



Sen. Ram Villivalam

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10400SB1939sam001

LRB104 12083 SPS 24940 a

1 AMENDMENT TO SENATE BILL 1939

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1939 by replacing  
3 everything after the enacting clause with the following:

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

1 registered under the Illinois Vehicle Code.

2 (b) "Manufacturer", any person engaged in the business of  
3 manufacturing or assembling new and unused motor vehicles.  
4 "Manufacturer" includes a factory branch, distributor, and  
5 distributor branch.

6 (c) "Factory branch", a branch office maintained by a  
7 manufacturer which manufactures or assembles motor vehicles  
8 for sale to distributors or motor vehicle dealers or which is  
9 maintained for directing and supervising the representatives  
10 of the manufacturer.

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

14 (e) "Factory representative", a representative employed by  
15 a manufacturer or employed by a factory branch for the purpose  
16 of making or promoting the sale of motor vehicles or for  
17 contracting with, supervising, servicing or instructing motor  
18 vehicle dealers or prospective motor vehicle dealers.

19 (f) "Distributor representative", a representative  
20 employed by a distributor branch, distributor or wholesaler.

21 (g) "Distributor" or "wholesaler", any person who sells or  
22 distributes new or used motor vehicles to motor vehicle  
23 dealers or who maintains distributor representatives within  
24 the State.

25 (h) "Motor vehicle dealer", any person who, in the  
26 ordinary course of business, is engaged in the business of

1 selling new or used motor vehicles to consumers or other end  
2 users.

3 (i) "Franchise", an oral or written arrangement for a  
4 definite or indefinite period in which a manufacturer,  
5 distributor or wholesaler grants to a motor vehicle dealer a  
6 license to use a trade name, service mark, or related  
7 characteristic, and in which there is a community of interest  
8 in the marketing of motor vehicles or services related thereto  
9 at wholesale, retail, leasing or otherwise.

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

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

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

24 (m) "Fraud", shall include, in addition to its normal  
25 legal connotation, the following: a misrepresentation in any  
26 manner, whether intentionally false or due to reckless

1 disregard for truth or falsity, of a material fact; a promise  
2 or representation not made honestly and in good faith; and an  
3 intentional failure to disclose a material fact.

4 (n) "Person", a natural person, corporation, partnership,  
5 trust or other entity, and in case of an entity, it shall  
6 include any other entity in which it has a majority interest or  
7 which it effectively controls as well as the individual  
8 officers, directors and other persons in active control of the  
9 activities of each such entity.

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

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

15 (q) "Relevant Market Area", the area within a radius of 10  
16 miles from the principal location of a franchise or dealership  
17 if said principal location is in a county having a population  
18 of more than 300,000 persons; if the principal location of a  
19 franchise or dealership is in a county having a population of  
20 less than 300,000 persons, then "relevant market area" shall  
21 mean the area within a radius of 15 miles from the principal  
22 location of said franchise or dealership.

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

1 (s) "Factory repurchase vehicle" means a motor vehicle of  
2 the current model year or a late model vehicle reacquired by  
3 the manufacturer under an existing agreement or otherwise from  
4 a fleet, lease or daily rental company or under any State or  
5 federal law or program relating to allegedly defective new  
6 motor vehicles, and offered for sale and resold by the  
7 manufacturer directly or at a factory authorized or sponsored  
8 auction.

9 (t) "Board" means the Motor Vehicle Review Board created  
10 under this Act.

11 (u) "Secretary of State" means the Secretary of State of  
12 Illinois.

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

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

17 (1) is directly or indirectly controlled by, or has  
18 controlling equity interests owned, beneficially or of  
19 record, through any form of ownership structure, by a  
20 manufacturer, importer, distributor, or an affiliate  
21 thereof; or

22 (2) shares common management with a manufacturer,  
23 importer, distributor, or an affiliate thereof, where the  
24 relationships create operational control over the  
25 management or policies of that person.

26 "Common entity" does not include:

1           (1) any person engaged in the manufacturing, assembly,  
2           sale, or distribution of motor vehicle parts, components,  
3           accessories, or vehicle services, provided the person is  
4           not engaged in the sale or distribution of new motor  
5           vehicles; or

6           (2) any financial institution chartered or authorized  
7           to do business in this State, provided the financial  
8           institution is not engaged in the sale or distribution of  
9           new motor vehicles.

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

11           (815 ILCS 710/4) (from Ch. 121 1/2, par. 754)

12           Sec. 4. Unfair competition and practices.

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

19           (b) It shall be deemed a violation for any manufacturer,  
20           factory branch, factory representative, distributor or  
21           wholesaler, distributor branch, distributor representative or  
22           motor vehicle dealer to engage in any action with respect to a  
23           franchise which is arbitrary, in bad faith or unconscionable  
24           and which causes damage to any of the parties or to the public,  
25           including directly or indirectly competing with their

1 franchisees in the sale, lease, or warranty service of new  
2 motor vehicles.

3 (c) It shall be deemed a violation for a manufacturer, a  
4 distributor, a wholesaler, a distributor branch or division, a  
5 factory branch or division, or a wholesale branch or division,  
6 or officer, agent or other representative thereof, to coerce,  
7 or attempt to coerce, any motor vehicle dealer:

8 (1) to accept, buy or order any motor vehicle or  
9 vehicles, appliances, equipment, parts or accessories  
10 therefor, or any other commodity or commodities or service  
11 or services which such motor vehicle dealer has not  
12 voluntarily ordered or requested except items required by  
13 applicable local, state or federal law; or to require a  
14 motor vehicle dealer to accept, buy, order or purchase  
15 such items in order to obtain any motor vehicle or  
16 vehicles or any other commodity or commodities which have  
17 been ordered or requested by such motor vehicle dealer;

18 (2) to order or accept delivery of any motor vehicle  
19 with special features, appliances, accessories or  
20 equipment not included in the list price of the motor  
21 vehicles as publicly advertised by the manufacturer  
22 thereof, except items required by applicable law; or

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

26 (c-5) A manufacturer, a distributor, a wholesaler, a

1 distributor branch or division, a factory branch or division,  
2 or a wholesale branch or division, or officer, agent, or other  
3 representative thereof may not:

4 (1) require a motor vehicle dealer to offer a  
5 secondary product; or

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

8 (A) service contracts;

9 (B) maintenance agreements;

10 (C) extended warranties;

11 (D) protection product guarantees;

12 (E) guaranteed asset protection waivers;

13 (F) insurance;

14 (G) replacement parts;

15 (H) vehicle accessories;

16 (I) oil; or

17 (J) supplies.

18 It is not a violation of this subsection to offer an  
19 incentive program to motor vehicle dealers to encourage them  
20 to sell or offer to sell a secondary product approved,  
21 endorsed, sponsored, or offered by the manufacturer,  
22 distributor, wholesaler, distributor branch or division,  
23 factory branch or division, wholesale branch or division, or  
24 officer, agent, or other representative thereof, provided the  
25 program does not provide vehicle sales or service incentives.

