

An Act

ENROLLED HOUSE
BILL NO. 2158

By: Dobrinski of the House

and

Gollihare of the Senate

An Act relating to motor vehicles; amending 47 O.S. 2021, Section 562, as last amended by Section 2, Chapter 240, O.S.L. 2024 (47 O.S. Supp. 2024, Section 562), which relates to definitions; modifying definitions; defining terms; amending 47 O.S. 2021, Section 564, as last amended by Section 4, Chapter 240, O.S.L. 2024 (47 O.S. Supp. 2024, Section 564), which relates to licenses; modifying list of entities requiring licensure; deleting certain exception; prohibiting factories from engaging in activities of a dealer; amending Section 1, Chapter 29, O.S.L. 2023 (47 O.S. Supp. 2024, Section 564.3), which relates to dealer management system providers; modifying definition; requiring certain commercially reasonable data security standards; modifying entities not liable for certain actions; modifying entities required to provide certain indemnification; prohibiting certain actions by certain entities; providing meaning for certain term; authorizing certain charges; amending 47 O.S. 2021, Section 565, as last amended by Section 7, Chapter 240, O.S.L. 2024 (47 O.S. Supp. 2024, Section 565), which relates to the denial, revocation, or suspension of license; modifying reasons for which a license may be denied, revoked, or suspended; requiring certain factory compliance; modifying certain factory compliance; removing language requiring certain dealer compliance; and providing an effective date.

SUBJECT: Motor Vehicles

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 47 O.S. 2021, Section 562, as last amended by Section 2, Chapter 240, O.S.L. 2024 (47 O.S. Supp. 2024, Section 562), is amended to read as follows:

Section 562. The following words, terms, and phrases, when used in Sections 561 through 567, 572, 578.1, 579, and 579.1 of this title, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Motor vehicle" means any motor-driven vehicle required to be registered under the Oklahoma Vehicle License and Registration Act. The term motor vehicle does not include:

- a. recreational vehicles, as defined in the Recreational Vehicle Franchise Act, or
- b. powersport vehicles;

2. "New motor vehicle dealer" means any person, firm, association, corporation, or trust not excluded by this paragraph who sells, offers for sale, advertises to sell, receives deposits for vehicles, leases, or displays new motor vehicles and holds a bona fide contract or franchise in effect with a manufacturer or distributor authorized by the manufacturer to make predelivery preparation of such vehicles sold to purchasers and to perform post-sale work pursuant to the manufacturer's or distributor's warranty. As used herein, "authorized predelivery preparation" means the rendition by the dealer of services and safety adjustments on each new motor vehicle in accordance with the procedure and safety standards required by the manufacturer of the vehicle to be made before its delivery to the purchaser. "Performance of authorized post-sale work pursuant to the warranty", as used herein, means the rendition of services which are required by the terms of the warranty that stands extended to the vehicle at the time of its sale and are to be made in accordance with the safety standards prescribed by the manufacturer. The term includes premises or facilities at which a person engages only in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise and motor vehicle manufacturer's warranty. For the purpose of Sections 561 through 567, 572, 578.1, 579, and 579.1 of this title, the terms new motor vehicle dealer and "new motor

vehicle dealership" shall be synonymous. The term new motor vehicle dealer does not include:

- a. receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under judgment or order of any court,
- b. public officers while performing or in operation of their duties,
- c. employees of persons, corporations, or associations enumerated in subparagraph a of this paragraph when engaged in the specific performance of their duties as such employees, or
- d. a powersports vehicle dealer;

3. "Motor vehicle salesperson" means any person, resident or nonresident, who, for gain or compensation of any kind, either directly or indirectly, regularly or occasionally, by any form of agreement or arrangement, sells or negotiates for the sale, lease, or conveyance or arranges the financing of any new motor vehicle or powersports vehicle as an employee for any new motor vehicle dealer or powersports dealer to any one or more third parties;

4. "Commission" means the Oklahoma New Motor Vehicle Commission;

5. "Manufacturer" means any person, firm, association, corporation, ~~or partnership~~, trust, joint venture, or common entity thereof, resident or nonresident, that manufactures or assembles new and unused motor vehicles or new and unused powersport vehicles or that engages in the fabrication or assembly of motorized vehicles of a type required to be registered in this state;

6. "Distributor" means any person, firm, association, corporation, ~~or partnership~~, trust, joint venture, or common entity thereof, resident or nonresident, that, being authorized by the original manufacturer, in whole or in part sells or distributes new and unused motor vehicles to new motor vehicle dealers or powersport dealers, or that maintains distributor representatives;

7. "Factory branch" means any branch office maintained by a person, firm, association, corporation, ~~or partnership~~, trust, joint venture, or common entity thereof that manufactures or assembles

motor vehicles or powersport vehicles for the sale of motor vehicles or powersport vehicles to distributors, or for the sale of motor vehicles to new motor vehicle dealers, or for the sale of powersport vehicles to new powersport vehicle dealers, or for directing or supervising, in whole or in part, its representatives;

8. "Distributor branch" means any branch office similarly maintained by a distributor for the same purposes a factory branch is maintained;

9. "Factory representative" means any officer or agent engaged as a representative of a manufacturer of motor vehicles or powersport vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles or powersport vehicles, or for supervising or contacting its dealers or prospective dealers;

10. "Distributor representative" means any person, firm, association, corporation, ~~or partnership~~, trust, joint venture, or common entity thereof, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of motor vehicles or powersport vehicles, for the purpose of making or promoting the sale of its motor vehicles or powersport vehicles, or for supervising or contacting its dealers or prospective dealers;

11. "Franchise" means any contract or agreement between a new motor vehicle dealer or a powersports vehicle dealer and a manufacturer of a new motor vehicle or powersports vehicle or its distributor or factory branch by which the new motor vehicle dealer or new powersports vehicle dealer is authorized to engage in the activities of a new motor vehicle dealer or new powersports vehicle dealer as defined by this section;

12. "New or unused motor vehicle" means a vehicle which is in the possession of the manufacturer or distributor or has been sold only to the holder of a valid franchise granted by the manufacturer or distributor for the sale of that make of new vehicle so long as the manufacturer's statement of origin has not been assigned to anyone other than a licensed franchised new motor vehicle dealer of the same line-make;

13. "Area of responsibility" means the geographical area, as designated by the manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, in which the new motor vehicle dealer or powersports

dealer is held responsible for the promotion and development of sales and rendering of service for the make of motor vehicle or powersports vehicle for which the new motor vehicle dealer or new powersports vehicle dealer holds a franchise or selling agreement;

14. "Off premises" means at a location other than the address designated on the new motor vehicle dealer's or new powersports vehicle dealer's license;

15. "Sponsoring entity" means any person, firm, association, corporation, or trust which has control, either permanently or temporarily, over the real property upon which the off-premises sale or display is conducted;

16. "Product" means new motor vehicles and new motor vehicle parts or new powersports vehicle and new powersports vehicle parts;

17. "Service" means motor vehicle or powersports vehicle warranty repairs including both parts and labor;

18. "Lead" means a consumer contact in response to a factory program designed to generate interest in purchasing or leasing a new motor vehicle or new powersports vehicle;

19. "Sell" or "sale" means to sell or lease;

20. "Factory" means a manufacturer, distributor, factory branch, distributor branch, or any common entity of a manufacturer, distributor, factory branch or distributor branch; or factory representative, or distributor representative, which manufactures or distributes vehicle products;

21. "Powersports vehicle" means any new or unused motorcycles, scooters, mopeds, all-terrain vehicles, and utility vehicles required to be registered under the Oklahoma Vehicle License and Registration Act, with the exception of all-terrain vehicles, utility vehicles, and motorcycles used exclusively for off-road use which are sold by a retail implement dealer;

22. "Powersports vehicle dealer" means any person, firm, or corporation, resident or nonresident, that is in the business of selling any new powersports vehicles except for retail implement dealers;

23. "Retail implement dealer" means a business engaged primarily in the sale of farm tractors as defined in Section 1-118 of this title or implements of husbandry as defined in Section 1-125 of this title or a combination thereof and is exempt from licensing by the Commission for the sale of all-terrain vehicles, utility vehicles, and motorcycles used exclusively for off-road use;

24. "Consumer data" means nonpublic personal information as defined in 15 U.S.C., Section 6809(4) as it existed on January 1, 2023, that is:

- a. collected by a new motor vehicle dealer, and
- b. provided by the new motor vehicle dealer directly to a manufacturer or third party acting on behalf of a manufacturer.

