

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 764 Session of 2017

INTRODUCED BY GORDNER, RAFFERTY, TARTAGLIONE AND ARGALL, JUNE 14, 2017

AS AMENDED ON SECOND CONSIDERATION, DECEMBER 11, 2017

AN ACT

1 Amending the act of December 22, 1983 (P.L.306, No.84), entitled
2 "An act providing for the State Board of Vehicle
3 Manufacturers, Dealers and Salespersons; and providing
4 penalties," providing for preliminary provisions, further
5 providing for short title, for definitions, for State Board
6 of Vehicle Manufacturers, Dealers and Salespersons, for
7 powers and duties of board, for license to engage in
8 business, for biennial renewal, for enforcement, for protest
9 hearing decision within 120 days unless waived by the
10 parties, for reimbursement for all parts and service required
11 by the manufacturer or distributor and reimbursement audits,
12 for damage disclosure, for mediation and arbitration, for
13 unlawful acts by manufacturers or distributors, for area of
14 responsibility, for termination of franchises, for industry
15 reorganization, for succession to franchise ownership, for
16 manufacturer right of first refusal, for manufacturer or
17 distributor repurchase of inventory and equipment, for
18 reimbursement of rental costs for dealer facility, for
19 grounds for disciplinary proceedings, for administrative
20 liability of employer, copartnership, association or
21 corporation, for reinstatement, for application for license,
22 for refusal of license, for change of salesperson's license
23 to indicate new employer, for termination of employment or
24 business, for exemption from licensure and registration, for
25 limitations on establishing or relocating dealers, for
26 licensing cost, for penalties, for civil actions for
27 violations, for fees, for disposition of fees and fines, for
28 vehicle shows, off-premise sales and exhibitions and for off-
29 premise sales, shows, exhibitions or rallies on Sundays;
30 providing for recreational vehicles and for miscellaneous
31 provisions; further providing for savings provision, for
32 repeals, expiration of terms of board members and for
33 existing rules and regulations.

1 The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

3 Section 1. The act of December 22, 1983 (P.L.306, No.84),  
4 known as the Board of Vehicles Act, is amended by adding a  
5 chapter heading to read:

6 CHAPTER 1

7 PRELIMINARY PROVISIONS

8 Section 2. Section 1 of the act is renumbered to read:  
9 Section [1] 101. Short title.

10 This act shall be known and may be cited as the Board of  
11 Vehicles Act.

12 Section 3. The definitions of "motor home," "recreational  
13 vehicle" and "recreational vehicle park trailer" in section 2 of  
14 the act are amended and the section is renumbered and amended by  
15 adding definitions to read:

16 Section [2] 102. Definitions.

17 The following words and phrases when used in this act shall  
18 have the meanings given to them in this section unless the  
19 context clearly indicates otherwise:

20 \* \* \*

21 "Fifth wheel trailer." A vehicle mounted on wheels designed  
22 to provide temporary living quarters for recreational, camping  
23 or travel use which is a size and weight which does not require  
24 a special highway movement permit and is designed to be towed by  
25 a motorized vehicle that contains a towing mechanism mounted  
26 above or forward of the tow vehicle's rear axle.

27 \* \* \*

28 "Folding camping trailer." A vehicle mounted on wheels and  
29 constructed with collapsible side walls that fold for towing by  
30 another vehicle and unfold at the campsite to provide temporary

1 living quarters for recreational, camping or travel use.

2 \* \* \*

3 "Motor home." [A vehicle designed to provide temporary  
4 living quarters, built into an integral part of, or permanently  
5 attached to, a self-propelled vehicle chassis or van.] A  
6 motorized vehicle designed to provide temporary living quarters  
7 for recreational, camping or travel use containing at least four  
8 of the following permanently installed independent life support  
9 systems:

10 (1) A cooking facility with an on-board fire source.

11 (2) A potable water supply system that includes at least  
12 a sink, a faucet and a water tank with an exterior service  
13 supply connection.

14 (3) A toilet with exterior evacuation.

15 (4) A gas or electric refrigerator.

16 (5) A heating or air conditioning system with an on-  
17 board power or fuel source separate from the vehicle engine.

18 (6) An electric power system separate from the vehicle.

19 "Park model RV." A vehicle that:

20 (1) Is designed and marketed as temporary living  
21 quarters for recreational camping, travel or seasonal use.

22 (2) Is not permanently affixed to real property for use  
23 as a permanent dwelling.

24 (3) Is built on a single chassis mounted on wheels with  
25 a gross trailer area not exceeding 400 square feet in the  
26 set-up mode.

27 (4) Is certified by the manufacturer as complying with  
28 the ANSI A119.5 Park Model Recreational Vehicle Standard.

29 \* \* \*

30 "Recreational vehicle." [A vehicle primarily designed as

1 temporary living quarters for recreational, camping or travel  
2 use, which either has its own power or is mounted on or drawn by  
3 another vehicle. The term includes a travel trailer,  
4 recreational vehicle park trailer, slide-in camper, camping  
5 trailer and motor home.] A vehicle which is either self-  
6 propelled or towed by a consumer-owned tow vehicle and designed  
7 to provide temporary living quarters for recreational, camping  
8 or travel use that complies with all applicable Federal vehicle  
9 regulations, does not require a special-movement permit to  
10 legally use on highways and is certified by the manufacturer as  
11 complying with NFPA 1192 Standard on Recreational Vehicles or  
12 ANSI A119.5 Park Model Recreational Vehicle Standard and include  
13 the following types:

- 14 (1) Motor home.
- 15 (2) Travel trailer.
- 16 (3) Fifth wheel travel trailer.
- 17 (4) Folding camping trailer.
- 18 (5) Truck camper.
- 19 (6) Park model RV.

20 ["Recreational vehicle park trailer." A recreational vehicle  
21 that is built on a single chassis mounted on wheels, has a gross  
22 trailer area not exceeding 400 square feet in the set-up mode  
23 and is certified by the manufacturer as complying with ANSI  
24 A119.5.]

25 \* \* \*

26 "Recreational vehicle warrantor." An individual, firm,  
27 corporation or business entity, including a manufacturer or  
28 supplier that provides a written warranty to a consumer in  
29 connection with a new recreational vehicle or a part, accessory  
30 or component of a new recreational vehicle. The term does not

1 include service contracts, mechanical or other insurance or  
2 extended warranties sold for separate consideration by a dealer  
3 or other person not controlled by a manufacturer.

4 \* \* \*

5 "Travel trailer." A vehicle mounted on wheels and towed by a  
6 consumer's motorized vehicle designed to provide temporary  
7 living quarters for recreational, camping or travel use of a  
8 size and weight as to not require a special highway movement  
9 permit when towed by a motorized vehicle.

10 "Truck camper." A vehicle designed to be placed in the bed  
11 of a pickup truck to provide temporary living quarters for  
12 recreational, camping or travel use.

13 \* \* \*

14 Section 4. The act is amended by adding a chapter heading to  
15 read:

16 CHAPTER 3

17 VEHICLES

18 Section 5. Sections 3 and 4 of the act are amended to read:  
19 Section [3] 301. State Board of Vehicle Manufacturers, Dealers  
20 and Salespersons.

21 (a) Board.--The State Board of Vehicle Manufacturers,  
22 Dealers and Salespersons shall consist of 17 members, one of  
23 whom shall be the Commissioner of Professional and Occupational  
24 Affairs, or his designee, one of whom shall be the Secretary of  
25 the Department of Transportation, or his designee, one of whom  
26 shall be the Director of Consumer Protection in the Office of  
27 Attorney General, or his designee, and the remaining 14 of whom  
28 shall be appointed by the Governor as follows:

29 (1) Three members shall be new vehicle dealers who have  
30 been actively engaged as such for a period of five years

1 immediately preceding their appointment.

2 (2) Three members shall be used vehicle dealers who have  
3 been actively engaged as such for a period of five years  
4 immediately preceding their appointment. One used vehicle  
5 dealer member beginning with the first vacancy for a used  
6 vehicle dealer after the effective date of this amendment  
7 shall also be an owner, partner or officer of a corporation  
8 or business which is licensed as a vehicle auction and which  
9 has been actively engaged as such for a period of five years  
10 immediately preceding the appointment.

11 (3) One shall be a manufactured housing or mobile home  
12 dealer who has been actively engaged as such for a period of  
13 five years immediately preceding appointment.

14 (4) One shall be a salesperson who has been actively  
15 engaged in the sale of new or used vehicles for a period of  
16 five years immediately preceding appointment. The member  
17 shall not be a dealer or an officer of a corporation or a  
18 member of a partnership engaged in the business of a dealer  
19 at the time of appointment.

20 (5) One shall be a recreational vehicle dealer who has  
21 been actively engaged as such for a period of five years  
22 immediately preceding appointment.

23 (6) One shall be a motorcycle dealer who has been  
24 actively engaged as such for a period of five years  
25 immediately preceding appointment.

26 (6.1) One member shall be a mobility vehicle dealer who  
27 has been actively engaged as such for a period of five years  
28 immediately preceding appointment.

29 (7) Three shall be members of the general public having  
30 no connection with the vehicle business.

1 (b) Terms of members.--The terms of the members of the board  
2 shall be four years for members appointed after the effective  
3 date of this amendment from the respective date of their  
4 appointment, provided that a member may continue for a period  
5 not to exceed six months beyond the expiration of his term if a  
6 successor has yet to be duly appointed and qualified according  
7 to law. The maximum number of consecutive terms a member shall  
8 serve shall be two consecutive four-year terms. In the event  
9 that any member shall die, resign or be removed from office, his  
10 successor shall be appointed and hold office for the unexpired  
11 term.

12 (c) Quorum.--A majority of the members of the board who have  
13 been appointed and confirmed shall constitute a quorum. Motions,  
14 questions and decisions of the board shall require the  
15 affirmative vote of a majority of a quorum for adoption. The  
16 board shall select, from among their number, a chairman and a  
17 secretary.

18 (d) Reimbursement of expenses.--Each member of the board,  
19 excepting the Commissioner of Professional and Occupational  
20 Affairs or his designee, the Director of the Bureau of Consumer  
21 Protection in the Office of Attorney General or his designee,  
22 and the Secretary of the Department of Transportation or his  
23 designee, shall be paid reasonable traveling, hotel and other  
24 necessary expenses and per diem compensation at the rate of \$60  
25 for each day of actual service while on board business.

26 (e) Attendance.--A member who fails to attend three  
27 consecutive meetings shall forfeit his seat unless the  
28 Commissioner of Professional and Occupational Affairs, upon  
29 written request from the member, finds that the member should be  
30 excused from a meeting because of illness or the death of an

1 immediate family member.

2 Section [4] 302. Powers and duties of board.

3 (a) Powers and duties.--The board shall have the power and  
4 its duty shall be to:

5 (1) Provide for and regulate the licensing of  
6 salespersons, dealers, vehicle auctions, manufacturers,  
7 factory branches, distributors, distributor branches and  
8 factory or distributor representatives as defined in [this  
9 act] section 102.

10 (2) Review and pass upon the qualifications of  
11 applicants for licensure and to issue, except as otherwise  
12 provided herein, a license to engage in the said businesses  
13 to any applicant who is approved by the board and who meets  
14 the requirements of this [act] chapter and regulations  
15 promulgated in accordance with this [act] chapter.

16 (3) Investigate on its own initiative, upon complaint of  
17 the Department of Transportation, Department of Community and  
18 Economic Development, Department of Revenue or the Office of  
19 the Attorney General, any law enforcement officer or upon the  
20 verified complaint in writing of any person, any allegations  
21 of the wrongful act or acts of any licensee or person  
22 required to be licensed [hereunder] under this chapter. Duly  
23 authorized agents of the Bureau of Professional and  
24 Occupational Affairs shall be authorized to issue  
25 administrative citations for violations of this act in  
26 accordance with section 5 of the act of July 2, 1993  
27 (P.L.345, No.48), entitled "An act empowering the General  
28 Counsel or his designee to issue subpoenas for certain  
29 licensing board activities; providing for hearing examiners  
30 in the Bureau of Professional and Occupational Affairs;



1 providing additional powers to the Commissioner of  
2 Professional and Occupational Affairs; and further providing  
3 for civil penalties and license suspension."

4 (4) Administer and enforce this act and to impose  
5 appropriate administrative discipline upon licensees found to  
6 be in violation of this act.

7 (5) Bring criminal prosecutions for unauthorized,  
8 unlicensed or unlawful practice and bring an action to enjoin  
9 such practices. Duly authorized agents of the bureau shall be  
10 authorized to issue citations in accordance with section 5(a)  
11 of the act of July 2, 1993 (P.L.345, No.48), entitled "An act  
12 empowering the General Counsel or his designee to issue  
13 subpoenas for certain licensing board activities; providing  
14 for hearing examiners in the Bureau of Professional and  
15 Occupational Affairs; providing additional powers to the  
16 Commissioner of Professional and Occupational Affairs; and  
17 further providing for civil penalties and license  
18 suspension," for violations of this act.

19 (6) Require each licensee to register biennially with  
20 the board.

21 (7) Keep a record showing the names and addresses of all  
22 licensees licensed under this [act] chapter.

23 (8) Keep minutes and records of all its transactions and  
24 proceedings especially with relation to the issuance, denial,  
25 registration, formal reprimand, suspension and revocation of  
26 licenses. In all actions or proceedings in any court, a  
27 transcript of any board record or any part thereof, which is  
28 certified to be a true copy by the board, shall be entitled  
29 to admission in evidence.

30 (9) Adopt, promulgate and enforce such rules and

1 regulations consistent with this act as are deemed necessary  
2 and proper to effectuate the provisions of this act.

3 (10) Submit annually, to the Consumer Protection and  
4 Professional Licensure Committee of the Senate and the  
5 Professional Licensure Committee of the House of  
6 Representatives, a description of the types of complaints  
7 received, status of the cases, board action which has been  
8 taken and length of time from the initial complaint to final  
9 board resolution.

10 (11) Submit annually to the department an estimate of  
11 the financial requirements of the board for its  
12 administrative, investigative, legal and miscellaneous  
13 expenses.

14 (12) Submit annually to the House and Senate  
15 Appropriations Committees, 15 days after the Governor has  
16 submitted his budget to the General Assembly, a copy of the  
17 budget request for the upcoming fiscal year which the board  
18 previously submitted to the department.

19 (b) Summary proceedings.--All law enforcement officers in  
20 this Commonwealth may institute summary criminal proceedings in  
21 accordance with the Pennsylvania Rules of Criminal Procedure for  
22 violations of this act. Any person who violates this act shall  
23 be subject to criminal prosecution as provided in section [28]  
24 328.

25 Section 6. Section 5 of the act, amended December 17, 2015  
26 (P.L.450, No.78), is renumbered and amended to read:  
27 Section [5] 303. License to engage in business.

28 (a) License required.--

29 (1) To promote the public safety and welfare, it shall  
30 be unlawful for any person to engage in the business as a

1 salesperson, dealer, branch lot, wholesale vehicle auction,  
2 public or retail vehicle auction, manufacturer, factory  
3 branch, distributor, distributor branch, factory  
4 representative or distributor representative within this  
5 Commonwealth unless the person has secured a license as  
6 required under this [act] chapter.

7 (2) A person, including, but not limited to,  
8 salespersons, shall not engage in the business for his own  
9 benefit or profit unless he is licensed in accordance with  
10 this [act] chapter.

11 (3) A person shall not act as, offer to act as or hold  
12 himself out to be a broker in the advertising, buying or  
13 selling of any new or used vehicle.

14 (b) Mobile home parks.--

15 (1) It shall be unlawful for any person, for a  
16 commission, compensation or other consideration, to sell or  
17 act as salesperson, broker or sales agent in connection with  
18 the sale of one or more mobile homes located in a mobile home  
19 park, as provided for in section 11 of the act of November  
20 24, 1976 (P.L.1176, No.261), known as the Mobile Home Park  
21 Rights Act, unless such person shall be licensed under this  
22 [act] chapter, except as provided for in paragraph (2).

23 (2) Any real estate salesperson or broker licensed under  
24 the act of February 19, 1980 (P.L.15, No.9), known as the  
25 Real Estate Licensing and Registration Act, may list for sale  
26 any preowned mobile home as defined by the Mobile Home Park  
27 Rights Act, whether or not the mobile home is located in a  
28 mobile home park, without being licensed under the provisions  
29 of this [act] chapter. No mobile home park rule shall prevent  
30 the placement of a "for sale" sign on the home and on the

1 property on which the home is located. Nothing in this  
2 paragraph shall authorize the listing for sale of preowned  
3 mobile homes at a sales lot by a licensed real estate  
4 salesperson or broker unless the salesperson or broker is  
5 also licensed under this [act] chapter and has obtained a  
6 sales tax license from the Department of Revenue.

7 (c) Salespersons to be employed.--It shall be unlawful for  
8 any salesperson who has not been issued a salesperson's license  
9 number by the board to engage in any activity related to the  
10 buying, selling or exchanging of a vehicle for a commission,  
11 compensation or other consideration. Any sale must be conducted  
12 pursuant to and as part of the normal business activities of the  
13 dealer by a person who is a licensed salesperson of the dealer,  
14 unless that person is the dealer. The salesperson shall be  
15 presently employed by the currently licensed vehicle dealer for  
16 whom the salesperson is buying, selling or exchanging.

17 (1) Any salesperson licensed [hereunder] under this  
18 chapter shall be licensed to sell only for one dealer at a  
19 time and his license shall indicate the name of that dealer.

20 (2) A licensed salesperson who is employed by a dealer  
21 who holds a dealer license in more than one category or at  
22 more than one facility may sell for each such dealer or at  
23 each such facility, provided there is common ownership.

24 (d) Display of license.--Each person to whom a license is  
25 issued shall keep the license conspicuously displayed in his  
26 principal office or place of business and shall, when required,  
27 exhibit such license to any member or authorized representative  
28 of the board.

29 (e) Facility requirements for dealers.--

30 (1) Dealers engaged in the business of buying, selling

1 or exchanging new and used vehicles, trailers or semitrailers  
2 shall maintain an established place of business with a  
3 salesroom devoted principally to the vehicle business, and  
4 new vehicle dealers shall hold a franchise in writing with a  
5 manufacturer or distributor authorizing a new vehicle dealer  
6 to sell a particular line-make of vehicles from the address  
7 of the licensed facility.

8 (i) A vehicle auction shall not be required to meet  
9 the facility requirements [contained in] under this  
10 subsection.

11 (ii) A branch lot shall be a separately licensed  
12 location which meets the facility requirements [defined  
13 herein] under this section and by the regulations as a  
14 main lot, unless used solely for the storage of vehicles.

15 (2) Dealers engaged in the business of buying, selling  
16 or exchanging used vehicles, trailers or semitrailers shall  
17 maintain an established place of business with a salesroom  
18 devoted principally to the vehicle business which is a  
19 building or portion of a building where books and records are  
20 kept.

21 (3) Dealers engaged in the business of buying, selling  
22 or exchanging new manufactured housing and used mobile homes  
23 or manufactured housing shall maintain a minimum usable  
24 display area of 5,000 square feet devoted principally to the  
25 mobile home or manufactured housing business, maintain an  
26 established place of business and hold a contract in writing  
27 with a buyer, seller or manufacturer giving such person  
28 buying or selling rights for new manufactured housing of that  
29 particular line from the address of the licensed facility.

30 (i) Dealers engaged in the business of buying,

1 selling or exchanging new manufactured housing, in lieu  
2 of maintaining the minimum usable display area  
3 requirements of this section, shall be authorized to  
4 display, sell, list or offer for sale new manufactured  
5 housing if the new manufactured housing is located on-  
6 site in a mobile home park or new manufactured housing is  
7 on real property owned or rented by a person who through  
8 a written agreement with the dealer authorizes the dealer  
9 to locate the new manufactured housing on the real  
10 property and the dealer is authorized to display, sell,  
11 list or offer the new manufactured housing at the real  
12 property location. Such dealers must maintain an  
13 established place of business and hold a contract in  
14 writing with a buyer, seller or manufacturer giving such  
15 person buying or selling rights for such new manufactured  
16 housing.