26 It is not a violation of this subsection to prohibit a

1 motor vehicle dealer from using secondary products for any  
2 repair work paid for under the terms of a warranty, recall,  
3 service contract, extended warranty, maintenance plan, or  
4 certified pre-owned vehicle program established or offered by  
5 the manufacturer, distributor, wholesaler, distributor branch  
6 or division, factory branch or division, or wholesale branch  
7 or division, or officer, agent, or other representative  
8 thereof.

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

12 (d) It shall be deemed a violation for a manufacturer, a  
13 distributor, a wholesaler, a distributor branch or division,  
14 or officer, agent or other representative thereof:

15 (1) to adopt, change, establish or implement a plan or  
16 system for the allocation and distribution of new motor  
17 vehicles to motor vehicle dealers which is arbitrary or  
18 capricious or to modify an existing plan so as to cause the  
19 same to be arbitrary or capricious;

20 (2) to fail or refuse to advise or disclose to any  
21 motor vehicle dealer having a franchise or selling  
22 agreement, upon written request therefor, the basis upon  
23 which new motor vehicles of the same line make are  
24 allocated or distributed to motor vehicle dealers in the  
25 State and the basis upon which the current allocation or  
26 distribution is being made or will be made to such motor

1 vehicle dealer;

2 (3) to refuse to deliver in reasonable quantities and  
3 within a reasonable time after receipt of dealer's order,  
4 to any motor vehicle dealer having a franchise or selling  
5 agreement for the retail sale of new motor vehicles sold  
6 or distributed by such manufacturer, distributor,  
7 wholesaler, distributor branch or division, factory branch  
8 or division or wholesale branch or division, any such  
9 motor vehicles as are covered by such franchise or selling  
10 agreement specifically publicly advertised in the State by  
11 such manufacturer, distributor, wholesaler, distributor  
12 branch or division, factory branch or division, or  
13 wholesale branch or division to be available for immediate  
14 delivery. However, the failure to deliver any motor  
15 vehicle shall not be considered a violation of this Act if  
16 such failure is due to an act of God, a work stoppage or  
17 delay due to a strike or labor difficulty, a shortage of  
18 materials, a lack of manufacturing capacity, a freight  
19 embargo or other cause over which the manufacturer,  
20 distributor, or wholesaler, or any agent thereof has no  
21 control;

22 (4) to coerce, or attempt to coerce, any motor vehicle  
23 dealer to enter into any agreement with such manufacturer,  
24 distributor, wholesaler, distributor branch or division,  
25 factory branch or division, or wholesale branch or  
26 division, or officer, agent or other representative

1           thereof, or to do any other act prejudicial to the dealer  
2           by threatening to reduce his allocation of motor vehicles  
3           or cancel any franchise or any selling agreement existing  
4           between such manufacturer, distributor, wholesaler,  
5           distributor branch or division, or factory branch or  
6           division, or wholesale branch or division, and the dealer.  
7           However, notice in good faith to any motor vehicle dealer  
8           of the dealer's violation of any terms or provisions of  
9           such franchise or selling agreement or of any law or  
10          regulation applicable to the conduct of a motor vehicle  
11          dealer shall not constitute a violation of this Act;

12           (5) to require a franchisee to participate in an  
13          advertising campaign or contest or any promotional  
14          campaign, or to purchase or lease any promotional  
15          materials, training materials, show room or other display  
16          decorations or materials at the expense of the franchisee;

17           (6) to cancel or terminate the franchise or selling  
18          agreement of a motor vehicle dealer without good cause and  
19          without giving notice as hereinafter provided; to fail or  
20          refuse to extend the franchise or selling agreement of a  
21          motor vehicle dealer upon its expiration without good  
22          cause and without giving notice as hereinafter provided;  
23          or, to offer a renewal, replacement or succeeding  
24          franchise or selling agreement containing terms and  
25          provisions the effect of which is to substantially change  
26          or modify the sales and service obligations or capital

1 requirements of the motor vehicle dealer arbitrarily and  
2 without good cause and without giving notice as  
3 hereinafter provided notwithstanding any term or provision  
4 of a franchise or selling agreement.

5 (A) If a manufacturer, distributor, wholesaler,  
6 distributor branch or division, factory branch or  
7 division or wholesale branch or division intends to  
8 cancel or terminate a franchise or selling agreement  
9 or intends not to extend or renew a franchise or  
10 selling agreement on its expiration, it shall send a  
11 letter by certified mail, return receipt requested, to  
12 the affected franchisee at least 60 days before the  
13 effective date of the proposed action, or not later  
14 than 10 days before the proposed action when the  
15 reason for the action is based upon either of the  
16 following:

17 (i) the business operations of the franchisee  
18 have been abandoned or the franchisee has failed  
19 to conduct customary sales and service operations  
20 during customary business hours for at least 7  
21 consecutive business days unless such closing is  
22 due to an act of God, strike or labor difficulty or  
23 other cause over which the franchisee has no  
24 control; or

25 (ii) the conviction of or plea of nolo  
26 contendere by the motor vehicle dealer or any

1 operator thereof in a court of competent  
2 jurisdiction to an offense punishable by  
3 imprisonment for more than two years.

4 Each notice of proposed action shall include a  
5 detailed statement setting forth the specific grounds  
6 for the proposed cancellation, termination, or refusal  
7 to extend or renew and shall state that the dealer has  
8 only 30 days from receipt of the notice to file with  
9 the Motor Vehicle Review Board a written protest  
10 against the proposed action.

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

1           against the proposed action.

2           (C) Within 30 days from receipt of the notice  
3           under subparagraphs (A) and (B), the franchisee may  
4           file with the Board a written protest against the  
5           proposed action.

6           When the protest has been timely filed, the Board  
7           shall enter an order, fixing a date (within 60 days of  
8           the date of the order), time, and place of a hearing on  
9           the protest required under Sections 12 and 29 of this  
10          Act, and send by certified mail, return receipt  
11          requested, a copy of the order to the manufacturer  
12          that filed the notice of intention of the proposed  
13          action and to the protesting dealer or franchisee.

14          The manufacturer shall have the burden of proof to  
15          establish that good cause exists to cancel or  
16          terminate, or fail to extend or renew the franchise or  
17          selling agreement of a motor vehicle dealer or  
18          franchisee, and to change substantially or modify the  
19          sales and service obligations or capital requirements  
20          of a motor vehicle dealer as a condition to extending  
21          or renewing the existing franchise or selling  
22          agreement. The determination whether good cause exists  
23          to cancel, terminate, or refuse to renew or extend the  
24          franchise or selling agreement, or to change or modify  
25          the obligations of the dealer as a condition to offer  
26          renewal, replacement, or succession shall be made by

1 the Board under subsection (d) of Section 12 of this  
2 Act.

