROM A  
10 VENDOR CHOSEN BY THE DEALER IF ALL OF THE FOLLOWING ARE MET:

11 (i) THE GOODS OR SERVICES OFFERED BY THE VENDOR CHOSEN BY THE  
12 DEALER ARE OF SUBSTANTIALLY SIMILAR MATERIAL, QUALITY, AND OVERALL  
13 DESIGN.

14 (ii) THE VENDOR CHOSEN BY THE DEALER IS APPROVED BY THE  
15 MANUFACTURER. A MANUFACTURER SHALL NOT UNREASONABLY WITHHOLD ITS  
16 CONSENT FOR PURPOSES OF THIS SUBPARAGRAPH.

17 (iii) THE MANUFACTURER IS NOT PROVIDING SUBSTANTIAL  
18 REIMBURSEMENT FOR THE GOODS OR SERVICES.

19 (K) SUBJECT TO SUBSECTION (3), REQUIRE A NEW MOTOR VEHICLE  
20 DEALER TO LEASE SIGNS, EXCEPT FOR SIGNS THAT CONTAIN THE  
21 MANUFACTURER'S BRAND OR LOGO OR FREE-STANDING SIGNS THAT ARE NOT  
22 DIRECTLY ATTACHED TO A BUILDING, OR OTHER MANUFACTURER IMAGE OR  
23 DESIGN ELEMENTS OR TRADE DRESS, FROM A VENDOR SELECTED, IDENTIFIED,  
24 OR DESIGNATED BY THE MANUFACTURER, UNLESS THE DEALER IS ALLOWED TO  
25 PURCHASE THE SIGNS OR OTHER IMAGE OR DESIGN ELEMENTS OR TRADE DRESS  
26 FROM A VENDOR CHOSEN BY THE DEALER IF ALL OF THE FOLLOWING ARE MET:

27 (i) THE SIGNS OR OTHER MANUFACTURER IMAGE OR DESIGN ELEMENTS

1 OR TRADE DRESS OFFERED BY THE VENDOR CHOSEN BY THE DEALER ARE OF  
2 SUBSTANTIALLY SIMILAR MATERIAL, QUALITY, AND OVERALL DESIGN.

3 (ii) THE SIGNS, MANUFACTURER IMAGE OR DESIGN ELEMENTS, OR  
4 TRADE DRESS ARE APPROVED BY THE MANUFACTURER. A MANUFACTURER SHALL  
5 NOT UNREASONABLY WITHHOLD ITS CONSENT FOR PURPOSES OF THIS  
6 SUBPARAGRAPH.

7 (l) REQUIRE A NEW MOTOR VEHICLE DEALER TO PURCHASE TOOLS,  
8 PRODUCTS, FLUIDS, OR LUBRICANTS FROM A PARTICULAR VENDOR, IF THE  
9 TOOLS, PRODUCTS, FLUIDS, OR LUBRICANTS ARE AVAILABLE FROM ANOTHER  
10 VENDOR FOR A LOWER PRICE.

11 (2) DURING THE 10-YEAR PERIOD DESCRIBED IN SUBSECTION (1) (I),  
12 IF A MANUFACTURER ESTABLISHES A NEW PROGRAM, STANDARD, POLICY,  
13 BONUS, INCENTIVE, REBATE, OR OTHER BENEFIT, A NEW MOTOR VEHICLE  
14 DEALER IS ELIGIBLE FOR THE NEW PROGRAM, STANDARD, POLICY, BONUS,  
15 INCENTIVE, REBATE, OR OTHER BENEFIT IF THE DEALER'S PREVIOUS  
16 FACILITY CONSTRUCTION, UPGRADES, OR IMPROVEMENTS SUBSTANTIALLY  
17 MEETS OR EXCEEDS THE NEW STANDARDS SET BY THE MANUFACTURER IN THE  
18 NEW PROGRAM, STANDARD, POLICY, BONUS, INCENTIVE, OR OTHER BENEFIT.

19 (3) SUBSECTION (1) (J) AND SUBSECTION (1) (K) DO NOT ALLOW A NEW  
20 MOTOR VEHICLE DEALER OR A VENDOR CHOSEN BY THE DEALER TO IMPAIR,  
21 INFRINGE UPON, OR ELIMINATE, DIRECTLY OR INDIRECTLY, THE  
22 INTELLECTUAL PROPERTY RIGHTS OF THE MANUFACTURER, INCLUDING, BUT  
23 NOT LIMITED TO, THE MANUFACTURER'S INTELLECTUAL PROPERTY RIGHTS IN  
24 ANY TRADEMARKS OR TRADE DRESS, OR OTHER INTELLECTUAL PROPERTY  
25 INTERESTS OWNED OR CONTROLLED BY THE MANUFACTURER, OR TO PERMIT A  
26 NEW MOTOR VEHICLE DEALER TO ERECT OR MAINTAIN SIGNS THAT DO NOT  
27 CONFORM TO THE MANUFACTURER'S INTELLECTUAL PROPERTY RIGHTS OR

1 TRADEMARK OR TRADE DRESS USAGE GUIDELINES.

2 (4) A MANUFACTURER MUST DEVELOP A PROGRAM THAT ALLOWS A NEW  
3 MOTOR VEHICLE DEALER TO BORROW OR LEASE SPECIAL TOOLS FROM THE  
4 MANUFACTURER OR A PROGRAM THAT ALLOWS A NEW MOTOR VEHICLE DEALER TO  
5 EASILY SHARE SPECIAL TOOLS WITH, BORROW SPECIAL TOOLS FROM, OR  
6 LEASE SPECIAL TOOLS TO OR FROM, OTHER DEALERS OF THE SAME  
7 MANUFACTURER OR LINE-MAKE.

8 (5) AS USED IN THIS SECTION:

9 (A) "CONSTRUCTION PROJECT" MEANS THE CONSTRUCTION OF NEW SALES  
10 OR SERVICE FACILITIES BY A NEW MOTOR VEHICLE DEALER, OR THE  
11 REMODELING, IMPROVEMENT, RENOVATION, EXPANSION, REPLACEMENT, OR  
12 OTHER ALTERATION OF A DEALER'S EXISTING SALES OR SERVICE  
13 FACILITIES. THE TERM INCLUDES INSTALLATION OF SIGNS OR OTHER IMAGE  
14 ELEMENTS OTHER THAN LOGOS OR INTELLECTUAL PROPERTY, PATENTS, OR  
15 TRADEMARKED SIGNS AND MATERIALS.

16 (B) "GOODS" DOES NOT INCLUDE MOVABLE DISPLAYS, BROCHURES, AND  
17 PROMOTIONAL MATERIALS CONTAINING MATERIAL THAT IS SUBJECT TO THE  
18 INTELLECTUAL PROPERTY RIGHTS OF A MANUFACTURER.

19 (C) "SUBSTANTIAL REIMBURSEMENT" MEANS AN AMOUNT EQUAL TO OR  
20 GREATER THAN THE COST SAVINGS THAT WOULD RESULT IF A NEW MOTOR  
21 VEHICLE DEALER UTILIZED A VENDOR OF THE DEALER'S OWN SELECTION  
22 INSTEAD OF USING THE VENDOR SELECTED, IDENTIFIED, OR DESIGNATED BY  
23 THE MANUFACTURER OR AN AFFILIATE OF THE MANUFACTURER.

24 Sec. 14. (1) A manufacturer shall not do any of the following:

25 (a) Adopt, change, establish, or implement a plan or system  
26 for the allocation and distribution of new motor vehicles to new  
27 motor vehicle dealers that is arbitrary or capricious or based on

1 unreasonable sales and service standards, or modify an existing  
2 plan or system that causes the plan or system to be arbitrary or  
3 capricious or based on unreasonable sales and service standards.

4 (b) If requested in writing by a new motor vehicle dealer,  
5 fail or refuse to advise or disclose to the dealer the basis on  
6 which new motor vehicles of the same ~~line-make~~ **LINE-MAKE** are  
7 allocated or distributed to new motor vehicle dealers in this state  
8 and the basis on which the current allocation or distribution is  
9 being made or will be made to that new motor vehicle dealer.

10 (c) Refuse to deliver to a new motor vehicle dealer in  
11 reasonable quantities and within a reasonable time after receipt of  
12 the dealer's order, any new motor vehicles that are covered by the  
13 dealer agreement and specifically publicly advertised in this state  
14 by the manufacturer as available for immediate delivery. However,  
15 the failure to deliver any motor vehicle is not considered a  
16 violation of this act if the failure is due to an act of God, a  
17 work stoppage or delay due to a strike or labor difficulty, a  
18 shortage of materials, a lack of manufacturing capacity, a freight  
19 embargo, or other cause over which the manufacturer has no control.  
20 If a manufacturer requires a new motor vehicle dealer to purchase  
21 essential service tools with a purchase price in the aggregate of  
22 more than \$7,500.00 in order to receive a specific model of  
23 vehicle, the manufacturer shall on written request provide the  
24 dealer with a good faith estimate in writing of the number of  
25 vehicles of that specific model the dealer will be allocated in the  
26 model year in which the dealer is required to purchase the tool.

27 (d) Increase the price of a new motor vehicle that the new

1 motor vehicle dealer had ordered, and then eventually delivered to,  
2 the same retail consumer for whom the vehicle was ordered, if the  
3 order was made before the dealer's receipt of a written official  
4 price increase notification. A sales contract signed by a private  
5 retail consumer and binding on the dealer constitutes evidence of a  
6 vehicle order. In the event of manufacturer price reductions or  
7 cash rebates, the dealer shall pass on the amount of any reduction  
8 or rebate received by the dealer to the private retail consumer.  
9 Any price reduction in excess of \$5.00 shall apply to all vehicles  
10 in the dealer's inventory that were subject to the price reduction.  
11 A price difference applicable to new model or series motor vehicles  
12 at the time of the introduction of the new models or the series is  
13 not considered a price increase or price decrease. This subdivision  
14 does not apply to price changes caused by any of the following:

15 (i) The addition to a motor vehicle of required or optional  
16 equipment under state or federal law.

