
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 764 Session of
2017

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

AMENDMENTS TO HOUSE AMENDMENTS, IN SENATE, OCTOBER 1, 2018

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 VEHICLE RECALLS, for damage disclosure, for mediation and <--
13 arbitration, for unlawful acts by manufacturers or
14 distributors, for area of responsibility, for termination of
15 franchises, for industry reorganization, for succession to
16 franchise ownership, for manufacturer right of first refusal,
17 for manufacturer or distributor repurchase of inventory and
18 equipment, for reimbursement of rental costs for dealer
19 facility, for grounds for disciplinary proceedings, for
20 administrative liability of employer, copartnership,
21 association or corporation, for reinstatement, for
22 application for license, for refusal of license, for change
23 of salesperson's license to indicate new employer, for
24 termination of employment or business, for exemption from
25 licensure and registration, for limitations on establishing
26 or relocating dealers, for licensing cost, for penalties, for
27 civil actions for violations, for fees, for disposition of
28 fees and fines, for vehicle shows, off-premise sales and
29 exhibitions, FOR RECREATIONAL VEHICLE SHOWS, RECREATIONAL <--
30 VEHICLE OFF-PREMISE SALES, RECREATIONAL VEHICLE EXHIBITIONS
31 AND RECREATIONAL VEHICLE RALLIES and for off-premise sales,
32 shows, exhibitions or rallies on Sundays; providing for
33 recreational vehicles and for miscellaneous provisions;

1 further providing for savings provision, for repeals,
2 expiration of terms of board members and for existing rules
3 and regulations.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

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

9 CHAPTER 1

10 PRELIMINARY PROVISIONS

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

13 This act shall be known and may be cited as the Board of
14 Vehicles Act.

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

19 Section [2] 102. Definitions.

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

23 * * *

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

30 * * *

31 "Folding camping trailer." A vehicle mounted on wheels and

1 constructed with collapsible side walls that fold for towing by
2 another vehicle and unfold at the campsite to provide temporary
3 living quarters for recreational, camping or travel use.

4 * * *

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

12 (1) A cooking facility with an on-board fuel source.

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

16 (3) A toilet with exterior evacuation.

17 (4) A gas or electric refrigerator.

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

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

21 "Park model RV." A vehicle that:

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

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

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

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

1 * * *

2 "Recreational vehicle." [A vehicle primarily designed as
3 temporary living quarters for recreational, camping or travel
4 use, which either has its own power or is mounted on or drawn by
5 another vehicle. The term includes a travel trailer,
6 recreational vehicle park trailer, slide-in camper, camping
7 trailer and motor home.] A vehicle which is either self-
8 propelled or towed by a consumer-owned tow vehicle and designed
9 to provide temporary living quarters for recreational, camping
10 or travel use that complies with all applicable Federal vehicle
11 regulations and is certified by the manufacturer as complying
12 with NFPA 1192 Standard on Recreational Vehicles or ANSI A119.5
13 Park Model Recreational Vehicle Standard and include the
14 following types:

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

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

26 * * *

27 "Recreational vehicle warrantor." An individual, firm,
28 corporation or business entity, including a manufacturer or
29 supplier that provides a written warranty to a consumer in
30 connection with a new recreational vehicle or a part, accessory

1 or component of a new recreational vehicle. The term does not
2 include service contracts, mechanical or other insurance or
3 extended warranties sold for separate consideration by a dealer
4 or other person not controlled by a manufacturer.

5 * * *

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

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

14 * * *

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

17 CHAPTER 3

18 VEHICLES

19 Section 5. ~~Sections 3 and 4 of the act are amended to read: <--~~

20 SECTION 3 OF THE ACT IS RENUMBERED TO READ: <--

21 Section [3] 301. State Board of Vehicle Manufacturers, Dealers
22 and Salespersons.

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

1 (1) Three members shall be new vehicle dealers who have
2 been actively engaged as such for a period of five years
3 immediately preceding their appointment.

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

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

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

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

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

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

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

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

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

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

28 (e) Attendance.--A member who fails to attend three
29 consecutive meetings shall forfeit his seat unless the
30 Commissioner of Professional and Occupational Affairs, upon

1 written request from the member, finds that the member should be
2 excused from a meeting because of illness or the death of an
3 immediate family member.