17 (ii) A display, sale, listing or offer for sale from  
18 a site or location as permitted by subparagraph (i) shall  
19 not require the issuance of a branch lot license.

20 (4) Dealers engaged in the business of buying, selling  
21 or exchanging used mobile homes or manufactured housing shall  
22 maintain a place of business and a building, or a portion of  
23 a building, where books and records are kept and which is  
24 devoted principally to the mobile home or manufactured  
25 housing business. There shall be no minimum square footage  
26 display area requirement for a used mobile home or  
27 manufactured housing dealer.

28 (i) Dealers engaged in the business of buying,  
29 selling or exchanging new manufactured housing or used  
30 mobile homes or manufactured housing in addition to

1 maintaining the business facility requirements of this  
2 section shall be authorized to display, sell, list or  
3 offer for sale used manufactured housing or mobile homes  
4 if the used manufactured housing or mobile homes are  
5 located on-site in a mobile home park or used  
6 manufactured housing or mobile homes are located on real  
7 property owned or rented by the person who owns the used  
8 manufactured housing or mobile home and the dealer  
9 possesses a written agreement with the person authorizing  
10 the dealer to sell, list or offer the used manufactured  
11 housing or mobile home on behalf of the person from the  
12 real property location.

13 (ii) A display, sale, listing or offer for sale from  
14 a site or location as permitted by subparagraph (i) shall  
15 not require the issuance of a branch lot license.

16 (5) Dealers engaged in the business of buying, selling  
17 or exchanging new or used recreational vehicles shall  
18 maintain an established place of business with a minimum  
19 usable display area of 5,000 square feet devoted principally  
20 to the recreational vehicle business and hold a franchise in  
21 writing with a buyer, seller or manufacturer giving such  
22 person buying or selling rights for new recreational vehicles  
23 of that particular line from the address of the licensed  
24 facility.

25 (f) Wholesale vehicle auction activities.--

26 (1) Wholesale vehicle auctions in wholesale vehicle  
27 auction sales transactions shall permit only the following  
28 persons to sell vehicles at the auction: vehicle dealers  
29 licensed under this [act] chapter or by any other state or  
30 jurisdiction, manufacturers, leasing companies, rental

1 companies, financial institutions, insurance companies,  
2 charitable nonprofit organizations; persons who sell vehicles  
3 owned by their business which are utilized to accomplish  
4 their main business purpose and who do not engage in any  
5 vehicle buying, sales or repair business; and fleet owners.

6 (2) Only vehicle dealers licensed under this [act]  
7 chapter or by any other state or jurisdiction shall be  
8 permitted to purchase vehicles at wholesale vehicle auctions.  
9 In addition to dealers licensed under this [act] chapter or  
10 by any other state or jurisdiction, a vehicle business,  
11 except for repair and towing, transporter, service, financier  
12 or collector/repossessor businesses, registered with the  
13 Department of Transportation and issued a Department of  
14 Transportation identification number or licensed or  
15 registered by any other state or jurisdiction for a similar  
16 activity without being licensed under this [act] chapter  
17 shall be authorized at wholesale vehicle auctions only to  
18 buy, sell or exchange vehicles of the type for which the  
19 business is authorized to engage by the Department of  
20 Transportation or any other state or jurisdiction, provided  
21 that upon buying such vehicle, application for an appropriate  
22 certificate of title or certificate of salvage is made for  
23 the vehicle.

24 (3) A dealer licensed under this [act] chapter without  
25 possessing a wholesale vehicle auction or public or retail  
26 vehicle auction license shall be permitted to sell vehicles  
27 on consignment.

28 (4) A vehicle auction shall only permit a person who is  
29 currently employed and licensed as a salesperson for a dealer  
30 who holds a license issued under this [act] chapter or by any



1 other state or jurisdiction to buy, sell or exchange vehicles  
2 at an auction on behalf of a dealer. This paragraph shall not  
3 apply to a salesperson who is buying, selling or exchanging  
4 vehicles at:

5 (i) wholesale vehicle auctions which are either  
6 fleet sales or manufacturer's sales; or

7 (ii) sales of vehicles for salvage, where the  
8 salesperson shall be permitted to buy, sell or exchange  
9 vehicles for no more than five dealers during the sale.

10 (5) Any person who has had his license under this [act]  
11 chapter or authority to engage as a dealer or salesperson in  
12 any other state or jurisdiction suspended or revoked shall  
13 not be authorized, while the license or authority is  
14 suspended or revoked, to be physically present at a wholesale  
15 vehicle auction during the auctioning of vehicles.

16 (g) Public or retail vehicle auction activities.--

17 (1) Public or retail vehicle auctions shall not be  
18 limited as to who may commission them to sell vehicles or who  
19 may buy vehicles at public or retail auctions, provided that  
20 any buyer or seller is not engaging in the business as a  
21 dealer without a license or as any other person who would be  
22 required to be licensed under this [act] chapter. Any person  
23 who has had his license under this [act] chapter or authority  
24 to engage as a dealer or salesperson in any other state or  
25 jurisdiction suspended or revoked shall not be authorized,  
26 while the license or authority is suspended or revoked, to be  
27 physically present at a public or retail vehicle auction  
28 during the auctioning of vehicles. Public or retail vehicle  
29 auctions shall not be required to take title to the vehicles  
30 they offer for sale or have their auctioneers licensed as

1 salespersons under this [act] chapter. Public or retail  
2 vehicle auctions shall inquire of the seller of the vehicle  
3 and, if applicable, disclose to potential purchasers material  
4 information obtained from the seller regarding the vehicle  
5 being offered for sale as is required of all sellers under  
6 applicable Federal and Pennsylvania laws.

7 (2) Public or retail vehicle auctions shall ensure all  
8 purchasers at the vehicle auction:

9 (i) show proof of identification at the time of  
10 transfer of ownership;

11 (ii) sign the identified name to the transfer of  
12 ownership documents;

13 (iii) pay any applicable tax imposed under Article  
14 II of the act of March 4, 1971 (P.L.6, No.2), known as  
15 the Tax Reform Code of 1971, unless otherwise exempted by  
16 law; and

17 (iv) submit transfer of ownership documents to the  
18 Department of Transportation as required under 75 Pa.C.S.  
19 (relating to vehicles).

20 (g.1) Mobility vehicle dealers.--

21 (1) A licensed dealer classified as a mobility vehicle  
22 dealer may do all of the following:

23 (i) Display, inventory, advertise, solicit,  
24 demonstrate, sell, offer for sale or deliver new and used  
25 mobility vehicles.

26 (ii) Arrange, negotiate and assist a customer  
27 regarding the purchase of a mobility vehicle.

28 (iii) Sell and install equipment and accessories in  
29 and provide services for mobility vehicles, in order to  
30 meet the needs of persons with disabilities as drivers or

1 passengers.

2 (iv) Provide maintenance and repair services for  
3 mobility vehicles.

4 (v) Acquire a new vehicle with a lowered floor or  
5 frame or a raised roof and door in order to fit or equip  
6 the vehicle for retail sale as a new mobility vehicle.

7 (2) A licensed dealer that is classified only as a  
8 mobility vehicle dealer may not offer for sale or sell  
9 vehicles which are not mobility vehicles.

10 (h) Notification of unlicensed persons.--Vehicle auctions  
11 shall post a listing supplied by the board containing the names  
12 of all licensees who are currently revoked or suspended and  
13 persons who were penalized for unlicensed activity within the  
14 past year.

15 Section 7. Sections 6, 7, 8, 9(a)(4) and (e)(3)(ii), 10, 11,  
16 12, 12.1, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,  
17 26, 27, 27.1, 28, 29, 30, 31, 32 and 32.1 of the act are amended  
18 and section 9 is amended by adding a subsection to read:

19 Section [6] 304. Biennial renewal.

20 Each license holder shall be required to renew his license  
21 biennially; as a condition precedent to biennial renewal, the  
22 license holder shall pay a biennial renewal fee and, in the case  
23 of a salesperson or manufacturer's or distributor's  
24 representative, he must be presently employed with a dealer,  
25 manufacturer or distributor which has a current license. The  
26 license holder shall comply with all requirements as set forth  
27 through regulation by the board.

28 Section [7] 305. Enforcement.

29 Notwithstanding the enforcement powers granted to law  
30 enforcement officers to institute summary criminal proceedings

1 pursuant to section [4(b)] 302(b), the enforcement of the laws  
2 and rules and regulations governing practice under this act is  
3 primarily vested in the board with the following additional  
4 powers and duties to:

5 (1) Inspect all license holders.

6 (2) Authorize investigations of alleged violations.

7 (3) Review and inspect all business records, documents  
8 and files relating to practice under this act.

9 (4) Subpoena witnesses.

10 (5) Take depositions of witnesses in the manner provided  
11 for in civil actions in courts of record.

12 (6) Bring criminal prosecutions for unauthorized,  
13 unlicensed and unlawful practice in accordance with the terms  
14 and provisions of the act of October 15, 1980 (P.L.950,  
15 No.164), known as the Commonwealth Attorneys Act.

16 (7) Obtain injunctions from a court of competent  
17 jurisdiction against persons acting in violation of this act.

18 Section [8] 306. Protest hearing decision within 120 days  
19 unless waived by the parties.

20 (a) Franchise protest hearings to be decided within 120 days  
21 unless waived by the parties.--Any franchise establishment,  
22 relocation, termination or failure to renew hearing based on a  
23 protest by a dealer or distributor of any action by a  
24 manufacturer or distributor alleged to be in violation of a  
25 provision of this [act] chapter must be conducted and the final  
26 determination made within 120 days after the protest is filed.  
27 Unless waived by the parties, failure to do so will be deemed  
28 the equivalent of a determination that the manufacturer or  
29 distributor acted with [good] just cause and, in the case of a  
30 protest of a proposed establishment or relocation of a dealer

1 under section [27] 326, that [good] just cause does not exist  
2 for refusing to permit the proposed additional or relocated new  
3 vehicle dealer unless such delay is caused by acts of the  
4 manufacturer, distributor or the additional or relocating  
5 dealer. Any parties to such a hearing shall have a right of  
6 review of the decision in a court of competent jurisdiction  
7 pursuant to 2 Pa.C.S. § 701 (relating to scope of subchapter).  
8 If the board determined that [good] just cause does not exist  
9 for refusing to permit the proposed additional or relocated new  
10 vehicle dealer and the manufacturer or distributor thereafter  
11 enters into a franchise establishing that new vehicle dealer,  
12 the manufacturer or distributor shall not be liable for damages  
13 based upon such establishment even if a court reverses the  
14 determination of the board.

15 (b) Procedure.--The procedure at the hearing shall be  
16 governed by 1 Pa. Code Pt. II (relating to general rules of  
17 administrative practice and procedure) with the following  
18 exceptions:

19 (1) In the event that the protest involves a termination  
20 or failure to renew the franchise of a new vehicle dealer,  
21 the dealer shall be permitted to review a manufacturer's or  
22 distributor's files related to that dealer upon written  
23 request.

24 (2) The board may order on its own initiative, or  
25 pursuant to a party's request, that part of the evidence for  
26 hearing be submitted to it in the form of depositions.

27 (c) Reconsideration.--In the event a decision of the board  
28 is remanded by a court of competent jurisdiction for further  
29 action by the board, the board shall consider the action and  
30 issue a final determination, not later than 120 days following

1 receipt of the record from such court, unless the 120-day time  
2 period for the board to issue a final determination is waived or  
3 extended by the parties.

4 (d) Dealer protest of automobile, motorcycle or truck  
5 manufacturer act or omission.--

6 (1) Except for protests authorized under section [13 or  
7 27] 312 or 326 and notwithstanding any other remedy available  
8 under this [act] chapter, any new vehicle dealer who believes  
9 that an automobile, motorcycle or truck manufacturer or  
10 distributor with whom the new vehicle dealer holds a  
11 franchise agreement has violated or is violating any  
12 provision of this [act] chapter may file a protest with the  
13 board setting forth the factual and legal basis for such  
14 violation.

15 (2) The board shall issue a final determination within  
16 120 days after the protest is filed, unless the 120-day time  
17 period for the board to issue a final determination is waived  
18 or extended by the parties.

19 (3) It shall be the burden of the automobile, motorcycle  
20 or truck manufacturer to prove it has not violated any  
21 provision of this [act] chapter as set forth in the protest  
22 filed by the new vehicle dealer.

23 (4) The protested action shall not become effective  
24 until the final determination is issued by the board and  
25 shall not be effective thereafter if the board has determined  
26 that there is [good] just cause for not permitting the  
27 protested action.

28 (5) The board shall be empowered to direct or require  
29 the automobile, motorcycle or truck manufacturer or  
30 distributor to perform such acts as necessary in order for

1 the manufacturer or distributor to comply with the provisions  
2 of this [act] chapter.

3 (e) Applicability.--The protest provisions of this section  
4 apply to Chapter 5 activities and actions between RV- <--  
5 RECREATIONAL VEHICLE dealers, manufacturers, distributors and <--  
6 suppliers.

7 Section [9] 307. Reimbursement for all parts and service  
8 required by the manufacturer or distributor;  
9 reimbursement audits.

10 (a) Manufacturers or distributors to notify dealers of their  
11 obligations.--

12 \* \* \*

13 (4) This subsection shall not apply to manufacturers or  
14 distributors of manufactured housing [or recreational  
15 vehicles].

16 \* \* \*

17 (e) Warranty reimbursement and incentive or reimbursement  
18 program approval and audits.--

19 \* \* \*

20 (3) \* \* \*

21 (ii) During the 30-day time period under  
22 subparagraph (i), a new vehicle dealer may file with the  
23 board a protest of the charge-backs as provided for  
24 under section [8] 306. When such a protest is filed, the  
25 board shall inform the manufacturer or distributor that a  
26 timely protest has been filed and that the manufacturer  
27 or distributor shall not charge back the new vehicle  
28 dealer:

29 (A) until the board has held a hearing; or

30 (B) if the board has determined that there is

1           good cause for not permitting the charge-back of such  
2           new vehicle dealer.

3           \* \* \*

4           (g) Applicability.--This section shall not apply to  
5 recreational vehicle warrantors or dealers.

6 Section [10] 308. Damage disclosure.

7           (a) Notice to dealer.--Each manufacturer or distributor of  
8 new vehicles sold or transferred to a new vehicle dealer shall  
9 notify the new vehicle dealer in writing prior to delivery of  
10 the vehicle of any material damage to the vehicle which is known  
11 to the manufacturer or distributor which was sustained or  
12 incurred by the vehicle at any time after the manufacturing  
13 process is complete but prior to delivery of the vehicle to the  
14 dealer. A dealer may reject the delivery of a nonconforming  
15 vehicle under the provisions of 13 Pa.C.S. (relating to  
16 commercial code).

17           (b) Notice to purchaser.--When selling a new vehicle, each  
18 new vehicle dealer shall notify the purchaser in writing at the  
19 time of sale of any material damage sustained or incurred by the  
20 vehicle at any time after the manufacturing process is complete  
21 which is disclosed by the manufacturer to the new vehicle  
22 dealer.

23           (c) Exemption.--This section shall not apply to  
24 manufacturers and dealers of manufactured housing or to  
25 manufacturers, distributors or dealers of motorcycles or  
26 recreational vehicles.

27           (d) Other statutes and decisions.--Nothing in this section  
28 shall be construed to diminish any obligation to provide notice  
29 to the purchaser of a new vehicle which obligation is imposed by  
30 any other provision of law or by any judicial decision,



1 including, but not limited to, the act of December 17, 1968  
2 (P.L.1224, No.387), known as the Unfair Trade Practices and  
3 Consumer Protection Law.

4 Section [11] 309. Mediation and arbitration.

5 (a) Mediation of disputes between licensees.--

6 (1) A dealer or distributor may not file a complaint,  
7 petition or protest or bring an action in a court of  
8 competent jurisdiction against a manufacturer or distributor  
9 based on an alleged violation of this [act] chapter or in a  
10 protest action under this [act] chapter regarding an  
11 establishment, relocation or termination of a franchise  
12 agreement unless the dealer or distributor serves a demand  
13 for mediation upon the manufacturer or distributor before or  
14 contemporaneous with the filing of the complaint, petition or  
15 protest or the bringing of an action. A demand for mediation  
16 shall be in writing and served upon the manufacturer or  
17 distributor by certified mail at an address designated for  
18 that manufacturer or distributor within records of the dealer  
19 or distributor. The demand for mediation shall contain a  
20 brief statement of the dispute and the relief sought by the  
21 dealer or distributor filing the demand.

22 (2) Within 20 days after the date a demand for mediation  
23 is served, the parties shall mutually select an independent  
24 mediator and meet with that mediator for the purpose of  
25 attempting to resolve the dispute. The meeting place shall be  
26 in this Commonwealth in a location selected by the mediator.  
27 The mediator may extend the date of the meeting for [good]  
28 just cause shown by either party or upon stipulation of both  
29 parties.

30 (3) The service of a demand for mediation under

1 paragraph (1) shall stay the time for the filing of any  
2 complaint, petition, protest or action under this [act]  
3 chapter until representatives of both parties have met with a  
4 mutually selected mediator for the purpose of attempting to  
5 resolve the dispute. If a complaint, petition, protest or  
6 action is filed before the meeting, the board or court shall  
7 enter an order suspending the proceeding or action until the  
8 meeting has occurred and may, upon written stipulation of all  
9 parties to the proceeding or action that they wish to  
10 continue to mediate under this subsection, enter an order  
11 suspending the proceeding or action for as long a period as  
12 the board or court considers appropriate. A suspension order  
13 issued under this paragraph may be revoked upon motion of any  
14 party or upon motion of the board or the court.

15 (4) The board shall encourage dealers, manufacturers and  
16 distributors to establish, maintain and administer a panel of  
17 mediators who have the character, ability and training to  
18 serve as mediators and who have knowledge of the vehicle  
19 industry.

20 (5) Mandatory mediation under this section shall not be  
21 required of any of the following:

22 (i) A dealer seeking to dual two or more franchises  
23 or a dealer seeking a relocation involving a request to  
24 dual two or more franchises unless another dealer of the  
25 same line-make has a right to protest the proposed  
26 relocation under section [27] 326.

27 (ii) Manufacturers, distributors or dealers of  
28 motorcycles.

29 (b) Arbitration of disputes between licensees.--After a  
30 dispute arises, the licensees may voluntarily agree to submit a

1 dispute arising under this [act] chapter pertaining to a  
2 complaint, petition, protest or action to binding or nonbinding  
3 arbitration. Any arbitration proceeding shall be voluntary,  
4 initiated by serving a written demand for arbitration on the  
5 other party, and shall be conducted under the provisions of 42  
6 Pa.C.S. Ch. 73 Subch. A (relating to statutory arbitration) and  
7 administered by representatives of dealers, manufacturers or  
8 distributors.

9 (c) Immunity and presumption of good faith by mediators and  
10 arbitrators.--A mediator or arbitrator is immune from civil  
11 liability for any good faith act or omission within the scope of  
12 the mediator's or arbitrator's performance of his powers and  
13 duties under this section. Every act or omission of a mediator  
14 or arbitrator is presumed to be a good faith act or omission.  
15 This presumption may be overcome only by clear and convincing  
16 evidence.

17 Section [12] 310. Unlawful acts by manufacturers or  
18 distributors.

19 (a) Unlawful coercive acts.--It shall be a violation for any  
20 manufacturer, factory branch, distributor, field representative,  
21 officer, agent or any representative whatsoever of such  
22 manufacturer, factory branch or distributor licensed under this  
23 [act] chapter to require, attempt to require, coerce or attempt  
24 to coerce any new vehicle dealer in this Commonwealth to:

25 (1) Order or accept delivery of any new vehicle, part or  
26 accessory thereof, equipment or any other commodity not  
27 required by law which shall not have been voluntarily ordered  
28 by the new vehicle dealer, except that this paragraph is not  
29 intended to modify or supersede any terms or provisions of  
30 the franchise requiring new vehicle dealers to market a

1 representative line of those vehicles which the manufacturer  
2 or distributor is publicly advertising.

