# WATERCRAFT AND OUTBOARD MOTOR MANUFACTURERS, DISTRIBUTORS, AND DEALERS
# Act 88 of 1989

AN ACT to regulate watercraft and outboard motor manufacturers, distributors, dealers, and their representatives; and to regulate dealings between those manufacturers and distributors and their dealers.

**History:** 1989, Act 88, Imd. Eff. June 20, 1989.

*The People of the State of Michigan enact:*

## 445.541 Meanings of words and phrases.

Sec. 1. For the purposes of this act, the words and phrases defined in sections 2 to 6 have the meanings ascribed to them in those sections, except where the context clearly indicates a different meaning.

**History:** 1989, Act 88, Imd. Eff. June 20, 1989.

## 445.542 Definitions.

Sec. 2. (1) "Dealer agreement" means the agreement or contract in writing between a manufacturer or distributor and a new watercraft dealer which purports to establish the legal rights and obligations of the parties to the agreement or contract with regard to the purchase and sale of new watercraft or new outboard motors.

(2) "Designated successor" means 1 or more persons nominated by the new watercraft dealer, in a written document filed by the dealer with the manufacturer or distributor at the time the dealer agreement is executed, to succeed the dealer in the event of his or her death or incapacity.

(3) "Distributor" means a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new watercraft or new outboard motor to a new watercraft dealer or who maintains a factory representative, resident or nonresident, or who controls a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new watercraft or new outboard motor to a new watercraft dealer.

(4) "Manufacturer" means a person who manufactures or assembles new watercraft or new outboard motors, or a distributor, factory branch, or factory representative.

(5) "New watercraft dealer" means a person who holds a dealer agreement granted by a manufacturer or distributor for the sale of the manufacturer's or distributor's watercraft or outboard motors, who is engaged in the business of purchasing, selling, exchanging, or servicing new watercraft or new outboard motors, and who has an established place of business.

(6) "Person" means a natural person, partnership, corporation, association, trust, estate, or other legal entity.

(7) "Proposed new watercraft dealer" means a person who has an application pending for a new dealer agreement with a manufacturer or distributor. Proposed new watercraft dealer does not include a person whose dealer agreement is being renewed or continued.

**History:** 1989, Act 88, Imd. Eff. June 20, 1989.

## 445.543 Dealer agreement and compliance required for sale or purchase of new watercraft or new outboard motor.

Sec. 3. A manufacturer or distributor shall not offer for sale to a new watercraft dealer, and a new or proposed new watercraft dealer shall not offer to purchase from a manufacturer, a new watercraft or a new outboard motor without first entering into a written dealer agreement and complying with all other applicable provisions of this act.

**History:** 1989, Act 88, Imd. Eff. June 20, 1989.

## 445.544 Contents of dealer agreement.

Sec. 4. Each dealer agreement shall include, but is not limited to, all of the following:

(a) The territory or market area.

(b) The period of time covered by the dealer agreement.

(c) Performance and marketing standards.

(d) Notice provisions for termination, cancellation, or nonrenewal.

(e) Obligations in the preparation and delivery of the product and warranty service.

(f) Disposal obligations upon termination, cancellation, or nonrenewal of inventory, equipment, furnishings, special tools, and required signs acquired within 18 months of the date of termination, cancellation, or nonrenewal.

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(g) Dispute resolution procedures.

**History:** 1989, Act 88, Imd. Eff. June 20, 1989.

### 445.545 Sale, transfer, or exchange of dealership; consent; criteria; prohibited conduct.

Sec. 5. (1) A manufacturer or distributor shall not unreasonably withhold consent to the sale, transfer, or exchange of a dealership to a person who meets the criteria set forth in the dealer agreement.

(2) Failure to respond within 60 days of receipt of a written request for the sale, transfer, or exchange of a dealership shall be considered consent to the request.

(3) Except for a material breach of the lease, a manufacturer or distributor shall not terminate, cancel, fail to renew, or discontinue a lease of a new watercraft dealer's place of business.

**History:** 1989, Act 88, Imd. Eff. June 20, 1989.

### 445.546 Inability of designated successor to succeed new watercraft dealer.

Sec. 6. If a designated successor is not able to succeed the new watercraft dealer because of the designated successor's death or legal incapacity, the dealer, within 60 days after that death or incapacity, shall execute a new document nominating a designated successor.

**History:** 1989, Act 88, Imd. Eff. June 20, 1989.

### 445.547 Designated successor of deceased or incapacitated new watercraft dealer; notice of intent; existing dealer agreement; personal and financial data; notice of refusal to approve succession.

Sec. 7. (1) A designated successor of a deceased or incapacitated new watercraft dealer may succeed the dealer in the ownership or operation of the dealership under the existing dealer agreement if the designated successor gives the manufacturer or distributor written notice of his or her intention to succeed to the dealership within 60 days after the dealer's death or incapacity and agrees to be bound by all of the terms and conditions of the dealer agreement. A manufacturer or distributor may refuse to honor the existing dealer agreement with the designated successor for good cause or criteria agreed to in the existing dealer agreement.

(2) The manufacturer or distributor may request from a designated successor the personal and financial data necessary to determine whether the existing dealer agreement should be honored. Upon request, the designated successor shall supply the personal and financial data.

(3) Within 60 days after receiving the notice of the designated successor's intent to succeed the dealer in the ownership and operation of the dealership or within 60 days after receiving the requested personal and financial data, whichever last occurs, if a manufacturer or distributor believes that good cause or other criteria exist for refusing to honor the succession, the manufacturer or distributor may serve upon the designated successor notice of its refusal to approve the succession.

**History:** 1989, Act 88, Imd. Eff. June 20, 1989.

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