4 SECTION 6. SECTIONS 4 AND 5 OF THE ACT ARE AMENDED TO READ: <--
5 Section [4] 302. Powers and duties of board.

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

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

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

19 (3) Investigate on its own initiative, upon complaint of
20 the Department of Transportation, Department of Community and
21 Economic Development, Department of Revenue or the Office of
22 the Attorney General, any law enforcement officer or upon the
23 verified complaint in writing of any person, any allegations
24 of the wrongful act or acts of any licensee or person
25 required to be licensed [hereunder] under this chapter. Duly
26 authorized agents of the Bureau of Professional and
27 Occupational Affairs shall be authorized to issue
28 administrative citations for violations of this act in
29 accordance with section 5 of the act of July 2, 1993

30 (P.L.345, No.48), entitled "An act empowering the General

1 Counsel or his designee to issue subpoenas for certain
2 licensing board activities; providing for hearing examiners
3 in the Bureau of Professional and Occupational Affairs;
4 providing additional powers to the Commissioner of
5 Professional and Occupational Affairs; and further providing
6 for civil penalties and license suspension."

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

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

22 (6) Require each licensee to register biennially with
23 the board.

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

26 (8) Keep minutes and records of all its transactions and
27 proceedings especially with relation to the issuance, denial,
28 registration, formal reprimand, suspension and revocation of
29 licenses. In all actions or proceedings in any court, a
30 transcript of any board record or any part thereof, which is

1 certified to be a true copy by the board, shall be entitled
2 to admission in evidence.

3 (9) Adopt, promulgate and enforce such rules and
4 regulations consistent with this act as are deemed necessary
5 and proper to effectuate the provisions of this act.

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

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

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

22 (b) Summary proceedings.--All law enforcement officers in
23 this Commonwealth may institute summary criminal proceedings in
24 accordance with the Pennsylvania Rules of Criminal Procedure for
25 violations of this act. Any person who violates this act shall
26 be subject to criminal prosecution as provided in section [28]
27 328.

28 ~~Section 6 7. Section 5 of the act, amended December 17, 2015<--~~
29 ~~(P.L.450, No.78), is renumbered and amended to read:~~
30 Section [5] 303. License to engage in business.

1 (a) License required.--

2 (1) To promote the public safety and welfare, it shall
3 be unlawful for any person to engage in the business as a
4 salesperson, dealer, branch lot, wholesale vehicle auction,
5 public or retail vehicle auction, manufacturer, factory
6 branch, distributor, distributor branch, factory
7 representative or distributor representative within this
8 Commonwealth unless the person has secured a license as
9 required under this [act] chapter.

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

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

17 (b) Mobile home parks.--

18 (1) It shall be unlawful for any person, for a
19 commission, compensation or other consideration, to sell or
20 act as salesperson, broker or sales agent in connection with
21 the sale of one or more mobile homes located in a mobile home
22 park, as provided for in section 11 of the act of November
23 24, 1976 (P.L.1176, No.261), known as the Mobile Home Park
24 Rights Act, unless such person shall be licensed under this
25 [act] chapter, except as provided for in paragraph (2).

26 (2) Any real estate salesperson or broker licensed under
27 the act of February 19, 1980 (P.L.15, No.9), known as the
28 Real Estate Licensing and Registration Act, may list for sale
29 any preowned mobile home as defined by the Mobile Home Park
30 Rights Act, whether or not the mobile home is located in a

1 mobile home park, without being licensed under the provisions
2 of this [act] chapter. No mobile home park rule shall prevent
3 the placement of a "for sale" sign on the home and on the
4 property on which the home is located. Nothing in this
5 paragraph shall authorize the listing for sale of preowned
6 mobile homes at a sales lot by a licensed real estate
7 salesperson or broker unless the salesperson or broker is
8 also licensed under this [act] chapter and has obtained a
9 sales tax license from the Department of Revenue.

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

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

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

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

1 of the board.

2 (e) Facility requirements for dealers.--

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

11 (i) A vehicle auction shall not be required to meet
12 the facility requirements [contained in] under this
13 subsection.

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

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

24 (3) Dealers engaged in the business of buying, selling
25 or exchanging new manufactured housing and used mobile homes
26 or manufactured housing shall maintain a minimum usable
27 display area of 5,000 square feet devoted principally to the
28 mobile home or manufactured housing business, maintain an
29 established place of business and hold a contract in writing
30 with a buyer, seller or manufacturer giving such person

1 buying or selling rights for new manufactured housing of that
2 particular line from the address of the licensed facility.