3 (2) Order or accept delivery of any new vehicle with  
4 special features, accessories or equipment not included in  
5 the list price of such vehicles as publicly advertised by the  
6 manufacturer or distributor.

7 (3) Participate monetarily in an advertising campaign or  
8 contest or to purchase unnecessary or unreasonable quantities  
9 of any promotional materials, training materials, showroom or  
10 other display decorations or materials at the expense of the  
11 new vehicle dealer.

12 (4) Enter into any agreement with the manufacturer or to  
13 do any other act prejudicial to the new vehicle dealer by  
14 threatening to terminate or not renew a franchise or any  
15 contractual agreement existing between the dealer and the  
16 manufacturer or distributor, except that this paragraph is  
17 not intended to preclude the manufacturer or distributor from  
18 insisting on compliance with the reasonable terms or  
19 provisions of the franchise or other contractual agreement  
20 and notice in good faith to any new vehicle dealer of the new  
21 vehicle dealer's violation of such terms or provisions shall  
22 not constitute a violation of [the act] this chapter.

23 (5) Change the capital structure of the new vehicle  
24 dealer or the means by or through which the new vehicle  
25 dealer finances the operation of the dealership, provided  
26 that the new vehicle dealer at all times meets any reasonable  
27 capital standards determined by the manufacturer or  
28 distributor in accordance with uniformly applied criteria,  
29 and also provided that no change in the capital structure  
30 shall cause a change in the principal management or have the

1 effect of a sale of the franchise without the consent of the  
2 manufacturer or distributor. The consent shall be granted or  
3 denied within 60 days of receipt of a written request from  
4 the new vehicle dealer.

5 (6) (i) Refrain from participation in the management  
6 of, investment in or the acquisition of any other line of  
7 new vehicle or related products. This paragraph does not  
8 apply unless the new vehicle dealer maintains a  
9 reasonable line of credit for each make or line of new  
10 vehicle, the new vehicle dealer remains in compliance  
11 with the reasonable terms of the franchise agreement and  
12 any reasonable facilities requirements of the  
13 manufacturer or distributor, and no change is made in the  
14 principal management of the new vehicle dealer. The  
15 reasonable facilities requirements shall not include any  
16 requirement that a new vehicle dealer establish or  
17 maintain exclusive facilities, personnel or display space  
18 when such requirements or any of them would be  
19 unreasonable in light of economic conditions and would  
20 not otherwise be justified by reasonable business  
21 considerations.

22 (ii) (A) Nothing in this paragraph shall permit the  
23 dualing or relocation and addition of a line-make to  
24 the dealership facilities without the new vehicle  
25 dealer providing written certification to the  
26 manufacturer or distributor that the new vehicle  
27 dealer, with the addition of a line-make by the new  
28 vehicle dealer, will maintain a reasonable line of  
29 credit for each make or line of new vehicle and the  
30 new vehicle dealer will remain in compliance with the

1 reasonable terms of the franchise agreement and any  
2 reasonable facilities requirements of the  
3 manufacturer or distributor, excluding any exclusive  
4 facility or nondualing requirements.

5 (B) The dealer shall provide the following  
6 information:

7 (I) the address of the proposed new  
8 location, if applicable;

9 (II) a brief description of the proposed  
10 facility; and

11 (III) the owner of the proposed new  
12 location.

13 (C) Any objection by the manufacturer or  
14 distributor with regard to the dualing or relocation  
15 and dualing of two or more franchises shall be  
16 delivered to the dealer within 45 days of receipt of  
17 the written certification from the new vehicle  
18 dealer. Failure on the part of the manufacturer or  
19 distributor to timely respond to a dualing or  
20 relocation and dualing certification shall be deemed  
21 to be an approval of the new vehicle dealer's  
22 certification notice of dualing or relocation and  
23 dualing of two or more franchises. The manufacturer  
24 or distributor shall execute and deliver a franchise  
25 reflecting the relocated address of the dealership  
26 facilities to the new vehicle dealer within 30 days  
27 of the date of the deemed approval.

28 (iii) A dealer may file a complaint, petition or  
29 protest, or bring an action in a court of competent  
30 jurisdiction against a manufacturer or distributor, based

1 on a denial of a request by a dealer to dual or relocate  
2 and dual two or more franchises without first going  
3 through mediation required under section [11] 309. If a  
4 dualing or relocation and dualing denial protest is filed  
5 with the board, a hearing shall be held within 45 days of  
6 the protest's filing and a final determination issued by  
7 the board within 90 days of the protest filing. The  
8 burden of proof shall be on the manufacturer or  
9 distributor to show that the dualing or relocation and  
10 dualing is unreasonable. No automobile, motorcycle or  
11 truck manufacturer or distributor may limit or restrict  
12 the addition of a line-make to the dealership facilities  
13 if the new vehicle dealer maintains a reasonable line of  
14 credit for each make or line of new vehicle and the new  
15 vehicle dealer remains in compliance with the reasonable  
16 terms of the franchise agreement and any reasonable  
17 facilities requirements of an automobile, motorcycle or  
18 truck manufacturer or distributor. This paragraph shall  
19 also apply if the dealer seeks to dual two or more line-  
20 makes and no relocation will occur. This paragraph shall  
21 not impair the rights of another dealer of the same line-  
22 make to protest a proposed relocation under section [27]  
23 326.

24 (7) Prospectively assent to a release, assignment,  
25 novation, waiver or estoppel which would relieve any person  
26 from liability to be imposed by this [act] chapter or to  
27 require any controversy between a new vehicle dealer and a  
28 manufacturer, distributor or representative to be referred to  
29 any person other than the duly constituted courts of the  
30 Commonwealth or the United States of America, if such

1 referral would be binding upon the new vehicle dealer. A  
2 dealer and the manufacturer, distributor or representative,  
3 by themselves or through their respective counsel, are  
4 permitted to agree to execute a written agreement or to  
5 arbitrate in a binding or nonbinding manner after a  
6 controversy arises.

7 (8) Expand, construct or significantly modify facilities  
8 without assurances that the manufacturer or distributor will  
9 provide a reasonable supply of new vehicles within a  
10 reasonable time so as to justify such an expansion in light  
11 of the market and economic conditions.

12 (8.1) Unreasonably expand, construct or significantly  
13 modify facilities in light of the market and economic  
14 conditions or require a separate facility for the sale or  
15 service of a line-make of a new vehicle if the market and  
16 economic conditions do not clearly justify the separate  
17 facility.

18 (8.2) (i) Purchase a good or service from a vendor  
19 selected, identified or designated by a manufacturer,  
20 factory branch, distributor, distributor branch or an  
21 affiliate of a manufacturer, factory branch, distributor,  
22 distributor branch by agreement, program, incentive  
23 provision or other method if expanding, constructing or  
24 significantly modifying a facility without allowing the  
25 dealer the option to obtain a good or service of  
26 substantially similar quality from a vendor chosen by the  
27 dealer and approved by the manufacturer, which approval  
28 may not be unreasonably withheld.

29 (ii) Nothing under this paragraph shall be construed  
30 to:



1 (A) Allow a dealer or vendor to eliminate or  
2 impair a manufacturer's intellectual property rights,  
3 including a manufacturer's intellectual property  
4 rights in a trademark.

5 (B) Permit a dealer to erect or maintain signs  
6 that do not conform to the intellectual property  
7 usage guidelines of the manufacturer.

8 (9) Agree as a condition to granting or renewing a  
9 franchise to waive, limit or disclaim a right that the dealer  
10 may have to protest the establishment or relocation of  
11 another vehicle dealer in the relevant market area as  
12 provided in section [27] 326, unless such agreement is  
13 voluntary.

14 (10) (i) Sell, offer to sell or sell exclusively an  
15 extended service contract, extended maintenance plan or  
16 similar product, such as gap products, offered, endorsed  
17 or sponsored by the manufacturer or distributor by the  
18 following means:

19 (A) By an act or statement that the manufacturer  
20 or distributor will in any manner impact the dealer,  
21 whether it is express or implied or made directly or  
22 indirectly.

23 (B) By a contract, or an express or implied  
24 offer of contract, made to the dealer on the  
25 condition that the dealer shall sell, offer to sell  
26 or sell exclusively an extended service contract,  
27 extended maintenance plan or similar product offered,  
28 endorsed or sponsored by the manufacturer or  
29 distributor.

30 (C) By measuring the dealer's performance under

1 the franchise based on the sale of extended service  
2 contracts, extended maintenance plans or similar  
3 products offered, endorsed or sponsored by the  
4 manufacturer or distributor.

5 (D) By requiring the dealer to actively promote  
6 the sale of extended service contracts, extended  
7 maintenance plans or similar products offered,  
8 endorsed or sponsored by the manufacturer or  
9 distributor.

10 (ii) Nothing in this paragraph shall prohibit a  
11 manufacturer or distributor from providing incentive  
12 programs to a new vehicle dealer who makes the voluntary  
13 decision to offer to sell, sell or sell exclusively an  
14 extended service contract, extended maintenance plan or  
15 similar product offered, endorsed or sponsored by the  
16 manufacturer or distributor.

17 (b) Violations.--It shall be a violation of this [act]  
18 chapter for any manufacturer, factory branch, distributor, field  
19 representative, officer, agent or any representative whatsoever  
20 of such manufacturer, factory branch or distributor licensed  
21 under this [act] chapter to:

22 (1) Delay, refuse or fail to deliver new vehicles or new  
23 vehicle parts or accessories in a reasonable time and in  
24 reasonable quantity relative to the new vehicle dealer's  
25 facilities and sales potential after acceptance of an order  
26 from a new vehicle dealer having a franchise for the retail  
27 sale of any new vehicle sold or distributed of an order from  
28 a new vehicle dealer having a franchise for the retail sale  
29 of any new vehicle sold or distributed by the manufacturer or  
30 distributor as are covered by such franchise, if such

1 vehicle, parts or accessories are publicly advertised as  
2 being available for immediate delivery. There is no violation  
3 if the failure is caused by acts or causes beyond the control  
4 of the manufacturer or distributor.

5 (2) Unfairly discriminate among its new vehicle dealers  
6 with respect to warranty, recall, service contract or any  
7 other service required by the manufacturer or distributor  
8 with regard to labor or parts reimbursement.

9 (3) Unreasonably withhold consent to the sale, transfer  
10 or exchange of the franchise to a qualified buyer capable of  
11 being licensed as a new vehicle dealer in this Commonwealth  
12 who meets the manufacturer's or distributor's reasonable  
13 requirements for appointment as a dealer.

14 (4) Unreasonably withhold consent to the relocation of  
15 an existing new vehicle dealer. If the relocation involves  
16 dualing of two or more franchises, the requirements of  
17 subsection (a) (6) (ii) and (iii) shall apply and paragraph (5)  
18 shall not apply.

19 (5) Fail to respond in writing to a request for consent  
20 as specified in paragraphs (3) and (4) within 60 days of  
21 receipt of a written request on the forms, if any, generally  
22 utilized by the manufacturer or distributor for such purposes  
23 and containing the information required. The failure to  
24 respond within the time period set forth in this paragraph  
25 shall be deemed to be approval of the request, and the  
26 manufacturer or distributor shall execute and deliver a  
27 franchise to the applicant within 30 days of the expiration  
28 of this time period. A manufacturer or distributor shall  
29 acknowledge in writing to the applicant the receipt of the  
30 forms, and, if the manufacturer or distributor requires

1 additional information to complete its review, the  
2 manufacturer or distributor shall notify the applicant within  
3 15 days of the receipt of the forms. If the manufacturer or  
4 distributor fails to request additional information from the  
5 applicant within 15 days after receipt of the initial forms,  
6 the 60-day time period for approval shall be deemed to run  
7 from the initial receipt date. Otherwise, the 60-day time  
8 period for approval shall run from receipt of the  
9 supplemental requested information. In no event shall the  
10 total time period for approval exceed 75 days from the date  
11 of the receipt of the initial forms.

12 (6) Prevent or attempt to prevent by contract or  
13 otherwise, any new vehicle dealer from changing the executive  
14 management control of the new vehicle dealer unless the  
15 manufacturer or distributor, having the burden of proof, can  
16 show that such change of executive management will result in  
17 executive management or control by a person or persons who  
18 are not of good moral character or who do not meet  
19 reasonable, preexisting, and, with consideration given to the  
20 volume of sales and service of the dealership, uniformly  
21 applied minimum business experience standards. Where the  
22 manufacturer or distributor rejects a proposed change in  
23 executive management control, the manufacturer or distributor  
24 shall give written notice of its reasons to the dealer within  
25 60 days of notice to the manufacturer by the dealer of the  
26 proposed change; otherwise the change in the executive  
27 management of the new vehicle dealer shall be presumptively  
28 deemed approved.

29 (7) Offer in connection with a sale of a new vehicle or  
30 vehicles to the Federal Government, the Commonwealth or any

1 political subdivision thereof, any discounts, refunds or any  
2 other type of inducement to any new vehicle dealer without  
3 making the same offer or offers available to all other of its  
4 new vehicle dealers within this Commonwealth. This paragraph  
5 shall not be construed to prevent the offering of incentive  
6 programs or other discounts if the discounts are equally  
7 available to all franchised vehicle dealers in this  
8 Commonwealth on a proportionally equal basis.

9 (8) Fail to indemnify its franchised dealers,  
10 notwithstanding the terms of any franchise agreement, against  
11 any judgment for damages or settlement approved in writing by  
12 the manufacturer or distributor, including, but not limited  
13 to, court costs and reasonable attorney fees of the new  
14 vehicle dealer, arising out of complaints, claims or  
15 lawsuits, including, but not limited to, strict liability,  
16 negligence, misrepresentation, express or implied warranty or  
17 rescission of the sale as defined in 13 Pa.C.S. § 2608  
18 (relating to revocation of acceptance in whole or in part) to  
19 the extent that the judgment or settlement relates solely to  
20 the alleged defective or negligent functions by the  
21 manufacturer or distributor beyond the control of the dealer.

22 (9) Sell or exchange with a second or final stage  
23 manufacturer, retail consumer or end user except through a  
24 licensed new vehicle dealer. This paragraph shall not apply  
25 to manufacturer or distributor sales of new vehicles to the  
26 Federal Government, charitable organizations and employees of  
27 the manufacturer.

28 (10) [(i)] Modify a franchise during the term of the  
29 franchise or upon its renewal if the modification  
30 substantially and adversely affects the new vehicle

1 dealer's rights, obligations, investment or return on  
2 investment without giving 60 days' written notice of the  
3 proposed modification to the new vehicle dealer unless  
4 the modification is required by law, court order or the  
5 board. Within the 60-day notice period, the new vehicle  
6 dealer may file with the board and serve notice upon the  
7 manufacturer or distributor a protest requesting a  
8 determination of whether there is [good] just cause for  
9 permitting the proposed modification. The board shall  
10 promptly schedule a hearing and decide the matter within  
11 180 days from the date the protest is filed. Multiple  
12 protests pertaining to the same proposed modification  
13 shall be consolidated for hearing. The proposed  
14 modification shall not take effect pending the  
15 determination of the matter. In determining whether there  
16 is [good] just cause for permitting a proposed  
17 modification, the board shall consider any relevant  
18 factors, including, but not limited to:

19 [(A)] (i) The reasons for the proposed  
20 modification.

21 [(B)] (ii) Whether the proposed modification is  
22 applied to or affects all new vehicle dealers in a  
23 nondiscriminatory manner.

24 [(C)] (iii) Whether the proposed modification  
25 will have a substantial and adverse effect upon the  
26 new vehicle dealer's investment or return on  
27 investment.

28 [(D)] (iv) Whether the proposed modification is  
29 in the public interest.

30 [(E)] (v) Whether the proposed modification is

1           necessary to the orderly and profitable distribution  
2           of products by the manufacturer or distributor.

3           [(F)] (vi) Whether the proposed modification is  
4           offset by other modifications beneficial to the new  
5           vehicle dealer.

6           [(ii) This paragraph shall not apply to recreational  
7           vehicle manufacturers, distributors or dealers.]

8           (11) Fail or refuse to offer to its new vehicle dealers  
9           all new model vehicles manufactured for that line-make  
10          franchise or require any of its new vehicle dealers to pay an  
11          unreasonable fee, unreasonably remodel or renovate the new  
12          vehicle dealer's existing facilities, unreasonably purchase  
13          or construct a new facility, unreasonably purchase parts,  
14          supplies, tools, equipment, operational services, other  
15          merchandise or unreasonably participate in training programs  
16          in order to receive any new model vehicles, parts or  
17          accessories. It shall not be a violation of this paragraph if  
18          the manufacturer or distributor fails to supply new vehicle  
19          dealers with model vehicles, parts or accessories due to  
20          circumstances beyond the control of the manufacturer or  
21          distributor, including, but not limited to, strike or labor  
22          difficulty, shortage of materials, freight embargo or  
23          temporary lack of capacity.

24          (12) Operate a system for the allocation of new vehicles  
25          which is not reasonable or fair to a new vehicle dealer. Upon  
26          the written request of any of its new vehicle dealers, a  
27          manufacturer or distributor shall disclose to the new vehicle  
28          dealer the method on which new vehicles are allocated among  
29          the new vehicle dealers of the same line-make. The  
30          manufacturer distributor has the burden of establishing the

1 fairness of its allocation.

2 (13) Own, operate or control, either directly or  
3 indirectly, any vehicle warranty facility. Nothing in this  
4 subsection shall prohibit any manufacturer or distributor  
5 from owning, operating or controlling any warranty facility  
6 for warranty repairs on vehicles owned or operated by the  
7 manufacturer or distributor.

8 (14) Compel a dealer through a finance subsidiary of the  
9 manufacturer or distributor to agree to unreasonable  
10 operating requirements or to directly or indirectly terminate  
11 a new vehicle dealer through the actions of a finance  
12 subsidiary of the manufacturer or distributor. This paragraph  
13 shall not limit the right of a financing entity to engage in  
14 business practices in accordance with the trade of retail or  
15 wholesale vehicle financing.

16 (15) Use any subsidiary corporation, affiliated  
17 corporation or any other controlled corporation, partnership,  
18 association, entity or person to accomplish what would  
19 otherwise be illegal conduct under this [act] chapter on the  
20 part of the manufacturer or distributor.

21 (16) Release to any third party any customer information  
22 which has been provided by the new vehicle dealer to the  
23 manufacturer or distributor if the customer objects in  
24 writing to releasing the information, unless the information  
25 is necessary for the manufacturer or distributor to meet its  
26 obligations to customers or new vehicle dealers under  
27 requirements imposed by Federal or State law.

28 (17) Require or coerce or attempt to require or coerce a  
29 new vehicle dealer to pay attorney fees of the manufacturer  
30 or distributor related to hearings and appeals brought under



1 this [act] chapter.

2 (18) Vary the price charged to any of its new vehicle  
3 dealers, which has the effect of causing a difference in the  
4 price of any similarly equipped new vehicle to its new  
5 vehicle dealers or to the ultimate purchaser. This paragraph  
6 shall not be construed to prevent the offering of incentive  
7 programs or other discounts if the incentive or discounts are  
8 available to all competing new vehicle dealers of the same  
9 line-make in this Commonwealth on a proportionately equal  
10 basis.

11 (19) Directly or indirectly condition any of the  
12 following actions on a dealer, prospective dealer or owner of  
13 an interest in a dealership franchise or facility to enter  
14 into a site-control agreement or exclusive use agreement:

15 (i) awarding of a franchise to a prospective dealer;

16 (ii) adding of a line-make or franchise to an  
17 existing dealer's franchise or facility;

18 (iii) renewing of an existing dealer's franchise;

19 (iv) approving of the relocation of an existing  
20 dealer's franchise or facility; or

21 (v) approving of the sale or transfer of a dealer's  
22 ownership of a franchise or facility.