17 (ii) In the case of foreign made vehicles or components,  
18 revaluation of the United States dollar.

19 (iii) Any increase in transportation charges due to an  
20 increase in rates charged by a common carrier or transporter.

21 (e) Offer any of the following to any new motor vehicle dealer  
22 of a specific ~~line make~~ **LINE-MAKE** without making the same offer  
23 available to all other new motor vehicle dealers of the same ~~line~~  
24 ~~make:~~ **LINE-MAKE**:

25 (i) Any specific model or series of new motor vehicles  
26 manufactured for that ~~line make~~ **LINE-MAKE**.

27 (ii) Any incentives, rebates, bonuses, promotional items, or

1 other similar benefits payable to the new motor vehicle dealer for  
2 selling new motor vehicles or purchasing new motor vehicles from  
3 the manufacturer.

4 (iii) Any consumer rebates, vehicle price reductions, or  
5 interest rate reductions or other changes to finance terms that  
6 benefit the consumer.

7 (iv) Any program that provides marketing and sales assistance  
8 to new motor vehicle dealers, including, but not limited to,  
9 internet listings, sales leads, marketing programs, and dealer  
10 recognition programs.

11 (f) Release to an outside party, except under subpoena or in  
12 an administrative or judicial proceeding to which the new motor  
13 vehicle dealer or the manufacturer are parties, any business,  
14 financial, or personal information that has been provided by the  
15 dealer to the manufacturer, unless the new motor vehicle dealer  
16 gives written consent.

17 (g) Deny a new motor vehicle dealer the right to associate  
18 with another new motor vehicle dealer for any lawful purpose.

19 (h) Directly or indirectly own, operate, or control a new  
20 motor vehicle dealer, including, but not limited to, a new motor  
21 vehicle dealer engaged primarily in performing warranty repair  
22 services on motor vehicles under the manufacturer's warranty, or a  
23 used motor vehicle dealer. This subdivision does not apply to any  
24 of the following:

25 (i) The ownership, operation, or control by a manufacturer of  
26 a new motor vehicle dealer for a period of not more than 24 months  
27 during the transition from 1 owner or operator to another. The

1 circuit court may extend the 24-month time period for an additional  
2 12 months upon receipt of an application from a manufacturer and a  
3 showing of good cause.

4 (ii) The ownership, operation, or control of a new motor  
5 vehicle dealer or a used motor vehicle dealer by a manufacturer  
6 while it is being sold under a bona fide contract or purchase  
7 option to the operator of the new motor vehicle dealer or the used  
8 motor vehicle dealer.

9 (iii) The direct or indirect ownership by a manufacturer of an  
10 entity that owns, operates, or controls a new motor vehicle dealer  
11 of the same ~~line-make~~**LINE-MAKE** franchised by the manufacturer, if  
12 all of the following conditions are met:

13 (A) As of May 1, 2000, the manufacturer for a period of not  
14 less than 12 months has continuously owned, directly or indirectly,  
15 1 or more new motor vehicle dealers in this state.

16 (B) All of the new motor vehicle dealers selling the  
17 manufacturer's motor vehicles in this state trade exclusively in  
18 the manufacturer's ~~line-make~~**LINE-MAKE**.

19 (C) As of January 1, 2000, not fewer than 1/2 of the new motor  
20 vehicle dealers of the ~~line-make~~**LINE-MAKE** within this state own  
21 and operate 2 or more new motor vehicle dealer facilities in the  
22 geographic territory or area covered by the franchise agreement  
23 with the manufacturer.

24 (D) For a manufacturer or any entity in which the manufacturer  
25 has more than a 45% ownership interest, the manufacturer or entity  
26 has not acquired, operated, or controlled a new motor vehicle  
27 dealer that the manufacturer did not directly or indirectly own as

1 of May 1, 2000.

2 (iv) The acquisition by a manufacturer of a used motor vehicle  
3 dealer's license for the purpose of selling motor vehicles to  
4 nonretail buyers.

5 (i) Sell any new motor vehicle directly to a retail customer  
6 other than through franchised dealers, unless the retail customer  
7 is a nonprofit organization or a federal, state, or local  
8 government or agency. This subdivision does not prohibit a  
9 manufacturer from providing information to a consumer for the  
10 purpose of marketing or facilitating the sale of new motor vehicles  
11 or from establishing a program to sell or offer to sell new motor  
12 vehicles through franchised new motor vehicle dealers that sell and  
13 service new motor vehicles produced by the manufacturer.

14 (j) Prevent or attempt to prevent by contract or otherwise any  
15 new motor vehicle dealer from changing the executive management of  
16 a new motor vehicle dealer unless the manufacturer, having the  
17 burden of proof, can show that the change of executive management  
18 will result in executive management by a person or persons who are  
19 not of good moral character or who do not meet reasonable,  
20 preexisting, and equitably applied standards of the manufacturer.  
21 If a manufacturer rejects a proposed change in the executive  
22 management, the manufacturer shall give written notice of its  
23 reasons to the dealer within 60 days after receiving written notice  
24 from the dealer of the proposed change and all related information  
25 reasonably requested by the manufacturer, or the change in  
26 executive management is considered approved.

27 (k) Unreasonably withhold consent to the sale, transfer, or



1 exchange of a new motor vehicle dealership to a qualified buyer  
2 that is capable of being licensed as a new motor vehicle dealer in  
3 this state.

4 (l) ~~Fail~~ **SUBJECT TO SUBSECTION (3), FAIL** to respond in writing  
5 to a request for consent to a sale, transfer, or exchange of a new  
6 motor vehicle dealership within 60 days after receiving a ~~written~~  
7 ~~application~~ **BONA FIDE CONTRACT FOR SALE OF THE DEALERSHIP** from the  
8 new motor vehicle dealer. ~~on the forms generally utilized by the~~  
9 ~~manufacturer for that purpose and containing the information~~  
10 ~~required in that application. Failure to respond to a request for~~  
11 ~~consent within the 60-day period is considered consent to the sale,~~  
12 ~~transfer, or exchange.~~

13 (m) Unfairly prevent a new motor vehicle dealer that sells,  
14 transfers, or exchanges a new motor vehicle dealership from  
15 receiving reasonable compensation for the value of the new motor  
16 vehicle dealership.

17 (n) ~~Unless~~ **SUBJECT TO SECTION 13(1)(I) AND (2), UNLESS** the  
18 manufacturer enters into a written agreement with the new motor  
19 vehicle dealer that clearly states the amount of the incentive  
20 payments and the period of time during which the incentive payments  
21 are paid, offer incentive payments to a new motor vehicle dealer in  
22 consideration for a new motor vehicle dealer's promise to do any of  
23 the following:

24 (i) Make material alterations to any facilities at the  
25 dealer's place of business.

26 (ii) Construct new facilities for the conduct of the business  
27 of the dealership.

1 (o) Require unreasonable improvements to a facility as a  
2 condition to entering into or renewing a dealer agreement.

3 (p) Authorize a motor vehicle service and repair facility to  
4 perform motor vehicle warranty repairs and recall work, unless the  
5 work meets any of the following:

6 (i) Is required for emergency service of a vehicle.

7 (ii) Is work performed at a service center owned or operated  
8 by a manufacturer on a manufacturer-owned vehicle.

9 (iii) Is work performed by employees of a fleet operator on  
10 its own vehicles.

11 (q) Own a motor vehicle service and repair facility, except  
12 that a manufacturer may own a service and repair facility for the  
13 repair of manufacturer-owned vehicles.

14 (r) Engage in conduct that meets all of the following:

15 (i) Materially affects a new motor vehicle dealer.

16 (ii) Is capricious, is not in good faith, or is  
17 unconscionable.

18 (iii) Causes damage to a new motor vehicle dealer.

19 ~~(s) Impose unreasonable standards of performance on a new~~  
20 ~~motor vehicle dealer or require, **REQUIRE**, attempt to require,~~  
21 ~~coerce, or attempt to coerce a new motor vehicle dealer to adhere~~  
22 ~~to **UNREASONABLE** performance standards that are not applied~~  
23 ~~uniformly to other similarly situated new motor vehicle dealers.~~

24 (t) Use or consider the performance of a new motor vehicle  
25 dealer in selling the manufacturer's vehicles or the new motor  
26 vehicle dealer's ability to satisfy any minimum sales or market  
27 share quota or responsibility relating to the sale of the new motor

1 vehicles in determining any of the following:

2 (i) The new motor vehicle dealer's eligibility to purchase  
3 program, certified, or other used motor vehicles from the  
4 manufacturer.

5 (ii) The volume, type, or model of program, certified, or  
6 other used motor vehicles that a new motor vehicle dealer is  
7 eligible to purchase from the manufacturer.

8 (iii) The price of any program, certified, or other used motor  
9 vehicle that the new motor vehicle dealer purchases from the  
10 manufacturer.

11 (iv) The availability or amount of any discount, credit,  
12 rebate, or sales incentive that the new motor vehicle dealer is  
13 eligible to receive from the manufacturer in connection with any  
14 program, certified, or other used motor vehicle offered for sale by  
15 the manufacturer.

16 (u) Require that a new motor vehicle dealer provide its  
17 customer lists or service files to the manufacturer, unless  
18 necessary for the sale and delivery of a new motor vehicle to a  
19 consumer, to validate and pay consumer or dealer incentives, or in  
20 connection with the submission of a claim to the manufacturer for  
21 services supplied by the new motor vehicle dealer for any claim for  
22 warranty repairs. This section does not limit a manufacturer's  
23 authority to require or use customer information to satisfy any  
24 safety or recall obligation.