3 (D) Notwithstanding the terms, conditions, or  
4 provisions of a franchise or selling agreement, the  
5 following shall not constitute good cause for  
6 cancelling or terminating or failing to extend or  
7 renew the franchise or selling agreement: (i) the  
8 change of ownership or executive management of the  
9 franchisee's dealership; or (ii) the fact that the  
10 franchisee or owner of an interest in the franchise  
11 owns, has an investment in, participates in the  
12 management of, or holds a license for the sale of the  
13 same or any other line make of new motor vehicles.

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

24 (7) notwithstanding the terms of any franchise  
25 agreement, to fail to indemnify and hold harmless its  
26 franchised dealers against any judgment or settlement for

1 damages, including, but not limited to, court costs,  
2 expert witness fees, reasonable attorneys' fees of the new  
3 motor vehicle dealer, and other expenses incurred in the  
4 litigation, so long as such fees and costs are reasonable,  
5 arising out of complaints, claims, or lawsuits, including,  
6 but not limited to, strict liability, negligence,  
7 misrepresentation, warranty (express or implied), or  
8 rescission of the sale as defined in Section 2-608 of the  
9 Uniform Commercial Code, to the extent that the judgment  
10 or settlement relates to the alleged defective or  
11 negligent manufacture, assembly or design of new motor  
12 vehicles, parts or accessories or other functions by the  
13 manufacturer, beyond the control of the dealer; provided  
14 that, in order to provide an adequate defense, the  
15 manufacturer receives notice of the filing of a complaint,  
16 claim, or lawsuit within 60 days after the filing;

17 (8) to require or otherwise coerce a motor vehicle  
18 dealer to underutilize the motor vehicle dealer's  
19 facilities by requiring or otherwise coercing the motor  
20 vehicle dealer to exclude or remove from the motor vehicle  
21 dealer's facilities operations for selling or servicing of  
22 any vehicles for which the motor vehicle dealer has a  
23 franchise agreement with another manufacturer,  
24 distributor, wholesaler, distribution branch or division,  
25 or officer, agent, or other representative thereof;  
26 provided, however, that, in light of all existing

1       circumstances, (i) the motor vehicle dealer maintains a  
2       reasonable line of credit for each make or line of new  
3       motor vehicle, (ii) the new motor vehicle dealer remains  
4       in compliance with any reasonable facilities requirements  
5       of the manufacturer, (iii) no change is made in the  
6       principal management of the new motor vehicle dealer, and  
7       (iv) the addition of the make or line of new motor vehicles  
8       would be reasonable. The reasonable facilities requirement  
9       set forth in item (ii) of subsection (d)(8) shall not  
10      include any requirement that a franchisee establish or  
11      maintain exclusive facilities, personnel, or display  
12      space. Any decision by a motor vehicle dealer to sell  
13      additional makes or lines at the motor vehicle dealer's  
14      facility shall be presumed to be reasonable, and the  
15      manufacturer shall have the burden to overcome that  
16      presumption. A motor vehicle dealer must provide a written  
17      notification of its intent to add a make or line of new  
18      motor vehicles to the manufacturer. If the manufacturer  
19      does not respond to the motor vehicle dealer, in writing,  
20      objecting to the addition of the make or line within 60  
21      days after the date that the motor vehicle dealer sends  
22      the written notification, then the manufacturer shall be  
23      deemed to have approved the addition of the make or line;

24           (9) to use or consider the performance of a motor  
25      vehicle dealer relating to the sale of the manufacturer's,  
26      distributor's, or wholesaler's vehicles or the motor

1 vehicle dealer's ability to satisfy any minimum sales or  
2 market share quota or responsibility relating to the sale  
3 of the manufacturer's, distributor's, or wholesaler's new  
4 vehicles in determining:

5 (A) the motor vehicle dealer's eligibility to  
6 purchase program, certified, or other used motor  
7 vehicles from the manufacturer, distributor, or  
8 wholesaler;

9 (B) the volume, type, or model of program,  
10 certified, or other used motor vehicles that a motor  
11 vehicle dealer is eligible to purchase from the  
12 manufacturer, distributor, or wholesaler;

13 (C) the price of any program, certified, or other  
14 used motor vehicle that the dealer is eligible to  
15 purchase from the manufacturer, distributor, or  
16 wholesaler; or

17 (D) the availability or amount of any discount,  
18 credit, rebate, or sales incentive that the dealer is  
19 eligible to receive from the manufacturer,  
20 distributor, or wholesaler for the purchase of any  
21 program, certified, or other used motor vehicle  
22 offered for sale by the manufacturer, distributor, or  
23 wholesaler;

24 (10) to take any adverse action against a dealer  
25 pursuant to an export or sale-for-resale prohibition  
26 because the dealer sold or leased a vehicle to a customer

1 who either exported the vehicle to a foreign country or  
2 resold the vehicle in violation of the prohibition, unless  
3 the export or sale-for-resale prohibition policy was  
4 provided to the dealer in writing either electronically or  
5 on paper, prior to the sale or lease, and the dealer knew  
6 or reasonably should have known of the customer's intent  
7 to export or resell the vehicle in violation of the  
8 prohibition at the time of the sale or lease. If the dealer  
9 causes the vehicle to be registered and titled in this or  
10 any other state, and collects or causes to be collected  
11 any applicable sales or use tax to this State, a  
12 rebuttable presumption is established that the dealer did  
13 not have reason to know of the customer's intent to resell  
14 the vehicle;

15 (11) to coerce or require any dealer to construct  
16 improvements to his or her facilities or to install new  
17 signs or other franchiser image elements that replace or  
18 substantially alter those improvements, signs, or  
19 franchiser image elements completed within the past 10  
20 years that were required and approved by the manufacturer  
21 or one of its affiliates. The 10-year period under this  
22 paragraph (11) begins to run for a dealer, including that  
23 dealer's successors and assigns, on the date that the  
24 manufacturer gives final written approval of the facility  
25 improvements or installation of signs or other franchiser  
26 image elements or the date that the dealer receives a

1 certificate of occupancy, whichever is later. For the  
2 purpose of this paragraph (11), the term "substantially  
3 alter" does not include routine maintenance, including,  
4 but not limited to, interior painting, that is reasonably  
5 necessary to keep a dealer facility in attractive  
6 condition; or

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

1 manufacturer. If signs, other than signs containing the  
2 manufacturer's brand or logo or free-standing signs that  
3 are not directly attached to a building, or other  
4 franchiser image or design elements or trade dress are to  
5 be leased to the dealer by a vendor selected, identified,  
6 or designated by the manufacturer, the dealer has the  
7 right to purchase the signs or other franchiser image or  
8 design elements or trade dress of substantially similar  
9 quality and design from a vendor selected by the dealer if  
10 the signs, franchiser image or design elements, or trade  
11 dress are approved by the manufacturer. Approval by the  
12 manufacturer shall not be unreasonably withheld. This  
13 paragraph (12) shall not be construed to allow a dealer or  
14 vendor to impair, infringe upon, or eliminate, directly or  
15 indirectly, the intellectual property rights of the  
16 manufacturer, including, but not limited to, the  
17 manufacturer's intellectual property rights in any  
18 trademarks or trade dress, or other intellectual property  
19 interests owned or controlled by the manufacturer. This  
20 paragraph (12) shall not be construed to permit a dealer  
21 to erect or maintain signs that do not conform to the  
22 manufacturer's intellectual property rights or trademark  
23 or trade dress usage guidelines.