The term shall not include the same or similar data obtained by a manufacturer from any source other than the new motor vehicle dealer or new motor vehicle dealer's data management system; ~~and~~

25. "Fleet vehicle" means a new motor vehicle sold and titled or registered to a business and used for business purposes only; and

26. a. "Common entity" means any person, firm, association, corporation, partnership, trust, or joint venture acting as a new motor vehicle dealer as defined by paragraph 20 of this section:

(1) which is directly or indirectly controlled by or has more than thirty percent (30%) of its equity interest directly or indirectly owned, beneficially or of record, through any form of ownership structure, by a factory, manufacturer, manufacturer branch, distributor, or distributor branch, or

(2) which has more than thirty percent (30%) of its equity interest directly or indirectly controlled or owned, beneficially or of record, through any form of ownership structure, by one or more persons who also directly or indirectly control or own, beneficially or of record, more than thirty percent (30%) of the equity interests of a

factory, manufacturer, manufacturer branch,
distributor, or distributor branch.

b. Notwithstanding subdivision (1) or (2) of subparagraph a of this paragraph, an entity that would otherwise be considered a common entity of a distributor under subdivision (1) or (2) of subparagraph a of this paragraph because of its relation to a distributor is not considered a common entity of that distributor if:

(1) the distributor to which the entity is related was a licensed distributor on March 1, 2025,

(2) the entity is not a common entity of a manufacturer or an importer, and

(3) the distributor to which the entity is related is not, and has never been, a common entity of a manufacturer or an importer.

SECTION 2. AMENDATORY 47 O.S. 2021, Section 564, as last amended by Section 4, Chapter 240, O.S.L. 2024 (47 O.S. Supp. 2024, Section 564), is amended to read as follows:

Section 564. A. It shall be unlawful for any person, firm, association, corporation, ~~or partnership~~, trust, joint venture, or common entity thereof, to engage in business as, or serve in the capacity of, or act as a new motor vehicle dealer, powersports dealer, or manufacturer or distributor of new motor vehicles or powersports vehicles, or factory branch, distributor branch or factory representative or distributor representative, as defined in Section 562 of this title, in this state without first obtaining a license therefor as provided for by law. Any person, firm, association, corporation, ~~or partnership~~, trust, joint venture, or common entity thereof, engaging in more than one of such capacities or having more than one place where such business is carried on or conducted in this state shall be required to obtain and hold a current license for each thereof. Provided that, a new motor vehicle dealer's license shall authorize one person to sell in the event such person shall be the owner of a proprietorship, or the person designated as principal in the dealer's franchise or the managing officer or one partner if no principal person is named in the franchise. It is further provided that a factory ~~or an entity affiliated by any ownership or control by the factory~~ shall not be permitted to engage in the activities of a dealer as defined in

paragraph 2 of Section 562 of this title or to be licensed as a new motor vehicle dealer in this state, except as provided by subparagraph b of paragraph 12 of Section 565 of this title.

B. Applications for licenses required to be obtained under the provisions of Section 561 et seq. of this title shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Oklahoma New Motor Vehicle Commission and furnished to the applicants, and shall contain information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The Commission shall require in such application, or otherwise, information relating to the applicant's current financial standing, the applicant's business integrity, whether the applicant has an established place of business and is primarily engaged in the pursuit, avocation, or business for which a license, or licenses, are applied for, and whether the applicant is able to properly conduct the business for which a license, or licenses, are applied for, and such other pertinent information consistent with the safeguarding of the public interest and the public welfare. All applications for license or licenses shall be accompanied by the appropriate fee or fees therefor in accordance with the schedule thereof hereinafter set out. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant. All licenses issued under the provisions of Section 561 et seq. of this title shall expire on June 30, following the date of issue and shall be nontransferable. All applications for renewal of a license for a new motor vehicle dealer, powersports dealer, manufacturer, distributor, or manufacturer's or distributor's representative shall be submitted by June 1 of each year, and such license or licenses will be issued by July 1. If applications have not been made for renewal of licenses at the times described in this subsection, it shall be illegal for any person to represent himself or herself and act as a dealer, manufacturer, distributor, or manufacturer's or distributor's representative. Service Oklahoma and licensed operators will be notified not to accept such dealers' titles until such time as licenses have been issued by the Commission.

C. The schedule of license fees to be charged and received by the Commission for the licenses issued hereunder shall be as follows:

1. For each factory branch or distributor branch, Four Hundred Dollars (\$400.00) initial fee with annual renewal fee of Three Hundred Dollars (\$300.00);

2. For each manufacturer or distributor of new motor vehicles or new powersport vehicles, Four Hundred Dollars (\$400.00) initial fee with annual renewal fee of Three Hundred Dollars (\$300.00);

3. For each factory representative or distributor representative, One Hundred Dollars (\$100.00) annually;

4. For each new motor vehicle dealer, except powersports vehicle dealers, initial fee of Three Hundred Dollars (\$300.00) per franchise sold at each location licensed, with an annual renewal fee of One Hundred Dollars (\$100.00) per franchise sold at each location licensed per year; and

5. For each powersports vehicle dealer, initial fee of Three Hundred Dollars (\$300.00) per manufacturer represented by the dealer at each location licensed, with an annual renewal fee of One Hundred Dollars (\$100.00) per manufacturer represented by the dealer at each location licensed per year.

D. The licenses issued to each new motor vehicle dealer, new powersports vehicle dealer, manufacturer, distributor, factory branch, or distributor branch shall specify the location of the factory, office, or branch thereof. In case such location is changed, the Commission may endorse the change of location on the license without charge unless the change of address triggers a relocation of a new motor vehicle dealer or new powersports vehicle dealer pursuant to the provisions of Section 578.1 of this title. The licenses of each new vehicle dealer shall be posted in a conspicuous place in the dealer's place or places of business.

Every motor vehicle factory representative or distributor representative shall physically possess the license when engaged in business and shall display such upon request. The name of the employer of such factory representative or distributor representative shall be stated on the license.

E. The new powersports dealer license shall only allow the sale of the specific types of powersports vehicles authorized by the manufacturer and agreed to by the powersports dealer.