23 Nothing in this paragraph prohibits a dealer, prospective  
24 dealer or owner of an interest in a dealership franchise or  
25 facility from voluntarily entering into such an agreement for  
26 other consideration. However, a provision contained in an  
27 agreement which is not voluntarily entered into by a dealer,  
28 prospective dealer or owner of an interest in a dealership  
29 franchise or facility on or after the effective date of this  
30 paragraph that is inconsistent with the provisions of this

1 section shall be a violation of this [act] chapter.

2 (c) Restriction on ownership of dealer.--

3 (1) Except as otherwise provided in this subsection, a  
4 manufacturer or distributor shall not:

5 (i) own or hold an interest, other than a passive,  
6 minority interest in a publicly traded dealer held for  
7 investment purposes, in a dealer licensed under this  
8 [act] chapter which is engaging in the business of  
9 buying, selling or exchanging vehicles; or

10 (ii) operate or control a dealer licensed under this  
11 [act] chapter which is engaging in the business of  
12 buying, selling or exchanging vehicles.

13 (2) A manufacturer or distributor may own or hold an  
14 interest in a dealer or otherwise operate or control a dealer  
15 for a period not to exceed 12 months from the date the  
16 manufacturer or distributor acquires an interest in the  
17 dealer if:

18 (i) The person from whom the manufacturer or  
19 distributor acquired the dealer was a franchised dealer.

20 (ii) The dealer is for sale by the manufacturer or  
21 distributor at a reasonable price and on reasonable terms  
22 and conditions.

23 (3) On a showing by a manufacturer or distributor of  
24 [good] just cause, the board may extend the time limit set  
25 forth in paragraph (2). An extension under this paragraph may  
26 not exceed 12 months. Where an extension under this paragraph  
27 is sought, the manufacturer or distributor shall provide  
28 notice delivered 30 days before the extension request is  
29 filed with the board to all the same line-make dealers within  
30 a ten-mile radius of the manufacturer or distributor owned,

1 operated or controlled dealer. An application for an  
2 extension is subject to protest by a dealer of the same line-  
3 make who is within the ten-mile radius of the manufacturer or  
4 distributor owned, operated or controlled dealer.

5 (4) For the primary purpose of broadening the diversity  
6 of its dealer body and enhancing opportunities for qualified  
7 persons who are part of a group who have historically been  
8 underrepresented in its dealer body or other qualified  
9 persons who lack the resources to purchase a dealer outright,  
10 a manufacturer or distributor may temporarily own an interest  
11 in a dealer if the manufacturer's or distributor's  
12 participation in the dealer is in a bona fide relationship  
13 with a franchised dealer who:

14 (i) At or prior to the time the prospective dealer  
15 takes an equity interest in the dealer, the prospective  
16 dealer is obligated to make a significant investment in  
17 the dealer, subject to loss.

18 (ii) Has an ownership interest in the dealer.

19 (iii) Operates the dealer under a written agreement  
20 to acquire full ownership of the dealer within a  
21 reasonable time and under reasonable terms and  
22 conditions.

23 (5) A manufacturer or distributor shall not unfairly  
24 discriminate or compete in terms of any sales, service or  
25 operational activities with a new vehicle dealer of the same  
26 line-make when a manufacturer or distributor operates a new  
27 vehicle dealer under this subsection.

28 (6) The following shall apply:

29 (i) A manufacturer or distributor may own, operate  
30 or control not more than five new vehicle dealerships

1 trading solely in electric vehicles, as defined in 75  
2 Pa.C.S. § 102 (relating to definitions), that are not  
3 sold as new vehicles by a licensed independent new  
4 vehicle dealer pursuant to an existing franchise with a  
5 manufacturer or distributor, if each of the following  
6 conditions are met:

7 (A) Each of the new vehicle dealerships selling  
8 the manufacturer's new motor vehicles in this  
9 Commonwealth trade exclusively in the manufacturer's  
10 line-make.

11 (B) Each of the new vehicle dealerships selling  
12 the manufacturer's motor vehicles in this  
13 Commonwealth are determined to be in compliance with  
14 this [act] chapter.

15 (C) Either of the following apply:

16 (I) The manufacturer, distributor or a  
17 subsidiary, affiliate or controlled entity has  
18 not acquired, nor does it hold a controlling  
19 interest in another manufacturer or distributor,  
20 required to be licensed under this [act] chapter.

21 (II) If a controlling interest is acquired,  
22 the manufacturer, distributor or a subsidiary,  
23 affiliate or controlled entity may not continue  
24 to operate or control a new vehicle dealership  
25 under this subsection for a period not more than  
26 12 months from the date it acquired the  
27 controlling interest.

28 (D) Either of the following apply:

29 (I) A controlling interest in the original  
30 manufacturer, distributor or any subsidiary,

1           affiliate or controlled entity was not  
2           transferred, sold or conveyed to another  
3           manufacturer, distributor, person or entity  
4           required to be licensed under this [act] chapter.

5           (II) If a controlling interest is  
6           transferred, sold or conveyed to another  
7           manufacturer, distributor, person or entity  
8           required to be licensed under this [act] chapter,  
9           the entity may not continue to operate or control  
10          a new vehicle dealership under this subsection  
11          for a period not more than 12 months from the  
12          date it acquired the controlling interest.

13          (E) The manufacturer shall have continuously  
14          offered electric vehicles for sale for a period of  
15          not less than 12 months prior to the effective date  
16          of this clause.

17          (ii) Nothing under this [act] chapter shall prohibit  
18          a manufacturer operating or controlling a new vehicle  
19          dealership under this paragraph from owning, operating or  
20          controlling a warranty facility for warranty repairs on  
21          the manufacturer's line-make of vehicles.

22          (7) Nothing under this subsection shall prohibit the  
23          sale or lease of used vehicles obtained as a result of a  
24          trade or return of a vehicle during the purchase of a new  
25          vehicle under paragraph (6) at a manufacturer's licensed  
26          location.

27          (d) Applicability.--

28          (1) Subsections (b)(11) through (17) and (c) shall not  
29          apply to manufacturers, distributors or dealers of  
30          manufactured housing [or recreational vehicles].

1           (1.1) This section shall not apply to manufacturers,  
2           distributors or dealers of recreational vehicles.

3           (2) Subsections (b) (13) and (15) and (c) shall not apply  
4           to the ownership or activities of a manufacturer in the  
5           operation of a licensed dealer or a licensed dealer that  
6           fulfills the following conditions:

7                   (i) The manufacturer maintains an ownership interest  
8                   in, operates or controls a licensed dealer whose primary  
9                   business purpose is the rental of vehicles.

10                   (ii) Vehicles sold by the licensed dealer primarily  
11                   engaged in the business of rental vehicles are limited to  
12                   those vehicles used for rental purposes or vehicles  
13                   obtained in trade for such vehicles.

14                   (iii) Any warranty repairs are limited to those  
15                   repairs conducted on the vehicles used in the vehicle  
16                   rental business or vehicles sold by the licensed dealer.

17 Section [12.1] 311. Area of responsibility.

18           (a) General rule.--It shall be a violation of this [act]  
19 chapter for any manufacturer or distributor, officer, agent or  
20 any representative of a manufacturer or distributor to  
21 unreasonably alter a new vehicle dealer's area of  
22 responsibility. The following shall apply:

23                   (1) Advance notice from the manufacturer of an  
24                   alteration of a dealer's area of responsibility shall be  
25                   given at least 60 days before the effective date of the  
26                   alteration. The notice shall include an explanation of the  
27                   basis for the alteration.

28                   (2) At any time before the effective date of such  
29                   alteration of a dealer's area of responsibility, and after  
30                   the completion of any internal appeal process pursuant to the

1 manufacturer's or distributor's policy manual, the dealer may  
2 file a protest as provided for under section [8] 306. In the  
3 event a protest is filed, no such alteration of a dealer's  
4 area of responsibility shall become effective until final  
5 determination by the board.

6 (3) If a dealer protests under paragraph (2), the burden  
7 of proof shall be on the manufacturer to show that the  
8 dealer's area of responsibility is reasonable and justifiable  
9 in light of the market conditions.

10 (4) If a new vehicle dealer's area of responsibility is  
11 altered, the manufacturer shall allow 18 months for the  
12 dealer to penetrate the market and to become sales effective  
13 prior to taking negative legal action claiming a breach or  
14 nonperformance of the dealer's sales performance  
15 responsibilities against the dealer.

16 (b) Exception.--This section shall not apply to recreational  
17 vehicle manufacturers, distributors or dealers.

18 Section [13] 312. Termination of franchises.

19 (a) Terminations.--It shall be a violation of this [act]  
20 chapter for any manufacturer or distributor, officer, agent or  
21 any representative whatsoever to unfairly, without due regard to  
22 the equities of said dealer and without just cause, terminate or  
23 fail to renew the franchise of any vehicle dealer; or being a  
24 manufacturer, to unfairly, without due regard to the equities of  
25 a distributor and without just cause, terminate or fail to renew  
26 the franchise of any distributor. The manufacturer or  
27 distributor shall not meet its burden of proof to terminate or  
28 fail to renew the franchise if the acts of the manufacturer or  
29 distributor, in whole or in significant part, caused the dealer  
30 or distributor to be unable to comply substantially with the

1 reasonable and material requirements of the franchise.

2 (b) Mutual agreement of termination filing.--All existing  
3 dealers' franchises shall continue in full force and operation  
4 under a newly appointed distributor on the termination of an  
5 existing distributor unless a mutual agreement of termination is  
6 filed with the board between the newly appointed distributor and  
7 such dealer.

8 (c) Notification of termination.--Not less than 60 days  
9 advance notice of such termination or failure to renew shall be  
10 given the dealer or distributor prior to the effective date  
11 thereof unless the nature or character of the reason for  
12 termination or failure to renew is such that the giving of such  
13 notice would not be in the public interest. A copy of the notice  
14 shall also be provided to the board.

15 (1) The 60-day notice period required by this subsection  
16 may be reduced to not less than 15 consecutive business days  
17 if the ground for termination or failure to renew is:

18 (i) insolvency of the dealer or filing of any  
19 petition by or against the dealer under any bankruptcy or  
20 receivership law;

21 (ii) failure of the dealer to conduct customary  
22 sales and service operations during business hours for  
23 seven consecutive business days, except in circumstances  
24 beyond the direct control of the dealer;

25 (iii) conviction of the dealer, or any owner  
26 thereof, of any felony which is punishable by  
27 imprisonment;

28 (iv) suspension or revocation of any license which  
29 the new vehicle dealer is required to have to operate a  
30 dealership; or



1 (v) based on a determination that there was a  
2 fraudulent misrepresentation by the dealer to the  
3 manufacturer or distributor which is material to the  
4 franchise.

5 (2) The 60-day notice period under this subsection is  
6 not required if the new vehicle dealer or distributor waives  
7 it voluntarily in writing.

8 (d) Appeals.--At any time before the effective date of such  
9 termination or failure to renew, the dealer or distributor may  
10 appeal to the board for a hearing on the merits, and following  
11 due notice to all parties concerned, such hearing shall be  
12 promptly held. No such termination or failure to renew shall  
13 become effective until final determination of the issue by the  
14 board.

15 (e) Burden of proof and just cause terminations on appeal.--  
16 In the event of a dealer or distributor appeal of the  
17 termination or failure to renew of its franchise, the burden of  
18 proof shall be on the manufacturer or distributor to show that  
19 such termination or failure to renew was for just cause. Any  
20 termination or failure to renew which is subject to section [14]  
21 313 shall not be subject to this subsection.

22 (f) Exception.--This section shall not apply to recreational  
23 vehicle manufacturers, distributors or dealers.

24 Section [14] 313. Industry reorganization.

25 (a) Violation.--

26 (1) It shall be a violation of this [act] chapter for a  
27 manufacturer or distributor directly or indirectly or through  
28 any officer, agent or employee to terminate or fail to renew  
29 a franchise of a new vehicle dealer in connection with:

30 (i) any change in ownership or control of all or any

1 part of the manufacturer's or distributor's business  
2 whether by sale or transfer of assets, corporate stock or  
3 other equity interest; assignment; merger; consolidation;  
4 combination; joint venture; redemption; operation of law;  
5 or otherwise; or

6 (ii) the termination, suspension or cessation of all  
7 or any part of the manufacturer's or distributor's  
8 business operations except for a termination of a part of  
9 the manufacturer's or distributor's business operations  
10 throughout the United States that is not otherwise part  
11 of any change in ownership or control of the  
12 manufacturer's or distributor's business.

13 (2) Paragraph (1) shall not apply if:

14 (i) a manufacturer or distributor offers a dealer a  
15 replacement franchise with reasonable terms or  
16 conditions; or

17 (ii) the manufacturer or distributor, within 90 days  
18 of the effective date of the termination or failure to  
19 renew, compensates the dealer in an amount at least  
20 equivalent to the higher of the fair market value of the  
21 franchise or portion of the franchise terminated or  
22 failed to be renewed on the date the manufacturer or  
23 distributor announces the act that results in the  
24 termination or nonrenewal of the franchise or the date on  
25 which the notice of termination or nonrenewal of the  
26 franchise is issued.

27 (3) If the manufacturer or distributor either or both:

28 (i) authorizes the dealer to continue servicing and  
29 supplying parts, including warranty service and parts,  
30 for any goods or services marketed by the dealer pursuant

1 to the franchise for a period of not less than five years  
2 from the effective date of the termination or failure to  
3 renew and continues to reimburse the dealer for warranty  
4 parts and service at the same prices and terms as  
5 franchised dealers for the manufacturer or distributor;

6 (ii) continues to supply the dealer with replacement  
7 parts for any goods or services marketed by the dealer  
8 pursuant to the franchise for a period of not less than  
9 five years from the effective date of the termination or  
10 failure to renew at the same prices and terms as

11 franchised dealers for the manufacturer or distributor;

12 and if a dealer chooses to continue either or both such parts  
13 and service operation under subparagraph (i) or (ii), the  
14 fair market value compensation of the franchise shall be  
15 reduced to reflect the value of continuing either or both  
16 such parts and service operation.

17 (b) Acts affecting franchise.--For purposes of subsection

18 (a), the termination or discontinuation of a series, line, brand  
19 or class of new vehicle marketed by a manufacturer or  
20 distributor as a distinct series, line, brand or class shall be  
21 deemed to be the termination or nonrenewal of a franchise even  
22 if said series, line, brand or class of new vehicle is part of a  
23 franchise including other series, lines, brands or classes of  
24 new vehicle, provided that nothing in this subsection shall be  
25 construed as prohibiting a manufacturer or distributor from  
26 changing, adding or deleting models, specifications, model  
27 names, numbers or identifying marks or similar characteristics  
28 of the new vehicles it markets, provided that such change,  
29 addition or deletion does not result in the termination or  
30 discontinuance of a distinct series, line, brand or class of new

1 vehicle.

2 (c) Disputes.--Any dispute arising between a manufacturer or  
3 distributor and a dealer under this section involving the  
4 determination of the fair market valuation of a franchise shall  
5 be determined by a court of competent jurisdiction and not by  
6 the board.

7 (d) Exemption.--This section shall not apply to motorcycle  
8 or recreational vehicle manufacturers, distributors or dealers.  
9 Section [15] 314. Succession to franchise ownership.

10 (a) Succession of ownership interest.--Notwithstanding the  
11 terms of any franchise, any owner of a new vehicle dealership  
12 may appoint, by will or any other written instrument, a  
13 designated family member, the spouse, child or grandchild,  
14 spouse of a child or grandchild, brother, sister or parent of  
15 the dealer owner, or qualified manager, who has been employed at  
16 the dealership for at least two years, to succeed to the  
17 ownership interest of such owner in the new vehicle dealership.

18 (b) Consent to succession on part of manufacturer or  
19 distributor.--Notwithstanding the terms of any franchise, unless  
20 there exists [good] just cause to withhold consent to succession  
21 on the part of the manufacturer or distributor, any designated  
22 family member or qualified manager of the franchise location in  
23 question of a retiring, deceased or incapacitated owner of a new  
24 vehicle dealership may succeed to the ownership interest of such  
25 owner under the existing franchise, provided:

26 (1) The designated family member or qualified manager  
27 furnishes written notice to the manufacturer or distributor  
28 of his or her intention to succeed to the ownership of the  
29 new vehicle dealership within 60 days after the owner's  
30 retirement, death or incapacity.

1           (2) The designated family member or qualified manager  
2 agrees to be bound by all then existing terms and conditions  
3 of the franchise.

4           (c) Submission of personal and financial information.--The  
5 manufacturer or distributor may request, and the designated  
6 family member or qualified manager shall promptly provide, such  
7 personal and financial information as is reasonably necessary to  
8 determine whether the succession will be honored.

9           (d) Withholding consent to succession.--If a manufacturer or  
10 distributor believes that [good] just cause exists to withhold  
11 consent to the succession to the ownership of a new vehicle  
12 dealership by a designated family member or qualified manager of  
13 a retiring, deceased or incapacitated owner of a new vehicle  
14 dealership under the existing franchise, the manufacturer or  
15 distributor must serve written notice on the designated family  
16 member or qualified manager and on the board of its refusal to  
17 honor the succession and intent to discontinue the existing  
18 franchise with the new vehicle dealer. Such notice shall be  
19 served no later than 60 days after the manufacturer's or  
20 distributor's receipt of:

21           (1) notice of the designated family member's or  
22 qualified manager's intent to succeed to the ownership of the  
23 new vehicle dealer; or

24           (2) any personal or financial information requested by  
25 the manufacturer or distributor.

26           (e) Notice requirements.--The notice in subsection (d) shall  
27 state the specific grounds to withhold consent to honor the  
28 succession and the manufacturer's or distributor's intent to  
29 discontinue the franchise with the new vehicle dealer no sooner  
30 than 60 days after the date the notice is served. The reasons

1 given for the disapproval or any explanation of those reasons by  
2 the manufacturer or distributor shall not subject the  
3 manufacturer or distributor to any civil liabilities unless the  
4 reasons given or explanations made are malicious and published  
5 with the sole intent to cause harm to the dealer or successor.  
6 If the notice of refusal and discontinuance is not timely and  
7 properly served, the franchise shall continue in effect, subject  
8 to termination only as otherwise provided under this [act]  
9 chapter.

10 (f) Protest requirements upon withholding of consent.--  
11 Within 30 days after receipt of such notice or within 30 days  
12 after the end of any appeal procedure provided by the  
13 manufacturer or distributor, whichever is greater, the  
14 designated family member or qualified manager may file with the  
15 board to protest the withholding the consent to honor the  
16 succession. When a protest is filed, the board shall promptly  
17 notify the manufacturer or distributor that a timely protest has  
18 been filed and that such manufacturer or distributor shall not  
19 terminate or discontinue the existing franchise until the board  
20 has held a hearing and issued a written decision within 120 days  
21 of the filing of the protest nor thereafter, unless the board  
22 determines that there is [good] just cause for not permitting  
23 the succession.

24 (g) Conflicts.--This [act] chapter shall not preclude the  
25 owner of a new vehicle dealership from designating any person as  
26 his or her successor by written instrument filed with the  
27 manufacturer or distributor. In the event of any conflict  
28 between such a written instrument which has not been revoked by  
29 written notice from the owner to the manufacturer or  
30 distributor, and this section, the written instrument shall

1 govern.

2 (h) Restriction.--This section shall not apply if the  
3 successor will not agree to comply with an existing agreement  
4 pertaining to transfer of ownership made between the  
5 manufacturer or distributor and the dealer transferor or with a  
6 new agreement containing substantially the same terms.

7 (i) Exception.--This section shall not apply to recreational  
8 vehicle manufacturers, distributors or dealers.

