

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Motor Vehicle Franchise Act is amended by
5 changing Sections 2, 4, and 6 as follows:

6 (815 ILCS 710/2) (from Ch. 121 1/2, par. 752)

7 Sec. 2. Definitions. As used in this Act, the following
8 words shall, unless the context otherwise requires, have the
9 following meanings:

10 (a) "Motor vehicle", any motor driven vehicle required to
11 be registered under "The Illinois Vehicle Code". Beginning
12 January 1, 2010, the term "motor vehicle" also includes any
13 engine, transmission, or rear axle, regardless of whether it
14 is attached to a vehicle chassis, that is manufactured for
15 installation in any motor-driven vehicle with a gross vehicle
16 weight rating of more than 16,000 pounds that is required to be
17 registered under the Illinois Vehicle Code.

18 (b) "Manufacturer", any person engaged in the business of
19 manufacturing or assembling new and unused motor vehicles.
20 "Manufacturer" includes a factory branch, distributor, and
21 distributor branch.

22 (c) "Factory branch", a branch office maintained by a
23 manufacturer which manufactures or assembles motor vehicles

1 for sale to distributors or motor vehicle dealers or which is
2 maintained for directing and supervising the representatives
3 of the manufacturer.

4 (d) "Distributor branch", a branch office maintained by a
5 distributor or wholesaler who or which sells or distributes
6 new or used motor vehicles to motor vehicle dealers.

7 (e) "Factory representative", a representative employed by
8 a manufacturer or employed by a factory branch for the purpose
9 of making or promoting the sale of motor vehicles or for
10 contracting with, supervising, servicing or instructing motor
11 vehicle dealers or prospective motor vehicle dealers.

12 (f) "Distributor representative", a representative
13 employed by a distributor branch, distributor or wholesaler.

14 (g) "Distributor" or "wholesaler", any person who sells or
15 distributes new or used motor vehicles to motor vehicle
16 dealers or who maintains distributor representatives within
17 the State.

18 (h) "Motor vehicle dealer", any person who, in the
19 ordinary course of business, is engaged in the business of
20 selling new or used motor vehicles to consumers or other end
21 users.

22 (i) "Franchise", an oral or written arrangement for a
23 definite or indefinite period in which a manufacturer,
24 distributor or wholesaler grants to a motor vehicle dealer a
25 license to use a trade name, service mark, or related
26 characteristic, and in which there is a community of interest

1 in the marketing of motor vehicles or services related thereto
2 at wholesale, retail, leasing or otherwise.

3 (j) "Franchiser", a manufacturer, distributor or
4 wholesaler who grants a franchise to a motor vehicle dealer.

5 (k) "Franchisee", a motor vehicle dealer to whom a
6 franchise is offered or granted.

7 (l) "Sale", shall include the issuance, transfer,
8 agreement for transfer, exchange, pledge, hypothecation,
9 mortgage in any form, whether by transfer in trust or
10 otherwise, of any motor vehicle or interest therein or of any
11 franchise related thereto; and any option, subscription or
12 other contract or solicitation, looking to a sale, or offer or
13 attempt to sell in any form, whether oral or written. A gift or
14 delivery of any motor vehicle or franchise with respect
15 thereto with or as a bonus on account of the sale of anything
16 shall be deemed a sale of such motor vehicle or franchise.

17 (m) "Fraud", shall include, in addition to its normal
18 legal connotation, the following: a misrepresentation in any
19 manner, whether intentionally false or due to reckless
20 disregard for truth or falsity, of a material fact; a promise
21 or representation not made honestly and in good faith; and an
22 intentional failure to disclose a material fact.

23 (n) "Person", a natural person, corporation, partnership,
24 trust or other entity, and in case of an entity, it shall
25 include any other entity in which it has a majority interest or
26 which it effectively controls as well as the individual

1 officers, directors and other persons in active control of the
2 activities of each such entity.

3 (o) "New motor vehicle", a motor vehicle which has not
4 been previously sold to any person except a distributor or
5 wholesaler or motor vehicle dealer for resale.

6 (p) "Market Area", the franchisee's area of primary
7 responsibility as defined in its franchise.

8 (q) "Relevant Market Area", the area within a radius of 10
9 miles from the principal location of a franchise or dealership
10 if said principal location is in a county having a population
11 of more than 300,000 persons; if the principal location of a
12 franchise or dealership is in a county having a population of
13 less than 300,000 persons, then "relevant market area" shall
14 mean the area within a radius of 15 miles from the principal
15 location of said franchise or dealership.

16 (r) "Late model vehicle" means a vehicle of the current
17 model year and one, 2, or 3 preceding model years for which the
18 motor vehicle dealer holds an existing franchise from the
19 manufacturer for that same line make.

20 (s) "Factory repurchase vehicle" means a motor vehicle of
21 the current model year or a late model vehicle reacquired by
22 the manufacturer under an existing agreement or otherwise from
23 a fleet, lease or daily rental company or under any State or
24 federal law or program relating to allegedly defective new
25 motor vehicles, and offered for sale and resold by the
26 manufacturer directly or at a factory authorized or sponsored

1 auction.

2 (t) "Board" means the Motor Vehicle Review Board created
3 under this Act.

4 (u) "Secretary of State" means the Secretary of State of
5 Illinois.

6 (v) "Good cause" means facts establishing commercial
7 reasonableness in lawful or privileged competition and
8 business practices as defined at common law.

9 (w) "Common entity" means any person who:

10 (1) is directly or indirectly controlled by, or has
11 controlling equity interests owned, beneficially or of
12 record, through any form of ownership structure, by a
13 manufacturer, importer, distributor, or an affiliate
14 thereof; or

15 (2) shares common management with a manufacturer,
16 importer, distributor, or an affiliate thereof, where the
17 relationships create operational control over the
18 management or policies of that person.

19 "Common entity" does not include:

20 (1) any person engaged in the manufacturing, assembly,
21 sale, or distribution of motor vehicle parts, components,
22 accessories, or vehicle services, provided the person is
23 not engaged in the sale or distribution of new motor
24 vehicles; or

25 (2) any financial institution chartered or authorized
26 to do business in this State, provided the financial

1 institution is not engaged in the sale or distribution of
2 new motor vehicles.

3 (Source: P.A. 100-308, eff. 8-24-17.)

4 (815 ILCS 710/4) (from Ch. 121 1/2, par. 754)

5 Sec. 4. Unfair competition and practices.

6 (a) The unfair methods of competition and unfair and
7 deceptive acts or practices listed in this Section are hereby
8 declared to be unlawful. In construing the provisions of this
9 Section, the courts may be guided by the interpretations of
10 the Federal Trade Commission Act (15 U.S.C. 45 et seq.), as
11 from time to time amended.

12 (b) It shall be deemed a violation for any manufacturer,
13 factory branch, factory representative, distributor or
14 wholesaler, distributor branch, distributor representative or
15 motor vehicle dealer to engage in any action with respect to a
16 franchise which is arbitrary, in bad faith or unconscionable
17 and which causes damage to any of the parties or to the public,
18 including directly or indirectly competing with their
19 franchisees in the sale, lease, or warranty service of new
20 motor vehicles.

21 (c) It shall be deemed a violation for a manufacturer, a
22 distributor, a wholesaler, a distributor branch or division, a
23 factory branch or division, or a wholesale branch or division,
24 or officer, agent or other representative thereof, to coerce,
25 or attempt to coerce, any motor vehicle dealer:

1 (1) to accept, buy or order any motor vehicle or
2 vehicles, appliances, equipment, parts or accessories
3 therefor, or any other commodity or commodities or service
4 or services which such motor vehicle dealer has not
5 voluntarily ordered or requested except items required by
6 applicable local, state or federal law; or to require a
7 motor vehicle dealer to accept, buy, order or purchase
8 such items in order to obtain any motor vehicle or
9 vehicles or any other commodity or commodities which have
10 been ordered or requested by such motor vehicle dealer;

11 (2) to order or accept delivery of any motor vehicle
12 with special features, appliances, accessories or
13 equipment not included in the list price of the motor
14 vehicles as publicly advertised by the manufacturer
15 thereof, except items required by applicable law; or

16 (3) to order for anyone any parts, accessories,
17 equipment, machinery, tools, appliances or any commodity
18 whatsoever, except items required by applicable law.