24 (13) to establish or utilize any common entity,  
25 affiliate, or spin-off company to sell, lease, or  
26 otherwise distribute new motor vehicles directly to

1       consumers or to circumvent the manufacturer's new motor  
2       vehicle distribution obligations under this Act, if the  
3       manufacturer, including any common entities, subsidiaries,  
4       or affiliates, currently or previously maintained a  
5       franchise or selling agreement with a motor vehicle dealer  
6       for the retail sale of motor vehicles in this State.

7       (e) It shall be deemed a violation for a manufacturer, a  
8       distributor, a wholesaler, a distributor branch or division or  
9       officer, agent or other representative thereof:

10       (1) to resort to or use any false or misleading  
11       advertisement in connection with his business as such  
12       manufacturer, distributor, wholesaler, distributor branch  
13       or division or officer, agent or other representative  
14       thereof;

15       (2) to offer to sell or lease, or to sell or lease, any  
16       new motor vehicle to any motor vehicle dealer at a lower  
17       actual price therefor than the actual price offered to any  
18       other motor vehicle dealer for the same model vehicle  
19       similarly equipped or to utilize any device including, but  
20       not limited to, sales promotion plans or programs which  
21       result in such lesser actual price or fail to make  
22       available to any motor vehicle dealer any preferential  
23       pricing, incentive, rebate, finance rate, or low interest  
24       loan program offered to competing motor vehicle dealers in  
25       other contiguous states. However, the provisions of this  
26       paragraph shall not apply to sales to a motor vehicle

1 dealer for resale to any unit of the United States  
2 Government, the State or any of its political  
3 subdivisions;

4 (3) to offer to sell or lease, or to sell or lease, any  
5 new motor vehicle to any person, except a wholesaler,  
6 distributor or manufacturer's employees at a lower actual  
7 price therefor than the actual price offered and charged  
8 to a motor vehicle dealer for the same model vehicle  
9 similarly equipped or to utilize any device which results  
10 in such lesser actual price. However, the provisions of  
11 this paragraph shall not apply to sales to a motor vehicle  
12 dealer for resale to any unit of the United States  
13 Government, the State or any of its political  
14 subdivisions;

15 (4) to prevent or attempt to prevent by contract or  
16 otherwise any motor vehicle dealer or franchisee from  
17 changing the executive management control of the motor  
18 vehicle dealer or franchisee unless the franchiser, having  
19 the burden of proof, proves that such change of executive  
20 management will result in executive management control by  
21 a person or persons who are not of good moral character or  
22 who do not meet the franchiser's existing and, with  
23 consideration given to the volume of sales and service of  
24 the dealership, uniformly applied minimum business  
25 experience standards in the market area. However, where  
26 the manufacturer rejects a proposed change in executive

1 management control, the manufacturer shall give written  
2 notice of his reasons to the dealer within 60 days of  
3 notice to the manufacturer by the dealer of the proposed  
4 change. If the manufacturer does not send a letter to the  
5 franchisee by certified mail, return receipt requested,  
6 within 60 days from receipt by the manufacturer of the  
7 proposed change, then the change of the executive  
8 management control of the franchisee shall be deemed  
9 accepted as proposed by the franchisee, and the  
10 manufacturer shall give immediate effect to such change;

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

21 (6) to refuse to give effect to or prevent or attempt  
22 to prevent by contract or otherwise any motor vehicle  
23 dealer or any officer, partner or stockholder of any motor  
24 vehicle dealer from selling or transferring any part of  
25 the interest of any of them to any other person or persons  
26 or party or parties unless such sale or transfer is to a

1 transferee who would not otherwise qualify for a new motor  
2 vehicle dealers license under the Illinois Vehicle Code or  
3 unless the franchiser, having the burden of proof, proves  
4 that such sale or transfer is to a person or party who is  
5 not of good moral character or does not meet the  
6 franchiser's existing and reasonable capital standards  
7 and, with consideration given to the volume of sales and  
8 service of the dealership, uniformly applied minimum  
9 business experience standards in the market area. However,  
10 nothing herein shall be construed to prevent a franchiser  
11 from implementing affirmative action programs providing  
12 business opportunities for minorities or from complying  
13 with applicable federal, State or local law:

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

1           used to evaluate the prospective transferee and the  
2           grounds for refusing to approve the sale or transfer  
3           to that transferee. Within 30 days from the  
4           franchisee's receipt of the manufacturer's notice, the  
5           franchisee may file with the Board a written protest  
6           against the proposed action.

7           When a protest has been timely filed, the Board  
8           shall enter an order, fixing the date (within 60 days  
9           of the date of such order), time, and place of a  
10          hearing on the protest, required under Sections 12 and  
11          29 of this Act, and send by certified mail, return  
12          receipt requested, a copy of the order to the  
13          manufacturer that filed notice of intention of the  
14          proposed action and to the protesting franchisee.

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

1 proof and that good cause does not exist to refuse to  
2 approve the sale or transfer to the transferee.

3 (B) Good cause to refuse to approve such sale or  
4 transfer under this Section is established when such  
5 sale or transfer is to a transferee who would not  
6 otherwise qualify for a new motor vehicle dealers  
7 license under the Illinois Vehicle Code or such sale  
8 or transfer is to a person or party who is not of good  
9 moral character or does not meet the franchiser's  
10 existing and reasonable capital standards and, with  
11 consideration given to the volume of sales and service  
12 of the dealership, uniformly applied minimum business  
13 experience standards in the market area.