9 Section [16] 315. Manufacturer right of first refusal.

10 A manufacturer or distributor shall be permitted to enact a  
11 right of first refusal to acquire the new vehicle dealer's  
12 assets or ownership in the event of a proposed change of all or  
13 substantially all ownership or transfer of all or substantially  
14 all dealership assets if all of the following requirements are  
15 met:

16 (1) To exercise its right of first refusal, the  
17 manufacturer or distributor must notify the dealer in writing  
18 within the 60-day or 75-day time limitations established  
19 under section [12(b)(5)] 310(b)(5).

20 (2) The exercise of the right of first refusal will  
21 result in the dealer and dealer's owners receiving the same  
22 or greater consideration as they have contracted to receive  
23 in connection with the proposed change of all or  
24 substantially all ownership or transfer of all or  
25 substantially all dealership assets. In that regard, the  
26 following shall apply:

27 (i) The manufacturer or distributor shall have the  
28 right to and shall assume the dealer's lease for, or  
29 acquire the real property on which the franchise is  
30 conducted, on the same terms as those on which the real

1 property or lease was to be sold or transferred to the  
2 proposed new owner in connection with the sale of the  
3 franchise, unless otherwise agreed to by the dealer and  
4 manufacturer or distributor. The manufacturer or  
5 distributor shall have the right to assign the lease or  
6 to convey the real property.

7 (ii) The manufacturer or distributor shall assume  
8 all of the duties, obligations and liabilities contained  
9 in the agreements that were to be assumed by the proposed  
10 new owner and with respect to which the manufacturer or  
11 distributor exercised the right of first refusal,  
12 including the duty to honor all time deadlines in the  
13 underlying agreements, provided that the manufacturer or  
14 distributor has knowledge of such obligations at the time  
15 of the exercise of the right of first refusal. Failure by  
16 an assignee of the manufacturer or distributor to  
17 discharge such obligations shall be deemed a failure by  
18 the manufacturer or distributor under this subsection.

19 (3) The proposed change of all or substantially all  
20 ownership or transfer of all or substantially all dealership  
21 assets does not involve the transfer of assets or the  
22 transfer or issuance of stock by the dealer or one or more  
23 dealer owners to a designated family member or members, the  
24 spouse, child or grandchild, spouse of a child or grandchild,  
25 brother, sister or parent of the dealer owner, of one or more  
26 dealer owners or to a qualified manager or to a partnership  
27 or corporation controlled by such persons.

28 (4) The manufacturer or distributor agrees to pay the  
29 reasonable expenses, including reasonable attorney fees which  
30 do not exceed the usual, customary and reasonable fees



1 charged for similar work done for other clients, incurred by  
2 the proposed new owner and transferee prior to the  
3 manufacturer's or distributor's exercise of its right of  
4 first refusal in negotiating and implementing the contract  
5 for the proposed change of all or substantially all ownership  
6 or transfer of all or substantially all dealership assets.  
7 Notwithstanding the foregoing, no payment of such expenses  
8 and attorney fees shall be required if the dealer has not  
9 submitted or caused to be submitted an accounting of those  
10 expenses within 20 days of the dealer's receipt of the  
11 manufacturer's or distributor's written request for such an  
12 accounting. Such an accounting may be requested by a  
13 manufacturer or distributor before exercising its right of  
14 first refusal.

15 Section [17] 316. Manufacturer or distributor repurchase of  
16 inventory and equipment.

17 (a) Return of property for repurchase.--A new vehicle dealer  
18 shall return property, including, but not limited to, vehicle  
19 inventory, parts, equipment, tools and signs, as permitted under  
20 this section or as set forth in the franchise agreement, to the  
21 manufacturer or distributor within 90 days of the effective date  
22 of any termination or nonrenewal of a franchise or upon a  
23 termination or cessation of a part of a manufacturer's or  
24 distributor's business operations throughout the United States  
25 which is not part of any change in ownership, operation or  
26 control of all or any part of the manufacturer's or  
27 distributor's business under section [14] 313. The manufacturer  
28 or distributor shall supply the new vehicle dealer with  
29 instructions on the method by which the new vehicle dealer must  
30 return the property to the manufacturer or distributor. Within

1 60 days of tender of the property to the manufacturer or  
2 distributor, the manufacturer or distributor, including medium  
3 and heavy-duty truck component and engine manufacturers or  
4 distributors who provide integral parts of vehicles or provide  
5 major components by selling directly to dealers, shall  
6 repurchase from the new vehicle dealer and remit payment to the  
7 new vehicle dealer in accordance with their respective interest  
8 in:

9 (1) Any new, undamaged and unsold vehicle inventory,  
10 whether acquired from the manufacturer or distributor or from  
11 another dealer of the same line-make in the ordinary course  
12 of business within 18 months of the termination date,  
13 provided the vehicle has less than 750 miles registered on  
14 the odometer, not including mileage incurred in delivery from  
15 the manufacturer or in transporting the vehicle between  
16 dealers for sale, at the dealer's net acquisition cost, plus  
17 any cost to the dealer for returning the vehicle inventory to  
18 the manufacturer or distributor. A dealer shall be entitled  
19 to the payment under this paragraph for new and undamaged  
20 motor vehicles having a gross vehicle weight rating of at  
21 least 10,001 pounds of current and two prior model years as  
22 determined on a model-by-model basis within the line-make.

23 (2) All new, unused, undamaged parts listed in the  
24 current price catalog acquired from a manufacturer or  
25 distributor or a source approved or recommended by the  
26 manufacturer or distributor at the dealer price listed in the  
27 current parts catalog, less applicable allowances, plus 5% of  
28 the catalog price of the part for the cost of packing and  
29 returning the parts to the manufacturer or distributor.

30 Reconditioned or core parts shall be valued at their core

1 value, the price listed in the current parts catalog or the  
2 amount paid for expedited return of core parts, whichever is  
3 higher.

4 (3) Any special tools or equipment offered for sale  
5 during the three years preceding termination or nonrenewal  
6 and each trademark or trade name bearing signs which was  
7 recommended or required by the manufacturer or distributor at  
8 fair market value at the time the notice of termination or  
9 nonrenewal is given.

10 In the event the inventory is subject to a security interest,  
11 the manufacturer may make payment jointly to the dealer and the  
12 holder of the security interest.

13 (b) Failure to pay sums due.--A manufacturer or distributor  
14 who fails to pay those sums due the dealer within the prescribed  
15 time or at such time as the dealer proffers good title prior to  
16 the prescribed time for payment is liable to the new vehicle  
17 dealer for:

18 (1) the greater of dealer net acquisition cost, fair  
19 market value or current price of inventory;

20 (2) interest on the amount due, calculated at the rate  
21 applicable to a judgment of court; and

22 (3) reasonable attorney fees and costs.

23 (c) Limited applicability.--This section shall not apply to  
24 manufacturers, distributors or dealers of recreational vehicles  
25 or manufactured housing, nor shall it apply to motorcycle  
26 manufacturers, distributors or dealers except when the  
27 unilateral termination or failure to renew is by the  
28 manufacturer or distributor.

29 Section [18] 317. Reimbursement of rental costs for dealer  
30 facility.

1 (a) Reimbursement of rental costs.--In the event of a  
2 termination or nonrenewal under this [act] chapter, except for  
3 termination or nonrenewal under section [14] 313, the  
4 manufacturer or distributor shall, at the request and option of  
5 the new vehicle dealer, also pay to the new vehicle dealer:

6 (1) a sum equivalent to rent for the unexpired term of  
7 the lease or one year, whichever is less, or such longer term  
8 as provided in the franchise, if the new vehicle dealer is  
9 leasing the new vehicle dealership facilities from a lessor  
10 other than the manufacturer or distributor; or

11 (2) a sum equivalent to the reasonable rental value of  
12 the new vehicle dealership facilities for one year or until  
13 the facilities are leased or sold, whichever is less, if the  
14 new vehicle dealer owns the new vehicle dealership  
15 facilities.

16 (b) Extent of requirement.--The rental payment required  
17 under subsection (a) is only required to the extent that the  
18 facilities were used for activities under the franchise and only  
19 to the extent the facilities were not leased for unrelated  
20 purposes. If payment under subsection (a) is made, the  
21 manufacturer or distributor is entitled to possession and use of  
22 the new vehicle dealership facilities for the period rent is  
23 paid.

24 (c) Exemption.--This section shall not apply to motorcycle  
25 or recreational vehicle manufacturers, distributors or dealers.  
26 Section [19] 318. Grounds for disciplinary proceedings.

27 In addition to any criminal or civil penalties otherwise  
28 provided in this act, the board shall have the power to formally  
29 reprimand, suspend or revoke any license or refuse to issue or  
30 renew any license of an applicant or licensee or a person

1 required to be licensed under this act, if after due notice of  
2 and hearing, the person charged is found in violation of or  
3 fails to carry out the acts and procedures set forth in this act  
4 or is found guilty of committing or attempting to commit any of  
5 the acts set forth in section [23] 322 or any of the following  
6 acts:

7 (1) Having had a license revoked or suspended by the  
8 Commonwealth or another state based on grounds similar to  
9 those which in this Commonwealth allow disciplinary  
10 proceedings, in which case the record of such revocation or  
11 suspension shall be conclusive evidence.

12 (2) Make any substantial misrepresentation of material  
13 facts.

14 (3) Make any false promise of a character likely to  
15 influence, persuade or induce the sale of a vehicle.

16 (4) Being a vehicle dealer or salesperson, having within  
17 five years prior to the application for or issuance of a  
18 license or while his current license is in force pleaded  
19 guilty, entered a plea of nolo contendere or been found  
20 guilty in a court of competent jurisdiction in this or any  
21 other state or Federal jurisdiction of forgery, embezzlement,  
22 obtaining money under false pretenses, extortion, conspiracy  
23 to defraud, bribery, odometer tampering or any other crime  
24 involving moral turpitude.

25 (5) Having failed or refused to account for moneys or  
26 other valuables belonging to others which have come into his  
27 possession arising out of the sale of vehicles.

28 (6) Having engaged in false, deceptive or misleading  
29 advertising of vehicles.

30 (7) Having committed any act or engaged in conduct in

1 connection with the sale of vehicles which clearly  
2 demonstrates unprofessional conduct or incompetency to  
3 operate as a licensee under this act.

4 (8) Having made a material misstatement in application  
5 for licensure.

6 (9) Having set up, promoted or aided in promotion of a  
7 plan by which vehicles are sold to a person for consideration  
8 and upon the further consideration that the purchaser agrees  
9 to secure one or more persons to participate in the plan by  
10 respectively making a similar purchase and in turn agreeing  
11 to secure one or more persons likewise to join in said plan,  
12 each purchaser being given the right to secure money,  
13 credits, goods or something of value, depending upon the  
14 number of persons joining in the plan.

15 (10) Having engaged in the buying, selling, exchanging,  
16 trading or otherwise dealing in vehicles on Sunday in  
17 violation of 18 Pa.C.S. § 7365 (relating to trading in motor  
18 vehicles and trailers).

19 (i) Manufactured housing is permitted to be sold on  
20 Sundays by licensed manufactured housing dealers without  
21 being subject to prosecution under this paragraph.

22 (ii) Licensed motorcycle dealers are permitted to  
23 buy, sell, exchange, trade or otherwise deal in  
24 motorcycles on Sunday without being subject to  
25 prosecution under this paragraph.

26 (11) Being a dealer or broker who advertises or  
27 otherwise holds out to the public that he is selling new  
28 vehicles for which he does not hold a franchise agreement in  
29 writing with a manufacturer or distributor giving the dealer  
30 authority to sell the particular line-make of new vehicles.

1           (12) Being a dealer or broker who sells new vehicles for  
2 which he does not hold a franchise agreement in writing with  
3 a manufacturer or distributor giving the dealer authority to  
4 sell the particular line-make of new vehicles.

5           (13) Failing to take immediate remedial action when the  
6 dealer knows that someone in his direct employ or someone who  
7 renders vehicle-related services to the dealer for  
8 consideration, has unlawfully tampered with the odometer of a  
9 vehicle in his care, custody or control or which has been  
10 sold or exchanged by the dealer. For the purpose of this  
11 paragraph, remedial action shall be defined as at least  
12 reporting the incident in writing to the Pennsylvania State  
13 Police or the board.

14           (14) Engaging in the business for which such licensee is  
15 licensed without at all times maintaining an established  
16 place of business as required.

17           (15) Employing any person as a salesperson who has not  
18 been licensed as required.

19           (16) Having had his vehicle business registration plates  
20 (dealer identification number) suspended or revoked by the  
21 Department of Transportation pursuant to 75 Pa.C.S. § 1374(a)  
22 (relating to suspension or revocation of vehicle business  
23 registration plates). A certified copy of the decision and  
24 order of the Department of Transportation will constitute  
25 conclusive evidence.

26           (17) Being a new car dealer whose franchise agreement  
27 with a manufacturer or distributor, which gives the subject  
28 dealer selling rights for that line-make, has been finally  
29 terminated, but who continues to sell new vehicles. A  
30 recreational vehicle or manufactured housing dealer, whose

1 franchise was terminated or failed to be renewed by either  
2 the manufacturer or the dealer, who owned new vehicles prior  
3 to the termination or nonrenewal and sold them subsequent to  
4 the termination or nonrenewal is exempt from prosecution  
5 under this paragraph. Such dealers shall be authorized to  
6 sell as new all new vehicles that remain on their lot after a  
7 franchise is terminated or failed to be renewed.

8 (18) Willfully failing to display a license.

9 (19) Failing to obey any order of the board entered  
10 pursuant to the act.

11 (20) Permitting or allowing another individual or  
12 organization not licensed by the board to use that  
13 individual's license for the purpose of operating in this  
14 Commonwealth in a capacity for which the individual or  
15 organization should have held a license.

16 (21) Willfully having made any false statement as to a  
17 material matter in any oath or affidavit which is required by  
18 this act.

19 (22) Failing to collect a tax or fee due the  
20 Commonwealth upon a sale of a vehicle as defined in 75  
21 Pa.C.S. § 102 (relating to definitions).

22 (23) Collecting a tax or fee and failing to issue a true  
23 copy of the tax report to the purchaser as required by law.

24 (24) Issuing a false or fraudulent tax report or copy  
25 thereof.

26 (25) Failing to pay over taxes or fees collected for the  
27 Commonwealth at the time and in the manner required by law.

28 (26) Violating any provision of this act.

29 (27) Being an unlicensed salesperson, dealer, vehicle  
30 auction, branch lot, manufacturer or any other person or



1 business where a license is required under this act.

2 (28) Any violation of the regulations promulgated by the  
3 board.

4 (29) Being a wholesale vehicle auction who permits  
5 dealers who are not currently licensed in this Commonwealth  
6 or any other state or jurisdiction or a vehicle business  
7 registered with the Department of Transportation and issued a  
8 Department of Transportation identification number or  
9 licensed or registered by any other state or jurisdiction for  
10 a similar activity who during the time their licenses or  
11 registrations are suspended or revoked by the Commonwealth or  
12 any other state to sell, represent or purchase vehicles at an  
13 auction.

14 (29.1) Being a wholesale vehicle auction who permits a  
15 vehicle business as described under paragraph (29), which is  
16 restricted to certain vehicle buys, sales or exchanges as set  
17 forth in section [5(f)(2)] 303(f)(2), to buy, sell or  
18 exchange vehicles of a type which the vehicle business is not  
19 authorized to engage in.

20 (30) Being a dealer which permits salespersons who are  
21 not currently licensed in this Commonwealth or any other  
22 state or who during the time their licenses are suspended or  
23 revoked by the Commonwealth or any other state to sell,  
24 represent or purchase vehicles at an auction.

25 (31) Being a public or retail vehicle auction who  
26 knowingly and willfully permits any buyer or seller to buy or  
27 sell vehicles which results in engaging in the business as  
28 dealer without a license or permitting any other person to  
29 engage in any activity which would require licensure under  
30 this act.

1           (32) Being a dealer which willfully permits an  
2 individual or salesperson to buy, sell or exchange a vehicle  
3 for his own benefit or profit under the dealer's license.

4           (33) Being a dealer which willfully permits any person  
5 who is not a licensed salesperson or owner of the dealership  
6 to use the dealer's dealer identification number issued by  
7 the Department of Transportation, vehicle dealer's license  
8 number or dealer's vehicle registration plates for the  
9 purpose of buying, selling or exchanging vehicles.

10          (34) Being a dealer which conducts its business under  
11 any name other than the name in which it is registered or at  
12 any other location than that authorized by its license.

13          (35) Being a dealer, agent of a dealer or a salesperson  
14 who buys, sells or exchanges vehicles with a person who is  
15 required to be licensed under this act if the dealer, agent  
16 or salesperson knew or should have known that the person is  
17 not licensed.

18          (36) Accepting an order of purchase or a contract from a  
19 buyer, which offer of purchase or contract is subject to  
20 subsequent acceptance by the seller, if such arrangement  
21 results in the practice of bushing.

22          (37) Failing to produce business records when an  
23 authorized agent of the board reasonably requests the  
24 licensee to produce business records.

25          (38) Being a person whose license under this act or  
26 authority to engage as a dealer or salesperson in any other  
27 state or jurisdiction was suspended or revoked and, while the  
28 license or authority was suspended or revoked, was physically  
29 present at a wholesale vehicle auction or public or retail  
30 vehicle auction during the auctioning of vehicles. A vehicle

1 auction shall not be subject to prosecution for a violation  
2 of a person being physically present under this paragraph.

3 (39) Being an out-of-State recreational vehicle dealer  
4 who, while buying, selling, titling, registering, financing  
5 or exchanging recreational vehicles in this Commonwealth,  
6 violates a Pennsylvania law or regulation or a law or  
7 regulation of the state or jurisdiction of licensure or the  
8 state or jurisdiction of domicile regarding the buying,  
9 selling, titling, registering, financing or exchanging of  
10 recreational vehicles.

11 (40) Being an out-of-State recreational vehicle dealer  
12 who fails to demonstrate, upon direction of or investigation  
13 by the board or its agents, that the out-of-State  
14 recreational vehicle dealer satisfies the provisions of  
15 section 32.1(c) regarding participation in this Commonwealth  
16 in a recreational vehicle show, recreational vehicle off-  
17 premise sale, recreational vehicle exhibition or recreational  
18 vehicle rally.

19 Section [20] 319. Administrative liability of employer,  
20 copartnership, association or corporation.

21 In the event of the revocation of the license issued to any  
22 member of a partnership or to any officer of an association or  
23 corporation, the license issued to a partnership, association or  
24 corporation shall be revoked by the board unless, within a time  
25 fixed by the board, in the case of a partnership, the connection  
26 of the member whose license has been revoked shall be severed  
27 and his interest in the partnership and his share in its  
28 activities brought to an end, or in the case of an association  
29 or corporation, the offending officer shall be discharged and  
30 shall have no further participation in its activities.

1 Section [21] 320. Reinstatement.

2 (a) Suspension.--Upon application in writing and after a  
3 hearing pursuant to notice, the board may reissue or modify the  
4 suspension of any license which has been suspended.

5 (b) Revocation.--Unless ordered to do so by a court, the  
6 board shall not reinstate the license of a person that has been  
7 revoked and such person shall be required to apply for a license  
8 after a period of five years in accordance with section [22] 321  
9 if he desires to resume operating as a licensee at any time  
10 after such revocation.

11 Section [22] 321. Application for license.

12 (a) Dealer's or vehicle auction's license.--Application for  
13 license as a dealer or vehicle auction shall be made in writing  
14 to the board, signed by the applicant, setting forth the  
15 following:

16 (1) Name of applicant and location of principal place of  
17 business to which the license will be issued.

18 (2) Name or style under which business is to be  
19 conducted and, if a corporation, the state of incorporation.

20 (3) Name and address of each owner or partner and, if a  
21 corporation, the names of principal officers and directors.

22 (4) Locations in which the business is to be conducted  
23 if the dealer has more than one place of business.

24 (5) If new vehicles are to be sold, the line-make or  
25 line-makes to be handled.