19 (c-5) A manufacturer, a distributor, a wholesaler, a
20 distributor branch or division, a factory branch or division,
21 or a wholesale branch or division, or officer, agent, or other
22 representative thereof may not:

23 (1) require a motor vehicle dealer to offer a
24 secondary product; or

25 (2) prohibit a motor vehicle dealer from offering a
26 secondary product, including, but not limited to:

- 1 (A) service contracts;
- 2 (B) maintenance agreements;
- 3 (C) extended warranties;
- 4 (D) protection product guarantees;
- 5 (E) guaranteed asset protection waivers;
- 6 (F) insurance;
- 7 (G) replacement parts;
- 8 (H) vehicle accessories;
- 9 (I) oil; or
- 10 (J) supplies.

11 It is not a violation of this subsection to offer an
12 incentive program to motor vehicle dealers to encourage them
13 to sell or offer to sell a secondary product approved,
14 endorsed, sponsored, or offered by the manufacturer,
15 distributor, wholesaler, distributor branch or division,
16 factory branch or division, wholesale branch or division, or
17 officer, agent, or other representative thereof, provided the
18 program does not provide vehicle sales or service incentives.

19 It is not a violation of this subsection to prohibit a
20 motor vehicle dealer from using secondary products for any
21 repair work paid for under the terms of a warranty, recall,
22 service contract, extended warranty, maintenance plan, or
23 certified pre-owned vehicle program established or offered by
24 the manufacturer, distributor, wholesaler, distributor branch
25 or division, factory branch or division, or wholesale branch
26 or division, or officer, agent, or other representative

1 thereof.

2 As used in this subsection, "secondary product" means all
3 products that are not new motor vehicles or original equipment
4 manufacturer parts.

5 (d) It shall be deemed a violation for a manufacturer, a
6 distributor, a wholesaler, a distributor branch or division,
7 or officer, agent or other representative thereof:

8 (1) to adopt, change, establish or implement a plan or
9 system for the allocation and distribution of new motor
10 vehicles to motor vehicle dealers which is arbitrary or
11 capricious or to modify an existing plan so as to cause the
12 same to be arbitrary or capricious;

13 (2) to fail or refuse to advise or disclose to any
14 motor vehicle dealer having a franchise or selling
15 agreement, upon written request therefor, the basis upon
16 which new motor vehicles of the same line make are
17 allocated or distributed to motor vehicle dealers in the
18 State and the basis upon which the current allocation or
19 distribution is being made or will be made to such motor
20 vehicle dealer;

21 (3) to refuse to deliver in reasonable quantities and
22 within a reasonable time after receipt of dealer's order,
23 to any motor vehicle dealer having a franchise or selling
24 agreement for the retail sale of new motor vehicles sold
25 or distributed by such manufacturer, distributor,
26 wholesaler, distributor branch or division, factory branch

1 or division or wholesale branch or division, any such
2 motor vehicles as are covered by such franchise or selling
3 agreement specifically publicly advertised in the State by
4 such manufacturer, distributor, wholesaler, distributor
5 branch or division, factory branch or division, or
6 wholesale branch or division to be available for immediate
7 delivery. However, the failure to deliver any motor
8 vehicle shall not be considered a violation of this Act if
9 such failure is due to an act of God, a work stoppage or
10 delay due to a strike or labor difficulty, a shortage of
11 materials, a lack of manufacturing capacity, a freight
12 embargo or other cause over which the manufacturer,
13 distributor, or wholesaler, or any agent thereof has no
14 control;

15 (4) to coerce, or attempt to coerce, any motor vehicle
16 dealer to enter into any agreement with such manufacturer,
17 distributor, wholesaler, distributor branch or division,
18 factory branch or division, or wholesale branch or
19 division, or officer, agent or other representative
20 thereof, or to do any other act prejudicial to the dealer
21 by threatening to reduce his allocation of motor vehicles
22 or cancel any franchise or any selling agreement existing
23 between such manufacturer, distributor, wholesaler,
24 distributor branch or division, or factory branch or
25 division, or wholesale branch or division, and the dealer.
26 However, notice in good faith to any motor vehicle dealer

1 of the dealer's violation of any terms or provisions of
2 such franchise or selling agreement or of any law or
3 regulation applicable to the conduct of a motor vehicle
4 dealer shall not constitute a violation of this Act;

5 (5) to require a franchisee to participate in an
6 advertising campaign or contest or any promotional
7 campaign, or to purchase or lease any promotional
8 materials, training materials, show room or other display
9 decorations or materials at the expense of the franchisee;

10 (6) to cancel or terminate the franchise or selling
11 agreement of a motor vehicle dealer without good cause and
12 without giving notice as hereinafter provided; to fail or
13 refuse to extend the franchise or selling agreement of a
14 motor vehicle dealer upon its expiration without good
15 cause and without giving notice as hereinafter provided;
16 or, to offer a renewal, replacement or succeeding
17 franchise or selling agreement containing terms and
18 provisions the effect of which is to substantially change
19 or modify the sales and service obligations or capital
20 requirements of the motor vehicle dealer arbitrarily and
21 without good cause and without giving notice as
22 hereinafter provided notwithstanding any term or provision
23 of a franchise or selling agreement.

24 (A) If a manufacturer, distributor, wholesaler,
25 distributor branch or division, factory branch or
26 division or wholesale branch or division intends to

1 cancel or terminate a franchise or selling agreement
2 or intends not to extend or renew a franchise or
3 selling agreement on its expiration, it shall send a
4 letter by certified mail, return receipt requested, to
5 the affected franchisee at least 60 days before the
6 effective date of the proposed action, or not later
7 than 10 days before the proposed action when the
8 reason for the action is based upon either of the
9 following:

10 (i) the business operations of the franchisee
11 have been abandoned or the franchisee has failed
12 to conduct customary sales and service operations
13 during customary business hours for at least 7
14 consecutive business days unless such closing is
15 due to an act of God, strike or labor difficulty or
16 other cause over which the franchisee has no
17 control; or

18 (ii) the conviction of or plea of nolo
19 contendere by the motor vehicle dealer or any
20 operator thereof in a court of competent
21 jurisdiction to an offense punishable by
22 imprisonment for more than two years.

23 Each notice of proposed action shall include a
24 detailed statement setting forth the specific grounds
25 for the proposed cancellation, termination, or refusal
26 to extend or renew and shall state that the dealer has

1 only 30 days from receipt of the notice to file with
2 the Motor Vehicle Review Board a written protest
3 against the proposed action.

4 (B) If a manufacturer, distributor, wholesaler,
5 distributor branch or division, factory branch or
6 division or wholesale branch or division intends to
7 change substantially or modify the sales and service
8 obligations or capital requirements of a motor vehicle
9 dealer as a condition to extending or renewing the
10 existing franchise or selling agreement of such motor
11 vehicle dealer, it shall send a letter by certified
12 mail, return receipt requested, to the affected
13 franchisee at least 60 days before the date of
14 expiration of the franchise or selling agreement. Each
15 notice of proposed action shall include a detailed
16 statement setting forth the specific grounds for the
17 proposed action and shall state that the dealer has
18 only 30 days from receipt of the notice to file with
19 the Motor Vehicle Review Board a written protest
20 against the proposed action.

21 (C) Within 30 days from receipt of the notice
22 under subparagraphs (A) and (B), the franchisee may
23 file with the Board a written protest against the
24 proposed action.

25 When the protest has been timely filed, the Board
26 shall enter an order, fixing a date (within 60 days of

1 the date of the order), time, and place of a hearing on
2 the protest required under Sections 12 and 29 of this
3 Act, and send by certified mail, return receipt
4 requested, a copy of the order to the manufacturer
5 that filed the notice of intention of the proposed
6 action and to the protesting dealer or franchisee.

7 The manufacturer shall have the burden of proof to
8 establish that good cause exists to cancel or
9 terminate, or fail to extend or renew the franchise or
10 selling agreement of a motor vehicle dealer or
11 franchisee, and to change substantially or modify the
12 sales and service obligations or capital requirements
13 of a motor vehicle dealer as a condition to extending
14 or renewing the existing franchise or selling
15 agreement. The determination whether good cause exists
16 to cancel, terminate, or refuse to renew or extend the
17 franchise or selling agreement, or to change or modify
18 the obligations of the dealer as a condition to offer
19 renewal, replacement, or succession shall be made by
20 the Board under subsection (d) of Section 12 of this
21 Act.