14 (7) to obtain money, goods, services, anything of  
15 value, or any other benefit from any other person with  
16 whom the motor vehicle dealer does business, on account of  
17 or in relation to the transactions between the dealer and  
18 the other person as compensation, except for services  
19 actually rendered, unless such benefit is promptly  
20 accounted for and transmitted to the motor vehicle dealer;

21 (8) to grant an additional franchise in the relevant  
22 market area of an existing franchise of the same line make  
23 or to relocate an existing motor vehicle dealership within  
24 or into a relevant market area of an existing franchise of  
25 the same line make. However, if the manufacturer wishes to  
26 grant such an additional franchise to an independent

1 person in a bona fide relationship in which such person is  
2 prepared to make a significant investment subject to loss  
3 in such a dealership, or if the manufacturer wishes to  
4 relocate an existing motor vehicle dealership, then the  
5 manufacturer shall send a letter by certified mail, return  
6 receipt requested, to each existing dealer or dealers of  
7 the same line make whose relevant market area includes the  
8 proposed location of the additional or relocated franchise  
9 at least 60 days before the manufacturer grants an  
10 additional franchise or relocates an existing franchise of  
11 the same line make within or into the relevant market area  
12 of an existing franchisee of the same line make. Each  
13 notice shall set forth the specific grounds for the  
14 proposed grant of an additional or relocation of an  
15 existing franchise and shall state that the dealer has  
16 only 30 days from the date of receipt of the notice to file  
17 with the Motor Vehicle Review Board a written protest  
18 against the proposed action. Unless the parties agree upon  
19 the grant or establishment of the additional or relocated  
20 franchise within 30 days from the date the notice was  
21 received by the existing franchisee of the same line make  
22 or any person entitled to receive such notice, the  
23 franchisee or other person may file with the Board a  
24 written protest against the grant or establishment of the  
25 proposed additional or relocated franchise.

26 When a protest has been timely filed, the Board shall

1 enter an order fixing a date (within 60 days of the date of  
2 the order), time, and place of a hearing on the protest,  
3 required under Sections 12 and 29 of this Act, and send by  
4 certified or registered mail, return receipt requested, a  
5 copy of the order to the manufacturer that filed the  
6 notice of intention to grant or establish the proposed  
7 additional or relocated franchise and to the protesting  
8 dealer or dealers of the same line make whose relevant  
9 market area includes the proposed location of the  
10 additional or relocated franchise.

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

25 The determination whether good cause exists for  
26 allowing the grant or establishment of an additional

1 franchise or relocated existing franchise, shall be made  
2 by the Board under subsection (c) of Section 12 of this  
3 Act. If the manufacturer seeks to enter into a contract,  
4 agreement or other arrangement with any person,  
5 establishing any additional motor vehicle dealership or  
6 other facility, limited to the sale of factory repurchase  
7 vehicles or late model vehicles, then the manufacturer  
8 shall follow the notice procedures set forth in this  
9 Section and the determination whether good cause exists  
10 for allowing the proposed agreement shall be made by the  
11 Board under subsection (c) of Section 12, with the  
12 manufacturer having the burden of proof.

13 A. (Blank).

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

26 C. This Section does not apply to the relocation

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

17 D. Nothing in this Section shall be construed to  
18 prevent a franchiser from implementing affirmative  
19 action programs providing business opportunities for  
20 minorities or from complying with applicable federal,  
21 State or local law;

22 (9) to require a motor vehicle dealer to assent to a  
23 release, assignment, novation, waiver or estoppel which  
24 would relieve any person from liability imposed by this  
25 Act;

26 (10) to prevent or refuse to give effect to the

1 succession to the ownership or management control of a  
2 dealership by any legatee under the will of a dealer or to  
3 an heir under the laws of descent and distribution of this  
4 State unless the franchisee has designated a successor to  
5 the ownership or management control under the succession  
6 provisions of the franchise. Unless the franchiser, having  
7 the burden of proof, proves that the successor is a person  
8 who is not of good moral character or does not meet the  
9 franchiser's existing and reasonable capital standards  
10 and, with consideration given to the volume of sales and  
11 service of the dealership, uniformly applied minimum  
12 business experience standards in the market area, any  
13 designated successor of a dealer or franchisee may succeed  
14 to the ownership or management control of a dealership  
15 under the existing franchise if:

16 (i) The designated successor gives the  
17 franchiser written notice by certified mail,  
18 return receipt requested, of his or her intention  
19 to succeed to the ownership of the dealer within  
20 60 days of the dealer's death or incapacity; and

21 (ii) The designated successor agrees to be  
22 bound by all the terms and conditions of the  
23 existing franchise.

24 Notwithstanding the foregoing, in the event the motor  
25 vehicle dealer or franchisee and manufacturer have duly  
26 executed an agreement concerning succession rights prior

1 to the dealer's death or incapacitation, the agreement  
2 shall be observed.

3 (A) If the franchiser intends to refuse to honor  
4 the successor to the ownership of a deceased or  
5 incapacitated dealer or franchisee under an existing  
6 franchise agreement, the franchiser shall send a  
7 letter by certified mail, return receipt requested, to  
8 the designated successor within 60 days from receipt  
9 of a proposal advising of its intent to refuse to honor  
10 the succession and to discontinue the existing  
11 franchise agreement and shall state that the  
12 designated successor only has 30 days from the receipt  
13 of the notice to file with the Motor Vehicle Review  
14 Board a written protest against the proposed action.  
15 The notice shall set forth the specific grounds for  
16 the refusal to honor the succession and discontinue  
17 the existing franchise agreement.

18 If notice of refusal is not timely served upon the  
19 designated successor, the franchise agreement shall  
20 continue in effect subject to termination only as  
21 otherwise permitted by paragraph (6) of subsection (d)  
22 of Section 4 of this Act.

23 Within 30 days from the date the notice was  
24 received by the designated successor or any other  
25 person entitled to notice, the designee or other  
26 person may file with the Board a written protest

1           against the proposed action.

2           When a protest has been timely filed, the Board  
3 shall enter an order, fixing a date (within 60 days of  
4 the date of the order), time, and place of a hearing on  
5 the protest, required under Sections 12 and 29 of this  
6 Act, and send by certified mail, return receipt  
7 requested, a copy of the order to the franchiser that  
8 filed the notice of intention of the proposed action  
9 and to the protesting designee or such other person.

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

24          (B) No manufacturer shall impose any conditions  
25 upon honoring the succession and continuing the  
26 existing franchise agreement with the designated

1           successor other than that the franchisee has  
2           designated a successor to the ownership or management  
3           control under the succession provisions of the  
4           franchise, or that the designated successor is of good  
5           moral character or meets the reasonable capital  
6           standards and, with consideration given to the volume  
7           of sales and service of the dealership, uniformly  
8           applied minimum business experience standards in the  
9           market area;

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

1 prevent a franchiser from implementing affirmative action  
2 programs providing business opportunities for minorities,  
3 or from complying with applicable federal, State or local  
4 law;

5 (12) to prevent or refuse to grant a franchise to a  
6 person because such person owns, has investment in or  
7 participates in the management of or holds a franchise for  
8 the sale of another make or line of motor vehicles within 7  
9 miles of the proposed franchise location in a county  
10 having a population of more than 300,000 persons, or  
11 within 12 miles of the proposed franchise location in a  
12 county having a population of less than 300,000 persons;

13 (13) to prevent or attempt to prevent any new motor  
14 vehicle dealer from establishing any additional motor  
15 vehicle dealership or other facility limited to the sale  
16 of factory repurchase vehicles or late model vehicles or  
17 otherwise offering for sale factory repurchase vehicles of  
18 the same line make at an existing franchise by failing to  
19 make available any contract, agreement or other  
20 arrangement which is made available or otherwise offered  
21 to any person; or