SECTION 3. AMENDATORY Section 1, Chapter 29, O.S.L. 2023 (47 O.S. Supp. 2024, Section 564.3), is amended to read as follows:

Section 564.3. A. As used in this section:

1. "Access fee" means a requirement to pay money for access to protected dealer data that is in addition to an amount specified in a written and executed contract for goods and services;

2. "Authorized integrator" means a person who a dealer has a contractual relationship with or the dealer otherwise gives express written authorization to have access to protected dealer data stored on a dealer data system or to write protected dealer data to the dealer data system for the purpose of performing a specific function for the dealer;

3. "Dealer data system" means software, hardware, or firmware that a dealer leases or rents from a dealer management system provider for the purpose of storing protected dealer data;

4. "Dealer management system provider" means a person who, for compensation, maintains and provides access to a dealer data system in which a dealer stores protected dealer data;

5. "Protected dealer data" means:

a. consumer data that a dealer generated or that the consumer provided to the dealer that is not otherwise publicly available and the consumer has not otherwise provided consent or acknowledgment to share the information, and

b. any other dealer data in connection with the dealer's daily business operations in which a dealer has rights in a dealer data system; and

6. Authorized integrator and dealer management system provider do not include:

a. ~~a manufacturer, distributor, importer, factory~~ or any entity that ~~is a subsidiary or affiliate of, or acts on behalf of, a manufacturer, distributor, or importer~~ factory, including any subsidiary or affiliate of a factory, or

- b. a governmental body or other person that is acting in accordance with federal, state, or local law, or a valid court order.

B. A dealer management system provider may:

1. Condition access and ability of a dealer or authorized integrator to receive, share, copy, use, write, or transmit protected dealer data from or to a dealer data system on the dealer's or authorized integrator's compliance with commercially reasonable data security standards;

2. Require an authorized integrator to have express written authorization from a dealer before allowing the authorized integrator to gain access to, receive, share, copy, use, or transmit protected dealer data; and

3. Deny access to a dealer data system to a dealer if the dealer fails to pay an amount due to the dealer management system provider under a lease, contract, or other agreement concerning the dealer's access to or use of the dealer data system.

C. Except as provided in subsection B of this section, a dealer management system provider shall not take any action that would limit or prohibit the ability of a dealer or an authorized integrator to receive, protect, store, copy, share, or use protected dealer data using means that include, but are not limited to:

1. Imposing an access fee on a dealer or authorized integrator; and

2. Restricting a dealer or an authorized integrator from sharing protected dealer data or writing data or having access to a dealer data system. Prohibited restrictions pursuant to this paragraph include, but are not limited to:

- a. limits on the scope or nature of protected dealer data to which a dealer or authorized integrator has access or may share or write to a dealer data system, and
- b. a requirement for a dealer or authorized integrator to provide sensitive or confidential business information or information that a dealer or authorized integrator uses for competitive purposes in return for access to

protected dealer data or an authorization to share or write protected dealer data to a dealer data system.

D. Except as otherwise provided in this section, any term or condition of a contract with a dealer management system provider that conflicts with the requirements set forth in subsection C of this section is void and unenforceable to the extent of the conflict.

E. An authorized integrator shall:

1. Obtain express written authorization from a dealer before gaining access to, receiving, sharing, copying, using, writing, or transmitting protected dealer data;

2. Comply with security standards in gaining access to, receiving, sharing, copying, using, writing, or transmitting protected dealer data; and

3. Allow a dealer to withdraw, revoke, or amend any express written authorization the dealer provides under paragraph 1 of this subsection:

- a. at the sole discretion of the dealer, if the dealer gives a thirty-day prior notice to an authorized integrator, or
- b. immediately, for good cause.

F. 1. This section does not prevent a dealer, a dealer management system provider, or an authorized integrator from discharging the obligations of a dealer, dealer management system provider, or of an authorized integrator under federal, state, or local law to secure and prevent unauthorized access to protected dealer data, or from limiting the scope of the obligations, in accordance with federal, state, or local law.

2. A dealer management system provider is not liable for any action that a dealer takes directly with respect to securing or preventing unauthorized access to protected dealer data, or for actions that an authorized integrator takes in appropriately following the written instructions of the dealer for securing or preventing unauthorized access to protected dealer data, to the extent that the actions prevent the dealer management system

provider from meeting a legal obligation to secure or prevent unauthorized access to protected dealer data.

3. A dealer is not liable for any action that an authorized integrator takes directly with respect to securing or preventing unauthorized access to protected dealer data, or for actions that the authorized integrator takes in appropriately following the written instructions of the dealer for securing or preventing unauthorized access to protected dealer data, to the extent that the actions prevent the dealer from meeting a legal obligation to secure or prevent unauthorized access to protected dealer data.

4. An authorized integrator is not liable for any action that a dealer takes directly with respect to securing or preventing unauthorized access to protected dealer data, or for actions that the dealer takes in appropriately following the written instructions of the authorized integrator for securing or preventing unauthorized access to protected dealer data, to the extent that the actions prevent the authorized integrator from meeting a legal obligation to secure or prevent unauthorized access to protected dealer data.

5. A ~~manufacturer, distributor, importer,~~ factory or any entity that ~~is a subsidiary or affiliate of, or acts on behalf of, a manufacturer, distributor, or importer~~ factory, including any subsidiary or affiliate of a factory, is not liable for any action that a dealer, dealer management system provider, authorized integrator, or other third party, except for a third party who the manufacturer has provided the data to as provided for in paragraph 7 of this subsection, takes directly with respect to securing or preventing unauthorized access to protected dealer data or for actions that an authorized integrator, dealer management system provider, or other third party takes in appropriately following the written instructions of the dealer for securing or preventing unauthorized access to protected dealer data.

6. Notwithstanding any other agreement, an authorized integrator shall indemnify and hold the new motor vehicle dealer harmless from any third-party claims asserted against or damages incurred by the new motor vehicle dealer to the extent caused by access to, use of, or disclosure of consumer data in violation of this section.

7. Notwithstanding any other agreement, a ~~manufacturer, distributor, importer,~~ factory or any entity that ~~is a subsidiary or affiliate of, or acts on behalf of, a manufacturer, distributor, or~~

importer factory, including any subsidiary or affiliate of a factory, shall indemnify the dealer for any third-party claims asserted against or damages incurred by the dealer to the extent the claims or damages are caused by the access to and unlawful disclosure of protected dealer data resulting from a breach caused by the manufacturer or distributor or a third party to which the manufacturer or distributor has provided the protected dealer data in violation of this section, the written consent granted by the dealer, or other applicable state or federal law.

G. A factory or entity that acts on behalf of, a factory, including any subsidiary or affiliate of a factory, may not prohibit an Authorized Integrator that has satisfied or is compliant with commercially reasonable data security standards and that the dealer has identified as one of its authorized integrators from integrating into the dealer's dealer data system or place an unreasonable restriction on integration by an authorized integrator or other third party that the dealer wishes to be an authorized integrator. For the purposes of this subsection, "unreasonable restriction" includes:

1. Imposing an access fee on a dealer or authorized integrator;
2. An unreasonable limitation or condition on the scope or nature of the data that is shared with an authorized integrator;
3. An unreasonable limitation on the ability of the authorized integrator to write data to a dealer data system;
4. An unreasonable limitation or condition on an authorized integrator that accesses or shares protected dealer data or that writes data to a dealer data system; and
5. Requiring unreasonable access to an authorized integrator's sensitive, competitive, or other confidential business information as a condition for accessing protected dealer data or sharing protected dealer data with an authorized integrator.

Notwithstanding paragraph 1 of this subsection, a factory, or entity that acts on behalf of a factory, including any subsidiary or affiliate of a factory may charge a motor vehicle dealer or authorized integrator for actual costs associated with modifications to a franchisor's electronic systems to enable a functional and secure interface with the authorized integrator's system and software.