22 (D) Notwithstanding the terms, conditions, or
23 provisions of a franchise or selling agreement, the
24 following shall not constitute good cause for
25 cancelling or terminating or failing to extend or
26 renew the franchise or selling agreement: (i) the

1 change of ownership or executive management of the
2 franchisee's dealership; or (ii) the fact that the
3 franchisee or owner of an interest in the franchise
4 owns, has an investment in, participates in the
5 management of, or holds a license for the sale of the
6 same or any other line make of new motor vehicles.

7 (E) The manufacturer may not cancel or terminate,
8 or fail to extend or renew a franchise or selling
9 agreement or change or modify the obligations of the
10 franchisee as a condition to offering a renewal,
11 replacement, or succeeding franchise or selling
12 agreement before the hearing process is concluded as
13 prescribed by this Act, and thereafter, if the Board
14 determines that the manufacturer has failed to meet
15 its burden of proof and that good cause does not exist
16 to allow the proposed action;

17 (7) notwithstanding the terms of any franchise
18 agreement, to fail to indemnify and hold harmless its
19 franchised dealers against any judgment or settlement for
20 damages, including, but not limited to, court costs,
21 expert witness fees, reasonable attorneys' fees of the new
22 motor vehicle dealer, and other expenses incurred in the
23 litigation, so long as such fees and costs are reasonable,
24 arising out of complaints, claims, or lawsuits, including,
25 but not limited to, strict liability, negligence,
26 misrepresentation, warranty (express or implied), or

1 rescission of the sale as defined in Section 2-608 of the
2 Uniform Commercial Code, to the extent that the judgment
3 or settlement relates to the alleged defective or
4 negligent manufacture, assembly or design of new motor
5 vehicles, parts or accessories or other functions by the
6 manufacturer, beyond the control of the dealer; provided
7 that, in order to provide an adequate defense, the
8 manufacturer receives notice of the filing of a complaint,
9 claim, or lawsuit within 60 days after the filing;

10 (8) to require or otherwise coerce a motor vehicle
11 dealer to underutilize the motor vehicle dealer's
12 facilities by requiring or otherwise coercing the motor
13 vehicle dealer to exclude or remove from the motor vehicle
14 dealer's facilities operations for selling or servicing of
15 any vehicles for which the motor vehicle dealer has a
16 franchise agreement with another manufacturer,
17 distributor, wholesaler, distribution branch or division,
18 or officer, agent, or other representative thereof;
19 provided, however, that, in light of all existing
20 circumstances, (i) the motor vehicle dealer maintains a
21 reasonable line of credit for each make or line of new
22 motor vehicle, (ii) the new motor vehicle dealer remains
23 in compliance with any reasonable facilities requirements
24 of the manufacturer, (iii) no change is made in the
25 principal management of the new motor vehicle dealer, and
26 (iv) the addition of the make or line of new motor vehicles

1 would be reasonable. The reasonable facilities requirement
2 set forth in item (ii) of subsection (d)(8) shall not
3 include any requirement that a franchisee establish or
4 maintain exclusive facilities, personnel, or display
5 space. Any decision by a motor vehicle dealer to sell
6 additional makes or lines at the motor vehicle dealer's
7 facility shall be presumed to be reasonable, and the
8 manufacturer shall have the burden to overcome that
9 presumption. A motor vehicle dealer must provide a written
10 notification of its intent to add a make or line of new
11 motor vehicles to the manufacturer. If the manufacturer
12 does not respond to the motor vehicle dealer, in writing,
13 objecting to the addition of the make or line within 60
14 days after the date that the motor vehicle dealer sends
15 the written notification, then the manufacturer shall be
16 deemed to have approved the addition of the make or line;

17 (9) to use or consider the performance of a motor
18 vehicle dealer relating to the sale of the manufacturer's,
19 distributor's, or wholesaler's vehicles or the motor
20 vehicle dealer's ability to satisfy any minimum sales or
21 market share quota or responsibility relating to the sale
22 of the manufacturer's, distributor's, or wholesaler's new
23 vehicles in determining:

24 (A) the motor vehicle dealer's eligibility to
25 purchase program, certified, or other used motor
26 vehicles from the manufacturer, distributor, or

1 wholesaler;

2 (B) the volume, type, or model of program,
3 certified, or other used motor vehicles that a motor
4 vehicle dealer is eligible to purchase from the
5 manufacturer, distributor, or wholesaler;

6 (C) the price of any program, certified, or other
7 used motor vehicle that the dealer is eligible to
8 purchase from the manufacturer, distributor, or
9 wholesaler; or

10 (D) the availability or amount of any discount,
11 credit, rebate, or sales incentive that the dealer is
12 eligible to receive from the manufacturer,
13 distributor, or wholesaler for the purchase of any
14 program, certified, or other used motor vehicle
15 offered for sale by the manufacturer, distributor, or
16 wholesaler;

17 (10) to take any adverse action against a dealer
18 pursuant to an export or sale-for-resale prohibition
19 because the dealer sold or leased a vehicle to a customer
20 who either exported the vehicle to a foreign country or
21 resold the vehicle in violation of the prohibition, unless
22 the export or sale-for-resale prohibition policy was
23 provided to the dealer in writing either electronically or
24 on paper, prior to the sale or lease, and the dealer knew
25 or reasonably should have known of the customer's intent
26 to export or resell the vehicle in violation of the

1 prohibition at the time of the sale or lease. If the dealer
2 causes the vehicle to be registered and titled in this or
3 any other state, and collects or causes to be collected
4 any applicable sales or use tax to this State, a
5 rebuttable presumption is established that the dealer did
6 not have reason to know of the customer's intent to resell
7 the vehicle;

8 (11) to coerce or require any dealer to construct
9 improvements to his or her facilities or to install new
10 signs or other franchiser image elements that replace or
11 substantially alter those improvements, signs, or
12 franchiser image elements completed within the past 10
13 years that were required and approved by the manufacturer
14 or one of its affiliates. The 10-year period under this
15 paragraph (11) begins to run for a dealer, including that
16 dealer's successors and assigns, on the date that the
17 manufacturer gives final written approval of the facility
18 improvements or installation of signs or other franchiser
19 image elements or the date that the dealer receives a
20 certificate of occupancy, whichever is later. For the
21 purpose of this paragraph (11), the term "substantially
22 alter" does not include routine maintenance, including,
23 but not limited to, interior painting, that is reasonably
24 necessary to keep a dealer facility in attractive
25 condition; or

26 (12) to require a dealer to purchase goods or services

1 to make improvements to the dealer's facilities from a
2 vendor selected, identified, or designated by a
3 manufacturer or one of its affiliates by agreement,
4 program, incentive provision, or otherwise without making
5 available to the dealer the option to obtain the goods or
6 services of substantially similar quality and overall
7 design from a vendor chosen by the dealer and approved by
8 the manufacturer; however, approval by the manufacturer
9 shall not be unreasonably withheld, and the dealer's
10 option to select a vendor shall not be available if the
11 manufacturer provides substantial reimbursement for the
12 goods or services offered. "Substantial reimbursement"
13 means an amount equal to or greater than the cost savings
14 that would result if the dealer were to utilize a vendor of
15 the dealer's own selection instead of using the vendor
16 identified by the manufacturer. For the purpose of this
17 paragraph (12), the term "goods" does not include movable
18 displays, brochures, and promotional materials containing
19 material subject to the intellectual property rights of a
20 manufacturer. If signs, other than signs containing the
21 manufacturer's brand or logo or free-standing signs that
22 are not directly attached to a building, or other
23 franchiser image or design elements or trade dress are to
24 be leased to the dealer by a vendor selected, identified,
25 or designated by the manufacturer, the dealer has the
26 right to purchase the signs or other franchiser image or

1 design elements or trade dress of substantially similar
2 quality and design from a vendor selected by the dealer if
3 the signs, franchiser image or design elements, or trade
4 dress are approved by the manufacturer. Approval by the
5 manufacturer shall not be unreasonably withheld. This
6 paragraph (12) shall not be construed to allow a dealer or
7 vendor to impair, infringe upon, or eliminate, directly or
8 indirectly, the intellectual property rights of the
9 manufacturer, including, but not limited to, the
10 manufacturer's intellectual property rights in any
11 trademarks or trade dress, or other intellectual property
12 interests owned or controlled by the manufacturer. This
13 paragraph (12) shall not be construed to permit a dealer
14 to erect or maintain signs that do not conform to the
15 manufacturer's intellectual property rights or trademark
16 or trade dress usage guidelines.