22 (14) to exercise a right of first refusal or other  
23 right to acquire a franchise from a dealer, unless the  
24 manufacturer:

25 (A) notifies the dealer in writing that it intends  
26 to exercise its right to acquire the franchise not

1 later than 60 days after the manufacturer's or  
2 distributor's receipt of a notice of the proposed  
3 transfer from the dealer and all information and  
4 documents reasonably and customarily required by the  
5 manufacturer or distributor supporting the proposed  
6 transfer;

7 (B) pays to the dealer the same or greater  
8 consideration as the dealer has contracted to receive  
9 in connection with the proposed transfer or sale of  
10 all or substantially all of the dealership assets,  
11 stock, or other ownership interest, including the  
12 purchase or lease of all real property, leasehold, or  
13 improvements related to the transfer or sale of the  
14 dealership. Upon exercise of the right of first  
15 refusal or such other right, the manufacturer or  
16 distributor shall have the right to assign the lease  
17 or to convey the real property;

18 (C) assumes all of the duties, obligations, and  
19 liabilities contained in the agreements that were to  
20 be assumed by the proposed transferee and with respect  
21 to which the manufacturer or distributor exercised the  
22 right of first refusal or other right to acquire the  
23 franchise;

24 (D) reimburses the proposed transferee for all  
25 reasonable expenses incurred in evaluating,  
26 investigating, and negotiating the transfer of the

1 dealership prior to the manufacturer's or  
2 distributor's exercise of its right of first refusal  
3 or other right to acquire the dealership. For purposes  
4 of this paragraph, "reasonable expenses" includes the  
5 usual and customary legal and accounting fees charged  
6 for similar work, as well as expenses associated with  
7 the evaluation and investigation of any real property  
8 on which the dealership is operated. The proposed  
9 transferee shall submit an itemized list of its  
10 expenses to the manufacturer or distributor not later  
11 than 30 days after the manufacturer's or distributor's  
12 exercise of the right of first refusal or other right  
13 to acquire the motor vehicle franchise. The  
14 manufacturer or distributor shall reimburse the  
15 proposed transferee for its expenses not later than 90  
16 days after receipt of the itemized list. A  
17 manufacturer or distributor may request to be provided  
18 with the itemized list of expenses before exercising  
19 the manufacturer's or distributor's right of first  
20 refusal.

21 Except as provided in this paragraph (14), neither the  
22 selling dealer nor the manufacturer or distributor shall  
23 have any liability to any person as a result of a  
24 manufacturer or distributor exercising its right of first  
25 refusal.

26 For the purpose of this paragraph, "proposed

1 transferee" means the person to whom the franchise would  
2 have been transferred to, or was proposed to be  
3 transferred to, had the right of first refusal or other  
4 right to acquire the franchise not been exercised by the  
5 manufacturer or distributor.

6 (f) It is deemed a violation for a manufacturer, any  
7 parent company, subsidiary, affiliate, common entity, or agent  
8 of the manufacturer, a distributor, a wholesaler, a  
9 distributor branch or division, a factory branch or division,  
10 or a wholesale branch or division, or officer, agent, broker,  
11 shareholder, except a shareholder of 1% or less of the  
12 outstanding shares of any class of securities of a  
13 manufacturer, distributor, or wholesaler which is a publicly  
14 traded corporation, or other representative, directly or  
15 indirectly, to own or operate a place of business as a motor  
16 vehicle franchisee or motor vehicle financing affiliate or to  
17 perform warranty service for retail consumers. ~~, except that,~~  
18 ~~this subsection shall not prohibit~~

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

1           This subsection does not prohibit:

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

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

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

24                 (A) the manufacturer does not otherwise  
25                 manufacture, distribute, or sell motor vehicles as  
26                 defined under Section 1-217 of the Illinois Vehicle

1 Code;

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

4 (C) the manufacturer complies with all obligations  
5 owed to dealers that are not owned, operated, or  
6 controlled by the manufacturer, including, but not  
7 limited to those obligations arising pursuant to  
8 Section 6;

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

19 (E) the manufacturer does not require that  
20 warranty repair work be performed by a  
21 manufacturer-owned repair facility and the  
22 manufacturer provides any dealer that has an agreement  
23 with the manufacturer to sell and perform warranty  
24 repairs on the manufacturer's engines the opportunity  
25 to perform warranty repairs on those engines,  
26 regardless of whether the dealer sold the truck into

1           which the engine was installed.

2           (g) Notwithstanding the terms, provisions, or conditions  
3 of any agreement or waiver, it shall be deemed a violation for  
4 a manufacturer, a distributor, a wholesaler, a distributor  
5 branch or division, a factory branch or division, or a  
6 wholesale branch or division, or officer, agent, common  
7 entity, or other representative thereof, to directly or  
8 indirectly condition the awarding of a franchise to a  
9 prospective new motor vehicle dealer, the addition of a line  
10 make or franchise to an existing dealer, the renewal of a  
11 franchise of an existing dealer, the approval of the  
12 relocation of an existing dealer's facility, or the approval  
13 of the sale or transfer of the ownership of a franchise on the  
14 willingness of a dealer, proposed new dealer, or owner of an  
15 interest in the dealership facility to enter into a site  
16 control agreement or exclusive use agreement unless separate  
17 and reasonable consideration was offered and accepted for that  
18 agreement.

19           For purposes of this subsection (g), the terms "site  
20 control agreement" and "exclusive use agreement" include any  
21 agreement that has the effect of either (i) requiring that the  
22 dealer establish or maintain exclusive dealership facilities;  
23 or (ii) restricting the ability of the dealer, or the ability  
24 of the dealer's lessor in the event the dealership facility is  
25 being leased, to transfer, sell, lease, or change the use of  
26 the dealership premises, whether by sublease, lease,

1 collateral pledge of lease, or other similar agreement. "Site  
2 control agreement" and "exclusive use agreement" also include  
3 a manufacturer restricting the ability of a dealer to  
4 transfer, sell, or lease the dealership premises by right of  
5 first refusal to purchase or lease, option to purchase, or  
6 option to lease if the transfer, sale, or lease of the  
7 dealership premises is to a person who is an immediate family  
8 member of the dealer. For the purposes of this subsection (g),  
9 "immediate family member" means a spouse, parent, son,  
10 daughter, son-in-law, daughter-in-law, brother, and sister.

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

1 Any provision contained in any agreement entered into on  
2 or after November 25, 2009 (the effective date of Public Act  
3 96-824) that is inconsistent with the provisions of this  
4 subsection (g) shall be voidable at the election of the  
5 affected dealer, prospective dealer, or owner of an interest  
6 in the dealership facility.