25 (v) Establish a performance standard or program for measuring  
26 new motor vehicle dealer performance that may have a material **AND**  
27 **ADVERSE** impact on a new motor vehicle dealer that is not fair,

1 reasonable, and equitable. For purposes of this subdivision, all of  
2 the following apply if a manufacturer does not provide a complete  
3 program description explaining the performance standard or program  
4 details to a new motor vehicle dealer on or before the beginning of  
5 the program:

6 (i) Within 10 days after receiving a request from the new  
7 motor vehicle dealer, the manufacturer shall provide the new motor  
8 vehicle dealer with a written description of how a performance  
9 standard or program is designed.

10 (ii) Within 30 days after receiving a request from the new  
11 motor vehicle dealer, the manufacturer shall ~~provide information~~

12 **MEET WITH AND PROVIDE ALL OF THE FOLLOWING TO THE DEALER:**

13 **(A) INFORMATION** relating to how the performance standard or  
14 program applies to the new motor vehicle dealer.

15 **(B) AN EXPLANATION AS TO HOW THE MANUFACTURER APPLIES A**  
16 **PERFORMANCE STANDARD OR PROGRAM TO A NEW MOTOR VEHICLE DEALER'S**  
17 **PERFORMANCE. THE EXPLANATION MUST INCLUDE RELEVANT DOCUMENTS, DATA,**  
18 **AND OTHER INFORMATION AND THE MANUFACTURER MUST PROVIDE COPIES OF**  
19 **THAT INFORMATION ON REQUEST.**

20 **(iii) A MANUFACTURER OR A NEW MOTOR VEHICLE DEALER MAY REQUEST**  
21 **A MEETING WITH THE OTHER PARTY TO PRESENT, EXPLAIN, OR DISCUSS**  
22 **INFORMATION THE MANUFACTURER IS REQUIRED TO PROVIDE UNDER**  
23 **SUBPARAGRAPH (ii) (B) .**

24 (w) If a new motor vehicle dealer sold or leased a new motor  
25 vehicle to a customer that exported the motor vehicle to a foreign  
26 country or resold the motor vehicle, **AND AT THE TIME OF DELIVERY TO**  
27 **THE CUSTOMER THE VEHICLE WAS TITLED AND REGISTERED IN THIS STATE OR**

1 **ANOTHER STATE OF THE UNITED STATES BY THE DEALER**, refuse to  
2 allocate, sell, or deliver new motor vehicles to the dealer; charge  
3 back or withhold payments or other things of value for which the  
4 dealer is otherwise eligible under a sales promotion, program, or  
5 contest; prevent a new motor vehicle dealer from participating in  
6 any sales promotion, program, or contest; or take or threaten to  
7 take any other adverse action against a new motor vehicle dealer,  
8 including, but not limited to, reducing vehicle allocations or  
9 terminating or threatening to terminate a dealer agreement, unless  
10 the manufacturer proves that the new motor vehicle dealer knew or  
11 reasonably should have known that the customer intended to export  
12 or resell the motor vehicle. In an action by a new motor vehicle  
13 dealer for a violation of this subdivision, there is a rebuttable  
14 presumption that a new motor vehicle dealer did not know or should  
15 not reasonably have known of its customer's intent to export or  
16 resell a motor vehicle if the vehicle was titled **AND REGISTERED** in  
17 the United States, and the manufacturer bears the burden of  
18 rebutting that presumption.

19 (x) If a new motor vehicle dealer is a party to a dealer  
20 agreement on August 4, 2010, and the dealer agreement provides for  
21 sale of a competing ~~line-make~~ **LINE-MAKE** of new motor vehicles at  
22 the same place of business where the manufacturer's ~~line-make~~ **LINE-**  
23 **MAKE** is sold, require or otherwise coerce the new motor vehicle  
24 dealer to remove the sale or servicing of new motor vehicles of  
25 that competing ~~line-make~~ **LINE-MAKE** from that place of business.

26 (y) Prevent, attempt to prevent, prohibit, coerce, or attempt  
27 to coerce a new motor vehicle dealer from charging a consumer any

1 documentary preparation fee allowed to be charged by the dealer  
2 under the laws of this state OR REQUIRE THE DISCLOSURE OF THE  
3 DOCUMENTARY PREPARATION FEE IN A WRITTEN FORMAT THAT IS NOT  
4 OTHERWISE REQUIRED BY LAW.

5 (Z) PROHIBIT, PREVENT, OR ATTEMPT TO PREVENT A NEW MOTOR  
6 VEHICLE DEALER FROM TRANSFERRING A DEALERSHIP TO OR NAMING A SPOUSE  
7 OR CHILD AS DEALERSHIP SUCCESSOR TO OWN AND OPERATE THE DEALERSHIP  
8 UNLESS THE MANUFACTURER, HAVING THE BURDEN OF PROOF, CAN SHOW THAT  
9 THE SUCCESSOR SPOUSE OR CHILD OF THE DEALER IS NOT OF GOOD MORAL  
10 CHARACTER, HAS A FELONY CONVICTION, OR IS OTHERWISE DISQUALIFIED  
11 FROM HOLDING A LICENSE AS A NEW MOTOR VEHICLE DEALER UNDER ANY  
12 APPLICABLE STATUTE OF THIS STATE.

13 (AA) MAKE ANY CHANGE IN A DEALER AGREEMENT WITHOUT GIVING THE  
14 NEW MOTOR VEHICLE DEALER WRITTEN NOTICE OF THE CHANGE, SENT BY  
15 CERTIFIED MAIL, AT LEAST 60 DAYS BEFORE THE EFFECTIVE DATE OF THE  
16 CHANGE.

17 (BB) OFFER TO SELL OR TO SELL AN EXTENDED SERVICE CONTRACT OR  
18 EXTENDED MAINTENANCE PLAN OFFERED, SOLD, BACKED BY, OR SPONSORED BY  
19 THE MANUFACTURER; OR REQUIRE A NEW MOTOR VEHICLE DEALER TO SELL,  
20 ASSIGN, OR TRANSFER ANY RETAIL INSTALLMENT SALES CONTRACT OR LEASE  
21 OBTAINED BY THE DEALER IN CONNECTION WITH THE SALE OR LEASE OF A  
22 NEW MOTOR VEHICLE MANUFACTURED BY THE MANUFACTURER TO A SPECIFIED  
23 FINANCE COMPANY, CLASS OF FINANCE COMPANIES, LEASING COMPANY, OR  
24 CLASS OF LEASING COMPANIES OR TO ANY OTHER SPECIFIED PERSON OR  
25 CLASS OF PERSONS.

26 (2) A manufacturer, either directly or through any subsidiary,  
27 shall not terminate, cancel, fail to renew, or discontinue any

1 lease of a new motor vehicle dealer's established place of business  
2 except for a material breach of the lease.

3           **(3) A MANUFACTURER SHALL PROVIDE A PERSON THAT IS SEEKING TO**  
4 **PURCHASE OR ACCEPT THE TRANSFER OR THE EXCHANGE OF A NEW MOTOR**  
5 **VEHICLE DEALER WITH ALL FORMS GENERALLY UTILIZED AND REQUESTED BY**  
6 **THE MANUFACTURER IN CONNECTION WITH THE SALE, TRANSFER, OR EXCHANGE**  
7 **OF A NEW MOTOR VEHICLE DEALERSHIP. A FAILURE BY A MANUFACTURER TO**  
8 **PROVIDE ALL THE FORMS GENERALLY UTILIZED AND REQUIRED BY THE**  
9 **MANUFACTURER THAT ARE NECESSARY TO CONSENT TO THE SALE, TRANSFER,**  
10 **OR EXCHANGE OF A NEW MOTOR VEHICLE DEALERSHIP WITHIN 7 DAYS AFTER**  
11 **RECEIVING A BONA FIDE CONTRACT FOR SALE OF THE DEALERSHIP, OR A**  
12 **FAILURE BY A MANUFACTURER TO RESPOND TO A REQUEST FOR CONSENT**  
13 **WITHIN THE 60-DAY PERIOD DESCRIBED IN SUBSECTION (1) (l), IS**  
14 **CONSIDERED CONSENT BY THE MANUFACTURER TO THE SALE, TRANSFER, OR**  
15 **EXCHANGE OF THE DEALERSHIP.**

16           **(4) ~~(3)~~**—This section applies to a manufacturer that sells,  
17 services, displays, or advertises its new motor vehicles in this  
18 state.

19           **SEC. 14B. (1) A MANUFACTURER SHALL NOT EXERCISE A RIGHT OF**  
20 **FIRST REFUSAL OR OTHER RIGHT TO ACQUIRE A NEW MOTOR VEHICLE**  
21 **DEALERSHIP FROM A NEW MOTOR VEHICLE DEALER, UNLESS THE MANUFACTURER**  
22 **DOES ALL OF THE FOLLOWING:**

23           **(A) WITHIN 60 DAYS AFTER THE MANUFACTURER RECEIVED NOTICE OF A**  
24 **PROPOSED TRANSFER OF A NEW MOTOR VEHICLE DEALERSHIP FROM THE NEW**  
25 **MOTOR VEHICLE DEALER, NOTIFIES THE DEALER IN WRITING THAT IT**  
26 **INTENDS TO EXERCISE THE RIGHT TO ACQUIRE THE DEALERSHIP AND**  
27 **PROVIDES TO THE DEALER ALL OF THE INFORMATION AND DOCUMENTATION**

1 CUSTOMARILY REQUIRED BY THE MANUFACTURER IN ACQUIRING A DEALERSHIP.

2 (B) PAYS TO THE DEALER THE SAME OR GREATER CONSIDERATION AS  
3 THE DEALER HAS CONTRACTED TO RECEIVE IN CONNECTION WITH THE  
4 PROPOSED TRANSFER OR SALE OF ALL OR SUBSTANTIALLY ALL OF THE  
5 DEALERSHIP ASSETS, STOCK, OR OTHER OWNERSHIP INTEREST, INCLUDING,  
6 BUT NOT LIMITED TO, THE PURCHASE OF, LEASE OF, OR ASSIGNMENT OR  
7 TRANSFER OF ANY LEASED INTEREST IN, REAL PROPERTY OR IMPROVEMENTS  
8 RELATED TO THE TRANSFER OR SALE OF THE DEALERSHIP.