17 (13) to establish or utilize any common entity,
18 affiliate, or spin-off company to sell, lease, or
19 otherwise distribute new motor vehicles directly to
20 consumers or to circumvent the manufacturer's new motor
21 vehicle distribution obligations under this Act, if the
22 manufacturer, including any common entities, subsidiaries,
23 or affiliates, currently or previously maintained a
24 franchise or selling agreement with a motor vehicle dealer
25 for the retail sale of motor vehicles in this State.

26 (e) It shall be deemed a violation for a manufacturer, a

1 distributor, a wholesaler, a distributor branch or division or
2 officer, agent or other representative thereof:

3 (1) to resort to or use any false or misleading
4 advertisement in connection with his business as such
5 manufacturer, distributor, wholesaler, distributor branch
6 or division or officer, agent or other representative
7 thereof;

8 (2) to offer to sell or lease, or to sell or lease, any
9 new motor vehicle to any motor vehicle dealer at a lower
10 actual price therefor than the actual price offered to any
11 other motor vehicle dealer for the same model vehicle
12 similarly equipped or to utilize any device including, but
13 not limited to, sales promotion plans or programs which
14 result in such lesser actual price or fail to make
15 available to any motor vehicle dealer any preferential
16 pricing, incentive, rebate, finance rate, or low interest
17 loan program offered to competing motor vehicle dealers in
18 other contiguous states. However, the provisions of this
19 paragraph shall not apply to sales to a motor vehicle
20 dealer for resale to any unit of the United States
21 Government, the State or any of its political
22 subdivisions;

23 (3) to offer to sell or lease, or to sell or lease, any
24 new motor vehicle to any person, except a wholesaler,
25 distributor or manufacturer's employees at a lower actual
26 price therefor than the actual price offered and charged

1 to a motor vehicle dealer for the same model vehicle
2 similarly equipped or to utilize any device which results
3 in such lesser actual price. However, the provisions of
4 this paragraph shall not apply to sales to a motor vehicle
5 dealer for resale to any unit of the United States
6 Government, the State or any of its political
7 subdivisions;

8 (4) to prevent or attempt to prevent by contract or
9 otherwise any motor vehicle dealer or franchisee from
10 changing the executive management control of the motor
11 vehicle dealer or franchisee unless the franchiser, having
12 the burden of proof, proves that such change of executive
13 management will result in executive management control by
14 a person or persons who are not of good moral character or
15 who do not meet the franchiser's existing and, with
16 consideration given to the volume of sales and service of
17 the dealership, uniformly applied minimum business
18 experience standards in the market area. However, where
19 the manufacturer rejects a proposed change in executive
20 management control, the manufacturer shall give written
21 notice of his reasons to the dealer within 60 days of
22 notice to the manufacturer by the dealer of the proposed
23 change. If the manufacturer does not send a letter to the
24 franchisee by certified mail, return receipt requested,
25 within 60 days from receipt by the manufacturer of the
26 proposed change, then the change of the executive

1 management control of the franchisee shall be deemed
2 accepted as proposed by the franchisee, and the
3 manufacturer shall give immediate effect to such change;

4 (5) to prevent or attempt to prevent by contract or
5 otherwise any motor vehicle dealer from establishing or
6 changing the capital structure of his dealership or the
7 means by or through which he finances the operation
8 thereof; provided the dealer meets any reasonable capital
9 standards agreed to between the dealer and the
10 manufacturer, distributor or wholesaler, who may require
11 that the sources, method and manner by which the dealer
12 finances or intends to finance its operation, equipment or
13 facilities be fully disclosed;

14 (6) to refuse to give effect to or prevent or attempt
15 to prevent by contract or otherwise any motor vehicle
16 dealer or any officer, partner or stockholder of any motor
17 vehicle dealer from selling or transferring any part of
18 the interest of any of them to any other person or persons
19 or party or parties unless such sale or transfer is to a
20 transferee who would not otherwise qualify for a new motor
21 vehicle dealers license under the Illinois Vehicle Code or
22 unless the franchiser, having the burden of proof, proves
23 that such sale or transfer is to a person or party who is
24 not of good moral character or does not meet the
25 franchiser's existing and reasonable capital standards
26 and, with consideration given to the volume of sales and

1 service of the dealership, uniformly applied minimum
2 business experience standards in the market area. However,
3 nothing herein shall be construed to prevent a franchiser
4 from implementing affirmative action programs providing
5 business opportunities for minorities or from complying
6 with applicable federal, State or local law:

7 (A) If the manufacturer intends to refuse to
8 approve the sale or transfer of all or a part of the
9 interest, then it shall, within 60 days from receipt
10 of the completed application forms generally utilized
11 by a manufacturer to conduct its review and a copy of
12 all agreements regarding the proposed transfer, send a
13 letter by certified mail, return receipt requested,
14 advising the franchisee of any refusal to approve the
15 sale or transfer of all or part of the interest and
16 shall state that the dealer only has 30 days from the
17 receipt of the notice to file with the Motor Vehicle
18 Review Board a written protest against the proposed
19 action. The notice shall set forth specific criteria
20 used to evaluate the prospective transferee and the
21 grounds for refusing to approve the sale or transfer
22 to that transferee. Within 30 days from the
23 franchisee's receipt of the manufacturer's notice, the
24 franchisee may file with the Board a written protest
25 against the proposed action.

26 When a protest has been timely filed, the Board

1 shall enter an order, fixing the date (within 60 days
2 of the date of such order), time, and place of a
3 hearing on the protest, required under Sections 12 and
4 29 of this Act, and send by certified mail, return
5 receipt requested, a copy of the order to the
6 manufacturer that filed notice of intention of the
7 proposed action and to the protesting franchisee.

8 The manufacturer shall have the burden of proof to
9 establish that good cause exists to refuse to approve
10 the sale or transfer to the transferee. The
11 determination whether good cause exists to refuse to
12 approve the sale or transfer shall be made by the Board
13 under subdivisions (6) (B). The manufacturer shall not
14 refuse to approve the sale or transfer by a dealer or
15 an officer, partner, or stockholder of a franchise or
16 any part of the interest to any person or persons
17 before the hearing process is concluded as prescribed
18 by this Act, and thereafter if the Board determines
19 that the manufacturer has failed to meet its burden of
20 proof and that good cause does not exist to refuse to
21 approve the sale or transfer to the transferee.

22 (B) Good cause to refuse to approve such sale or
23 transfer under this Section is established when such
24 sale or transfer is to a transferee who would not
25 otherwise qualify for a new motor vehicle dealers
26 license under the Illinois Vehicle Code or such sale

1 or transfer is to a person or party who is not of good
2 moral character or does not meet the franchiser's
3 existing and reasonable capital standards and, with
4 consideration given to the volume of sales and service
5 of the dealership, uniformly applied minimum business
6 experience standards in the market area.

7 (7) to obtain money, goods, services, anything of
8 value, or any other benefit from any other person with
9 whom the motor vehicle dealer does business, on account of
10 or in relation to the transactions between the dealer and
11 the other person as compensation, except for services
12 actually rendered, unless such benefit is promptly
13 accounted for and transmitted to the motor vehicle dealer;

14 (8) to grant an additional franchise in the relevant
15 market area of an existing franchise of the same line make
16 or to relocate an existing motor vehicle dealership within
17 or into a relevant market area of an existing franchise of
18 the same line make. However, if the manufacturer wishes to
19 grant such an additional franchise to an independent
20 person in a bona fide relationship in which such person is
21 prepared to make a significant investment subject to loss
22 in such a dealership, or if the manufacturer wishes to
23 relocate an existing motor vehicle dealership, then the
24 manufacturer shall send a letter by certified mail, return
25 receipt requested, to each existing dealer or dealers of
26 the same line make whose relevant market area includes the

1 proposed location of the additional or relocated franchise
2 at least 60 days before the manufacturer grants an
3 additional franchise or relocates an existing franchise of
4 the same line make within or into the relevant market area
5 of an existing franchisee of the same line make. Each
6 notice shall set forth the specific grounds for the
7 proposed grant of an additional or relocation of an
8 existing franchise and shall state that the dealer has
9 only 30 days from the date of receipt of the notice to file
10 with the Motor Vehicle Review Board a written protest
11 against the proposed action. Unless the parties agree upon
12 the grant or establishment of the additional or relocated
13 franchise within 30 days from the date the notice was
14 received by the existing franchisee of the same line make
15 or any person entitled to receive such notice, the
16 franchisee or other person may file with the Board a
17 written protest against the grant or establishment of the
18 proposed additional or relocated franchise.