7 (h) For purposes of this subsection:

8 "Successor manufacturer" means any motor vehicle  
9 manufacturer that, on or after January 1, 2009, acquires,  
10 succeeds to, or assumes any part of the business of another  
11 manufacturer, referred to as the "predecessor manufacturer",  
12 as the result of any of the following:

13 (i) A change in ownership, operation, or control of  
14 the predecessor manufacturer by sale or transfer of  
15 assets, corporate stock or other equity interest,  
16 assignment, merger, consolidation, combination, joint  
17 venture, redemption, court-approved sale, operation of law  
18 or otherwise.

19 (ii) The termination, suspension, or cessation of a  
20 part or all of the business operations of the predecessor  
21 manufacturer.

22 (iii) The discontinuance of the sale of the product  
23 line.

24 (iv) A change in distribution system by the  
25 predecessor manufacturer, whether through a change in  
26 distributor or the predecessor manufacturer's decision to

1           cease conducting business through a distributor  
2           altogether.

3           "Former Franchisee" means a new motor vehicle dealer that  
4           has entered into a franchise with a predecessor manufacturer  
5           and that has either:

6                   (i) entered into a termination agreement or deferred  
7                   termination agreement with a predecessor or successor  
8                   manufacturer related to such franchise; or

9                   (ii) has had such franchise canceled, terminated,  
10                  nonrenewed, noncontinued, rejected, nonassumed, or  
11                  otherwise ended.

12           For a period of 3 years from: (i) the date that a successor  
13           manufacturer acquires, succeeds to, or assumes any part of the  
14           business of a predecessor manufacturer; (ii) the last day that  
15           a former franchisee is authorized to remain in business as a  
16           franchised dealer with respect to a particular franchise under  
17           a termination agreement or deferred termination agreement with  
18           a predecessor or successor manufacturer; (iii) the last day  
19           that a former franchisee that was cancelled, terminated,  
20           nonrenewed, noncontinued, rejected, nonassumed, or otherwise  
21           ended by a predecessor or successor manufacturer is authorized  
22           to remain in business as a franchised dealer with respect to a  
23           particular franchise; or (iv) November 25, 2009 (the effective  
24           date of Public Act 96-824), whichever is latest, it shall be  
25           unlawful for such successor manufacturer to enter into a same  
26           line make franchise with any person or to permit the

1 relocation of any existing same line make franchise, for a  
2 line make of the predecessor manufacturer that would be  
3 located or relocated within the relevant market area of a  
4 former franchisee who owned or leased a dealership facility in  
5 that relevant market area without first offering the  
6 additional or relocated franchise to the former franchisee, or  
7 the designated successor of such former franchisee in the  
8 event the former franchisee is deceased or a person with a  
9 disability, at no cost and without any requirements or  
10 restrictions other than those imposed generally on the  
11 manufacturer's other franchisees at that time, unless one of  
12 the following applies:

13 (1) As a result of the former franchisee's  
14 cancellation, termination, noncontinuance, or nonrenewal  
15 of the franchise, the predecessor manufacturer had  
16 consolidated the line make with another of its line makes  
17 for which the predecessor manufacturer had a franchisee  
18 with a then-existing dealership facility located within  
19 that relevant market area.

20 (2) The successor manufacturer has paid the former  
21 franchisee, or the designated successor of such former  
22 franchisee in the event the former franchisee is deceased  
23 or a person with a disability, the fair market value of the  
24 former franchisee's franchise on (i) the date the  
25 franchiser announces the action which results in the  
26 termination, cancellation, or nonrenewal; or (ii) the date

1 the action which results in termination, cancellation, or  
2 nonrenewal first became general knowledge; or (iii) the  
3 day 12 months prior to the date on which the notice of  
4 termination, cancellation, or nonrenewal is issued,  
5 whichever amount is higher. Payment is due within 90 days  
6 of the effective date of the termination, cancellation, or  
7 nonrenewal. If the termination, cancellation, or  
8 nonrenewal is due to a manufacturer's change in  
9 distributors, the manufacturer may avoid paying fair  
10 market value to the dealer if the new distributor or the  
11 manufacturer offers the dealer a franchise agreement with  
12 terms acceptable to the dealer.

13 (3) The successor manufacturer proves that it would  
14 have had good cause to terminate the franchise agreement  
15 of the former franchisee, or the successor of the former  
16 franchisee under item (e)(10) in the event that the former  
17 franchisee is deceased or a person with a disability. The  
18 determination of whether the successor manufacturer would  
19 have had good cause to terminate the franchise agreement  
20 of the former franchisee, or the successor of the former  
21 franchisee, shall be made by the Board under subsection  
22 (d) of Section 12. A successor manufacturer that seeks to  
23 assert that it would have had good cause to terminate a  
24 former franchisee, or the successor of the former  
25 franchisee, must file a petition seeking a hearing on this  
26 issue before the Board and shall have the burden of

1 proving that it would have had good cause to terminate the  
2 former franchisee or the successor of the former  
3 franchisee. No successor dealer, other than the former  
4 franchisee, may be appointed or franchised by the  
5 successor manufacturer within the relevant market area of  
6 the former franchisee until the Board has held a hearing  
7 and rendered a determination on the issue of whether the  
8 successor manufacturer would have had good cause to  
9 terminate the former franchisee.

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

20 (i) It shall be deemed a violation of this Section for any  
21 manufacturer with an established franchise dealer network in  
22 this State, either directly or indirectly, through any parent,  
23 subsidiary, affiliate, or agent of the manufacturer, any  
24 person under common ownership or control, or common entity, to  
25 engage in the sale, lease, or warranty servicing of new motor  
26 vehicles in a manner that bypasses or competes with the

1 manufacturer's existing franchisee network, including, but not  
2 limited to:

3 (1) engaging in practices intended to circumvent,  
4 evade, or undermine the rights, obligations, or  
5 protections afforded to franchisees under this Act; or

6 (2) establishing or using newly branded entities,  
7 spin-offs, or affiliated or subsidiary entities to conduct  
8 retail operations outside the franchise system.

9 (j) A manufacturer or distributor shall not engage in the  
10 sale of new motor vehicles directly to the general public in  
11 this State unless the manufacturer or distributor was lawfully  
12 licensed to sell new motor vehicles directly to consumers in  
13 this State before January 1, 2022.

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

15 (815 ILCS 710/6) (from Ch. 121 1/2, par. 756)

16 Sec. 6. Warranty agreements; claims; approval; payment;  
17 written disapproval.

18 (a) Every manufacturer, distributor, wholesaler,  
19 distributor branch or division, factory branch or division, or  
20 wholesale branch or division shall properly fulfill any  
21 warranty agreement and adequately and fairly compensate each  
22 of its motor vehicle dealers for labor and parts.

23 (b) Adequate and fair compensation requires the  
24 manufacturer to pay each dealer no less than the amount the  
25 retail customer pays for the same services with regard to rate

1 and time.