26 (6) A statement of the previous history, record and  
27 association of the applicant and of each owner, partner,  
28 officer and director, which statement shall be sufficient to  
29 establish to the satisfaction of the board the reputation in  
30 business of the applicant.

1           (7) A statement showing whether the applicant has  
2 previously applied for a license and the result of such  
3 application and whether the applicant has ever been the  
4 holder of either a dealer, vehicle auction or salesperson  
5 license which was revoked or suspended.

6           (8) If the applicant is a corporation or partnership, a  
7 statement showing whether any of the partners, employees,  
8 officers or directors have been refused a dealer's, vehicle  
9 auction's or salesperson's license or have been the holder of  
10 such a license which was revoked or suspended.

11           (9) A statement by the applicant that he has met all  
12 facility requirements as noted herein and as required by  
13 regulation.

14           (b) Salesperson's license.--Application for license as a  
15 salesperson shall be made in writing to the board, signed by the  
16 applicant, setting forth the following:

17           (1) The applicant's name and address.

18           (2) The period of time, if any, during which he has been  
19 engaged in the occupation of salesperson.

20           (3) The name and address of his last employer.

21           (4) The name and address of the dealer then employing  
22 him or into whose employ he is about to enter. If the  
23 applicant is to be licensed for a dealer who is licensed in  
24 more than one category or at more than one location and the  
25 applicant desires to sell for each of the dealer's licensed  
26 entities, the name and address of the primary location and of  
27 each other entity shall be supplied.

28           (5) The recommendation of his employer or prospective  
29 employer certifying that the applicant is honest, trustworthy  
30 and of good repute and recommending that a license be

1 granted. In the case of an applicant who is himself a dealer,  
2 an officer of a corporation which is a dealer or a member of  
3 a partnership which is a dealer, the foregoing recommendation  
4 shall be made by another dealer, bank or sales finance  
5 company which has personal knowledge concerning the  
6 reputation and fitness of the applicant.

7 (6) A statement showing whether the applicant has  
8 previously applied for a license and the result of such  
9 application and whether the applicant has ever been the  
10 holder of a salesperson's license which was revoked or  
11 suspended or the subject of disciplinary action by this board  
12 or that of any other jurisdiction.

13 (7) The application shall be made upon a form prepared  
14 by the board containing such other reasonable information as  
15 the board shall require.

16 (c) Application for license other than as a dealer, vehicle  
17 auction or salesperson.--Application for license other than as a  
18 dealer, vehicle auction or salesperson shall be made in writing  
19 to the board accompanied by the required fee. The board may  
20 require, in such application or otherwise, information relating  
21 to the applicant's background and his financial standing, all of  
22 which may be considered by the board in determining the fitness  
23 of said applicant to engage in the business for which he desires  
24 to be licensed.

25 (d) Manufacturer's or distributor's license.--Application  
26 for license as a manufacturer or distributor shall be made in  
27 writing to the board, signed by the applicant, setting forth or  
28 attaching the following:

29 (1) Name of applicant and location of principal place of  
30 business for the license which is the subject of the

1 application and the location of any other place of business  
2 within this Commonwealth.

3 (2) Name or style under which business is to be  
4 conducted and, if a corporation, the state of incorporation.

5 (3) The line-make or line-makes of new vehicles which  
6 are to be manufactured or distributed.

7 (4) A statement showing whether the applicant has  
8 previously applied for a license and the result of such  
9 application.

10 (e) Change of ownership.--A dealer or vehicle auction shall  
11 supply the board with information regarding any change in named  
12 owners. The information shall include a statement of the  
13 previous history, record and reputation in the business of the  
14 new owner. Where the same business name and address is to be  
15 retained, any change in owners shall only require the licensee  
16 to inform the board of the change in owners but shall not  
17 require the licensee to submit to the entire license application  
18 process as set forth by this act or corresponding regulations.

19 Section [23] 322. Refusal of license.

20 The board may refuse to issue a license if the applicant has  
21 committed any of the acts set forth as grounds for the  
22 suspension or revocation of a license or the board finds that  
23 the applicant continued to engage in an activity in violation of  
24 this act during the suspension or revocation period. The board  
25 may also refuse to issue a license when it determines:

26 (1) That the applicant was previously the holder of a  
27 license issued under this act, which license was revoked for  
28 cause or which license was suspended for cause and the terms  
29 of the suspension have not been fulfilled.

30 (2) That the applicant was previously a limited or

1 general partner, stockholder, director or officer of a  
2 partnership or corporation whose license issued under the  
3 authority of this act was revoked for cause and never  
4 reissued or was suspended for cause and the terms of  
5 suspension have not been fulfilled.

6 (3) If the applicant is a partnership or corporation,  
7 that one or more of the limited or general partners,  
8 stockholders, directors or officers of the partnership or  
9 corporation was previously the holder of a license issued  
10 under the authority of this act which was revoked for cause  
11 or was suspended for cause and the terms of the suspension  
12 have not been fulfilled, or that by reason of the facts and  
13 circumstances touching the organization, control and  
14 management of the partnership or corporation business, the  
15 policy of such business will be directed, controlled or  
16 managed by individuals who, by reason of their conviction of  
17 violations of the provisions of this act, would be ineligible  
18 for a license and that by licensing such corporation or  
19 partnership, the purposes of this act would likely be  
20 defeated.

21 (4) That the applicant is a vehicle dealer, vehicle  
22 auction or salesperson who, having within five years prior to  
23 the application for or issuance of a license or while a  
24 current license is in force, pleaded guilty, entered a plea  
25 of nolo contendere or has been found guilty in a court of  
26 competent jurisdiction in Federal or in this or any other  
27 state jurisdiction of forgery, embezzlement, obtaining money  
28 under false pretenses, extortion, conspiracy to defraud,  
29 bribery, odometer tampering or any other crime involving  
30 moral turpitude.



1 Section [24] 323. Change of salesperson's license to indicate  
2 new employer.

3 Whenever a licensed salesperson desires to change his  
4 employment from one licensed dealer to another, he shall notify  
5 the board in writing using the appropriate form, which is  
6 completed in its entirety and is accurate, no later than ten  
7 days after the date of change, pay the required fee and return  
8 the current license if not previously returned. The board shall  
9 issue a new license upon receipt of a complete and accurate  
10 salesperson's transfer application. In the interim at such time  
11 as the change in affiliation of the salesperson occurs, he shall  
12 maintain a copy of the notification sent to the board as his  
13 temporary license pending receipt of his new current license.  
14 This temporary transfer license shall expire at the end of 45  
15 days from the date on the transfer application. It shall be the  
16 duty of the applicant to notify the board if a new license or  
17 other pertinent communication is not received from the board  
18 within 30 days of the submission of the transfer application.  
19 The new license shall be issued for the remainder of the period  
20 covered by the previous license. The fee for the issuance of  
21 such changed license shall be determined by regulation.

22 Section [25] 324. Termination of employment or business.

23 (a) Salesperson's license to be surrendered after  
24 termination of employment.--Within ten days after termination of  
25 employment, the dealer shall surrender that salesperson's  
26 license to the board. If the license is not in the dealer's  
27 possession, then it will be the responsibility of the  
28 salesperson to return the license to the board.

29 (b) Dealer's, branch lot or vehicle auction license to be  
30 surrendered after termination of business.--Within ten days

1 after termination of business activities, the dealer, branch lot  
2 or vehicle auction shall surrender to the board all of its  
3 licenses and its salespersons' licenses issued by the board.  
4 Section [26] 325. Exemption from licensure and registration.

5 This act shall not be construed to require licensure and  
6 registration in the following cases:

7 (1) Public officers in the conduct of sales of vehicles  
8 in the performance of their official duties.

9 (2) Sales finance companies and banks licensed under the  
10 provisions of the act of June 28, 1947 (P.L.1110, No.476),  
11 known as the Motor Vehicle Sales Finance Act, in the conduct  
12 of sales of vehicles which have been repossessed by them.

13 (3) The sale, exchange or purchase by a person in one  
14 calendar year of fewer than five vehicles, except  
15 manufactured housing or mobile homes, on which sales tax has  
16 been paid at the purchase of the vehicle by that person.  
17 Where such a vehicle is authorized under Article II of the  
18 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
19 Code of 1971, to be transferred from the person who paid the  
20 sales tax to another without being subject to sales tax, such  
21 as, but not limited to, wife and husband transfers or  
22 disbursements from an estate to a beneficiary, the recipient  
23 of the vehicle shall be permitted to sell such vehicle  
24 without paying sales tax prior to his sale of the vehicle.

25 (4) The sale, exchange or purchase of fewer than five  
26 manufactured housing or mobile homes by a person in one  
27 calendar year.

28 Section [27] 326. Limitations on establishing or relocating  
29 dealers.

30 (a) Additional or relocation of new vehicle dealers.--

1           (1) In the event that a manufacturer seeks to enter into  
2 a franchise establishing an additional new vehicle dealer or  
3 relocating an existing new vehicle dealer within or into a  
4 relevant market area where the same line-make is then  
5 represented, the manufacturer shall in writing first notify  
6 the board and each new vehicle dealer in such line-make in  
7 the relevant market area of the intention to establish an  
8 additional dealer or to relocate an existing dealer within or  
9 into that market area. Within 20 days after the end of any  
10 appeal procedure provided by the manufacturer, any such new  
11 vehicle dealer may file with the board a protest to the  
12 establishing or relocating of the new vehicle dealer. When  
13 such a protest is filed, the board shall inform the  
14 manufacturer that a timely protest has been filed, and that  
15 the manufacturer shall not establish the proposed new vehicle  
16 dealer or relocate the new vehicle dealer until the board has  
17 held a hearing, nor thereafter, if the board has determined  
18 that there is [good] just cause for not permitting the  
19 addition or relocation of such new vehicle dealer.

20           (2) The notice required by this subsection shall include  
21 the following information:

22           (i) The location of the proposed additional or  
23 relocating new vehicle dealer.

24           (ii) An explanation of the appeal procedure provided  
25 by the manufacturer or distributor, if any, to the  
26 establishment of the proposed additional new vehicle  
27 dealer or relocation of the new vehicle dealer.

28           (iii) An explanation of the existing new vehicle  
29 dealer's rights to file a protest with the board to the  
30 establishment of the proposed new vehicle dealer or the

1 relocation of the new vehicle dealer.

2 (3) Under this subsection, relocating an existing new  
3 vehicle dealer shall include any instance where an existing  
4 dealer sells or otherwise transfers all or substantially all  
5 of its business to a new owner and the new owner, who has  
6 been approved by the manufacturer or distributor to enter  
7 into a franchise agreement, seeks to relocate the ongoing,  
8 operating dealership franchise from its current licensed  
9 address to a site within the relevant market area of the  
10 existing dealer which is not within five miles of another  
11 licensed new vehicle dealer for the same line-make of vehicle  
12 as set forth in subsection (b) (1).

13 (4) (i) Where an automobile, motorcycle or truck  
14 manufacturer or distributor seeks to enter into an  
15 agreement or franchise establishing an additional vehicle  
16 warranty service facility or seeks to relocate an  
17 existing vehicle warranty service facility within or into  
18 a radius of five miles surrounding where an existing new  
19 vehicle dealer vehicle warranty service facility of the  
20 same line-make is then represented, except in cases  
21 involving a franchised new medium or heavy-duty truck  
22 dealer, in which case the affected radius shall be the  
23 relevant market area or the area of responsibility as  
24 defined in the dealer's franchise, whichever is greater,  
25 the automobile, motorcycle or truck manufacturer shall in  
26 writing first notify the board and each affected new  
27 vehicle dealer vehicle warranty service facility of such  
28 line-make of the intention to establish an additional  
29 vehicle warranty service facility or to relocate an  
30 existing vehicle warranty service facility within or into

1 the affected market areas.

2 (ii) The notice required by subparagraph (i) shall  
3 include the following information:

4 (A) The location of the proposed additional or  
5 relocating vehicle warranty service facility.

6 (B) An explanation of the appeal procedure  
7 provided by the automobile, motorcycle or truck  
8 manufacturer or distributor, if any, to the  
9 establishment of the proposed additional vehicle  
10 warranty service facility or relocation of the  
11 vehicle warranty service facility.

12 (C) An explanation of the existing new vehicle  
13 dealer's or vehicle warranty service facility's  
14 rights to file a protest with the board to the  
15 establishment of the proposed vehicle warranty  
16 service facility or the relocation of the vehicle  
17 warranty service facility.

18 (iii) Within 20 days after the end of any appeal  
19 procedure provided by the automobile, motorcycle or truck  
20 manufacturer, any such new vehicle warranty dealer  
21 vehicle service facility may file with the board a  
22 protest to the establishment or relocation of the vehicle  
23 warranty service facility.

24 (iv) When such a protest is filed, the board shall  
25 inform the automobile, motorcycle or truck manufacturer  
26 that a timely protest has been filed and that the  
27 automobile, motorcycle or truck manufacturer shall not  
28 establish the proposed vehicle warranty service facility  
29 or relocate the vehicle warranty service facility until  
30 the board has held a hearing nor thereafter if the board

1 has determined that there is [good] just cause for not  
2 permitting the addition or relocation of such vehicle  
3 warranty service facility.

4 (v) In determining whether [good] just cause exists  
5 to allow for the establishment or relocation of a vehicle  
6 warranty service facility, the board shall consider the  
7 same type of circumstances as established in subsection  
8 (c).

9 (b) Nonapplicability of section.--This section does not  
10 apply:

11 (1) To the relocation of an existing dealer within that  
12 dealer's relevant market area, provided that the relocation  
13 not be at a site within five miles of a licensed new vehicle  
14 dealer for the same line-make of vehicles.

15 (2) If the proposed new vehicle dealer is to be  
16 established at or within two miles of a location at which a  
17 former licensed new vehicle dealer for the same line-make of  
18 new vehicle had ceased operating within the previous two  
19 years. For purposes of this section, a former vehicle dealer  
20 shall have ceased operations on the date on which the  
21 franchise or agreement shall have been finally terminated.

22 (3) To the relocation of an existing dealer to a site  
23 that is further away from the nearest dealer of the same  
24 line-make.

25 (4) To manufactured housing or recreational vehicle  
26 dealers.

27 (c) Board to consider existing circumstances.--In  
28 determining whether [good] just cause has been established for  
29 not entering into or relocating an additional new vehicle dealer  
30 for the same line-make, the board shall take into consideration

1 the existing circumstances, including, but not limited to:

2 (1) Permanency of the investment of both the existing  
3 and proposed new vehicle dealers.

4 (2) Growth or decline in population and new vehicle  
5 registrations in the relevant market area.

6 (3) Effect on the consuming public in the relevant  
7 market area.

8 (4) Whether it is injurious or beneficial to the public  
9 welfare for an additional new vehicle dealer to be  
10 established.

11 (5) Whether the new vehicle dealers of the same line-  
12 make in that relevant market area are providing adequate  
13 competition and convenient customer care for the vehicles of  
14 the line-make in the market area which shall include the  
15 adequacy of vehicle sales and service facilities, equipment,  
16 supply of vehicle parts and qualified service personnel.

17 (6) Whether the establishment of an additional new  
18 vehicle dealer would increase competition and whether such  
19 increased competition would be in the public interest.

20 (7) The effect the denial of relocation will have on a  
21 relocating dealer.

22 Section [27.1] 327. Licensing cost.

23 (a) Licensing cost.--Subject to the limitations established  
24 under subsection (c), a licensed dealer who has a contract with  
25 the Department of Transportation pursuant to 75 Pa.C.S. § 7501  
26 (relating to authorization of messenger and agent services) may  
27 charge the purchaser of a vehicle a licensing cost permissible  
28 under 75 Pa.C.S. Ch. 19 (relating to fees) and the act of  
29 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade  
30 Practices and Consumer Protection Law, and regulations

1 promulgated thereunder, to include any of the following:

2 (1) The actual cost incurred by the dealer for fees  
3 associated with titling and registering the vehicle,  
4 including messenger fees, notary fees and electronic  
5 transaction fees.

6 (2) A documentary preparation charge for:

7 (i) Preparation and completion of documents required  
8 to register and license the vehicle under 75 Pa.C.S.  
9 (relating to vehicles).

10 (ii) Collection and submission of taxes payable by  
11 the purchaser.

12 (iii) Preparation of any other information  
13 associated with titling and registration of a vehicle.

14 (b) Out-of-State title.--The provisions of subsection (a)  
15 shall apply whether or not the purchaser intends to title and  
16 register the vehicle outside this Commonwealth.

17 (c) Limitations.--The following limitations shall apply:

18 (1) A dealer which provides electronic transaction  
19 services for documents under subsection (a)(2) may impose a  
20 maximum charge of \$100 for calendar year 2008 and a maximum  
21 charge of \$120 for calendar year 2009.

22 (2) A dealer which does not provide electronic  
23 transaction services for document preparation under  
24 subsection (a)(2) may impose a maximum charge of \$80 for  
25 calendar year 2008 and a maximum charge of \$100 for calendar  
26 year 2009.

27 (d) Adjustment.--Beginning in January 2010, and annually  
28 thereafter, the licensing cost for documentary preparation shall  
29 be adjusted in accordance with the Federal Consumer Price Index  
30 for All Urban Consumers (CPI-U) for all items as published by



1 the United States Department of Labor, Bureau of Labor  
2 Statistics, for the previous 12-month period on a cumulative  
3 basis. Any adjustment which is less than 50¢ shall be rounded  
4 down to the next lowest dollar amount and any adjustment which  
5 is 50¢ or greater shall be rounded up to the next highest dollar  
6 amount.

7 (e) Fees.--Licensing costs under this section shall not be  
8 considered fees for purposes of section [30 or 31] 330 or 331.  
9 Section [28] 328. Penalties.

10 (a) Criminal penalties for violation of this act.--Whoever  
11 shall give any false or forged evidence of any kind to the board  
12 or to any member in order to obtain a license, or shall refuse  
13 upon request to furnish business records, documents and files  
14 relating to practice under this act, or shall otherwise violate  
15 the provisions of this act shall be guilty of a summary offense  
16 and, upon conviction, shall be ordered to pay a fine of \$1,000.  
17 A licensee shall be subject to criminal prosecution under this  
18 subsection for violation of any provision of this act.

19 (b) Criminal penalties for unlicensed activity.--Whoever  
20 engages in the business of vehicle dealer, manufacturer, factory  
21 branch, distributor, distributor branch, auction or broker or  
22 engages in the occupation of vehicle salesperson or factory or  
23 distributor representative without being licensed and registered  
24 as required or exempted from licensure as provided, or shall  
25 present or attempt to use as his own the license of another,  
26 shall be guilty of a summary offense and, upon conviction, shall  
27 be sentenced to pay a fine of \$1,000 or any higher amount equal  
28 to double the pecuniary gain derived from the offense. For the  
29 purpose of this act the sale of each vehicle in violation of  
30 this act constitutes a separate offense.

1 (c) Additional remedy.--In addition to any other civil  
2 remedy or criminal penalty provided for in this act, the board  
3 by a vote of the majority of the authorized membership of the  
4 board as provided by law, or by a vote of the majority of the  
5 duly qualified and confirmed membership, may levy a civil  
6 penalty of up to \$1,000 on any current licensee who violates any  
7 provision of this act or on any person who engages in an  
8 activity required to be licensed by this act. The board shall  
9 levy this penalty only after affording the accused party the  
10 opportunity for a hearing as provided in 2 Pa.C.S. (relating to  
11 administrative law and procedure).

12 Section [29] 329. Civil actions for violations.

13 Notwithstanding the terms, provisions or conditions of any  
14 agreement or franchise or other terms or provisions of any  
15 novation, waiver or other written instrument, any person who is  
16 or may be injured by a violation of a provision of this act of  
17 any party to a franchise who is so injured in his business or  
18 property by a violation of a provision of this act relating to  
19 that franchise, or any person so injured because he refuses to  
20 accede to a proposal for an arrangement which, if consummated,  
21 would be in violation of this act, may bring an action for  
22 damages and equitable relief, including injunctive relief, in  
23 any court of competent jurisdiction.