9 (C) ASSUMES ALL OF THE DUTIES, OBLIGATIONS, AND LIABILITIES  
10 CONCERNING THE MANUFACTURER'S LINE-MAKES THAT THE PROPOSED  
11 TRANSFEREE WAS TO ASSUME IN THE AGREEMENTS BETWEEN THE PROPOSED  
12 TRANSFEREE AND THE DEALER AND WITH RESPECT TO WHICH THE  
13 MANUFACTURER EXERCISED THE RIGHT OF FIRST REFUSAL OR OTHER RIGHT TO  
14 ACQUIRE THE NEW MOTOR VEHICLE DEALERSHIP.

15 (D) REIMBURSES THE PROPOSED TRANSFEREE FOR ALL REASONABLE  
16 EXPENSES INCURRED IN EVALUATING, INVESTIGATING, AND NEGOTIATING THE  
17 TRANSFER OF THE DEALERSHIP BEFORE THE MANUFACTURER'S EXERCISE OF  
18 ITS RIGHT OF FIRST REFUSAL TO ACQUIRE THE DEALERSHIP. ALL OF THE  
19 FOLLOWING APPLY FOR PURPOSES OF THIS SUBDIVISION:

20 (i) THE PROPOSED TRANSFEREE SHALL SUBMIT AN ITEMIZED LIST OF  
21 ITS EXPENSES TO THE MANUFACTURER NOT LATER THAN 60 DAYS AFTER THE  
22 MANUFACTURER EXERCISES ITS RIGHT OF FIRST REFUSAL TO ACQUIRE THE  
23 MOTOR VEHICLE FRANCHISE. HOWEVER, IF REQUESTED BY THE MANUFACTURER,  
24 THE PROPOSED TRANSFEREE MUST PROVIDE THE LIST BEFORE THE  
25 MANUFACTURER EXERCISES ITS RIGHT OF FIRST REFUSAL.

26 (ii) THE MANUFACTURER MUST REIMBURSE THE PROPOSED TRANSFEREE  
27 FOR ITS EXPENSES NOT LATER THAN 60 DAYS AFTER IT RECEIVES THE



1 ITEMIZED LIST DESCRIBED IN SUBPARAGRAPH (i) .

2 (2) EXCEPT AS PROVIDED IN THIS SECTION, A MANUFACTURER THAT  
3 EXERCISES ITS RIGHT OF FIRST REFUSAL UNDER THIS SECTION AND THE NEW  
4 MOTOR VEHICLE DEALER ARE NOT LIABLE TO ANY PERSON AS A RESULT OF A  
5 MANUFACTURER EXERCISING ITS RIGHT OF FIRST REFUSAL.

6 (3) A MANUFACTURER THAT EXERCISES A RIGHT OF FIRST REFUSAL  
7 UNDER THIS SECTION MAY ASSIGN THE LEASE OR CONVEY THE REAL PROPERTY  
8 OF THE NEW MOTOR VEHICLE DEALERSHIP.

9 (4) AS USED IN THIS SECTION:

10 (A) "PROPOSED TRANSFEREE" MEANS THE PERSON TO WHICH A NEW  
11 MOTOR VEHICLE DEALERSHIP WOULD HAVE BEEN TRANSFERRED, OR WAS  
12 PROPOSED TO BE TRANSFERRED, IF THE MANUFACTURER DID NOT EXERCISE A  
13 RIGHT OF FIRST REFUSAL TO ACQUIRE THE DEALERSHIP FROM A NEW MOTOR  
14 VEHICLE DEALER.

15 (B) "REASONABLE EXPENSES" INCLUDES THE USUAL AND CUSTOMARY  
16 LEGAL AND ACCOUNTING FEES CHARGED FOR SIMILAR WORK, AS WELL AS  
17 EXPENSES ASSOCIATED WITH THE EVALUATION AND INVESTIGATION OF ANY  
18 REAL PROPERTY ON WHICH A NEW MOTOR VEHICLE DEALERSHIP IS OPERATED.

19 Sec. 15. (1) Any designated family member of a deceased or  
20 incapacitated new motor vehicle dealer or an executive manager of  
21 the dealership may succeed the dealer in the ownership or operation  
22 of the dealership under the existing dealer agreement if the  
23 designated family member or executive manager gives the  
24 manufacturer written notice of his or her intention to succeed to  
25 the dealership within 120 days after the dealer's death or  
26 incapacity, agrees to be bound by all of the terms and conditions  
27 of the **EXISTING** dealer agreement. ~~and meets the current criteria~~

1 ~~generally applied by the manufacturer in qualifying new motor~~  
2 ~~vehicle dealers.~~ A manufacturer may refuse to continue the existing  
3 dealer agreement with the designated family member only for good  
4 cause **UNDER SECTION 7(2)**.

5 (2) A manufacturer may request from a designated family member  
6 or executive manager described in subsection (1) a completed  
7 application form and any personal and financial information that is  
8 reasonably necessary to determine whether the existing dealer  
9 agreement should continue. The designated family member or  
10 executive manager shall supply the completed application form and  
11 personal and financial information promptly on request. As used in  
12 this subsection and subsection (3), "application form" means the  
13 application form generally used by the manufacturer in connection  
14 with a proposal to continue a dealer agreement under this section.

15 (3) If a manufacturer believes that good cause exists for  
16 refusing to continue a dealer agreement under this section with a  
17 designated family member or executive manager described in  
18 subsection (1), the manufacturer may, within 60 days after  
19 receiving notice of the designated family member's or executive  
20 manager's intent to succeed the dealer in the ownership and  
21 operation of the dealership, or within 60 days after receiving the  
22 requested personal and financial information and completed  
23 application form, serve on the designated family member or  
24 executive manager notice of its refusal to approve the succession.

25 (4) A notice of refusal served by a manufacturer under  
26 subsection (3) shall state the specific grounds for the refusal to  
27 approve the succession and that discontinuance of the agreement

1 shall take effect ~~not fewer than~~ **ON A DATE SPECIFIED IN THE NOTICE**  
2 **THAT IS AT LEAST** 90 days after the date the notice is served.

3 (5) If a notice of refusal described in subsection (3) is not  
4 served within the 60-day period described in subsection (3), the  
5 dealer agreement shall continue in effect and is subject to  
6 termination only as otherwise permitted under this act.

7 (6) This section does not preclude a new motor vehicle dealer  
8 from designating any person as his or her successor by written  
9 instrument filed with the manufacturer. If the dealer files an  
10 instrument described in this subsection, it alone shall determine  
11 the succession rights to the management, **OWNERSHIP**, and operation  
12 of the dealership.

13 (7) **A MANUFACTURER SHALL NOT USE THE FAILURE OF A NEW MOTOR**  
14 **VEHICLE DEALER TO MEET A PERFORMANCE STANDARD OR PERFORMANCE**  
15 **CRITERIA AS THE BASIS TO PREVENT OR DENY THE DEALER THE OPPORTUNITY**  
16 **TO DO ANY OF THE FOLLOWING:**

17 (A) **NAME A SUCCESSOR, IF THE SUCCESSOR IS CURRENTLY OR HAS**  
18 **RECENTLY BEEN ACTIVELY INVOLVED IN THE DAY-TO-DAY OPERATION OF THE**  
19 **NEW MOTOR VEHICLE DEALERSHIP AND HAS RECEIVED APPLICABLE BUSINESS**  
20 **OR DEALER TRAINING, INCLUDING, BUT NOT LIMITED TO, OBTAINING A**  
21 **HIGHER EDUCATION DEGREE IN A BUSINESS-RELATED FIELD, COMPLETING A**  
22 **MANUFACTURER SPONSORED OR APPROVED PROGRAM RELATED TO THE OPERATION**  
23 **OF A NEW MOTOR VEHICLE DEALERSHIP, OR COMPLETING A DEALER ACADEMY**  
24 **OR OTHER SIMILAR TRAINING PROGRAM.**

25 (B) **OTHERWISE ENGAGE IN SUCCESSION PLANNING.**

26 Sec. 16. (1) As used in this section, "relocate" and  
27 "relocation" shall not include the relocation of a new motor

1 vehicle dealer within 2 miles of its established place of business.

2 (2) Before a manufacturer or distributor enters into a dealer  
3 agreement establishing or relocating a new motor vehicle dealer  
4 ~~within~~**IN** a relevant market area where the same ~~line make~~**LINE-MAKE**  
5 is represented, the manufacturer or distributor shall ~~give~~**PROVIDE**  
6 written notice ~~to each new motor vehicle dealer of the same line~~  
7 ~~make in the relevant market area~~ of its intention to establish an  
8 additional dealer or to relocate an existing dealer ~~within~~**IN** that  
9 relevant market area **TO EACH NEW MOTOR VEHICLE DEALER THAT**  
10 **REPRESENTS THAT LINE-MAKE IN THE RELEVANT MARKET AREA ON THE DATE**  
11 **THE NOTICE IS PROVIDED.**

12 (3) Within 30 days after receiving the notice provided for in  
13 subsection (2), or within 30 days after the end of any appeal  
14 procedure provided by the manufacturer or distributor, a new motor  
15 vehicle dealer may bring a declaratory judgment action in the  
16 circuit court for the county in which the new motor vehicle dealer  
17 is located to determine whether good cause exists for the  
18 establishing or relocating of a proposed new motor vehicle dealer.  
19 Once an action ~~has been~~**IS** filed, the manufacturer or distributor  
20 shall not establish or relocate the proposed new motor vehicle  
21 dealer until the circuit court has rendered a decision on the  
22 matter. ~~An~~**A COURT SHALL GIVE PRECEDENCE TO AN** action brought  
23 ~~pursuant to~~**UNDER** this section ~~shall be given precedence~~ over all  
24 other civil matters on the court's docket.