2 Any time guide previously agreed to by the manufacturer  
3 and the dealer for extended warranty repairs may be used in  
4 lieu of actual time expended. In the event that a time guide  
5 has not been agreed to for warranty repairs, or said time guide  
6 does not define time for an applicable warranty repair, the  
7 manufacturer's time guide shall be used, multiplied by 1.5.

8 In no event shall such compensation fail to include full  
9 compensation for diagnostic work, as well as repair service,  
10 labor, and parts. Time allowances for the diagnosis and  
11 performance of warranty work and service shall be no less than  
12 charged to retail customers for the same work to be performed.

13 No warranty or factory compensated repairs shall be  
14 excluded from this requirement, including recalls or other  
15 voluntary stop-sell repairs required by the manufacturer. If a  
16 manufacturer is required to issue a recall, the dealer will be  
17 compensated for labor time as above stated.

18 Furthermore, manufacturers shall pay the dealer the same  
19 effective labor rate (using the 100 sequential repair orders  
20 chosen and submitted by the dealer less simple maintenance  
21 repair orders) that the dealer receives for customer-pay  
22 repairs. This requirement includes vehicle diagnostic times  
23 for all warranty repairs. Additionally, if a technician is  
24 required to communicate with a Technical Assistance  
25 Center/Engineering/or some external manufacturer source in  
26 order to provide a warranty repair, the manufacturer shall pay

1 for the time from start of communications (including hold  
2 time) until the communication is complete.

3 The dealer may submit a request to the manufacturer for  
4 warranty labor rate increases a maximum of once per calendar  
5 year.

6 A claim made by a franchised motor vehicle dealer for  
7 compensation under this Section shall be either approved or  
8 disapproved within 30 days after the claim is submitted to the  
9 manufacturer in the manner and on the forms the manufacturer  
10 reasonably prescribes. An approved claim shall be paid within  
11 30 days after its approval. If a claim is not specifically  
12 disapproved in writing or by electronic transmission within 30  
13 days after the date on which the manufacturer receives it, the  
14 claim shall be considered to be approved and payment shall  
15 follow within 30 days.

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

1 geographic area in which the dealer is engaged in business.

2 There shall be no reduction in payments due to  
3 preestablished market norms or market averages. Manufacturers  
4 are prohibited from establishing restrictions or limitations  
5 of customer repair frequency due to failure rate indexes or  
6 national failure averages.

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

10 A warranty claim timely made shall not be deemed invalid  
11 solely because unavailable parts cause additional use and  
12 mileage on the vehicle.

13 If a manufacturer imposes a recall or stop sale on any new  
14 vehicle in a dealer's inventory that prevents the sale of the  
15 vehicle, the manufacturer shall compensate the dealer for any  
16 interest and storage until the vehicle is repaired and made  
17 ready for sale.

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

21 All claims, either original or resubmitted, made by motor  
22 vehicle dealers hereunder and under Section 5 for such labor  
23 and parts shall be either approved or disapproved within 30  
24 days following their submission. All approved claims shall be  
25 paid within 30 days following their approval. The motor  
26 vehicle dealer who submits a claim which is disapproved shall

1 be notified in writing of the disapproval within the same  
2 period, and each such notice shall state the specific grounds  
3 upon which the disapproval is based. The motor vehicle dealer  
4 shall be permitted to correct and resubmit such disapproved  
5 claims within 30 days of receipt of disapproval. Any claims  
6 not specifically disapproved in writing within 30 days from  
7 their submission shall be deemed approved and payment shall  
8 follow within 30 days. The manufacturer or franchiser shall  
9 have the right to require reasonable documentation for claims  
10 and to audit such claims within a one year period from the date  
11 the claim was paid or credit issued by the manufacturer or  
12 franchiser, and to charge back any false or unsubstantiated  
13 claims. The audit and charge back provisions of this Section  
14 also apply to all other incentive and reimbursement programs  
15 for a period of one year after the date the claim was paid or  
16 credit issued by the manufacturer or franchiser. However, the  
17 manufacturer retains the right to charge back any fraudulent  
18 claim if the manufacturer establishes in a court of competent  
19 jurisdiction in this State that the claim is fraudulent.

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

1 such restriction shall constitute a prohibited practice.

2 (d) For the purposes of this Section, the "prevailing  
3 retail price charged by that dealer for the same parts" means  
4 the price paid by the motor vehicle franchisee for parts,  
5 including all shipping and other charges, multiplied by the  
6 sum of 1.0 and the franchisee's average percentage markup over  
7 the price paid by the motor vehicle franchisee for parts  
8 purchased by the motor vehicle franchisee from the motor  
9 vehicle franchiser and sold at retail. The motor vehicle  
10 franchisee may establish average percentage markup under this  
11 Section by submitting to the motor vehicle franchiser 100  
12 sequential customer paid service repair orders or 90 days of  
13 customer paid service repair orders, whichever is less,  
14 covering repairs made no more than 180 days before the  
15 submission, and declaring what the average percentage markup  
16 is. The average percentage markup so declared shall go into  
17 effect 30 days following the declaration, subject to audit of  
18 the submitted repair orders by the motor vehicle franchiser  
19 and adjustment of the average percentage markup based on that  
20 audit. Any audit must be conducted within 30 days following  
21 the declaration. Only retail sales not involving warranty  
22 repairs, parts covered by subsection (e) of this Section, or  
23 parts supplied for routine vehicle maintenance, shall be  
24 considered in calculating average percentage markup. For the  
25 purpose of this subsection, "routine maintenance" includes,  
26 but is not limited to: (i) the replacement of oil or other

1 fluids, filters, batteries for internal combustion engine  
2 vehicles, bulbs, brake pads, rotors, nuts, bolts, or  
3 fasteners; (ii) the replacement of or work on tires or wheels,  
4 including wheel alignments and tire and wheel rotations; and  
5 (iii) the installation of an accessory. No motor vehicle  
6 franchiser shall require a motor vehicle franchisee to  
7 establish average percentage markup by a methodology, or by  
8 requiring information, that is unduly burdensome or time  
9 consuming to provide, including, but not limited to, part by  
10 part or transaction by transaction calculations. A motor  
11 vehicle franchisee shall not request a change in the average  
12 percentage markup more than twice in one calendar year.

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

1 the assembly if the assembly had not been supplied by the  
2 franchiser other than by the sale of that assembly to the motor  
3 vehicle franchisee.

4 (f) The obligations imposed on motor vehicle franchisers  
5 by this Section shall apply to any parent, subsidiary,  
6 affiliate, or agent of the motor vehicle franchiser, any  
7 person under common ownership or control, any employee of the  
8 motor vehicle franchiser, and any person holding 1% or more of  
9 the shares of any class of securities or other ownership  
10 interest in the motor vehicle franchiser, if a warranty or  
11 service or repair plan is issued by that person instead of or  
12 in addition to one issued by the motor vehicle franchiser.

13 (g) (Blank).

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