19 When a protest has been timely filed, the Board shall
20 enter an order fixing a date (within 60 days of the date of
21 the order), time, and place of a hearing on the protest,
22 required under Sections 12 and 29 of this Act, and send by
23 certified or registered mail, return receipt requested, a
24 copy of the order to the manufacturer that filed the
25 notice of intention to grant or establish the proposed
26 additional or relocated franchise and to the protesting

1 dealer or dealers of the same line make whose relevant
2 market area includes the proposed location of the
3 additional or relocated franchise.

4 When more than one protest is filed against the grant
5 or establishment of the additional or relocated franchise
6 of the same line make, the Board may consolidate the
7 hearings to expedite disposition of the matter. The
8 manufacturer shall have the burden of proof to establish
9 that good cause exists to allow the grant or establishment
10 of the additional or relocated franchise. The manufacturer
11 may not grant or establish the additional franchise or
12 relocate the existing franchise before the hearing process
13 is concluded as prescribed by this Act, and thereafter if
14 the Board determines that the manufacturer has failed to
15 meet its burden of proof and that good cause does not exist
16 to allow the grant or establishment of the additional
17 franchise or relocation of the existing franchise.

18 The determination whether good cause exists for
19 allowing the grant or establishment of an additional
20 franchise or relocated existing franchise, shall be made
21 by the Board under subsection (c) of Section 12 of this
22 Act. If the manufacturer seeks to enter into a contract,
23 agreement or other arrangement with any person,
24 establishing any additional motor vehicle dealership or
25 other facility, limited to the sale of factory repurchase
26 vehicles or late model vehicles, then the manufacturer

1 shall follow the notice procedures set forth in this
2 Section and the determination whether good cause exists
3 for allowing the proposed agreement shall be made by the
4 Board under subsection (c) of Section 12, with the
5 manufacturer having the burden of proof.

6 A. (Blank).

7 B. For the purposes of this Section, appointment
8 of a successor motor vehicle dealer at the same
9 location as its predecessor, or within 2 miles of such
10 location, or the relocation of an existing dealer or
11 franchise within 2 miles of the relocating dealer's or
12 franchisee's existing location, shall not be construed
13 as a grant, establishment or the entering into of an
14 additional franchise or selling agreement, or a
15 relocation of an existing franchise. The reopening of
16 a motor vehicle dealership that has not been in
17 operation for 18 months or more shall be deemed the
18 grant of an additional franchise or selling agreement.

19 C. This Section does not apply to the relocation
20 of an existing dealership or franchise in a county
21 having a population of more than 300,000 persons when
22 the new location is within the dealer's current
23 relevant market area, provided the new location is
24 more than 7 miles from the nearest dealer of the same
25 line make. This Section does not apply to the
26 relocation of an existing dealership or franchise in a

1 county having a population of less than 300,000
2 persons when the new location is within the dealer's
3 current relevant market area, provided the new
4 location is more than 12 miles from the nearest dealer
5 of the same line make. A dealer that would be farther
6 away from the new location of an existing dealership
7 or franchise of the same line make after a relocation
8 may not file a written protest against the relocation
9 with the Motor Vehicle Review Board.

10 D. Nothing in this Section shall be construed to
11 prevent a franchiser from implementing affirmative
12 action programs providing business opportunities for
13 minorities or from complying with applicable federal,
14 State or local law;

15 (9) to require a motor vehicle dealer to assent to a
16 release, assignment, novation, waiver or estoppel which
17 would relieve any person from liability imposed by this
18 Act;

19 (10) to prevent or refuse to give effect to the
20 succession to the ownership or management control of a
21 dealership by any legatee under the will of a dealer or to
22 an heir under the laws of descent and distribution of this
23 State unless the franchisee has designated a successor to
24 the ownership or management control under the succession
25 provisions of the franchise. Unless the franchiser, having
26 the burden of proof, proves that the successor is a person

1 who is not of good moral character or does not meet the
2 franchiser's existing and reasonable capital standards
3 and, with consideration given to the volume of sales and
4 service of the dealership, uniformly applied minimum
5 business experience standards in the market area, any
6 designated successor of a dealer or franchisee may succeed
7 to the ownership or management control of a dealership
8 under the existing franchise if:

9 (i) The designated successor gives the
10 franchiser written notice by certified mail,
11 return receipt requested, of his or her intention
12 to succeed to the ownership of the dealer within
13 60 days of the dealer's death or incapacity; and

14 (ii) The designated successor agrees to be
15 bound by all the terms and conditions of the
16 existing franchise.

17 Notwithstanding the foregoing, in the event the motor
18 vehicle dealer or franchisee and manufacturer have duly
19 executed an agreement concerning succession rights prior
20 to the dealer's death or incapacitation, the agreement
21 shall be observed.

22 (A) If the franchiser intends to refuse to honor
23 the successor to the ownership of a deceased or
24 incapacitated dealer or franchisee under an existing
25 franchise agreement, the franchiser shall send a
26 letter by certified mail, return receipt requested, to

1 the designated successor within 60 days from receipt
2 of a proposal advising of its intent to refuse to honor
3 the succession and to discontinue the existing
4 franchise agreement and shall state that the
5 designated successor only has 30 days from the receipt
6 of the notice to file with the Motor Vehicle Review
7 Board a written protest against the proposed action.
8 The notice shall set forth the specific grounds for
9 the refusal to honor the succession and discontinue
10 the existing franchise agreement.

11 If notice of refusal is not timely served upon the
12 designated successor, the franchise agreement shall
13 continue in effect subject to termination only as
14 otherwise permitted by paragraph (6) of subsection (d)
15 of Section 4 of this Act.

16 Within 30 days from the date the notice was
17 received by the designated successor or any other
18 person entitled to notice, the designee or other
19 person may file with the Board a written protest
20 against the proposed action.

21 When a protest has been timely filed, the Board
22 shall enter an order, fixing a date (within 60 days of
23 the date of the order), time, and place of a hearing on
24 the protest, required under Sections 12 and 29 of this
25 Act, and send by certified mail, return receipt
26 requested, a copy of the order to the franchiser that

1 filed the notice of intention of the proposed action
2 and to the protesting designee or such other person.

3 The manufacturer shall have the burden of proof to
4 establish that good cause exists to refuse to honor
5 the succession and discontinue the existing franchise
6 agreement. The determination whether good cause exists
7 to refuse to honor the succession shall be made by the
8 Board under subdivision (B) of this paragraph (10).
9 The manufacturer shall not refuse to honor the
10 succession or discontinue the existing franchise
11 agreement before the hearing process is concluded as
12 prescribed by this Act, and thereafter if the Board
13 determines that it has failed to meet its burden of
14 proof and that good cause does not exist to refuse to
15 honor the succession and discontinue the existing
16 franchise agreement.

17 (B) No manufacturer shall impose any conditions
18 upon honoring the succession and continuing the
19 existing franchise agreement with the designated
20 successor other than that the franchisee has
21 designated a successor to the ownership or management
22 control under the succession provisions of the
23 franchise, or that the designated successor is of good
24 moral character or meets the reasonable capital
25 standards and, with consideration given to the volume
26 of sales and service of the dealership, uniformly

1 applied minimum business experience standards in the
2 market area;

3 (11) to prevent or refuse to approve a proposal to
4 establish a successor franchise at a location previously
5 approved by the franchiser when submitted with the
6 voluntary termination by the existing franchisee unless
7 the successor franchisee would not otherwise qualify for a
8 new motor vehicle dealer's license under the Illinois
9 Vehicle Code or unless the franchiser, having the burden
10 of proof, proves that such proposed successor is not of
11 good moral character or does not meet the franchiser's
12 existing and reasonable capital standards and, with
13 consideration given to the volume of sales and service of
14 the dealership, uniformly applied minimum business
15 experience standards in the market area. However, when
16 such a rejection of a proposal is made, the manufacturer
17 shall give written notice of its reasons to the franchisee
18 within 60 days of receipt by the manufacturer of the
19 proposal. However, nothing herein shall be construed to
20 prevent a franchiser from implementing affirmative action
21 programs providing business opportunities for minorities,
22 or from complying with applicable federal, State or local
23 law;

24 (12) to prevent or refuse to grant a franchise to a
25 person because such person owns, has investment in or
26 participates in the management of or holds a franchise for

1 the sale of another make or line of motor vehicles within 7
2 miles of the proposed franchise location in a county
3 having a population of more than 300,000 persons, or
4 within 12 miles of the proposed franchise location in a
5 county having a population of less than 300,000 persons;