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

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

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

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

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

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

28 (f) Wholesale vehicle auction activities.--

29 (1) Wholesale vehicle auctions in wholesale vehicle
30 auction sales transactions shall permit only the following

1 persons to sell vehicles at the auction: vehicle dealers
2 licensed under this [act] chapter or by any other state or
3 jurisdiction, manufacturers, leasing companies, rental
4 companies, financial institutions, insurance companies,
5 charitable nonprofit organizations; persons who sell vehicles
6 owned by their business which are utilized to accomplish
7 their main business purpose and who do not engage in any
8 vehicle buying, sales or repair business; and fleet owners.

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

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

1 (4) A vehicle auction shall only permit a person who is
2 currently employed and licensed as a salesperson for a dealer
3 who holds a license issued under this [act] chapter or by any
4 other state or jurisdiction to buy, sell or exchange vehicles
5 at an auction on behalf of a dealer. This paragraph shall not
6 apply to a salesperson who is buying, selling or exchanging
7 vehicles at:

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

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

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

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

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

1 during the auctioning of vehicles. Public or retail vehicle
2 auctions shall not be required to take title to the vehicles
3 they offer for sale or have their auctioneers licensed as
4 salespersons under this [act] chapter. Public or retail
5 vehicle auctions shall inquire of the seller of the vehicle
6 and, if applicable, disclose to potential purchasers material
7 information obtained from the seller regarding the vehicle
8 being offered for sale as is required of all sellers under
9 applicable Federal and Pennsylvania laws.

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

12 (i) show proof of identification at the time of
13 transfer of ownership;

14 (ii) sign the identified name to the transfer of
15 ownership documents;

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

20 (iv) submit transfer of ownership documents to the
21 Department of Transportation as required under 75 Pa.C.S.
22 (relating to vehicles).

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

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

26 (i) Display, inventory, advertise, solicit,
27 demonstrate, sell, offer for sale or deliver new and used
28 mobility vehicles.

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

1 (iii) Sell and install equipment and accessories in
2 and provide services for mobility vehicles, in order to
3 meet the needs of persons with disabilities as drivers or
4 passengers.

5 (iv) Provide maintenance and repair services for
6 mobility vehicles.

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

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

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

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

22 SECTION 7. SECTION 6 OF THE ACT IS RENUMBERED TO READ: <--

23 Section [6] 304. Biennial renewal.

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

1 through regulation by the board.

2 SECTION 8. SECTIONS 7 AND 8 OF THE ACT ARE AMENDED TO READ: <--

3 Section [7] 305. Enforcement.

4 Notwithstanding the enforcement powers granted to law
5 enforcement officers to institute summary criminal proceedings
6 pursuant to section [4(b)] 302(b), the enforcement of the laws
7 and rules and regulations governing practice under this act is
8 primarily vested in the board with the following additional
9 powers and duties to:

10 (1) Inspect all license holders.

11 (2) Authorize investigations of alleged violations.

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

14 (4) Subpoena witnesses.

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

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

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

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

25 (a) Franchise protest hearings to be decided within 120 days
26 unless waived by the parties.--Any franchise establishment,
27 relocation, termination or failure to renew hearing based on a
28 protest by a dealer or distributor of any action by a
29 manufacturer or distributor alleged to be in violation of a
30 provision of this [act] chapter must be conducted and the final

1 determination made within 120 days after the protest is filed.
2 Unless waived by the parties, failure to do so will be deemed
3 the equivalent of a determination that the manufacturer or
4 distributor acted with [good] just cause and, in the case of a
5 protest of a proposed establishment or relocation of a dealer
6 under section [27] 326, that [good] just cause does not exist
7 for refusing to permit the proposed additional or relocated new
8 vehicle dealer unless such delay is caused by acts of the
9 manufacturer, distributor or the additional or relocating
10 dealer. Any parties to such a hearing shall have a right of
11 review of the decision in a court of competent jurisdiction
12 pursuant to 2 Pa.C.S. § 701 (relating to scope of subchapter).
13 If the board determined that [good] just cause does not exist
14 for refusing to permit the proposed additional or relocated new
15 vehicle dealer and the manufacturer or distributor thereafter
16 enters into a franchise establishing that new vehicle dealer,
17 the manufacturer or distributor shall not be liable for damages
18 based upon such establishment even if a court reverses the
19 determination of the board.