25 (4) This section ~~shall~~**DOES** not apply to the reopening or  
26 replacement in a relevant market area of a closed dealership that  
27 has been closed within the preceding year, if the established place

1 of business of the reopened or replacement dealer is within 2 miles  
2 of the established place of business of the closed dealership.

3 (5) In determining whether good cause exists for establishing  
4 or relocating an additional new motor vehicle dealer for the same  
5 ~~line make, LINE-MAKE~~, the court shall take into consideration the  
6 existing circumstances, including, but not limited to, the  
7 following:

8 (a) Permanency of the investment.

9 (b) Effect on the retail new motor vehicle business and the  
10 consuming public in the relevant market area.

11 (c) Whether it is injurious or beneficial to the public  
12 welfare.

13 (d) Whether the new motor vehicle dealers of the same ~~line~~  
14 ~~make LINE-MAKE~~ in that relevant market area are providing adequate  
15 competition and convenient consumer care for the motor vehicles of  
16 that ~~line make LINE-MAKE~~ in the market area, including the adequacy  
17 of motor vehicle sales and qualified service personnel.

18 (e) Whether the establishment or relocation of the new motor  
19 vehicle dealer would promote competition.

20 (f) Growth or decline of the population and the number of new  
21 motor vehicle registrations in the relevant market area.

22 (g) The effect on the relocating dealer of a denial of its  
23 relocation into the relevant market area.

24 Sec. 17. (1) ~~Each new motor vehicle~~ **A** manufacturer shall  
25 specify in writing to each of its new motor vehicle dealers  
26 licensed in this state the dealer's obligations for preparation,  
27 delivery, **RECALL SERVICE**, and warranty service on its products. A

1 manufacturer shall compensate a new motor vehicle dealer for **RECALL**  
2 **OR** warranty service required of the dealer by the manufacturer. A  
3 manufacturer shall provide a new motor vehicle dealer with the  
4 schedule of compensation to be paid to the dealer for parts, work,  
5 and service, and the time allowance for the performance of the work  
6 and service. **A MANUFACTURER SHALL ALSO INCLUDE IN THE SCHEDULE OF**  
7 **COMPENSATION A REASONABLE TIME ALLOWANCE FOR LABOR FOR DIAGNOSTIC**  
8 **WORK AND REPAIR WORK, INCLUDED IN THE MANUFACTURER'S LABOR TIME**  
9 **ALLOWANCE OR LISTED AS A SEPARATE COMPENSABLE ITEM. A DEALER MAY**  
10 **SUBMIT A REQUEST FOR AN ADDITIONAL TIME ALLOWANCE FOR EITHER**  
11 **DIAGNOSTIC OR REPAIR TIME, THAT INCLUDES ANY INFORMATION AND**  
12 **DOCUMENTATION REASONABLY REQUIRED BY THE MANUFACTURER, AND A**  
13 **MANUFACTURER SHALL NOT UNREASONABLY DENY THAT REQUEST. THE SCHEDULE**  
14 **OF COMPENSATION SHALL INCLUDE REASONABLE COMPENSATION FOR PARTS**  
15 **REIMBURSEMENT AND LABOR RATES AS DETERMINED UNDER SECTION 17A(1) .**

16 ~~—— (2) A schedule of compensation described in subsection (1)~~  
17 ~~shall include reasonable compensation for diagnostic work and~~  
18 ~~repair service and labor. Time allowances for the diagnosis and~~  
19 ~~performance of warranty work and service shall be reasonable and~~  
20 ~~adequate for the work to be performed. In determining what~~  
21 ~~constitutes reasonable compensation under this section, the~~  
22 ~~principal factor to be given consideration is the prevailing wage~~  
23 ~~rates being paid by dealers in the community in which the dealer is~~  
24 ~~doing business, and the compensation of a dealer for warranty labor~~  
25 ~~shall not be less than the rates charged by the dealer for like~~  
26 ~~service to retail customers for nonwarranty service and repairs, if~~  
27 ~~those rates are reasonable.~~

1           (2) ~~(3)~~—A manufacturer shall not do any of the following:

2           (a) Fail to perform any **RECALL OR** warranty obligation.

3           (b) Fail to include in written notices of factory recalls to  
4 new motor vehicle owners and dealers the expected date by which  
5 necessary parts and equipment will be available to dealers for the  
6 correction of the defects.

7           (c) Fail to compensate a new motor vehicle dealer licensed in  
8 this state for repairs made in connection with the recall.

9           (3) ~~(4)~~—A manufacturer shall pay a claim made by a new motor  
10 vehicle dealer under this section for labor and parts within 30  
11 days after its approval. A manufacturer shall either approve or  
12 disapprove a claim within 30 days after receiving the claim,  
13 submitted on the form generally used by the manufacturer and  
14 containing the information usually required in the form. Any claim  
15 not specifically disapproved in writing within 30 days after the  
16 manufacturer receives the claim form is considered approved, and  
17 the manufacturer shall pay the claim within 30 days.

18           (4) ~~(5)~~—Subject to ~~subsection (10)~~, **SUBSECTIONS (5) AND (10)**,  
19 if a manufacturer has approved and paid a new motor vehicle dealer  
20 for a claim, the manufacturer may only charge the claim back to the  
21 dealer if 1 of the following is met:

22           (a) The manufacturer shows that the claim is fraudulent or  
23 false. However, the manufacturer may not charge back the amount  
24 paid if the claim is found to be false or fraudulent more than 2  
25 years after payment.

26           (b) The manufacturer shows that the claim is unsubstantiated,  
27 lacks proper documentation, or shows an improper diagnosis process

1 or improper repair procedures. However, the manufacturer may not  
2 charge back the amount paid if the claim is found to be  
3 unsubstantiated, to lack proper documentation, or show an improper  
4 diagnosis process or repair procedures more than 12 months after  
5 payment.

6 (5) IF A MANUFACTURER SEEKS TO CHARGE BACK A CLAIM UNDER  
7 SUBSECTION (4) ON THE BASIS THAT THE CLAIM IS UNSUBSTANTIATED OR  
8 LACKS PROPER DOCUMENTATION, A NEW MOTOR VEHICLE DEALER HAS 14 DAYS  
9 AFTER THE DATE THE NEW MOTOR VEHICLE DEALER RECEIVES NOTICE OF THE  
10 CHARGEBACK TO SUPPLY DOCUMENTATION THAT MEETS THE MANUFACTURER'S  
11 REQUIREMENTS TO SUPPORT THE VALIDITY OF THE CLAIM, AND IF THE CLAIM  
12 IS VALID, THE MANUFACTURER SHALL NOT CHARGE BACK THE CLAIM TO THE  
13 NEW MOTOR VEHICLE DEALER.

14 (6) A manufacturer may not deny a claim made under this  
15 section because of a new motor vehicle dealer's incidental failure  
16 to comply with a specific claim processing requirement, such as a  
17 clerical error, that does not call into question the legitimacy of  
18 the claim.

19 (7) A new motor vehicle dealer shall maintain all records of  
20 warranty repairs, including the related time records of its  
21 employees, for at least 2 years following payment of any warranty  
22 claim.

23 (8) A manufacturer shall compensate a new motor vehicle dealer  
24 for any sales or service promotion events, **INCENTIVES**, programs, or  
25 activities sponsored by the manufacturer, in accordance with  
26 established guidelines for those events, **INCENTIVES**, programs, or  
27 activities.



1           (9) A manufacturer shall pay a claim for compensation owed to  
2 a new motor vehicle dealer under subsection (8) for a promotion  
3 event, **INCENTIVE**, program, or activity within ~~10~~**15** days after its  
4 approval. A manufacturer shall either approve or disapprove a claim  
5 for compensation described in this subsection within 30 days after  
6 receiving the claim, submitted on the form generally used by the  
7 manufacturer and containing the information usually required in the  
8 form. Any claim for compensation the manufacturer does not  
9 specifically disapprove in writing within 30 days after receiving  
10 the claim form is considered approved, and the manufacturer shall  
11 pay the amount of the claim within 30 days. A manufacturer may only  
12 charge back a claim for compensation **DESCRIBED IN THIS SUBSECTION**  
13 within 12 months after the date of payment. ~~, or within 12 months~~  
14 ~~after the end of a program if the duration of the program is 1 year~~  
15 ~~or less.~~

16           (10) A manufacturer may not charge a claim back to a new motor  
17 vehicle dealer after the claim is paid unless a representative of  
18 the manufacturer first meets in person or by video teleconference  
19 or telephone with an officer or employee of the dealer designated  
20 by the new motor vehicle dealer, or responds in writing to any  
21 dealer written request for information. All of the following apply  
22 if a meeting is held under this subsection:

23           (a) At the meeting, the manufacturer shall provide a detailed  
24 explanation, with supporting documentation, of the basis for each  
25 proposed chargeback of a claim to the dealer and a written  
26 statement containing the basis on which the claim or claims of the  
27 dealer were selected for audit or review by the manufacturer.