6 (13) to prevent or attempt to prevent any new motor
7 vehicle dealer from establishing any additional motor
8 vehicle dealership or other facility limited to the sale
9 of factory repurchase vehicles or late model vehicles or
10 otherwise offering for sale factory repurchase vehicles of
11 the same line make at an existing franchise by failing to
12 make available any contract, agreement or other
13 arrangement which is made available or otherwise offered
14 to any person; or

15 (14) to exercise a right of first refusal or other
16 right to acquire a franchise from a dealer, unless the
17 manufacturer:

18 (A) notifies the dealer in writing that it intends
19 to exercise its right to acquire the franchise not
20 later than 60 days after the manufacturer's or
21 distributor's receipt of a notice of the proposed
22 transfer from the dealer and all information and
23 documents reasonably and customarily required by the
24 manufacturer or distributor supporting the proposed
25 transfer;

26 (B) pays to the dealer the same or greater

1 consideration as the dealer has contracted to receive
2 in connection with the proposed transfer or sale of
3 all or substantially all of the dealership assets,
4 stock, or other ownership interest, including the
5 purchase or lease of all real property, leasehold, or
6 improvements related to the transfer or sale of the
7 dealership. Upon exercise of the right of first
8 refusal or such other right, the manufacturer or
9 distributor shall have the right to assign the lease
10 or to convey the real property;

11 (C) assumes all of the duties, obligations, and
12 liabilities contained in the agreements that were to
13 be assumed by the proposed transferee and with respect
14 to which the manufacturer or distributor exercised the
15 right of first refusal or other right to acquire the
16 franchise;

17 (D) reimburses the proposed transferee for all
18 reasonable expenses incurred in evaluating,
19 investigating, and negotiating the transfer of the
20 dealership prior to the manufacturer's or
21 distributor's exercise of its right of first refusal
22 or other right to acquire the dealership. For purposes
23 of this paragraph, "reasonable expenses" includes the
24 usual and customary legal and accounting fees charged
25 for similar work, as well as expenses associated with
26 the evaluation and investigation of any real property

1 on which the dealership is operated. The proposed
2 transferee shall submit an itemized list of its
3 expenses to the manufacturer or distributor not later
4 than 30 days after the manufacturer's or distributor's
5 exercise of the right of first refusal or other right
6 to acquire the motor vehicle franchise. The
7 manufacturer or distributor shall reimburse the
8 proposed transferee for its expenses not later than 90
9 days after receipt of the itemized list. A
10 manufacturer or distributor may request to be provided
11 with the itemized list of expenses before exercising
12 the manufacturer's or distributor's right of first
13 refusal.

14 Except as provided in this paragraph (14), neither the
15 selling dealer nor the manufacturer or distributor shall
16 have any liability to any person as a result of a
17 manufacturer or distributor exercising its right of first
18 refusal.

19 For the purpose of this paragraph, "proposed
20 transferee" means the person to whom the franchise would
21 have been transferred to, or was proposed to be
22 transferred to, had the right of first refusal or other
23 right to acquire the franchise not been exercised by the
24 manufacturer or distributor.

25 (f) It is deemed a violation for a manufacturer, any
26 parent company, subsidiary, affiliate, common entity, or agent

1 of the manufacturer, a distributor, a wholesaler, a
2 distributor branch or division, a factory branch or division,
3 or a wholesale branch or division, or officer, agent, broker,
4 shareholder, except a shareholder of 1% or less of the
5 outstanding shares of any class of securities of a
6 manufacturer, distributor, or wholesaler which is a publicly
7 traded corporation, or other representative, directly or
8 indirectly, to own or operate a place of business as a motor
9 vehicle franchisee or motor vehicle financing affiliate or to
10 perform warranty service for retail consumers. ~~, except that,~~
11 ~~this subsection shall not prohibit~~

12 A manufacturer, common entity, or distributor, other than
13 a manufacturer or distributor that was lawfully licensed to
14 sell new motor vehicles directly to customers in this State
15 before January 1, 2022, shall not own or operate a dealership
16 or directly sell new vehicles in this State, nor shall such
17 entities be eligible for a new motor vehicle dealer license
18 under the Illinois Vehicle Code, regardless of the entity's
19 branding as separate or independent of the controlling
20 manufacturer.

21 This subsection does not prohibit:

22 (1) the ownership or operation of a place of business
23 by a manufacturer, distributor, or wholesaler for a
24 period, not to exceed 18 months, during the transition
25 from one motor vehicle franchisee to another;

26 (2) the investment in a motor vehicle franchisee by a

1 manufacturer, distributor, or wholesaler if the investment
2 is for the sole purpose of enabling a partner or
3 shareholder in that motor vehicle franchisee to acquire an
4 interest in that motor vehicle franchisee and that partner
5 or shareholder is not otherwise employed by or associated
6 with the manufacturer, distributor, or wholesaler and
7 would not otherwise have the requisite capital investment
8 funds to invest in the motor vehicle franchisee, and has
9 the right to purchase the entire equity interest of the
10 manufacturer, distributor, or wholesaler in the motor
11 vehicle franchisee within a reasonable period of time not
12 to exceed 5 years; or

13 (3) the ownership or operation of a place of business
14 by a manufacturer that manufactures only diesel engines
15 for installation in trucks having a gross vehicle weight
16 rating of more than 16,000 pounds that are required to be
17 registered under the Illinois Vehicle Code, provided that:

18 (A) the manufacturer does not otherwise
19 manufacture, distribute, or sell motor vehicles as
20 defined under Section 1-217 of the Illinois Vehicle
21 Code;

22 (B) the manufacturer owned a place of business and
23 it was in operation as of January 1, 2016;

24 (C) the manufacturer complies with all obligations
25 owed to dealers that are not owned, operated, or
26 controlled by the manufacturer, including, but not

1 limited to those obligations arising pursuant to
2 Section 6;

3 (D) to further avoid any acts or practices, the
4 effect of which may be to lessen or eliminate
5 competition, the manufacturer provides to dealers on
6 substantially equal terms access to all support for
7 completing repairs, including, but not limited to,
8 parts and assemblies, training, and technical service
9 bulletins, and other information concerning repairs
10 that the manufacturer provides to facilities that are
11 owned, operated, or controlled by the manufacturer;
12 and

13 (E) the manufacturer does not require that
14 warranty repair work be performed by a
15 manufacturer-owned repair facility and the
16 manufacturer provides any dealer that has an agreement
17 with the manufacturer to sell and perform warranty
18 repairs on the manufacturer's engines the opportunity
19 to perform warranty repairs on those engines,
20 regardless of whether the dealer sold the truck into
21 which the engine was installed.

22 (g) Notwithstanding the terms, provisions, or conditions
23 of any agreement or waiver, it shall be deemed a violation for
24 a manufacturer, a distributor, a wholesaler, a distributor
25 branch or division, a factory branch or division, or a
26 wholesale branch or division, or officer, agent, common

1 entity, or other representative thereof, to directly or
2 indirectly condition the awarding of a franchise to a
3 prospective new motor vehicle dealer, the addition of a line
4 make or franchise to an existing dealer, the renewal of a
5 franchise of an existing dealer, the approval of the
6 relocation of an existing dealer's facility, or the approval
7 of the sale or transfer of the ownership of a franchise on the
8 willingness of a dealer, proposed new dealer, or owner of an
9 interest in the dealership facility to enter into a site
10 control agreement or exclusive use agreement unless separate
11 and reasonable consideration was offered and accepted for that
12 agreement.

13 For purposes of this subsection (g), the terms "site
14 control agreement" and "exclusive use agreement" include any
15 agreement that has the effect of either (i) requiring that the
16 dealer establish or maintain exclusive dealership facilities;
17 or (ii) restricting the ability of the dealer, or the ability
18 of the dealer's lessor in the event the dealership facility is
19 being leased, to transfer, sell, lease, or change the use of
20 the dealership premises, whether by sublease, lease,
21 collateral pledge of lease, or other similar agreement. "Site
22 control agreement" and "exclusive use agreement" also include
23 a manufacturer restricting the ability of a dealer to
24 transfer, sell, or lease the dealership premises by right of
25 first refusal to purchase or lease, option to purchase, or
26 option to lease if the transfer, sale, or lease of the

1 dealership premises is to a person who is an immediate family
2 member of the dealer. For the purposes of this subsection (g),
3 "immediate family member" means a spouse, parent, son,
4 daughter, son-in-law, daughter-in-law, brother, and sister.