24 Section [30] 330. Fees.

25 (a) General rule.--All fees required under the provisions of  
26 this act shall be fixed by the board by regulation and shall be  
27 subject to review in accordance with the act of June 25, 1982  
28 (P.L.633, No.181), known as the Regulatory Review Act. If the  
29 revenues generated by fees, fines and civil penalties imposed in  
30 accordance with the provisions of this act are not sufficient to

1 match expenditures over a two-year period, the board shall  
2 increase those fees by regulation, subject to review in  
3 accordance with the Regulatory Review Act, such that the  
4 projected revenues will meet or exceed projected expenditures.

5 (b) Increases by bureau.--If the Bureau of Professional and  
6 Occupational Affairs determines that the fees established by the  
7 board are inadequate to meet the minimum enforcement efforts  
8 required, then the bureau, after consultation with the board,  
9 shall increase the fees by regulation, subject to review in  
10 accordance with the Regulatory Review Act, such that adequate  
11 revenues are raised to meet the required enforcement effort.

12 (c) Existing fees.--All fees fixed pursuant to section 211  
13 of the act of July 1, 1978 (P.L.700, No.124), known as the  
14 Bureau of Professional and Occupational Affairs Fee Act, shall  
15 continue in full force and effect until changed by the board  
16 pursuant to subsection (a).

17 Section [31] 331. Disposition of fees and fines.

18 All civil fines and fees and all criminal fines shall be paid  
19 into the Special Augmentation Fund established by section 301 of  
20 the act of July 1, 1978 (P.L.700, No.124), known as the Bureau  
21 of Professional and Occupational Affairs Fee Act.

22 Section [32] 332. Vehicle shows, off-premise sales and  
23 exhibitions.

24 (a) Participation.--Any licensed dealer, distributor or  
25 manufacturer may participate in public vehicle shows, off-  
26 premise sales and exhibitions, provided that a dealer shall  
27 participate only in shows, off-premise sales and exhibitions  
28 held within the dealer's relevant market area. A dealer shall be  
29 permitted to conduct a vehicle show or exhibition at its  
30 established place of business.

1 (b) Application of section.--The provisions of this section  
2 relating to "relevant market area" shall not apply to vehicle  
3 shows held as part of, and in conjunction with, the following:

4 (1) An event operated to benefit a charitable  
5 organization or group of organizations approved under section  
6 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3,  
7 26 U.S.C. § 501(c)(3)).

8 (2) A community or agricultural fair which receives  
9 funds from the Pennsylvania Fair Fund.

10 (3) An event pertaining to shows of recreational  
11 vehicles, manufactured housing or mobile homes.

12 (c) Out-of-State new vehicle dealers.--A new vehicle dealer,  
13 except a recreational vehicle dealer, licensed in another state  
14 or jurisdiction may participate with permission of its licensed  
15 manufacturer in industrywide public vehicle shows and  
16 exhibitions in which a total of 50 or more new vehicle dealers  
17 participate as exhibitors. Furthermore, the limitations relating  
18 to relevant market area contained in subsection (a) shall not be  
19 applicable to industrywide public vehicle shows and exhibitions  
20 in which, when open to the public, a total of 50 or more new  
21 vehicle dealers participate as exhibitors.

22 (e) Emergency vehicles.--Licensed manufacturers of  
23 firefighting or emergency service vehicles shall be authorized  
24 to buy, sell or exchange such vehicles to governmental agencies  
25 or emergency service providers at vehicle shows, off-premise  
26 sales and exhibitions without possessing a dealer's license.

27 (f) Applicability.--This section shall not apply to  
28 recreational vehicle dealers.

29 Section [32.1] 332.1. Recreational vehicle shows, recreational  
30 vehicle off-premise sales, recreational vehicle

1           exhibitions and recreational vehicle rallies.

2       (a) Participation.--A recreational vehicle dealer,  
3 salesperson, distributor, manufacturer or manufacturer's  
4 representative licensed under this act may participate in a  
5 recreational vehicle show, recreational vehicle off-premise  
6 sale, recreational vehicle exhibition or recreational vehicle  
7 rally. A recreational vehicle dealer shall be permitted to  
8 conduct a recreational vehicle show, recreational vehicle  
9 exhibition or recreational vehicle rally at its established  
10 place of business.

11       (b) Bond required.--Any person acting as a recreational  
12 vehicle dealer in this Commonwealth shall have posted a bond  
13 payable to the Commonwealth in the amount of \$30,000 to ensure  
14 compliance with all Commonwealth laws and regulations. The bond  
15 shall be executed by a surety company authorized to transact  
16 business in this Commonwealth. The bond shall be security for  
17 any claim filed by an agency of the Commonwealth, for moneys  
18 due, including unpaid taxes, fees, licenses, payment of a  
19 criminal penalty or fine after conviction or payment of a civil  
20 penalty or monetary amount after the entry of judgment. The bond  
21 shall remain valid until canceled in writing by the issuer. This  
22 provision shall not limit the authority of any government agency  
23 or private individual to institute civil, criminal or  
24 disciplinary action against a person for a violation of a  
25 Commonwealth law or regulation. A recreational vehicle dealer  
26 who has a current bond in the amount of at least \$30,000 on file  
27 with the Department of Transportation shall not be required to  
28 post a bond under this subsection.

29       (c) Out-of-State recreational vehicle dealers.--An out-of-  
30 State recreational vehicle dealer licensed in another state or

1 jurisdiction or domiciled in another state or jurisdiction that  
2 does not require licensure shall register with the board on a  
3 form prescribed by the board before participating in this  
4 Commonwealth in a recreational vehicle show, recreational  
5 vehicle off-premise sale, recreational vehicle exhibition or  
6 recreational vehicle rally. The following apply:

7 (1) Registration shall include all of the following:

8 (i) Notification of the out-of-State recreational  
9 vehicle dealer's intent to participate in this  
10 Commonwealth in a recreational vehicle show, recreational  
11 vehicle off-premise sale, recreational vehicle exhibition  
12 or recreational vehicle rally.

13 (ii) Agreement to comply with all Federal and State  
14 laws and regulations relating to the buying, selling,  
15 exchanging, titling, registration or financing of  
16 recreational vehicles.

17 (iii) Agreement by the out-of-State recreational  
18 vehicle dealer to submit to the jurisdiction of the  
19 Commonwealth for purposes of disciplinary action of  
20 imposition of a civil or criminal penalty or assessment  
21 under subsection (b) resulting from a violation under  
22 subparagraph (ii).

23 (iv) Evidence of the posting of a bond under  
24 subsection (b).

25 (v) Payment of a participation fee.

26 (vi) A list of all individuals engaged as sales  
27 people for the out-of-State recreational vehicle dealer  
28 while operating in this Commonwealth.

29 (2) If the board has taken action within the last five  
30 years to sanction an out-of-State recreational vehicle

1 dealer, the board may:

2 (i) refuse to accept the registration and  
3 participation fee of the out-of-State recreational  
4 vehicle dealer permanently or for a fixed period; and

5 (ii) order that the out-of-State recreational  
6 vehicle dealer be denied access to all recreational  
7 vehicle shows, recreational vehicle off-premise sales,  
8 recreational vehicle exhibitions and recreational vehicle  
9 rallies in this Commonwealth.

10 (3) An out-of-State recreational vehicle dealer licensed  
11 in another state or jurisdiction or domiciled in a state or  
12 jurisdiction that does not require licensure may participate  
13 in this Commonwealth in a recreational vehicle show,  
14 recreational vehicle off-premise sale, recreational vehicle  
15 exhibition or recreational vehicle rally under the  
16 circumstances set forth either in subparagraph (i) or (ii):

17 (i) When the show, sale, exhibition or rally has  
18 less than a total of 50 recreational vehicle dealers  
19 participating with permission of the dealer's licensed  
20 manufacturer and meets all of the following requirements:

21 (A) A minimum of ten recreational vehicle  
22 dealers at the show are licensed in this  
23 Commonwealth.

24 (B) More than 50% of the participating  
25 recreational vehicle dealers are licensed in this  
26 Commonwealth.

27 (C) The state in which the out-of-State  
28 recreational vehicle dealer is licensed is contiguous  
29 to this Commonwealth and permits recreational vehicle  
30 dealers licensed in this Commonwealth to participate

1 in recreational vehicle shows in that state under  
2 conditions substantially equivalent to the conditions  
3 imposed upon dealers from that state to participate  
4 in recreational vehicle shows in this Commonwealth.

5 (ii) When the recreational vehicle show, sale,  
6 exhibition or rally opens to the public, it has a total  
7 of at least 50 recreational vehicle dealers from this  
8 Commonwealth and from another state participating with  
9 permission of the dealer's licensed manufacturer and  
10 meets all of the following requirements:

11 (A) The show, sale, exhibition or rally is trade  
12 oriented and predominantly funded by recreational  
13 vehicle manufacturers.

14 (B) All of the participating dealers who are not  
15 licensed in this Commonwealth are from a state  
16 contiguous to this Commonwealth which permits  
17 recreational vehicle dealers licensed in this  
18 Commonwealth to participate in recreational vehicle  
19 shows in that state under conditions substantially  
20 equivalent to the conditions imposed upon dealers  
21 from that state to participate in recreational  
22 vehicle shows in this Commonwealth.

23 (4) The board shall report a violation of Pennsylvania  
24 law or regulation to the state or jurisdiction in which the  
25 out-of-State recreational vehicle dealer is licensed or  
26 domiciled.

27 (5) Forms for out-of-State recreational vehicle dealers  
28 shall be published in the Pennsylvania Bulletin and shall be  
29 maintained on the board's Internet website.

30 (6) The board may accept registration information and



1 payment electronically.

2 (7) An out-of-State recreational vehicle dealer may not  
3 participate in a recreational vehicle show, recreational  
4 vehicle off-premise sale, recreational vehicle exhibition or  
5 recreational vehicle rally in this Commonwealth, unless the  
6 out-of-State recreational vehicle dealer satisfies at least  
7 four of the listed activities at its facility in the  
8 contiguous state in which it is licensed or domiciled that  
9 does not require licensure:

10 (i) Accepting delivery of new recreational vehicles  
11 from the recreational vehicle dealer's manufacturer for  
12 which the recreational vehicle dealer possesses an  
13 agreement with the manufacturer to sell its new  
14 recreational vehicles.

15 (ii) Maintaining inventory and offering recreational  
16 vehicles for sale to the public.

17 (iii) Consummating and finalizing recreational  
18 vehicle sales.

19 (iv) Servicing or repairing recreational vehicles.

20 (v) Delivering recreational vehicles to purchasers  
21 with recreational vehicle titling, registrations issued  
22 and taxes collected and paid to the dealer's appropriate  
23 home state agencies.

24 Section 8. (Reserved).

25 Section 9. Section 33 of the act is renumbered and amended  
26 to read:

27 Section [33] 333. Off-premise sales, shows, exhibitions or  
28 rallies on Sundays.

29 (1) The following shall be permitted to be open on  
30 Sundays:

1 (i) Off-premise vehicle sales, shows and  
2 exhibitions.

3 (ii) recreational vehicle shows, recreational  
4 vehicle off-premise sales, recreational vehicle  
5 exhibitions and recreational vehicle rallies.

6 (2) Except as provided in paragraphs (3) and (4), normal  
7 vehicle business practices shall be allowed at off-premise  
8 sales, vehicle shows or exhibitions on Sunday except that no  
9 final sales contract may be consummated on a Sunday.

10 (3) Normal vehicle business practices shall be allowed  
11 at recreational vehicle shows, recreational vehicle off-  
12 premise sales, recreational vehicle exhibitions and  
13 recreational vehicle rallies. Recreational vehicle dealers  
14 are permitted to consummate final sales contracts on Sundays.

15 (4) Manufactured housing dealers are permitted to  
16 consummate final sales contracts on Sundays.

17 Section 10. The act is amended by adding a chapter to read:

18 CHAPTER 5

19 RECREATIONAL VEHICLES

20 Section 501. Legislative intent.

21 It is the intent of the General Assembly to protect the  
22 public health, safety and welfare of the residents of this  
23 Commonwealth by regulating the relationship between recreational  
24 vehicle dealers, manufacturers and suppliers, maintaining  
25 competition and providing consumer protection and fair trade.

26 Section 502. Definitions.

27 The following words and phrases when used in this chapter  
28 shall have the meanings given to them in this section unless the  
29 context clearly indicates otherwise:

30 "Area of sales responsibility." The geographical area,

1 agreed to by the dealer and the manufacturer in the  
2 manufacturer/dealer agreement, within which the dealer has the  
3 exclusive right to display and sell the manufacturer's new  
4 recreational vehicles of a particular line-make to the retail  
5 public.

6 "Dealer." A person, firm, corporation or business entity  
7 licensed or required to be licensed under Chapter 3.

8 "Distributor." A person, firm, corporation or business  
9 entity that purchases new recreational vehicles for resale to  
10 dealers.

11 "Factory campaign." An effort on the part of a warrantor to  
12 contact a recreational vehicle owner or dealer in order to  
13 address a part or equipment issue.

14 "Family member." A spouse, child, grandchild, parent,  
15 sibling, niece or nephew or the spouse of a child, grandchild,  
16 sibling, niece or nephew.

17 "Line-make." A specific series of recreational vehicles  
18 that:

19 (1) Are identified by a common series trade name or  
20 trademark.

21 (2) Are targeted to a particular market segment, as  
22 determined by the recreational vehicle's decor, features,  
23 equipment, size, weight and price range.

24 (3) Have lengths and interior floor plans that  
25 distinguish the recreational vehicles from other recreational  
26 vehicles with substantially the same decor, equipment,  
27 features, price and weight.

28 (4) Belong to a single, distinct classification of  
29 recreational vehicle product type having a substantial degree  
30 of commonality in the construction of the chassis, frame and

1 body.

2 (5) The manufacturer/dealer agreement authorizes a  
3 dealer to sell.

4 "Manufacturer." A person, firm, corporation or business  
5 entity that engages in the manufacturing of recreational  
6 vehicles.

7 "Manufacturer/dealer agreement." A written agreement or  
8 contract entered into between a manufacturer and a dealer that  
9 fixes the rights and responsibilities of the parties and under  
10 which the dealer sells new recreational vehicles.

11 "Proprietary part." A part manufactured by or for and sold  
12 exclusively by a manufacturer.

13 "Supplier." A person, firm, corporation or business entity  
14 that engages in the manufacturing of recreational vehicle parts,  
15 accessories or components.

16 "Transient customer." A customer who is temporarily  
17 traveling through a dealer's area of sales responsibility.

18 "Warrantor." A person, firm, corporation or business entity,  
19 including a manufacturer or supplier that provides a written  
20 warranty to a consumer in connection with a new recreational  
21 vehicle or a part, accessory or component of a new recreational  
22 vehicle. The term does not include service contracts, mechanical  
23 or other insurance or extended warranties sold for separate  
24 consideration by a dealer or other person not controlled by a  
25 manufacturer.

26 Section 503. Written agreements and designated territories.

27 (a) General rule.--A manufacturer or distributor may not  
28 sell a recreational vehicle in this Commonwealth to or through a  
29 dealer without having first entered into a manufacturer/dealer  
30 agreement with a dealer which has been signed by both parties.

1 (b) Area of sales responsibility.--The manufacturer shall  
2 designate the area of sales responsibility exclusively assigned  
3 to a dealer in the manufacturer/dealer agreement and may not  
4 change the area or contract with another dealer for sale of the  
5 same line-make in the designated area for the duration of the  
6 agreement.

7 (c) Review.--The area of sales responsibility may be  
8 reviewed or changed with the consent of both parties not less  
9 than 12 months after the execution of the manufacturer/dealer  
10 agreement.

11 (d) New vehicles.--A recreational vehicle dealer may not  
12 sell a new recreational vehicle in this Commonwealth without  
13 having first entered into a manufacturer/dealer agreement with a  
14 manufacturer or distributor which has been signed by both  
15 parties.

16 Section 504. Termination, cancellation, nonrenewal and  
17 alteration of dealership by manufacturer.

18 (a) General rule.--A manufacturer or distributor, directly  
19 or through an authorized officer, agent or employee, may  
20 terminate, cancel or fail to renew a manufacturer/dealer  
21 agreement with just cause. Section 506 shall not apply to this  
22 section.

23 (b) Burden of proof.--The manufacturer or distributor has  
24 the burden of showing just cause for terminating, canceling or  
25 failing to renew a manufacturer/dealer agreement with a dealer.  
26 For purposes of determining whether there is just cause for the  
27 proposed action, any of the following factors may be considered:

28 (1) The extent of the affected dealer's penetration in  
29 the area of sales responsibility compared to other similarly  
30 situated dealers and market conditions.

1           (2) The nature and extent of the dealer's investment in  
2 the dealer's business.

3           (3) The adequacy of the dealer's service facilities,  
4 equipment, parts, supplies and personnel.

5           (4) The effect of the proposed action on the community.

6           (5) The extent and quality of the dealer's service under  
7 recreational vehicle warranties.

8           (6) The dealer's failure to follow agreed-upon  
9 procedures or standards related to the overall operation of  
10 the dealership.

11           (7) The dealer's performance under the terms of its  
12 manufacturer/dealer agreement.

13           (c) Written notice required.--Except as otherwise provided  
14 in this section, a manufacturer or distributor shall provide a  
15 dealer with at least 90 days' prior written notice of  
16 termination, cancellation or nonrenewal of the  
17 manufacturer/dealer agreement in the event the dealer is being  
18 terminated for just cause. The following shall apply:

19           (1) The notice shall state all reasons for the proposed  
20 termination, cancellation or nonrenewal and shall state that,  
21 within 30 days following receipt of the notice, the dealer  
22 shall provide to the manufacturer or distributor written  
23 notice of intent to cure all claimed deficiencies. The dealer  
24 shall have 90 days following receipt of the original notice  
25 to rectify the deficiencies.

26           (2) If the deficiencies are rectified within 90 days,  
27 the manufacturer's or distributor's notice shall be voided.  
28 If the dealer fails to provide the notice of intent to cure  
29 the deficiencies in the prescribed time period or fails to  
30 cure the deficiencies in the time period provided, the

1 termination, cancellation or nonrenewal shall take effect 30  
2 days after the dealer's receipt of the original notice. If  
3 the dealer has new and untitled inventory on hand, it may be  
4 sold under section 506.

5 (d) Time period of notice.--The notice period may be reduced  
6 to 30 days if the manufacturer's or distributor's grounds for  
7 termination, cancellation or nonrenewal are due to any of the  
8 following just cause factors:

9 (1) A dealer or one of its owners has been convicted of  
10 or has entered a plea of nolo contendere to a felony.

11 (2) The abandonment or closing of the business  
12 operations of the dealer for 10 consecutive business days  
13 unless the closing is due to an act of God, strike, labor  
14 difficulty or other cause over which the dealer has no  
15 control.

16 (3) A significant misrepresentation by the dealer  
17 materially affecting the business relationship.

18 (4) A suspension or revocation of the dealer's license  
19 or refusal to renew the dealer's license by the department.

20 (5) A material violation of this chapter which is not  
21 resolved within 30 days after the written notice by the  
22 manufacturer.

23 (e) Nonapplicability of notice.--The notice provisions of  
24 subsection (c) do not apply if the reason for termination,  
25 cancellation or nonrenewal is the dealer's insolvency, the  
26 occurrence of an assignment for the benefit of creditors or  
27 bankruptcy.

28 Section 505. Termination, cancellation, nonrenewal and  
29 alteration of dealership by dealer.

30 (a) General rule.--A dealer may terminate or cancel its

1 manufacturer/dealer agreement with a manufacturer or distributor  
2 with or without just cause by giving 30 days' written notice.

3 (1) If the termination or cancellation is for just  
4 cause, the notice shall state all reasons for the proposed  
5 termination or cancellation and shall state that if, within  
6 30 days following receipt of the notice, the manufacturer or  
7 distributor provides to the dealer a written notice of intent  
8 to cure all claimed deficiencies, the manufacturer or  
9 distributor will then have 90 days following receipt of the  
10 original notice to rectify the deficiencies.