1 (b) After the meeting, the manufacturer shall provide the  
2 motor vehicle dealer's representative a reasonable period of time  
3 of at least 45 days to respond to the proposed chargebacks. The  
4 manufacturer shall provide a longer period of time for the dealer  
5 to respond if warranted by the volume of proposed chargebacks.

6 (c) An unexcused failure or refusal of the dealer or  
7 designated officer or employee of the dealer to schedule, attend,  
8 or participate in the meeting with the manufacturer relieves the  
9 manufacturer from any further obligation under this subsection.

10 (11) A manufacturer may conduct an audit of the records of a  
11 new motor vehicle dealer relating to a warranty or promotion claim  
12 submitted by a new motor vehicle dealer under this section, but the  
13 manufacturer may only conduct that audit in the time periods  
14 allowed for warranty or promotional claim chargebacks under this  
15 section.

16 **SEC. 17A. (1) THE PRINCIPAL FACTORS IN DETERMINING WHAT**  
17 **CONSTITUTES REASONABLE COMPENSATION FOR PARTS REIMBURSEMENT AND**  
18 **LABOR RATES FOR PURPOSES OF SECTION 17(1) ARE AS FOLLOWS:**

19 **(A) THE RETAIL PRICE CHARGED FOR PARTS BY OTHER SIMILARLY**  
20 **SITUATED MOTOR VEHICLE DEALERS IN A COMPARABLE GEOGRAPHIC AREA IN**  
21 **THIS STATE THAT OFFER THE SAME LINE-MAKE OF VEHICLES.**

22 **(B) THE PREVAILING HOURLY LABOR RATES PAID BY A MANUFACTURER**  
23 **TO A NEW MOTOR VEHICLE DEALER THAT PERFORM THE WARRANTY REPAIR,**  
24 **WORK, OR SERVICE AND THE PREVAILING WAGE RATES PAID TO OTHER NEW**  
25 **MOTOR VEHICLE DEALERS IN THE COMMUNITY IN WHICH THE DEALER DOING**  
26 **THE REPAIR, WORK, OR SERVICE IS DOING BUSINESS FOR THE SAME OR**  
27 **SIMILAR REPAIR, WORK, OR SERVICE OR THE RATES CHARGES BY OTHER**

1 SIMILARLY SITUATED MOTOR VEHICLE DEALERS IN A COMPARABLE GEOGRAPHIC  
2 AREA IN THIS STATE THAT OFFER THE SAME LINE-MAKE OF VEHICLES.

3 (2) ALL OF THE FOLLOWING APPLY FOR PURPOSES OF SUBSECTION

4 (1) (A) :

5 (A) A NEW MOTOR VEHICLE DEALER THAT IS DEMANDING WARRANTY  
6 COMPENSATION FROM A MANUFACTURER AT A RATE THAT EXCEEDS THE AGREED-  
7 UPON RATES SHALL ESTABLISH THE RETAIL RATE IT CUSTOMARILY CHARGES  
8 FOR PARTS BY SUBMITTING TO THE MANUFACTURER 100 SEQUENTIAL  
9 NONWARRANTY CUSTOMER-PAID SERVICE REPAIR ORDERS THAT CONTAIN  
10 WARRANTY-LIKE REPAIRS OR 90 CONSECUTIVE DAYS OF NONWARRANTY  
11 CUSTOMER-PAID SERVICE REPAIR ORDERS THAT CONTAIN WARRANTY-LIKE  
12 PARTS, WHICHEVER IS LESS. A DEALER SHALL NOT SUBMIT A SERVICE  
13 REPAIR ORDER UNDER THIS SUBSECTION THAT COVERS REPAIRS MADE MORE  
14 THAN 180 DAYS BEFORE THE DATE OF THE SUBMISSION.

15 (B) IF A MANUFACTURER DETERMINES FROM ANY SET OF REPAIR ORDERS  
16 SUBMITTED UNDER SUBDIVISION (A) THAT THE RETAIL MARKUP RATE FOR  
17 PARTS CALCULATED IS SUBSTANTIALLY HIGHER OR LOWER THAN THE RATE  
18 CURRENTLY ON RECORD WITH THE MANUFACTURER, THE MANUFACTURER MAY  
19 REQUEST ADDITIONAL DOCUMENTATION FOR A PERIOD OF EITHER 60 DAYS  
20 BEFORE OR 60 DAYS AFTER THE TIME PERIOD FOR WHICH THE REPAIR ORDERS  
21 WERE SUBMITTED FOR PURPOSES OF AN ADJUSTMENT.

22 (C) A NEW MOTOR VEHICLE DEALER'S RETAIL RATE PERCENTAGE FOR  
23 PARTS IS CALCULATED BY DETERMINING THE DEALER'S TOTAL PARTS SALES  
24 IN THE SUBMITTED REPAIR ORDERS AND DIVIDING THAT AMOUNT BY THE  
25 DEALER'S TOTAL COST FOR PURCHASE OF THOSE PARTS, SUBTRACTING 1 FROM  
26 THAT AMOUNT, AND THEN MULTIPLYING BY 100. THE MANUFACTURER MUST  
27 APPROVE OR DISAPPROVE THE DECLARED RETAIL RATE WITHIN 45 DAYS AFTER

1 THE DATE OF SUBMISSION BY THE DEALER. THE DECLARED RETAIL RATE IS  
2 EFFECTIVE BEGINNING 30 DAYS AFTER APPROVAL BY THE MANUFACTURER,  
3 UNLESS THE MANUFACTURER DISAPPROVES AND TIMELY CONTESTS THE  
4 DEALER'S DECLARED RATE. IF A MANUFACTURER FAILS TO DISAPPROVE  
5 WITHIN 45 DAYS FOLLOWING SUBMISSION BY THE DEALER, THE DECLARED  
6 RETAIL RATE IS CONSIDERED APPROVED.

7 (D) A MANUFACTURER MAY CONTEST A NEW MOTOR VEHICLE DEALER'S  
8 DECLARED PARTS RATE NOT LATER THAN 45 DAYS AFTER SUBMISSION AND  
9 DECLARATION OF THE PARTS RATE BY THE DEALER BY REASONABLY  
10 SUBSTANTIATING THAT THE RATE IS UNREASONABLE AND INACCURATE IN  
11 LIGHT OF THE PRACTICES OF ALL OTHER SIMILARLY SITUATED NEW MOTOR  
12 VEHICLE DEALERS IN A COMPARABLE GEOGRAPHIC AREA IN THIS STATE THAT  
13 OFFER THE SAME LINE-MAKE OF VEHICLES. IN CONTESTING A NEW MOTOR  
14 VEHICLE DEALER'S DECLARED RATE, A MANUFACTURER SHALL PROVIDE A  
15 WRITTEN EXPLANATION OF THE REASONS FOR DISAGREEMENT WITH THE  
16 DECLARED RATE. IF THE DECLARED PARTS RATE IS CONTESTED, THEN THE  
17 MANUFACTURER SHALL PROPOSE AN ADJUSTMENT OF THE RATE. IF THE  
18 MANUFACTURER CONTESTS THE DEALER'S DECLARED PARTS RATE, THE PARTIES  
19 SHALL ATTEMPT TO RESOLVE THE DISPUTE THROUGH AN INTERNAL DISPUTE  
20 RESOLUTION PROCEDURE OF THE MANUFACTURER, IF AVAILABLE, PROVIDED  
21 THAT THE DISPUTE RESOLUTION PROCEDURE OCCURS WITHIN A REASONABLE  
22 AMOUNT OF TIME THAT DOES NOT EXCEED 45 DAYS AFTER NOTIFICATION OF  
23 DISAGREEMENT WITH THE DEALER'S DECLARED RATE.

24 (E) IF AN INTERNAL DISPUTE RESOLUTION PROCEDURE DESCRIBED IN  
25 SUBDIVISION (D) IS UNSUCCESSFUL OR DOES NOT OCCUR IN A TIMELY  
26 MANNER, A NEW MOTOR VEHICLE DEALER MAY FILE A COMPLAINT IN THE  
27 CIRCUIT COURT FOR THE COUNTY IN WHICH THE NEW MOTOR VEHICLE DEALER

1 IS LOCATED, WITHIN 60 DAYS AFTER IT RECEIVES THE ADJUSTMENT  
2 PROPOSED BY THE MANUFACTURER OR WITHIN 30 DAYS AFTER CONCLUSION OF  
3 THE INTERNAL DISPUTE RESOLUTION PROCEDURE, WHICHEVER IS LATER. IN  
4 AN ACTION UNDER THIS SUBDIVISION, THE MANUFACTURER HAS THE BURDEN  
5 OF PROOF TO DEMONSTRATE THAT THE PARTS RATE DECLARED BY THE DEALER  
6 IS UNREASONABLE AND INACCURATE AND DOES NOT COMPLY WITH THIS  
7 SUBSECTION.

8 (3) ALL OF THE FOLLOWING APPLY FOR PURPOSES OF SUBSECTION

9 (1) (B) :

10 (A) A NEW MOTOR VEHICLE DEALER THAT IS DEMANDING WARRANTY  
11 COMPENSATION FROM A MANUFACTURER AT A RATE THAT EXCEEDS THE AGREED-  
12 UPON RATES SHALL ESTABLISH THE RETAIL RATE IT CUSTOMARILY CHARGES  
13 FOR LABOR BY SUBMITTING TO THE MANUFACTURER 100 SEQUENTIAL  
14 NONWARRANTY CUSTOMER-PAID SERVICE REPAIR ORDERS FOR WARRANTY-LIKE  
15 REPAIRS OR 90 CONSECUTIVE DAYS OF CUSTOMER-PAID SERVICE REPAIR  
16 ORDERS FOR WARRANTY-LIKE REPAIRS, WHICHEVER IS LESS. A DEALER SHALL  
17 NOT SUBMIT A SERVICE REPAIR ORDER UNDER THIS SUBDIVISION THAT  
18 COVERS REPAIRS MADE MORE THAN 180 DAYS BEFORE THE DATE OF THE  
19 SUBMISSION.