5 If a manufacturer exercises any right of first refusal to
6 purchase or lease or option to purchase or lease with regard to
7 a transfer, sale, or lease of the dealership premises to a
8 person who is not an immediate family member of the dealer,
9 then (1) within 60 days from the receipt of the completed
10 application forms generally utilized by a manufacturer to
11 conduct its review and a copy of all agreements regarding the
12 proposed transfer, the manufacturer must notify the dealer of
13 its intent to exercise the right of first refusal to purchase
14 or lease or option to purchase or lease and (2) the exercise of
15 the right of first refusal to purchase or lease or option to
16 purchase or lease must result in the dealer receiving
17 consideration, terms, and conditions that either are the same
18 as or greater than that which they have contracted to receive
19 in connection with the proposed transfer, sale, or lease of
20 the dealership premises.

21 Any provision contained in any agreement entered into on
22 or after November 25, 2009 (the effective date of Public Act
23 96-824) that is inconsistent with the provisions of this
24 subsection (g) shall be voidable at the election of the
25 affected dealer, prospective dealer, or owner of an interest
26 in the dealership facility.

1 (h) For purposes of this subsection:

2 "Successor manufacturer" means any motor vehicle
3 manufacturer that, on or after January 1, 2009, acquires,
4 succeeds to, or assumes any part of the business of another
5 manufacturer, referred to as the "predecessor manufacturer",
6 as the result of any of the following:

7 (i) A change in ownership, operation, or control of
8 the predecessor manufacturer by sale or transfer of
9 assets, corporate stock or other equity interest,
10 assignment, merger, consolidation, combination, joint
11 venture, redemption, court-approved sale, operation of law
12 or otherwise.

13 (ii) The termination, suspension, or cessation of a
14 part or all of the business operations of the predecessor
15 manufacturer.

16 (iii) The discontinuance of the sale of the product
17 line.

18 (iv) A change in distribution system by the
19 predecessor manufacturer, whether through a change in
20 distributor or the predecessor manufacturer's decision to
21 cease conducting business through a distributor
22 altogether.

23 "Former Franchisee" means a new motor vehicle dealer that
24 has entered into a franchise with a predecessor manufacturer
25 and that has either:

26 (i) entered into a termination agreement or deferred

1 termination agreement with a predecessor or successor
2 manufacturer related to such franchise; or

3 (ii) has had such franchise canceled, terminated,
4 nonrenewed, noncontinued, rejected, nonassumed, or
5 otherwise ended.

6 For a period of 3 years from: (i) the date that a successor
7 manufacturer acquires, succeeds to, or assumes any part of the
8 business of a predecessor manufacturer; (ii) the last day that
9 a former franchisee is authorized to remain in business as a
10 franchised dealer with respect to a particular franchise under
11 a termination agreement or deferred termination agreement with
12 a predecessor or successor manufacturer; (iii) the last day
13 that a former franchisee that was cancelled, terminated,
14 nonrenewed, noncontinued, rejected, nonassumed, or otherwise
15 ended by a predecessor or successor manufacturer is authorized
16 to remain in business as a franchised dealer with respect to a
17 particular franchise; or (iv) November 25, 2009 (the effective
18 date of Public Act 96-824), whichever is latest, it shall be
19 unlawful for such successor manufacturer to enter into a same
20 line make franchise with any person or to permit the
21 relocation of any existing same line make franchise, for a
22 line make of the predecessor manufacturer that would be
23 located or relocated within the relevant market area of a
24 former franchisee who owned or leased a dealership facility in
25 that relevant market area without first offering the
26 additional or relocated franchise to the former franchisee, or

1 the designated successor of such former franchisee in the
2 event the former franchisee is deceased or a person with a
3 disability, at no cost and without any requirements or
4 restrictions other than those imposed generally on the
5 manufacturer's other franchisees at that time, unless one of
6 the following applies:

7 (1) As a result of the former franchisee's
8 cancellation, termination, noncontinuance, or nonrenewal
9 of the franchise, the predecessor manufacturer had
10 consolidated the line make with another of its line makes
11 for which the predecessor manufacturer had a franchisee
12 with a then-existing dealership facility located within
13 that relevant market area.

14 (2) The successor manufacturer has paid the former
15 franchisee, or the designated successor of such former
16 franchisee in the event the former franchisee is deceased
17 or a person with a disability, the fair market value of the
18 former franchisee's franchise on (i) the date the
19 franchiser announces the action which results in the
20 termination, cancellation, or nonrenewal; or (ii) the date
21 the action which results in termination, cancellation, or
22 nonrenewal first became general knowledge; or (iii) the
23 day 12 months prior to the date on which the notice of
24 termination, cancellation, or nonrenewal is issued,
25 whichever amount is higher. Payment is due within 90 days
26 of the effective date of the termination, cancellation, or

1 nonrenewal. If the termination, cancellation, or
2 nonrenewal is due to a manufacturer's change in
3 distributors, the manufacturer may avoid paying fair
4 market value to the dealer if the new distributor or the
5 manufacturer offers the dealer a franchise agreement with
6 terms acceptable to the dealer.

7 (3) The successor manufacturer proves that it would
8 have had good cause to terminate the franchise agreement
9 of the former franchisee, or the successor of the former
10 franchisee under item (e)(10) in the event that the former
11 franchisee is deceased or a person with a disability. The
12 determination of whether the successor manufacturer would
13 have had good cause to terminate the franchise agreement
14 of the former franchisee, or the successor of the former
15 franchisee, shall be made by the Board under subsection
16 (d) of Section 12. A successor manufacturer that seeks to
17 assert that it would have had good cause to terminate a
18 former franchisee, or the successor of the former
19 franchisee, must file a petition seeking a hearing on this
20 issue before the Board and shall have the burden of
21 proving that it would have had good cause to terminate the
22 former franchisee or the successor of the former
23 franchisee. No successor dealer, other than the former
24 franchisee, may be appointed or franchised by the
25 successor manufacturer within the relevant market area of
26 the former franchisee until the Board has held a hearing

1 and rendered a determination on the issue of whether the
2 successor manufacturer would have had good cause to
3 terminate the former franchisee.

4 In the event that a successor manufacturer attempts to
5 enter into a same line make franchise with any person or to
6 permit the relocation of any existing line make franchise
7 under this subsection (h) at a location that is within the
8 relevant market area of 2 or more former franchisees, then the
9 successor manufacturer may not offer it to any person other
10 than one of those former franchisees unless the successor
11 manufacturer can prove that at least one of the 3 exceptions in
12 items (1), (2), and (3) of this subsection (h) applies to each
13 of those former franchisees.

14 (i) It shall be deemed a violation of this Section for any
15 manufacturer with an established franchise dealer network in
16 this State, either directly or indirectly, through any parent,
17 subsidiary, affiliate, or agent of the manufacturer, any
18 person under common ownership or control, or common entity, to
19 engage in the sale, lease, or warranty servicing of new motor
20 vehicles in a manner that bypasses or competes with the
21 manufacturer's existing franchisee network, including, but not
22 limited to:

23 (1) engaging in practices intended to circumvent,
24 evade, or undermine the rights, obligations, or
25 protections afforded to franchisees under this Act; or

26 (2) establishing or using newly branded entities,

1 spin-offs, or affiliated or subsidiary entities to conduct
2 retail operations outside the franchise system.

3 (j) A manufacturer or distributor shall not engage in the
4 sale of new motor vehicles directly to the general public in
5 this State unless the manufacturer or distributor was lawfully
6 licensed to sell new motor vehicles directly to consumers in
7 this State before January 1, 2022.

8 (Source: P.A. 102-433, eff. 1-1-22.)

9 (815 ILCS 710/6) (from Ch. 121 1/2, par. 756)

10 Sec. 6. Warranty agreements; claims; approval; payment;
11 written disapproval.

12 (a) Every manufacturer, distributor, wholesaler,
13 distributor branch or division, factory branch or division, or
14 wholesale branch or division shall properly fulfill any
15 warranty agreement and adequately and fairly compensate each
16 of its motor vehicle dealers for labor and parts.

17 (b) Adequate and fair compensation requires the
18 manufacturer to pay each dealer no less than the amount the
19 retail customer pays for the same services with regard to rate
20 and time.

21 Any time guide previously agreed to by the manufacturer
22 and the dealer for extended warranty repairs may be used in
23 lieu of actual time expended. In the event that a time guide
24 has not been agreed to for warranty repairs, or said time guide
25 does not define time for an applicable warranty repair, the

1 manufacturer's time guide shall be used, multiplied by 1.5.