11 (2) If the deficiencies are rectified within 90 days,  
12 the dealer's notice shall be voided. If the manufacturer or  
13 distributor fails to provide the notice of intent to cure the  
14 deficiencies or fails to cure the deficiencies in the time  
15 period prescribed in the original notice, the termination or  
16 cancellation shall take effect as provided in the original  
17 notice.

18 (b) Just cause shown.--If the dealer terminates, cancels or  
19 fails to renew the manufacturer/dealer agreement without just  
20 cause, the provisions of section 506 shall not apply. If the  
21 dealer terminates, cancels or fails to renew the  
22 manufacturer/dealer agreement with just cause, the provisions of  
23 section 506 shall apply. The dealer has the burden of showing  
24 just cause for the proposed termination, cancellation or  
25 nonrenewal action by a dealer due to any of the following just  
26 cause factors:

27 (1) A manufacturer being convicted of or entering a plea  
28 of nolo contendere to a felony.

29 (2) The business operations of the manufacturer have  
30 been abandoned or closed for 10 consecutive business days,



1 unless the closing is due to an act of God, strike, labor  
2 difficulty or other cause over which the manufacturer has no  
3 control.

4 (3) A significant misrepresentation by the manufacturer  
5 materially affecting the business relationship.

6 (4) A material violation of this chapter which is not  
7 cured within 30 days after written notice by the dealer.

8 (5) A declaration by the manufacturer of bankruptcy,  
9 insolvency or the occurrence of an assignment for the benefit  
10 of creditors or bankruptcy.

11 Section 506. Repurchase of inventory.

12 (a) General rule.--If the manufacturer/dealer agreement is  
13 terminated, canceled or not renewed by the dealer for just cause  
14 as described in section 505(b) and the manufacturer fails to  
15 provide notice or cure the claimed deficiencies as provided in  
16 section 505(a), the manufacturer shall, at the dealer's option  
17 and within 45 days after termination, cancellation or  
18 nonrenewal, repurchase:

19 (1) All new, untitled recreational vehicles that were  
20 acquired from the manufacturer or distributor within 12  
21 months before the effective date of the notice of  
22 termination, cancellation or nonrenewal that have not been  
23 used, except for demonstration purposes, and that have not  
24 been altered or damaged, at 100% of the net invoice cost,  
25 including transportation, less applicable rebates and  
26 discounts to the dealer.

27 (2) In the event any of the vehicles repurchased under  
28 this section are damaged, but do not trigger a consumer  
29 disclosure requirement, the amount due the dealer shall be  
30 reduced by the cost to repair the vehicle. Damage prior to

1 delivery to the dealer that is disclosed at the time of  
2 delivery will not disqualify repurchase under this  
3 subsection.

4 (3) All undamaged accessories and proprietary parts sold  
5 to the dealer for resale within the 12 months prior to  
6 termination, cancellation or nonrenewal, if accompanied by  
7 the original invoice, at 105% of the original net price paid  
8 to the manufacturer or distributor to compensate the dealer  
9 for handling, packing and shipping the parts.

10 (4) Properly functioning diagnostic equipment, special  
11 tools, current signage or other equipment and machinery which  
12 was purchased by the dealer upon the manufacturer's or  
13 distributor's request within five years prior to the  
14 termination, cancellation or nonrenewal and which can no  
15 longer be used in the normal course of the dealer's ongoing  
16 business at 100% of the dealer's net cost plus freight.

17 (b) Sale of remaining inventory after termination.--

18 (1) A dealer is not prohibited from selling the  
19 remaining in-stock inventory of a particular line-make after  
20 a manufacturer/dealer agreement has been terminated or not  
21 renewed under section 504.

22 (2) If recreational vehicles of a line-make subject to  
23 the terminated agreement are not repurchased or required to  
24 be repurchased by the manufacturer or distributor, the dealer  
25 may continue to sell the recreational vehicles that are  
26 subject to the terminated manufacturer/dealer agreement and  
27 are currently in stock until those recreational vehicles are  
28 no longer in the dealer's inventory.

29 Section 507. Transfer of dealership and family succession.

30 (a) General rule.--

1       (1) If a dealer desires to make a change in ownership by  
2 the sale of the business assets, stock transfer or otherwise,  
3 the dealer shall give the manufacturer or distributor written  
4 notice at least 30 business days before the closing,  
5 including all supporting documentation as may be reasonably  
6 required by the manufacturer or distributor to determine if  
7 an objection to the sale may be made. In the absence of a  
8 breach by the selling dealer of its manufacturer/dealer  
9 agreement or this chapter, the manufacturer or distributor  
10 shall not object to the proposed change in ownership unless  
11 the prospective transferee:

12           (i) has previously been terminated by the  
13 manufacturer for breach of its dealer agreement;

14           (ii) has been convicted of a felony or a crime of  
15 fraud, deceit or moral turpitude;

16           (iii) lacks a license required by law;

17           (iv) does not have an active line of credit  
18 sufficient to purchase a manufacturer's product; or

19           (v) has undergone in the last 10 years bankruptcy,  
20 insolvency, a general assignment for the benefit of  
21 creditors or the appointment of a receiver, trustee or  
22 conservator to take possession of the transferee's  
23 business or property.

24       (2) If the manufacturer or distributor objects to a  
25 proposed change of ownership, the manufacturer or distributor  
26 shall give written notice of its reasons to the dealer within  
27 10 business days after receipt of the dealer's notification  
28 and complete documentation. The manufacturer or distributor  
29 has the burden of proof with regard to its objection. If the  
30 manufacturer or distributor does not give timely notice of

1 its objection, the change or sale shall be deemed approved.

2 (3) It is unlawful for a manufacturer or distributor to  
3 fail to provide a dealer an opportunity to designate, in  
4 writing, a family member as a successor to the dealership in  
5 the event of the death, incapacity or retirement of the  
6 dealer. It is unlawful to prevent or refuse to honor the  
7 succession to a dealership by a family member of the  
8 deceased, incapacitated or retired dealer unless the  
9 manufacturer or distributor has provided to the dealer  
10 written notice of its objections within 10 days after receipt  
11 of the dealer's modification of the dealer's succession plan.  
12 In the absence of a breach of the dealer agreement, the  
13 manufacturer may object to the succession for the following  
14 reasons only:

15 (i) conviction of the successor of a felony or a  
16 crime of fraud, deceit or moral turpitude;

17 (ii) bankruptcy or insolvency of the successor  
18 during the past 10 years;

19 (iii) prior termination by the manufacturer of the  
20 successor for breach of a dealer agreement;

21 (iv) the successor does not have an active line of  
22 credit sufficient to purchase the manufacturer's product;

23 or

24 (v) the successor lacks a license required by law.

25 (b) Burden of proof.--The manufacturer or distributor has  
26 the burden of proof regarding the manufacturer's or  
27 distributor's objection. A family member may not succeed to a  
28 dealership if the succession involves, without the  
29 manufacturer's or distributor's consent, a relocation of the  
30 business or an alteration of the terms and conditions of the

1 manufacturer/dealer agreement.

2 Section 508. Warranty obligations.

3 (a) General rule.--Each warrantor shall:

4 (1) Specify in writing to each of its dealer  
5 obligations, if any, for preparation, delivery and warranty  
6 service on its products.

7 (2) Compensate the dealer for warranty service required  
8 of the dealer by the warrantor.

9 (3) Provide to the dealer the schedule of compensation  
10 to be paid and the time allowances for the performance of  
11 work and service. The schedule of compensation must include  
12 reasonable compensation for diagnostic work, as well as  
13 warranty labor.

14 (b) Time allowances and compensation.--Time allowances for  
15 the diagnosis and performance of warranty labor must be  
16 reasonable for the work to be performed. In the determination of  
17 what constitutes reasonable compensation under this section, the  
18 principal factors to be given consideration shall be the actual  
19 wage rates being paid by the dealer and the actual retail labor  
20 rate being charged by the dealers in the community in which the  
21 dealer is doing business. The compensation of a dealer for  
22 warranty labor may not be less than the posted labor rates  
23 actually charged by the dealer for similar nonwarranty labor as  
24 long as the rates are reasonable.

25 (c) Reimbursement.--The warrantor shall reimburse the dealer  
26 for warranty parts at actual wholesale cost plus a minimum 30%  
27 handling charge and the cost, if any, of freight to return  
28 warranty parts to the warrantor.

29 (d) Audits.--Warranty audits of dealer records may be  
30 conducted by the warrantor on a reasonable basis, and dealer

1 claims for warranty compensation may not be denied except for  
2 cause, such as performance of nonwarranty repairs, material  
3 noncompliance with the warrantor's published policies and  
4 procedures, lack of material documentation, fraud or  
5 misrepresentation.

6 (e) Warranty claims.--The dealer shall submit warranty  
7 claims within 45 days after completing work.

8 (f) Warrantor notification.--If a dealer receives a written  
9 or verbal complaint from a consumer relative to a warranty  
10 repair, the dealer must notify the warrantor about the complaint  
11 in writing within 10 days of receiving the complaint if the  
12 dealer cannot satisfy the consumer's complaint.

13 (g) Disapproval of warranty claims.--The warrantor shall  
14 disapprove warranty claims in writing within 45 days after the  
15 date of submission by the dealer in the manner and form  
16 prescribed by the warrantor. Claims not specifically disapproved  
17 in writing within 45 days shall be construed to be approved and  
18 must be paid within 60 days of submission.

19 (h) Violation.--It is a violation of this chapter for a  
20 warrantor to:

21 (1) Fail to perform any of its warranty obligations with  
22 respect to its warranted products.

23 (2) Fail to include, in written notices of factory  
24 campaigns to recreational vehicle owners and dealers, the  
25 expected date by which necessary parts and equipment,  
26 including tires and chassis or chassis parts, will be  
27 available to dealers to perform the campaign work. The  
28 warrantor may ship parts to the dealer to effect the campaign  
29 work, and, if the parts are in excess of the dealer's  
30 requirements, the dealer may return unused parts to the

1 warrantor for credit after completion of the campaign.

2 (3) Fail to compensate its dealers for authorized  
3 repairs effected by the dealer on merchandise damaged in  
4 manufacture or transit to the dealer, if the carrier is  
5 designated by the warrantor, factory branch, distributor or  
6 distributor branch.

7 (4) Fail to compensate its dealers in accordance with  
8 the schedule of compensation provided to the dealer under  
9 this section if repairs are performed in a timely and  
10 competent manner.

11 (5) Intentionally misrepresent in any way to purchasers  
12 of recreational vehicles that warranties with respect to the  
13 manufacture, performance or design of the vehicle are made by  
14 the dealer as warrantor or cowarrantor.

15 (6) Require the dealer to make warranties to customers  
16 in any manner related to the manufacture of the recreational  
17 vehicle.

18 (i) Violations.--It is a violation of this chapter for a  
19 dealer to:

20 (1) Fail to perform predelivery inspection functions, as  
21 specified by the warrantor, in a competent and timely manner.

22 (2) Fail to perform warranty service work authorized by  
23 the warrantor in a competent and reasonably timely manner on  
24 a transient customer's recreational vehicle of a line make  
25 sold or serviced by that dealer.

26 (3) Fail to accurately document the time spent  
27 completing each repair, the total number of repair attempts  
28 conducted on a single unit and the number of repair attempts  
29 for the same repair conducted on a single vehicle.

30 (4) Fail to notify the warrantor within 10 days of a

1 second repair attempt which impairs the use, value or safety  
2 of the vehicle.

3 (5) Fail to maintain written records, including a  
4 consumer's signature, regarding the amount of time a unit is  
5 stored for the consumer's convenience during a repair.

6 (6) Make fraudulent warranty claims or misrepresent the  
7 terms of a warranty.

8 Section 509. Indemnification.

9 (a) General rule.--Notwithstanding the terms of a  
10 manufacturer/dealer agreement, it is a violation of this chapter  
11 for:

12 (1) A warrantor to fail to indemnify and hold harmless  
13 its new recreational vehicle dealer against losses or damages  
14 to the extent that the losses or damages are caused by the  
15 negligence or willful misconduct of the warrantor.

16 (2) A new recreational vehicle dealer to be denied  
17 indemnification for failing to discover, disclose or remedy a  
18 defect in the design or manufacturing of a new recreational  
19 vehicle or new recreational trailer.

20 (3) A new recreational vehicle dealer to fail to  
21 indemnify and hold harmless its warrantor against losses or  
22 damages to the extent that the losses or damages are caused  
23 by the negligence or willful misconduct of the new  
24 recreational vehicle dealer.

25 (b) Denial of indemnification.--A new recreational vehicle  
26 dealer may be denied indemnification if the new recreational  
27 vehicle dealer fails to remedy a known and announced defect in  
28 accordance with the written instructions of a warrantor for whom  
29 the new recreational vehicle dealer is obligated to perform  
30 warranty service.



1 (c) Pending lawsuits.--

2 (1) A new recreational vehicle dealer shall provide to a  
3 warrantor a copy of any pending lawsuit in which allegations  
4 are made that are covered by the provisions of this section  
5 within 10 days after receiving the suit. This subsection  
6 shall continue to apply even after the new recreational  
7 vehicle is titled.

8 (2) A warrantor shall provide to a new recreational  
9 vehicle dealer a copy of any pending law suit or similar  
10 proceeding in which allegations are made that come within the  
11 provisions of this subsection within 10 days after receiving  
12 the suit. This paragraph shall continue to apply even after  
13 the new recreational vehicle is titled.

14 Section 510. Inspection and rejection by dealer.

15 (a) General rule.--Whenever a new recreational vehicle is  
16 damaged prior to transit to the dealer or is damaged in transit  
17 to the dealer when the carrier or means of transportation has  
18 been selected by the manufacturer or distributor, the dealer  
19 shall notify the manufacturer or distributor of the damage  
20 within the time frame specified in the manufacturer/dealer  
21 agreement and:

22 (1) request from the manufacturer or distributor  
23 authorization to replace the components, parts and  
24 accessories damaged or otherwise correct the damage; or

25 (2) reject the vehicle within the time frame set forth  
26 in subsection (d).

27 (b) Refusal or failure to repair.--If the manufacturer or  
28 distributor refuses or fails to authorize repair of the damage  
29 within 10 days after receipt of notification or if the dealer  
30 rejects the recreational vehicle because of damage, ownership of

1 the new RV RECREATIONAL VEHICLE shall revert to the manufacturer <--  
2 or distributor.

3 (c) Obligations.--The dealer shall exercise due care in  
4 custody of the damaged recreational vehicle, but the dealer  
5 shall have no other obligations, financial or otherwise, with  
6 respect to that recreational vehicle.

7 (d) Time frame.--The time frame for inspection and rejection  
8 by the dealer must be part of the manufacturer/dealer agreement  
9 and may not be less than two business days after the physical  
10 delivery of the recreational vehicle.

11 (e) Unreasonable mileage.--A recreational vehicle that has,  
12 at the time of delivery to the dealer, an unreasonable amount of  
13 miles on its odometer, as determined by the dealer, may be  
14 subject to rejection by the dealer and reversion of the vehicle  
15 to the manufacturer or distributor. In no instance shall a  
16 dealer deem an amount less than the distance between the dealer  
17 and the manufacturer's factory or a distributor's point of  
18 distribution, plus 100 miles, as unreasonable.

19 (f) Notice to dealer.--Each manufacturer or distributor of  
20 new recreational vehicles sold or transferred to a new  
21 recreational vehicle dealer shall notify the new recreational  
22 vehicle dealer in writing prior to delivery of the recreational  
23 vehicle of any material damage to the recreational vehicle which  
24 is known to the manufacturer or distributor which was sustained  
25 or incurred by the vehicle at any time after the manufacturing  
26 process is complete but prior to delivery of the recreational  
27 vehicle to the dealer. A dealer may reject the delivery of a  
28 nonconforming recreational vehicle under the provisions of 13  
29 Pa.C.S. (relating to commercial code) and the following shall  
30 apply:

1       (1) When selling a new recreational vehicle, each new  
2 recreational vehicle dealer shall notify the purchaser in  
3 writing at the time of sale of any material damage sustained  
4 or incurred by the recreational vehicle at any time after the  
5 manufacturing process is complete which is disclosed by the  
6 manufacturer to the new recreational vehicle dealer.

7       (2) Nothing in this section shall be construed to  
8 diminish any obligation to provide notice to the purchaser of  
9 a new recreational vehicle which obligation is imposed by any  
10 other provision of law or by any judicial decision,  
11 including, but not limited to, the act of December 17, 1968  
12 (P.L.1224, No.387), known as the Unfair Trade Practices and  
13 Consumer Protection Law.

14 Section 511. Coercion of dealer prohibited.

15       (a) General rule.--A manufacturer or distributor may not  
16 coerce or attempt to coerce a dealer to:

17           (1) purchase a product that the dealer did not order;

18           (2) enter into an agreement with the manufacturer or  
19 distributor; or

20           (3) enter into an agreement that requires the dealer to  
21 submit its disputes to binding arbitration or otherwise waive  
22 rights or responsibilities provided under this chapter.

23       (b) Definition.--As used in this section, the term "coerce"  
24 includes, but is not limited to, threatening to terminate,  
25 cancel or not renew a manufacturer/dealer agreement without just  
26 cause or threatening to withhold product lines the dealer is  
27 entitled to purchase under the manufacturer/dealer agreement or  
28 delay product delivery as an inducement to amending the  
29 manufacturer/dealer agreement.

30 Section 512. Applicability.

1 To the extent the provisions of this chapter are inconsistent  
2 with any other provisions of this act as applied to an RV A <--  
3 RECREATIONAL VEHICLE dealer, manufacturer, distributor or  
4 supplier this chapter controls. Unless inconsistent with the  
5 provisions in this chapter or expressly excluded, the provisions  
6 of this act apply to RV RECREATIONAL VEHICLE dealers, <--  
7 manufacturers, distributors and suppliers.

8 Section 513. Severability.

9 The provisions of this chapter are severable. If any  
10 provision of this chapter or its application to any person or  
11 circumstance is held invalid, the invalidity shall not affect  
12 other provisions or applications of this chapter which can be  
13 given effect without the invalid provision or application.

14 Section 11. The act is amended by adding a chapter heading  
15 to read:

16 CHAPTER 7

17 MISCELLANEOUS PROVISIONS

18 Section 12. Sections 34, 35, 36 and 37 of the act are  
19 renumbered to read:

20 Section [34] 701. Savings provision.

21 This act shall not be deemed to repeal, suspend, modify or  
22 revoke any of the provisions of 75 Pa.C.S. (relating to  
23 vehicles) or of the act of June 28, 1947 (P.L.1110, No.476),  
24 known as the Motor Vehicle Sales Finance Act.

25 Section [35] 702. Repeals.

26 (a) Specific repeal.--The act of September 9, 1965 (P.L.499,  
27 No.254), known as the Motor Vehicle Manufacturer's, Dealer's and  
28 Salesmen's License Act, is repealed.

29 (b) General repeal.--All acts and parts of acts are repealed  
30 insofar as they are inconsistent with this act.

1 Section [36] 703. Expiration of terms of board members.

2 Persons who are members of the State Board of Motor Vehicle  
3 Manufacturers, Dealers and Salespersons on the effective date of  
4 this act shall serve on the board created under this act until  
5 their current three-year terms expire or until their successors  
6 are duly appointed and qualified, but no longer than six months  
7 after the expiration of their terms.

8 Section [37] 704. Existing rules and regulations.

9 Each rule and regulation of the board not inconsistent with  
10 this act shall remain in effect after such date until repealed  
11 or amended by the board.

12 Section 13. The addition of Chapter 5 of the act shall apply  
13 to recreational vehicle manufacturer/dealer agreements entered  
14 into or renewed on or after the effective date of this act.

15 Section 14. This act shall take effect in 365 days.