20 (B) IF A MANUFACTURER DETERMINES FROM ANY SET OF REPAIR ORDERS  
21 SUBMITTED UNDER SUBDIVISION (A) THAT THE RETAIL RATE FOR LABOR  
22 CALCULATED IS SUBSTANTIALLY HIGHER OR LOWER THAN THE RATE CURRENTLY  
23 ON RECORD WITH THE MANUFACTURER, THE MANUFACTURER MAY REQUEST  
24 ADDITIONAL DOCUMENTATION FOR A PERIOD OF EITHER 60 DAYS BEFORE OR  
25 60 DAYS AFTER THE TIME PERIOD FOR WHICH THE REPAIR ORDERS WERE  
26 SUBMITTED FOR PURPOSES OF AN ADJUSTMENT.

27 (C) A NEW MOTOR VEHICLE DEALER'S RETAIL RATE FOR LABOR IS

1 CALCULATED BY DETERMINING THE DEALER'S TOTAL LABOR SALES FROM THE  
2 SUBMITTED REPAIR ORDERS AND DIVIDING THAT AMOUNT BY THE TOTAL  
3 NUMBER OF HOURS THAT GENERATED THOSE SALES. THE MANUFACTURER MUST  
4 APPROVE OR DISAPPROVE THE DECLARED RETAIL RATE WITHIN 45 DAYS AFTER  
5 THE DATE OF SUBMISSION BY THE DEALER. THE DECLARED RETAIL LABOR  
6 RATE IS EFFECTIVE BEGINNING 30 DAYS AFTER APPROVAL BY THE  
7 MANUFACTURER, UNLESS THE MANUFACTURER DISAPPROVES AND TIMELY  
8 CONTESTS THE DEALER'S DECLARED RATE.

9 (D) A MANUFACTURER MAY CONTEST A NEW MOTOR VEHICLE DEALER'S  
10 DECLARED LABOR RATE NOT LATER THAN 45 DAYS AFTER SUBMISSION AND  
11 DECLARATION OF THE LABOR RATE BY THE DEALER BY REASONABLY  
12 SUBSTANTIATING THAT THE RATE IS UNREASONABLE IN LIGHT OF THE  
13 PRACTICES OF OTHER SIMILARLY SITUATED FRANCHISED MOTOR VEHICLE  
14 DEALERS IN A COMPARABLE GEOGRAPHIC AREA IN THIS STATE OFFERING THE  
15 SAME LINE-MAKE OF VEHICLES. IF IT CONTESTS THE DECLARED LABOR RATE,  
16 THE MANUFACTURER SHALL PROPOSE AN ADJUSTMENT OF THE DECLARED RETAIL  
17 LABOR RATE. IF THE MANUFACTURER CONTESTS THE DEALER'S DECLARED  
18 LABOR RATE, THE PARTIES SHALL ATTEMPT TO RESOLVE THE DISPUTE  
19 THROUGH AN INTERNAL DISPUTE RESOLUTION PROCEDURE OF THE  
20 MANUFACTURER, IF AVAILABLE, PROVIDED THAT THE DISPUTE RESOLUTION  
21 PROCEDURE OCCURS WITHIN A REASONABLE AMOUNT OF TIME THAT DOES NOT  
22 EXCEED 45 DAYS AFTER NOTIFICATION OF DISAGREEMENT WITH THE DEALER'S  
23 DECLARED RATE.

24 (E) IF AN INTERNAL DISPUTE RESOLUTION PROCEDURE DESCRIBED IN  
25 SUBDIVISION (D) IS UNSUCCESSFUL OR DOES NOT OCCUR IN A TIMELY  
26 MANNER, A NEW MOTOR VEHICLE DEALER MAY FILE A COMPLAINT IN THE  
27 CIRCUIT COURT FOR THE COUNTY IN WHICH THE NEW MOTOR VEHICLE DEALER

1 IS LOCATED, WITHIN 60 DAYS AFTER IT RECEIVES THE ADJUSTMENT  
2 PROPOSED BY THE MANUFACTURER OR WITHIN 30 DAYS AFTER CONCLUSION OF  
3 THE INTERNAL DISPUTE RESOLUTION PROCEDURE, WHICHEVER IS LATER. IN  
4 AN ACTION UNDER THIS SUBDIVISION, THE MANUFACTURER HAS THE BURDEN  
5 OF PROOF TO DEMONSTRATE THAT THE LABOR RATE DECLARED BY THE DEALER  
6 IS UNREASONABLE AND DOES NOT COMPLY WITH THIS SUBSECTION.

7 (4) THE FOLLOWING WORK SHALL NOT BE CONSIDERED IN CALCULATING  
8 THE RETAIL RATE CUSTOMARILY CHARGED BY A NEW MOTOR VEHICLE DEALER  
9 FOR PARTS AND LABOR UNDER THIS SECTION:

10 (A) REPAIRS FOR MANUFACTURER SPECIAL EVENTS, SPECIALS, OR  
11 PROMOTIONAL DISCOUNTS FOR RETAIL CUSTOMER REPAIRS.

12 (B) PARTS SOLD OR REPAIRS PERFORMED AT WHOLESALE.

13 (C) ROUTINE MAINTENANCE NOT COVERED UNDER ANY RETAIL CUSTOMER  
14 WARRANTY, SUCH AS OIL CHANGES, FLUIDS, FILTERS, OR BELTS NOT  
15 PROVIDED IN THE COURSE OF REPAIRS.

16 (D) NUTS, BOLTS, OR FASTENERS OR SIMILAR ITEMS THAT DO NOT  
17 HAVE AN INDIVIDUAL PART NUMBER.

18 (E) TIRES, TIRE REPAIR, TIRE ROTATION, OR OTHER TIRE SERVICES.

19 (F) VEHICLE RECONDITIONING.

20 (G) INSTALLATION OR REPAIR OF ACCESSORIES.

21 (H) REPAIRS OF DAMAGE CAUSED BY A COLLISION, A ROAD HAZARD,  
22 THE FORCE OF THE ELEMENTS, VANDALISM, OR THEFT.

23 (I) VEHICLE EMISSION OR SAFETY INSPECTIONS REQUIRED BY LAW.

24 (J) MANUFACTURER OR DEALER APPROVED AND REIMBURSED GOODWILL OR  
25 POLICY REPAIRS OR REPLACEMENTS.

26 (K) REPAIRS FOR WHICH VOLUME DISCOUNTS HAVE BEEN NEGOTIATED  
27 WITH GOVERNMENT AGENCIES OR INSURANCE CARRIERS.

1 (l) REPAIRS PERFORMED UNDER A FLEET VEHICLE CONTRACT.

2 (5) IF A MANUFACTURER FURNISHES A PART OR COMPONENT TO A NEW  
3 MOTOR VEHICLE DEALER TO USE IN PERFORMING REPAIRS UNDER A RECALL,  
4 CAMPAIGN SERVICE ACTION, OR WARRANTY REPAIR AT NO COST TO THE  
5 DEALER, THE MANUFACTURER SHALL COMPENSATE THE DEALER FOR THE  
6 AUTHORIZED REPAIR PART OR COMPONENT IN THE SAME MANNER AS WARRANTY  
7 PARTS COMPENSATION UNDER SECTION 17 BY PAYING THE DEALER THE RETAIL  
8 RATE MARKUP ON THE COST FOR THE PART OR COMPONENT AS LISTED IN THE  
9 PRICE SCHEDULE OF THE MANUFACTURER LESS THE COST FOR THE PART OR  
10 COMPONENT.

11 (6) A MANUFACTURER SHALL NOT REQUIRE A NEW MOTOR VEHICLE  
12 DEALER TO ESTABLISH THE RETAIL RATE CUSTOMARILY CHARGED BY THE  
13 DEALER FOR PARTS AND LABOR BY AN UNDULY BURDENSOME OR TIME-  
14 CONSUMING METHOD OR BY REQUIRING INFORMATION THAT IS UNDULY  
15 BURDENSOME OR TIME CONSUMING TO PROVIDE, INCLUDING, BUT NOT LIMITED  
16 TO, PART-BY-PART OR TRANSACTION-BY-TRANSACTION CALCULATIONS. A  
17 DEALER SHALL NOT DECLARE A RETAIL RATE FOR PARTS OR LABOR OR BOTH  
18 MORE THAN ONCE IN A CALENDAR YEAR.

19 (7) A MANUFACTURER SHALL NOT ASSESS PENALTIES, SURCHARGES, OR  
20 SIMILAR COSTS TO A NEW MOTOR VEHICLE DEALER, TRANSFER OR SHIFT ANY  
21 COSTS TO A NEW MOTOR VEHICLE DEALER, LIMIT ALLOCATION OF VEHICLES  
22 OR PARTS TO A NEW MOTOR VEHICLE DEALER, OR OTHERWISE TAKE  
23 RETALIATORY ACTION AGAINST A NEW MOTOR VEHICLE DEALER BASED ON THE  
24 NEW MOTOR VEHICLE DEALER'S EXERCISE OF ITS RIGHTS UNDER THIS  
25 SECTION. THIS SUBSECTION DOES NOT PROHIBIT A MANUFACTURER FROM  
26 INCREASING THE PRICE OF A MOTOR VEHICLE OR PART IN THE NORMAL  
27 COURSE OF BUSINESS.