2 In no event shall such compensation fail to include full
3 compensation for diagnostic work, as well as repair service,
4 labor, and parts. Time allowances for the diagnosis and
5 performance of warranty work and service shall be no less than
6 charged to retail customers for the same work to be performed.

7 No warranty or factory compensated repairs shall be
8 excluded from this requirement, including recalls or other
9 voluntary stop-sell repairs required by the manufacturer. If a
10 manufacturer is required to issue a recall, the dealer will be
11 compensated for labor time as above stated.

12 Furthermore, manufacturers shall pay the dealer the same
13 effective labor rate (using the 100 sequential repair orders
14 chosen and submitted by the dealer less simple maintenance
15 repair orders) that the dealer receives for customer-pay
16 repairs. This requirement includes vehicle diagnostic times
17 for all warranty repairs. Additionally, if a technician is
18 required to communicate with a Technical Assistance
19 Center/Engineering/or some external manufacturer source in
20 order to provide a warranty repair, the manufacturer shall pay
21 for the time from start of communications (including hold
22 time) until the communication is complete.

23 The dealer may submit a request to the manufacturer for
24 warranty labor rate increases a maximum of once per calendar
25 year.

26 A claim made by a franchised motor vehicle dealer for

1 compensation under this Section shall be either approved or
2 disapproved within 30 days after the claim is submitted to the
3 manufacturer in the manner and on the forms the manufacturer
4 reasonably prescribes. An approved claim shall be paid within
5 30 days after its approval. If a claim is not specifically
6 disapproved in writing or by electronic transmission within 30
7 days after the date on which the manufacturer receives it, the
8 claim shall be considered to be approved and payment shall
9 follow within 30 days.

10 In no event shall compensation to a motor vehicle dealer
11 for labor times and labor rates be less than the rates charged
12 by such dealer for like service to retail customers for
13 nonwarranty service and repairs. Additionally, the
14 manufacturer shall reimburse the dealer for any parts provided
15 in satisfaction of a warranty at the prevailing retail price
16 charged by that dealer for the same parts when not provided in
17 satisfaction of a warranty; provided that such dealer's
18 prevailing retail price is not unreasonable when compared with
19 that of the holders of motor vehicle franchises of ~~from~~ the
20 same line make ~~manufacturer~~ for identical parts in the
21 geographic area in which the dealer is engaged in business.

22 There shall be no reduction in payments due to
23 preestablished market norms or market averages. Manufacturers
24 are prohibited from establishing restrictions or limitations
25 of customer repair frequency due to failure rate indexes or
26 national failure averages.

1 No debit reduction or charge back of any item on a warranty
2 repair order may be made absent a finding of fraud or illegal
3 actions by the dealer.

4 A warranty claim timely made shall not be deemed invalid
5 solely because unavailable parts cause additional use and
6 mileage on the vehicle.

7 If a manufacturer imposes a recall or stop sale on any new
8 vehicle in a dealer's inventory that prevents the sale of the
9 vehicle, the manufacturer shall compensate the dealer for any
10 interest and storage until the vehicle is repaired and made
11 ready for sale.

12 Manufacturers are not permitted to impose any form of cost
13 recovery fees or surcharges against a franchised auto
14 dealership for payments made in accordance with this Section.

15 All claims, either original or resubmitted, made by motor
16 vehicle dealers hereunder and under Section 5 for such labor
17 and parts shall be either approved or disapproved within 30
18 days following their submission. All approved claims shall be
19 paid within 30 days following their approval. The motor
20 vehicle dealer who submits a claim which is disapproved shall
21 be notified in writing of the disapproval within the same
22 period, and each such notice shall state the specific grounds
23 upon which the disapproval is based. The motor vehicle dealer
24 shall be permitted to correct and resubmit such disapproved
25 claims within 30 days of receipt of disapproval. Any claims
26 not specifically disapproved in writing within 30 days from

1 their submission shall be deemed approved and payment shall
2 follow within 30 days. The manufacturer or franchiser shall
3 have the right to require reasonable documentation for claims
4 and to audit such claims within a one year period from the date
5 the claim was paid or credit issued by the manufacturer or
6 franchiser, and to charge back any false or unsubstantiated
7 claims. The audit and charge back provisions of this Section
8 also apply to all other incentive and reimbursement programs
9 for a period of one year after the date the claim was paid or
10 credit issued by the manufacturer or franchiser. However, the
11 manufacturer retains the right to charge back any fraudulent
12 claim if the manufacturer establishes in a court of competent
13 jurisdiction in this State that the claim is fraudulent.

14 (c) The motor vehicle franchiser shall not, by agreement,
15 by restrictions upon reimbursement, or otherwise, restrict the
16 nature and extent of services to be rendered or parts to be
17 provided so that such restriction prevents the motor vehicle
18 franchisee from satisfying the warranty by rendering services
19 in a good and workmanlike manner and providing parts which are
20 required in accordance with generally accepted standards. Any
21 such restriction shall constitute a prohibited practice.

22 (d) For the purposes of this Section, the "prevailing
23 retail price charged by that dealer for the same parts" means
24 the price paid by the motor vehicle franchisee for parts,
25 including all shipping and other charges, multiplied by the
26 sum of 1.0 and the franchisee's average percentage markup over

1 the price paid by the motor vehicle franchisee for parts
2 purchased by the motor vehicle franchisee from the motor
3 vehicle franchiser and sold at retail. The motor vehicle
4 franchisee may establish average percentage markup under this
5 Section by submitting to the motor vehicle franchiser 100
6 sequential customer paid service repair orders or 90 days of
7 customer paid service repair orders, whichever is less,
8 covering repairs made no more than 180 days before the
9 submission, and declaring what the average percentage markup
10 is. The average percentage markup so declared shall go into
11 effect 30 days following the declaration, subject to audit of
12 the submitted repair orders by the motor vehicle franchiser
13 and adjustment of the average percentage markup based on that
14 audit. Any audit must be conducted within 30 days following
15 the declaration. Only retail sales not involving warranty
16 repairs, parts covered by subsection (e) of this Section, or
17 parts supplied for routine vehicle maintenance, shall be
18 considered in calculating average percentage markup. For the
19 purpose of this subsection, "routine maintenance" includes,
20 but is not limited to: (i) the replacement of oil or other
21 fluids, filters, batteries for internal combustion engine
22 vehicles, bulbs, brake pads, rotors, nuts, bolts, or
23 fasteners; (ii) the replacement of or work on tires or wheels,
24 including wheel alignments and tire and wheel rotations; and
25 (iii) the installation of an accessory. No motor vehicle
26 franchiser shall require a motor vehicle franchisee to

1 establish average percentage markup by a methodology, or by
2 requiring information, that is unduly burdensome or time
3 consuming to provide, including, but not limited to, part by
4 part or transaction by transaction calculations. A motor
5 vehicle franchisee shall not request a change in the average
6 percentage markup more than twice in one calendar year.

7 (e) If a motor vehicle franchiser supplies a part or parts
8 for use in a repair rendered under a warranty other than by
9 sale of that part or parts to the motor vehicle franchisee, the
10 motor vehicle franchisee shall be entitled to compensation
11 equivalent to the motor vehicle franchisee's average
12 percentage markup on the part or parts, as if the part or parts
13 had been sold to the motor vehicle franchisee by the motor
14 vehicle franchiser. The requirements of this subsection (e)
15 shall not apply to entire engine assemblies, propulsion engine
16 assemblies, including electric vehicle batteries, and entire
17 transmission assemblies. In the case of those assemblies, the
18 motor vehicle franchiser shall reimburse the motor vehicle
19 franchisee up to and including 30% of what the motor vehicle
20 franchisee would have paid the motor vehicle franchiser for
21 the assembly if the assembly had not been supplied by the
22 franchiser other than by the sale of that assembly to the motor
23 vehicle franchisee.

24 (f) The obligations imposed on motor vehicle franchisers
25 by this Section shall apply to any parent, subsidiary,
26 affiliate, or agent of the motor vehicle franchiser, any

1 person under common ownership or control, any employee of the
2 motor vehicle franchiser, and any person holding 1% or more of
3 the shares of any class of securities or other ownership
4 interest in the motor vehicle franchiser, if a warranty or
5 service or repair plan is issued by that person instead of or
6 in addition to one issued by the motor vehicle franchiser.

7 (g) (Blank).

8 (Source: P.A. 102-232, eff. 1-1-22; 102-669, eff. 11-16-21.)