SECTION 4. AMENDATORY 47 O.S. 2021, Section 565, as last amended by Section 1, Chapter 145, O.S.L. 2024 (47 O.S. Supp. 2024, Section 565), is amended to read as follows:

Section 565. A. The Oklahoma New Motor Vehicle Commission may deny an application for a license, revoke or suspend a license, or impose a fine against any person or entity, not to exceed Ten Thousand Dollars (\$10,000.00) per occurrence, that violates any provision of Sections 561 through 567, 572, 578.1, 579, and 579.1 of this title or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for any license under the provisions of Section 561 et seq. of this title;

2. For any material misstatement made by an applicant in any application for any license under the provisions of Section 561 et seq. of this title;

3. For any failure to comply with any provision of Section 561 et seq. of this title or any rule promulgated by the Commission under authority vested in it by Section 561 et seq. of this title;

4. A change of condition after license is granted resulting in failure to maintain the qualifications for license;

5. Being a new motor vehicle dealer who:

- a. has required a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser and installed by the new motor vehicle dealer,
- b. uses any false or misleading advertising in connection with business as a new motor vehicle dealer,
- c. has committed any unlawful act which resulted in the revocation of any similar license in another state,
- d. has failed or refused to perform any written agreement with any retail buyer involving the sale of a motor vehicle,

- e. has been convicted of a felony crime that substantially relates to the occupation of a new motor vehicle dealer and poses a reasonable threat to public safety,
- f. has committed a fraudulent act in selling, purchasing, or otherwise dealing in new motor vehicles or has misrepresented the terms and conditions of a sale, purchase or contract for sale or purchase of a new motor vehicle or any interest therein including an option to purchase such vehicle,
- g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license, or
- h. completes any sale or transaction of an extended service contract, extended maintenance plan, or similar product using contract forms that do not conspicuously disclose the identity of the service contract provider;

6. Being a motor vehicle salesperson who is not employed as such by a licensed new motor vehicle dealer;

7. Being a new motor vehicle dealer who:

- a. does not have an established place of business,
- b. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more vehicles at the same time, and which is staffed with properly trained and qualified repair technicians and is equipped with such parts, tools, and equipment as may be requisite for the servicing of motor vehicles in such a manner as to make them comply with the safety laws of this state and to properly fulfill the dealer's or manufacturer's warranty obligation,
- c. does not hold a franchise in effect with a manufacturer or distributor of new or unused motor vehicles for the sale of the same and is not authorized by the manufacturer or distributor to render predelivery preparation of such vehicles sold

to purchasers and to perform any authorized post-sale work pursuant to the manufacturer's or distributor's warranty,

- d. employs a person without obtaining a certificate of registration for the person, or utilizes the services of used motor vehicle lots or dealers or other unlicensed persons in connection with the sale of new motor vehicles,
- e. does not properly service a new motor vehicle before delivery of same to the original purchaser thereof, or
- f. fails to order and stock a reasonable number of new motor vehicles necessary to meet consumer demand for each of the new motor vehicles included in the new motor vehicle dealer's franchise agreement, unless the new motor vehicles are not readily available from the manufacturer or distributor due to limited production;

8. Being a factory that has:

- a. either induced or attempted to induce by means of coercion or intimidation, any new motor vehicle dealer:
 - (1) to accept delivery of any motor vehicle or vehicles, parts, or accessories therefor, or any other commodities including advertising material which shall not have been ordered by the new motor vehicle dealer,
 - (2) to order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of the motor vehicles as publicly advertised by the manufacturer thereof, or
 - (3) to order or accept delivery of any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever,
- b. induced under threat or discrimination by the withholding from delivery to a new motor vehicle dealer certain models of motor vehicles, changing or

amending unilaterally the new motor vehicle dealer's allotment of motor vehicles, and/or withholding and delaying delivery of the vehicles out of the ordinary course of business, in order to induce by such coercion any new motor vehicle dealer to participate or contribute to any local or national advertising fund controlled directly or indirectly by the factory or for any other purposes such as contest, "giveaways", or other so-called sales promotional devices, and/or change of quotas in any sales contest; or has required new motor vehicle dealers, as a condition to receiving their vehicle allotment, to order a certain percentage of the vehicles with optional equipment not specified by the new motor vehicle dealer; however, nothing in this section shall prohibit a factory from supporting an advertising association which is open to all new motor vehicle dealers on the same basis,

- c. used a performance standard, sales objective, or program for measuring dealer performance that may have a material effect on a right of the dealer to vehicle allocation; or payment under any incentive or reimbursement program that is unfair, unreasonable, inequitable, and not based on accurate information,
- d. used a performance standard for measuring sales or service performance ~~of~~ which results in penalizing any new motor vehicle dealer under the terms of the franchise agreement which:
 - (1) is unfair, unreasonable, arbitrary, or inequitable, ~~and~~
 - (2) does not consider the relevant and material local and state or regional criteria, prevailing economic conditions affecting the sales or service performance of a vehicle dealer, ~~vehicle allocation from the manufacturer,~~ and any relevant and material data and facts presented by the dealer in writing within thirty (30) days of the written notice of the manufacturer to the dealer of its intention to cancel, terminate, or not renew the dealer's franchise agreement, and

(3) does not consider the actual vehicle allocation offered or otherwise made available to the dealer by the manufacturer or distributor, as well as the dealer's inventory levels relevant to achieve any minimum performance standards to which the manufacturer or distributor holds the dealer accountable,

- e. failed or refused to sell, or offer for sale, new motor vehicles to all of its authorized same line-make franchised new motor vehicle dealers at the same price for a comparably equipped motor vehicle, on the same terms, with no differential in functionally available discount, allowance, credit, or bonus, except as provided in subparagraph e of paragraph 9 of this subsection,
- f. failed to provide reasonable compensation to a new motor vehicle dealer substantially equivalent to the actual cost of providing a manufacturer required loaner or rental vehicle to any consumer who is having a vehicle serviced at the dealership. For purposes of this paragraph, actual cost is the average cost in the new motor vehicle dealer's region for the rental of a substantially similar make and model as the vehicle being serviced, or
- g. failed to make available to its new motor vehicle dealers a fair and proportional share of all new vehicles distributed to same line-make dealers in this state, subject to the same reasonable terms, including any vehicles distributed from a common new vehicle inventory pool outside of the factory's ordinary allocation process such as any vehicles the factory reserves to distribute on a discretionary basis;

9. Being a factory that:

- a. has attempted to coerce or has coerced any new motor vehicle dealer to enter into any agreement or to cancel any agreement; has failed to act in good faith and in a fair, equitable, and nondiscriminatory manner; has directly or indirectly coerced, intimidated, threatened, or restrained any new motor vehicle dealer; has acted dishonestly; or has failed

to act in accordance with the reasonable standards of fair dealing,

- b. has failed to compensate its dealers for the work and services they are required to perform in connection with the dealer's delivery and preparation obligations according to the agreements on file with the Commission which must be found by the Commission to be reasonable, or has failed to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by the dealer to perform under and comply with manufacturer's warranty agreements and recall repairs which shall include diagnostic work as applicable and assistance requested by a consumer whose vehicle was subjected to an over-the-air or remote change, repair, or update to any part, system, accessory, or function by the manufacturer and performed by the dealer in order to satisfy the consumer. Time allowances for the diagnosis and performance of repair work shall be reasonable and adequate for the work to be performed. Adequate and fair compensation, which under this provision shall be no less than the rates customarily charged for retail consumer repairs as calculated herein, for parts and labor for warranty and recall repairs shall, at the option of the new motor vehicle dealer, be established by the new motor vehicle dealer submitting to the manufacturer or distributor one hundred sequential nonwarranty consumer-paid service repair orders which contain warranty-like repairs, or ninety (90) consecutive days of nonwarranty consumer-paid service repair orders which contain warranty-like repairs, whichever is less, covering repairs made no more than one hundred eighty (180) days before the submission and declaring the average percentage labor rate and/or markup rate. A new motor vehicle dealer may not submit a request to establish its retail rates more than once in a twelve-month period. That request may establish a parts markup rate, labor rate, or both. The new motor vehicle dealer shall calculate its retail parts rate by determining the total charges for parts from the qualified repair orders submitted, dividing that amount by the new motor vehicle dealer's total cost of the purchase of those parts, subtracting one (1), and multiplying by one hundred (100) to

produce a percentage. The new motor vehicle dealer shall calculate its retail labor rate by dividing the amount of the new motor vehicle dealer's total labor sales from the qualified repair orders by the total labor hours charged for those sales. When submitting repair orders to establish a retail parts and labor rate, a new motor vehicle dealer need not include repairs for:

- (1) routine maintenance including but not limited to the replacement of bulbs, fluids, filters, batteries, and belts that are not provided in the course of and related to a repair,
- (2) factory special events, specials, or promotional discounts for retail consumer repairs,
- (3) parts sold or repairs performed at wholesale,
- (4) factory-approved goodwill or policy repairs or replacements,
- (5) repairs with aftermarket parts, when calculating the retail parts rate but not the retail labor rate,
- (6) repairs on aftermarket parts,
- (7) replacement of or work on tires including front-end alignments and wheel or tire rotations,
- (8) repairs of motor vehicles owned by the new motor vehicle dealer or employee thereof at the time of the repair,
- (9) vehicle reconditioning, or
- (10) items that do not have individual part numbers including, but not limited to, nuts, bolts, and fasteners.

A manufacturer or distributor may, not later than forty-five (45) days after submission, rebut that declared retail parts and labor rate in writing by reasonably substantiating that the rate is not

accurate or is incomplete pursuant to the provisions of this section. If the manufacturer or distributor determines the set of repair orders submitted by the new motor vehicle dealer pursuant to this section for a retail labor rate or retail parts markup rate is substantially higher than the new motor vehicle dealer's current warranty rates, the manufacturer or distributor may request, in writing, within forty-five (45) days after the manufacturer's or distributor's receipt of the new motor vehicle dealer's initial submission, all repair orders closed within the period of thirty (30) days immediately preceding, or thirty (30) days immediately following, the set of repair orders initially submitted by the new motor vehicle dealer. All time periods under this section shall be suspended until the supplemental repair orders are provided. If the manufacturer or distributor requests supplemental repair orders, the manufacturer or distributor may, within thirty (30) days after receiving the supplemental repair orders and in accordance with the formula described in this subsection, calculate a proposed adjusted retail labor rate or retail parts markup rate, as applicable, based upon any set of the qualified repair orders submitted by the franchisee and following the formula set forth herein to establish the rate. The retail labor and parts rates shall go into effect thirty (30) days following the approval by the manufacturer or distributor. If the declared rate is rebutted, the manufacturer or distributor shall provide written notice stating the reasons for the rebuttal, an explanation of the reasons for the rebuttal, and a copy of all calculations used by the franchisor in determining the manufacturer or distributor's position and propose an adjustment in writing of the average percentage markup or labor rate based on that rebuttal not later than forty-five (45) days after submission. If the new motor vehicle dealer does not agree with the proposed average percentage markup or labor rate, the new motor vehicle dealer may file a protest with the Commission not later than thirty (30) days after receipt of that proposal by the manufacturer or distributor. In the event a protest is filed, the manufacturer or distributor shall have the burden of proof to establish the new motor vehicle dealer's

submitted parts markup rate or labor rate was inaccurate or not complete pursuant to the provisions of this section. A manufacturer or distributor may not retaliate against any new motor vehicle dealer seeking to exercise its rights under this section. A manufacturer or distributor may require a dealer to submit repair orders in accordance with this section in order to validate the reasonableness of a dealer's retail rate for parts or labor not more often than once every twelve (12) months. A manufacturer or distributor may not otherwise recover its costs from new motor vehicle dealers within this state including a surcharge imposed on a new motor vehicle dealer solely intended to recover the cost of reimbursing a new motor vehicle dealer for parts and labor pursuant to this section; provided, a manufacturer or distributor shall not be prohibited from increasing prices for vehicles or parts in the normal course of business or from auditing and charging back claims in accordance with this section. All claims made by dealers for compensation for delivery, preparation, warranty, or recall repair work shall be paid within thirty (30) days after approval and shall be approved or disapproved within thirty (30) days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. The dealer's delivery, preparation, and warranty obligations as filed with the Commission shall constitute the dealer's sole responsibility for product liability as between the dealer and manufacturer. A factory may reasonably and periodically audit a new motor vehicle dealer to determine the validity of paid claims for new motor vehicle dealer compensation or any charge-backs for warranty parts or service compensation. Except in cases of suspected fraud, audits of warranty payments shall only be for the one-year period immediately following the date of the payment. A manufacturer shall reserve the right to reasonable, periodic audits to determine the validity of paid claims for dealer compensation or any charge-backs for consumer or dealer incentives. Except in cases of suspected fraud, audits of incentive payments shall only be for a one-year period immediately following the date of the payment. A factory shall not deny a claim or

charge a new motor vehicle dealer back subsequent to the payment of the claim unless the factory can show that the claim was false or fraudulent or that the new motor vehicle dealer failed to reasonably substantiate the claim by the written reasonable procedures of the factory. A factory shall not deny a claim or implement a charge-back against a new motor vehicle dealer after payment of a claim in the event a purchaser of a new vehicle that is the subject of a claim fails to comply with titling or registration laws of this state and is not prevented from compliance by any action of the new motor vehicle dealer; provided, that the factory may require the new motor vehicle dealer to provide, within thirty (30) days of notice of charge-back, withholding of payment, or denial of claim, the documentation to demonstrate the vehicle sale, delivery, and customer qualification for an incentive as reported, including consumer name and address and written attestation signed by the dealer operator or general manager stating the consumer was not on the export control list and the dealer did not know or have reason to know the vehicle was being exported or resold.

The factory shall provide written notice to a dealer of a proposed charge-back that is the result of an audit along with the specific audit results and proposed charge-back amount. A dealer that receives notice of a proposed charge-back pursuant to a factory's audit has the right to file a protest with the Commission within thirty (30) days after receipt of the notice of the charge-back or audit results, whichever is later. The factory is prohibited from implementing the charge-back or debiting the dealer's account until either the time frame for filing a protest has passed or a final adjudication is rendered by the Commission, whichever is later, unless the dealer has agreed to the charge-back or charge-backs,

- c. fails to compensate the new motor vehicle dealer for a used motor vehicle:
 - (1) that is of the same make and model manufactured, imported, or distributed by the factory and is a line-make that the new motor vehicle dealer is

franchised to sell or on which the new motor vehicle dealer is authorized to perform recall repairs,

- (2) that is subject to a stop-sale or do-not-drive order issued by the factory or an authorized governmental agency,
- (3) that is held by the new motor vehicle dealer in the dealer's inventory at the time the stop-sale or do-not-drive order is issued or that is taken by the new motor vehicle dealer into the dealer's inventory after the recall notice as a result of a retail consumer trade-in or a lease return to the dealer inventory in accordance with an applicable lease contract,
- (4) that cannot be repaired due to the unavailability, within thirty (30) days after issuance of the stop-sale or do-not-drive order, of a remedy or parts necessary for the new motor vehicle dealer to make the recall repair, and
- (5) that is not at least in the prorated amount of one percent (1.00%) of the value of the vehicle per month beginning on the date that is thirty (30) days after the date on which the stop-sale order was provided to the new motor vehicle dealer until the earlier of either of the following:
 - (a) the date the recall remedy or parts are made available, or
 - (b) the date the new motor vehicle dealer sells, trades, or otherwise disposes of the affected used motor vehicle.