1           SEC. 17B. (1) A MANUFACTURER SHALL COMPENSATE ITS NEW MOTOR  
2 VEHICLE DEALERS A REASONABLE AMOUNT FOR ALL LABOR AND PARTS  
3 REQUIRED BY THE MANUFACTURER TO PERFORM RECALL REPAIRS.

4           (2) IF PARTS OR A REMEDY ARE NOT REASONABLY AVAILABLE TO  
5 PERFORM A RECALL SERVICE OR REPAIR ON A USED VEHICLE HELD FOR SALE  
6 BY A DEALER AUTHORIZED TO SELL AND SERVICE NEW VEHICLES OF THE SAME  
7 LINE-MAKE WITHIN 30 DAYS OF THE MANUFACTURER ISSUING THE INITIAL  
8 NOTICE OF RECALL, AND THE MANUFACTURER HAS ISSUED A STOP-SALE ORDER  
9 ON THE VEHICLE, THE MANUFACTURER SHALL COMPENSATE THE DEALER AT A  
10 PRORATED RATE OF AT LEAST 1% OF THE VALUE OF THE VEHICLE PER MONTH  
11 BEGINNING ON THE DATE THAT IS 30 DAYS AFTER THE DATE ON WHICH THE  
12 STOP-SALE ORDER WAS PROVIDED TO THE DEALER, UNTIL THE EARLIER OF  
13 EITHER OF THE FOLLOWING OCCURS:

14           (A) THE DATE THE RECALL OR REMEDY PARTS ARE MADE AVAILABLE.

15           (B) THE DATE THE DEALER SELLS, TRADES, OR OTHERWISE DISPOSES  
16 OF THE AFFECTED USED MOTOR VEHICLE.

17           (3) FOR PURPOSES OF SUBSECTION (2), THE VALUE OF A USED MOTOR  
18 VEHICLE IS THE AVERAGE TRADE-IN VALUE FOR USED VEHICLES AS  
19 INDICATED IN AN INDEPENDENT THIRD-PARTY GUIDE FOR THE YEAR, MAKE,  
20 AND MODEL OF THE RECALLED VEHICLE.

21           (4) THIS SECTION APPLIES ONLY TO THE FOLLOWING:

22           (A) A USED MOTOR VEHICLE THAT IS SUBJECT TO SAFETY OR  
23 EMISSIONS RECALLS UNDER, AND RECALLED IN ACCORDANCE WITH, FEDERAL  
24 LAW, IF A STOP-SALE ORDER HAS BEEN ISSUED AND REPAIR PARTS OR  
25 REMEDY REMAINS UNAVAILABLE FOR 30 DAYS OR LONGER.

26           (B) A NEW MOTOR VEHICLE DEALER THAT HOLDS AN AFFECTED USED  
27 VEHICLE FOR SALE THAT MEETS BOTH OF THE FOLLOWING:

1           (i) IS IN INVENTORY AT THE TIME THE STOP-SALE ORDER WAS  
2 ISSUED, OR WAS TAKEN IN THE USED VEHICLE INVENTORY OF THE DEALER AS  
3 A CONSUMER TRADE-IN IN CONNECTION WITH THE PURCHASE OF A NEW MOTOR  
4 VEHICLE FROM THE DEALER AFTER THE STOP-SALE ORDER WAS ISSUED.

5           (ii) IS OF THE SAME LINE-MAKE AS A NEW MOTOR VEHICLE THAT THE  
6 DEALER IS AUTHORIZED BY A MANUFACTURER TO SELL OR ON WHICH THE  
7 DEALER IS AUTHORIZED TO PERFORM RECALL REPAIRS.

8           (5) A MANUFACTURER SHALL NOT REDUCE THE AMOUNT OF COMPENSATION  
9 OTHERWISE OWED TO A NEW MOTOR VEHICLE DEALER, WHETHER THROUGH A  
10 CHARGEBACK, REMOVAL OF THE DEALER FROM AN INCENTIVE PROGRAM, OR  
11 REDUCTION IN AMOUNT OWED UNDER AN INCENTIVE PROGRAM, SOLELY BECAUSE  
12 THE NEW MOTOR VEHICLE DEALER HAS SUBMITTED A CLAIM FOR  
13 REIMBURSEMENT UNDER THIS SECTION. THIS SUBSECTION DOES NOT APPLY TO  
14 AN ACTION BY A MANUFACTURER THAT IS APPLIED UNIFORMLY AMONG ALL NEW  
15 MOTOR VEHICLE DEALERS OF THE SAME LINE-MAKE IN THIS STATE.

16           (6) ALL REIMBURSEMENT CLAIMS MADE BY NEW MOTOR VEHICLE DEALERS  
17 UNDER THIS SECTION FOR RECALL REMEDIES OR REPAIRS, OR FOR  
18 COMPENSATION IF A PART OR REPAIR IS NOT REASONABLY AVAILABLE AND  
19 THE VEHICLE IS SUBJECT TO A STOP-SALE ORDER, OR ARE SUBJECT TO THE  
20 SAME LIMITATIONS AND REQUIREMENTS AS A WARRANTY REIMBURSEMENT CLAIM  
21 MADE UNDER SECTION 17. IN THE ALTERNATIVE, A MANUFACTURER MAY  
22 COMPENSATE ITS NEW MOTOR VEHICLE DEALERS UNDER A NATIONAL RECALL  
23 COMPENSATION PROGRAM IF THE COMPENSATION UNDER THE PROGRAM IS EQUAL  
24 TO OR GREATER THAN THAT PROVIDED UNDER THIS SECTION, OR THE  
25 MANUFACTURER AND DEALER OTHERWISE AGREE.

26           (7) A MANUFACTURER MAY DIRECT THE MANNER AND METHOD THE DEALER  
27 MUST USE TO DEMONSTRATE THE INVENTORY STATUS OF AN AFFECTED USED

1 MOTOR VEHICLE TO DETERMINE ELIGIBILITY UNDER THIS SECTION, IF THAT  
2 MANNER AND METHOD IS NOT UNDULY BURDENSOME AND DOES NOT REQUIRE  
3 INFORMATION THAT IS UNDULY BURDENSOME TO PROVIDE.

4 (8) THIS SECTION DOES NOT REQUIRE A MANUFACTURER TO PROVIDE  
5 TOTAL COMPENSATION TO A NEW MOTOR VEHICLE DEALER THAT WOULD EXCEED  
6 THE TOTAL AVERAGE TRADE-IN VALUE OF THE AFFECTED USED MOTOR VEHICLE  
7 AS ORIGINALLY DETERMINED UNDER SUBSECTION (3).

8 (9) ANY REMEDY PROVIDED TO A DEALER UNDER THIS SECTION IS  
9 EXCLUSIVE AND MAY NOT BE COMBINED WITH ANY OTHER STATE OR FEDERAL  
10 RECALL COMPENSATION REMEDY.

11 Sec. 19. (1) Notwithstanding the terms, provisions, or  
12 conditions of any dealer agreement, a manufacturer or distributor  
13 shall indemnify and hold harmless its **NEW MOTOR VEHICLE** dealers  
14 against any judgment for damages or settlement agreed to in writing  
15 by the manufacturer, including, but not limited to, court costs and  
16 reasonable attorney's fees of the new motor vehicle dealer arising  
17 solely out of the complaints, claims, or actions from defects ~~7~~  
18 ~~which~~**THAT** relate to the manufacture, assembly, or design of  
19 vehicles, parts, or accessories, or other functions by the  
20 manufacturer or distributor, **THAT ARE** beyond the control of the  
21 dealer, including, without limitation, the selection by the  
22 manufacturer or distributor of parts or components for the vehicle,  
23 or any damages to merchandise occurring in transit to the dealer if  
24 the carrier is designated by the manufacturer or distributor. If  
25 ~~the~~**A** complaint, claim, or action contains independent allegations  
26 against the **NEW MOTOR VEHICLE** dealer, the manufacturer shall pay  
27 only that portion of the costs, fees, and judgment or settlement

1 ~~which~~ **THAT** is directly related to the manufacture, assembly, or  
2 design of the vehicle, parts, or accessories ~~,~~ or other functions  
3 of the manufacturer **THAT ARE** beyond the control of the dealer.

4 **(2) A MANUFACTURER MUST RESPOND TO A REQUEST FOR**  
5 **INDEMNIFICATION UNDER THIS SECTION WITHIN 21 DAYS AFTER THE DATE**  
6 **THE NEW MOTOR VEHICLE DEALER SUBMITS ALL DOCUMENTS NECESSARY TO**  
7 **SUPPORT ITS REQUEST TO THE MANUFACTURER.**

8 **(3)** ~~(2)~~ A dealer ~~shall have no~~ **DOES NOT HAVE A** right to  
9 indemnification or ~~attorney's~~ **ATTORNEY** fees ~~as provided in~~ **UNDER**  
10 subsection (1) unless the dealer has given reasonable notice in  
11 writing of the complaint, claim, or action to the manufacturer or  
12 distributor.

13 Sec. 22a. **(1)** The 1998 amendments to this act that added this  
14 section apply to agreements in existence on ~~the effective date of~~  
15 ~~this section~~ **DECEMBER 30, 1998** and to agreements entered into or  
16 renewed after ~~the effective date of this section~~ **DECEMBER 30, 1998.**

17 **(2) THE AMENDMENTS TO THIS ACT MADE BY THE AMENDATORY ACT THAT**  
18 **ADDED THIS SUBSECTION APPLY TO AGREEMENTS THAT ARE IN EXISTENCE ON**  
19 **THE EFFECTIVE DATE OF THIS SUBSECTION AND TO AGREEMENTS ENTERED**  
20 **INTO OR RENEWED OR AMENDED AFTER THE EFFECTIVE DATE OF THIS**  
21 **SUBSECTION.**

22 Enacting section 1. This amendatory act takes effect 90 days  
23 after the date it is enacted into law.