For the purposes of division (5) of this subparagraph, the value of a used vehicle shall be the average Black Book value for the year, make, and model of the recalled vehicle. A factory may direct the manner and method in which a new motor vehicle dealer must demonstrate the inventory status of an affected used motor vehicle to determine eligibility under this

subparagraph; provided, that the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to provide. All reimbursement claims made by new motor vehicle dealers pursuant to this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a stop-sale or do-not-drive order, shall be subject to the same limitations and requirements as a warranty reimbursement claim made under subparagraph b of this paragraph. In the alternative, a manufacturer may compensate its franchised new motor vehicle dealers under a national recall compensation program; provided, the compensation under the program is equal to or greater than that provided under division (5) of this subparagraph, or as the manufacturer and new motor vehicle dealer otherwise agree. Nothing in this section shall require a factory to provide total compensation to a new motor vehicle dealer which would exceed the total average Black Book value of the affected used motor vehicle as originally determined under division (5) of this subparagraph. Any remedy provided to a new motor vehicle dealer under this subparagraph is exclusive and may not be combined with any other state or federal compensation remedy,

- d. unreasonably fails or refuses to offer to its same line-make franchised dealers a reasonable supply and mix of all models manufactured for that line-make, or unreasonably requires a dealer to pay any extra fee, purchase unreasonable advertising displays or other materials, or enter into a separate agreement which adversely alters the rights or obligations contained within the new motor vehicle dealer's existing franchise agreement or which waives any right of the new motor vehicle dealer as protected by Section 561 et seq. of this title, or remodel, renovate, or recondition the new motor vehicle dealer's existing facilities as a prerequisite to receiving a model or series of vehicles, except as may be necessary to sell or service the model or series of vehicles as provided by subparagraph e of this paragraph. It shall be a violation of this section for new vehicle allocation to be withheld subject to any requirement to purchase or sell any number of used or off-lease vehicles. The

failure to deliver any such new motor vehicle shall not be considered a violation of the section if the failure is not arbitrary or is due to lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo, or other cause over which the manufacturer has no control. However, this subparagraph shall not apply to recreational vehicles, limited production model vehicles, a vehicle not advertised by the factory for sale in this state, vehicles that are subject to allocation affected by federal environmental laws or environmental laws of this state, or vehicles allocated in response to an unforeseen event or circumstance,

- e. except as necessary to comply with a health or safety law, or to comply with a technology requirement which is necessary to sell or service a motor vehicle that the franchised new motor vehicle dealer is authorized or licensed by the franchisor to sell or service, requires a new motor vehicle dealer to construct a new facility or substantially renovate the new motor vehicle dealer's existing facility unless the facility construction or renovation is justified by the economic conditions existing at the time, as well as the reasonably foreseeable projections, in the new motor vehicle dealer's market and in the automotive industry. However, this subparagraph shall not apply if the new motor vehicle dealer voluntarily agrees to facility construction or renovation in exchange for money, credit, allowance, reimbursement, or additional vehicle allocation to a new motor vehicle dealer from the factory to compensate the new motor vehicle dealer for the cost of, or a portion of the cost of, the facility construction or renovation. Except as necessary to comply with a health or safety law, or to comply with a technology or safety requirement which is necessary to sell or service a motor vehicle that the franchised new motor vehicle dealer is authorized or licensed by the franchisor to sell or service, a new motor vehicle dealer which completes a facility construction or renovation pursuant to factory requirements shall not be required to construct a new facility or renovate the existing facility if the same area of the facility or premises has been constructed

or substantially altered within the last ten (10) years and the construction or alteration was approved by the manufacturer as a part of a facility upgrade program, standard, or policy. For purposes of this subparagraph, "substantially altered" means to perform an alteration that substantially impacts the architectural features, characteristics, or integrity of a structure or lot. The term shall not include routine maintenance reasonably necessary to maintain a dealership in attractive condition. If a facility upgrade program, standard, or policy under which the dealer completed a facility construction or substantial alteration does not contain a specific time period during which the manufacturer or distributor shall provide payments or benefits to a participating dealer, or the time frame specified under the program is reduced or canceled prematurely in the unilateral discretion of the manufacturer or distributor, the manufacturer or distributor shall not deny the participating dealer any payment or benefit under the terms of the program, standard, or policy as it existed when the dealer began to perform under the program, standard, or policy for the balance of the ten-year period, regardless of whether the manufacturer's or distributor's program, standard, or policy has been changed or canceled, unless the manufacturer and dealer agree, in writing, to the change in payment or benefit. During the ten-year period following facility construction or substantial alteration, the manufacturer shall not fail to make available to the dealer a fair and proportionate share of all new vehicles distributed to dealers of the same line-make in this state, subject to the same reasonable terms, including vehicles distributed from a common new vehicle inventory pool outside of the factory's ordinary allocation process, such as any vehicles the factory reserves to distribute on a discretionary basis,

- f. requires a new motor vehicle dealer to establish an exclusive facility or to change the location of the dealership, unless supported by reasonable business, market, and economic considerations; provided, that this section shall not restrict the terms of any agreement for such exclusive facility voluntarily

entered into and supported by valuable consideration separate from the new motor vehicle dealer's right to sell and service motor vehicles for the franchisor. If a dealer is required by the manufacturer or distributor to change an existing, previously approved location of the dealership and has not sold its existing dealership facility and real estate within the later of one hundred eighty (180) days of listing the property for sale or ninety (90) days after the facility relocation, then, upon the written request of the dealer, the manufacturer or distributor shall purchase the dealer's existing dealership facility and real estate as if the new motor vehicle dealership continues to operate on the property. If the factory and dealer cannot agree on the value of the dealership facilities and real estate, then the factory and dealer shall utilize the process described in paragraph 6 of subsection G of Section 565.2 of this title. If a manufacturer or distributor purchases a dealership facility and real estate, then it shall be entitled to sole ownership, possession, use, and control of any items, buildings, or property that were included in the contract to purchase,

- g. requires a new motor vehicle dealer to enter into a site-control agreement covering any or all of the new motor vehicle dealer's facilities or premises; provided, that this section shall not restrict the terms of any site-control agreement voluntarily entered into and supported by valuable consideration separate from the new motor vehicle dealer's right to sell and service motor vehicles for the franchisor. Notwithstanding the foregoing or the terms of any site-control agreement, a site-control agreement automatically extinguishes if all of the factory's franchises that operated from the location that are the subject of the site-control agreement are terminated by the factory as part of the discontinuance of a product line,
- h. refuses to pay, or claims reimbursement from, a new motor vehicle dealer for sales, incentives, or other payments related to a motor vehicle sold by the new motor vehicle dealer because the purchaser of the motor vehicle exported or resold the motor vehicle in

violation of the policy of the factory unless the factory can show that, at the time of the sale, the new motor vehicle dealer knew or reasonably should have known of the purchaser's intention to export or resell the motor vehicle. There is a rebuttable presumption that the new motor vehicle dealer did not know or could not have known that the vehicle would be exported if the vehicle is titled and registered in any state of the United States, or

- i. (1) notwithstanding the terms of a franchise agreement or other agreement except as provided by this subsection, requires a new motor vehicle dealer to purchase or utilize goods or services, or contract with any vendor, identified, selected or designated by the factory for the:
 - (a) operation of the dealership including electronic services such as websites, data management or storage systems, digital retail platforms, software, or other digital services or platforms, or
 - (b) construction, renovation, or improvement of the new motor vehicle dealer's facility from a vendor chosen by the factory if goods or services available from other sources a vendor that the new motor vehicle dealer chooses, are of substantially similar quality, function, and design, and comply with all applicable laws; provided, however, that such goods are not subject to the factory's intellectual property or trademark rights and the new motor vehicle dealer has received the factory's approval, which approval may not be unreasonably withheld. Nothing in this subparagraph may be construed to allow a new motor vehicle dealer to impair or eliminate a factory's intellectual property, trademark rights, or trade dress usage guidelines. Nothing in this ~~section~~ subdivision or subdivision a of this division prohibits the enforcement of a voluntary agreement between the factory and the new motor vehicle dealer where separate

and valuable consideration has been offered and accepted. It is a violation of this subdivision or subdivision a of this division for a factory, or any entity that acts on behalf of, a factory to coerce a new motor vehicle dealer to purchase or utilize certain goods or services by the withholding vehicle allocation the new motor vehicle dealer is otherwise eligible to receive, and

(2) for the purposes of this subparagraph, "goods and services" do not include:

(a) moveable displays, brochures, promotional materials, or electronic or digital media containing material subject to the intellectual property rights of a factory or parts to be used in repairs under warranty obligations of a factory, or

(b) special tools or training required by the factory to perform warranty or recall repairs;

10. Being a factory that:

- a. establishes a system of motor vehicle allocation or distribution which is unfair, inequitable, or unreasonably discriminatory. A manufacturer and distributor shall maintain for three (3) years records that describe its methods or formula of allocation and distribution of its motor vehicles and records of its actual allocation and distribution of motor vehicles to its motor vehicle dealers. Upon the written request of any new motor vehicle dealer franchised by the manufacturer or distributor, received by the manufacturer or distributor within thirty (30) days of the manufacturer's or distributor's written notice to the dealer of its intention to cancel or terminate, or written notice from the manufacturer or distributor of a sales performance deficiency requiring the dealer to take action to cure the alleged performance deficiency, a manufacturer or distributor shall disclose in writing to the new motor vehicle dealer the basis upon which new motor vehicles are allocated,

scheduled, and delivered, by vehicle model, to new motor vehicle dealers of the same line-make for that manufacturer or distributor for the prior three (3) years, and the basis upon which the current allocation or distribution is being made or will be made based on existing information to such dealer, or

- b. changes an established plan or system of motor vehicle distribution. A new motor vehicle dealer franchise agreement shall continue in full force and operation notwithstanding a change, in whole or in part, of an established plan or system of distribution of the motor vehicles offered or previously offered for sale under the franchise agreement. The appointment of a new importer or distributor for motor vehicles offered for sale under the franchise agreement shall be deemed to be a change of an established plan or system of distribution. The discontinuation of a line-make shall not be deemed to be a change of an established plan or system of motor vehicle distribution as long as the new line-make is not selling the same, or substantially the same vehicle or vehicles previously sold through another line-make by new motor vehicle dealers with an active franchise agreement for the other line-make in the state if such new motor vehicle dealers are no longer authorized to sell the comparable vehicle previously sold through their line-make. Changing a vehicle's powertrain is not sufficient to show it is substantially different. Upon the occurrence of such change, the manufacturer or distributor shall be prohibited from obtaining a license to distribute vehicles under the new plan or system of distribution unless the manufacturer or distributor offers to each new motor vehicle dealer who is a party to the franchise agreement a new franchise agreement containing substantially the same provisions which were contained in the previous franchise agreement;

11. Being a factory that sells directly or indirectly new motor vehicles to any retail consumer in the state except through a new motor vehicle dealer holding a franchise for the line-make that includes the new motor vehicle. This paragraph does not apply to

factory sales of new motor vehicles to its employees, family members of employees, retirees and family members of retirees, not-for-profit organizations, or the federal, state, or local governments. The provisions of this paragraph shall not preclude a factory from providing information to a consumer for the purpose of marketing or facilitating a sale of a new motor vehicle or from establishing a program to sell or offer to sell new motor vehicles through participating dealers subject to the limitations provided in paragraph 2 of Section 562 of this title;

12. a. Being a factory which directly or indirectly:

- (1) owns any ownership interest or has any financial interest in a new motor vehicle dealer or any person who sells products or services pursuant to the terms of the franchise agreement,
- (2) operates or controls a new motor vehicle dealer, or
- (3) acts in the capacity of a new motor vehicle dealer.

- b. (1) This paragraph does not prohibit a factory from owning or controlling a new motor vehicle dealer while in a bona fide relationship with a dealer development candidate who has made a substantial initial investment in the franchise and whose initial investment is subject to potential loss. The dealer development candidate can reasonably expect to acquire full ownership of a new motor vehicle dealer within a reasonable period of time not to exceed ten (10) years and on reasonable terms and conditions. The ten-year acquisition period may be expanded for good cause shown.
- (2) This paragraph does not prohibit a factory from owning, operating, controlling, or acting in the capacity of a new motor vehicle dealer for a period not to exceed twelve (12) months during the transition from one independent dealer to another independent dealer if the dealership is for sale at a reasonable price and on reasonable terms and conditions to an independent qualified buyer. On showing by a factory of good cause,

the Oklahoma New Motor Vehicle Commission may extend the time limit set forth above; extensions may be granted for periods not to exceed twelve (12) months.

- (3) This paragraph does not prohibit a factory from owning, operating, or controlling or acting in the capacity of a new motor vehicle dealer which was in operation prior to January 1, 2000.
- (4) This paragraph does not prohibit a factory from owning, directly or indirectly, a minority interest in an entity that owns, operates, or controls motor vehicle dealerships of the same line-make franchised by the manufacturer, provided that each of the following conditions are met:
 - (a) all of the new motor vehicle dealerships selling the motor vehicles of that manufacturer in this state trade exclusively in the line-make of that manufacturer,
 - (b) all of the franchise agreements of the manufacturer confer rights on the dealer of the line-make to develop and operate, within a defined geographic territory or area, as many dealership facilities as the dealer and manufacturer shall agree are appropriate,
 - (c) at the time the manufacturer first acquires an ownership interest or assumes operation, the distance between any dealership thus owned or operated and the nearest unaffiliated new motor vehicle dealership trading in the same line-make is not less than seventy (70) miles,
 - (d) during any period in which the manufacturer has such an ownership interest, the manufacturer has no more than three franchise agreements with new motor vehicle dealers licensed by the Oklahoma New Motor Vehicle Commission to do business within the state, and

- (e) prior to January 1, 2000, the factory shall have furnished or made available to prospective new motor vehicle dealers an offering circular in accordance with the Trade Regulation Rule on Franchising of the Federal Trade Commission, and any guidelines and exemptions issued thereunder, which disclose the possibility that the factory may from time to time seek to own or acquire, directly or indirectly, ownership interests in retail dealerships;

13. Being a factory which directly or indirectly makes available for public disclosure any proprietary information provided to the factory by a new motor vehicle dealer, other than in composite form to new motor vehicle dealers in the same line-make or in response to a subpoena or order of the Commission or a court. Proprietary information includes, but is not limited to, information:

- a. derived from monthly financial statements provided to the factory, and
- b. regarding any aspect of the profitability of a particular new motor vehicle dealer;

14. Being a factory which does not provide or direct leads in a fair, equitable, and timely manner. Nothing in this paragraph shall be construed to require a factory to disregard the preference of a consumer in providing or directing a lead;

15. Being a factory which used the consumer list of a new motor vehicle dealer for the purpose of unfairly competing with dealers;

16. Being a factory which prohibits a new motor vehicle dealer from relocating after a written request by such new motor vehicle dealer if:

- a. the facility and the proposed new location satisfies or meets the written reasonable guidelines of the factory. Reasonable guidelines do not include exclusivity or site control unless agreed to as set forth in subparagraphs f and g of paragraph 9 of this subsection,

- b. the proposed new location is within the area of responsibility of the new motor vehicle dealer pursuant to Section 578.1 of this title, and
- c. the factory has sixty (60) days from receipt of the new motor vehicle dealer's relocation request to approve or deny the request. The failure to approve or deny the request within the sixty-day time frame shall constitute approval of the request;

17. Being a factory which prohibits a new motor vehicle dealer from adding additional line-makes to its existing facility, if, after adding the additional line-makes, the facility satisfies the written reasonable capitalization standards and facility guidelines of each factory. Reasonable facility guidelines do not include a requirement to maintain exclusivity or site control unless agreed to by the dealer as set forth in subparagraphs f and g of paragraph 9 of this subsection;

18. Being a factory that increases prices of new motor vehicles which the new motor vehicle dealer had ordered for retail consumers and notified the factory prior to the new motor vehicle dealer's receipt of the written official price increase notification. A sales contract signed by a retail consumer accompanied with proof of order submission to the factory shall constitute evidence of each such order, provided that the vehicle is in fact delivered to the consumer. Price differences applicable to new models or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase for purposes of this paragraph. Price changes caused by any of the following shall not be subject to the provisions of this paragraph:

- a. the addition to a motor vehicle of required or optional equipment pursuant to state or federal law,
- b. revaluation of the United States dollar in the case of foreign-made vehicles or components, or
- c. an increase in transportation charges due to increased rates imposed by common or contract carriers;

19. Being a factory that requires a new motor vehicle dealer to participate monetarily in an advertising campaign or contest, or purchase any promotional materials, showroom, or other display

decoration or materials at the expense of the new motor vehicle dealer without consent of the new motor vehicle dealer, which consent shall not be unreasonably withheld;

20. Being a factory that denies any new motor vehicle dealer the right of free association with any other new motor vehicle dealer for any lawful purpose, unless otherwise permitted by this chapter; ~~or~~

21. Being a factory that requires a new motor vehicle dealer to sell, offer to sell, or sell exclusively an extended service contract, extended maintenance plan, or similar product, such as gap products offered, endorsed, or sponsored by the factory by the following means:

- a. by an act or statement from the factory that will in any manner adversely impact the new motor vehicle dealer, or
- b. by measuring the new motor vehicle dealer's performance under the franchise based on the sale of extended service contracts, extended maintenance plans, or similar products offered, endorsed, or sponsored by the manufacturer or distributor;

22. Being a factory that requires or coerces a new motor vehicle dealer in this state to purchase or lease any electric vehicle charging stations at the new motor vehicle dealer's expense unless the franchise agreement, including any related addendums, with the new motor vehicle dealer identifies electric vehicle models among the vehicles available for sale under the dealer's franchised line-make, or the new motor vehicle dealer has notified the manufacturer or distributor of the new motor vehicle dealer's intention to begin selling and servicing electric vehicles manufactured or distributed by that factory. If the new motor vehicle dealer's franchise identifies electric vehicle models or the dealer is actually offering for sale to the public or providing warranty service on electric vehicles manufactured or distributed by that factory, the new motor vehicle dealer may not be required to purchase or lease, at the new motor vehicle dealer's expense:

- a. more than the number and type of electric vehicle charging stations based upon the reasonable estimate dealer sales and service volume for those vehicles in the dealer's market, or

- b. to make electric vehicle charging stations located at the new motor vehicle dealership available for use by the general public. Nothing in this paragraph shall prohibit a factory from offering financial assistance through a lump-sum payment to new motor vehicle dealers that purchase or install electric charging stations; and

23. Being a factory that withdraws all or a material part of its stated electric vehicle distribution plan and fails or refuses, at the written request of the new motor vehicle dealer, to accept the return or otherwise fully reimburse a new motor vehicle dealer for the cost of parts, tools, equipment, chargers and other returnable items required as a part of that distribution plan, program, policy or other initiative related to the sale or service of electric motor vehicles, provided that:

- a. the dealer demonstrates that the volume of electric motor vehicle sales or service is no longer adequate to allow the dealer to realize a positive return on the investment over the useful life of the parts, tools, equipment, chargers, or other returnable items, and
- b. the dealer submits its request to the manufacturer or distributor in writing and within twenty-four (24) months of dealer's receipt of the part, tools, equipment, charger or other returnable items.

B. Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the assets or ownership interest of the dealer of the new motor vehicle dealership, if such sale or transfer is conditioned upon the manufacturer or dealer entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:

1. To exercise its right of first refusal, the factory must notify the new motor vehicle dealer in writing within sixty (60) days of receipt of the completed proposal for the proposed sale transfer;

2. The exercise of the right of first refusal will result in the new motor vehicle dealer and the owner of the dealership receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer;

3. The proposed sale or transfer of the dealership does not involve the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership or corporation controlled by such persons; and

4. The factory agrees to pay the reasonable expenses, including attorney fees which do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients incurred by the proposed new owner and transferee prior to the exercise by the factory of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Notwithstanding the foregoing, no payment of expenses and attorney fees shall be required if the proposed new dealer or transferee has not submitted or caused to be submitted an accounting of those expenses within thirty (30) days of receipt of the written request of the factory for such an accounting. The accounting may be requested by a factory before exercising its right of first refusal.

C. Nothing in this section shall prohibit, limit, restrict, or impose conditions on:

1. Business activities, including without limitation the dealings with motor vehicle manufacturers and the representatives and affiliates of motor vehicle manufacturers, of any person that is primarily engaged in the business of short-term, not to exceed twelve (12) months, rental of motor vehicles and industrial and construction equipment and activities incidental to that business, provided that:

- a. any motor vehicle sold by that person is limited to used motor vehicles that have been previously used exclusively and regularly by that person in the conduct of business and used motor vehicles traded in on motor vehicles sold by that person,
- b. warranty repairs performed by that person on motor vehicles are limited to those motor vehicles that the person owns, previously owned, or takes in trade, and

- c. motor vehicle financing provided by that person to retail consumers for motor vehicles is limited to used vehicles sold by that person in the conduct of business; or

2. The direct or indirect ownership, affiliation, or control of a person described in paragraph 1 of this subsection.

D. As used in this section:

1. "Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation; and

2. "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

~~E. Nothing in this section shall prohibit a manufacturer or distributor from requiring a dealer to be in compliance with the franchise agreement and authorized to sell a make and model based on applicable reasonable standards and requirements that include but are not limited to any facility, technology, or training requirements necessary to sell or service a vehicle, in order to be eligible for delivery or allotment of a make or model of a new motor vehicle or an incentive.~~

SECTION 5. This act shall become effective November 1, 2025.

Passed the House of Representatives the 25th day of March, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 30th day of April, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____