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

24 (1) In the event that the protest involves a termination
25 or failure to renew the franchise of a new vehicle dealer,
26 the dealer shall be permitted to review a manufacturer's or
27 distributor's files related to that dealer upon written
28 request.

29 (2) The board may order on its own initiative, or
30 pursuant to a party's request, that part of the evidence for

1 hearing be submitted to it in the form of depositions.

2 (c) Reconsideration.--In the event a decision of the board
3 is remanded by a court of competent jurisdiction for further
4 action by the board, the board shall consider the action and
5 issue a final determination, not later than 120 days following
6 receipt of the record from such court, unless the 120-day time
7 period for the board to issue a final determination is waived or
8 extended by the parties.

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

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

20 (2) The board shall issue a final determination within
21 120 days after the protest is filed, unless the 120-day time
22 period for the board to issue a final determination is waived
23 or extended by the parties.

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

28 (4) The protested action shall not become effective
29 until the final determination is issued by the board and
30 shall not be effective thereafter if the board has determined

1 that there is [good] just cause for not permitting the
2 protested action.

3 (5) The board shall be empowered to direct or require
4 the automobile, motorcycle or truck manufacturer or
5 distributor to perform such acts as necessary in order for
6 the manufacturer or distributor to comply with the provisions
7 of this [act] chapter.

8 (e) Applicability.--The protest provisions of this section
9 apply to Chapter 5 activities and actions between recreational
10 vehicle dealers, manufacturers, distributors and suppliers.

11 SECTION 9. SECTION 9 OF THE ACT IS RENUMBERED, SUBSECTIONS <--
12 (A) (4) AND (E) (3) (II) ARE AMENDED AND THE SECTION IS AMENDED BY
13 ADDING A SUBSECTION TO READ:

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

17 (a) Manufacturers or distributors to notify dealers of their
18 obligations.--

19 * * *

20 (4) This subsection shall not apply to manufacturers or
21 distributors of manufactured housing [or recreational
22 vehicles].

23 * * *

24 (e) Warranty reimbursement and incentive or reimbursement
25 program approval and audits.--

26 * * *

27 (3) * * *

28 (ii) During the 30-day time period under
29 subparagraph (i), a new vehicle dealer may file with the
30 board a protest of the charge-backs as provided for

1 under section [8] 306. When such a protest is filed, the
2 board shall inform the manufacturer or distributor that a
3 timely protest has been filed and that the manufacturer
4 or distributor shall not charge back the new vehicle
5 dealer:

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

7 (B) if the board has determined that there is
8 good cause for not permitting the charge-back of such
9 new vehicle dealer.

10 * * *

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

13 SECTION 10. SECTION 9.1 OF THE ACT, ADDED JUNE 28, 2018, <--
14 (P.L.420, NO.59), IS AMENDED TO READ:

15 SECTION [9.1] 307.1. VEHICLE RECALLS.

16 (A) GENERAL RULE.--A MANUFACTURER SHALL COMPENSATE ITS NEW
17 VEHICLE DEALERS FOR ALL LABOR AND PARTS REQUIRED BY THE
18 MANUFACTURER TO PERFORM RECALL REPAIRS. COMPENSATION FOR RECALL
19 REPAIRS SHALL BE IN THE SAME MANNER AS WARRANTY PARTS AND LABOR
20 COMPENSATION UNDER SECTION [9] 307. IF PARTS OR A REMEDY ARE NOT
21 REASONABLY AVAILABLE TO PERFORM A RECALL SERVICE OR REPAIR ON A
22 USED VEHICLE HELD FOR SALE BY A NEW VEHICLE DEALER OF THE SAME
23 LINE-MAKE WITHIN 30 DAYS OF THE MANUFACTURER ISSUING THE INITIAL
24 NOTICE OF RECALL, AND THE MANUFACTURER HAS ISSUED A STOP-SALE
25 ORDER OR A DO-NOT-DRIVE ORDER ON THE VEHICLE, THE MANUFACTURER
26 SHALL COMPENSATE THE DEALER AT A PRORATED RATE OF AT LEAST 1.5%
27 OF THE VALUE OF THE VEHICLE PER MONTH, BEGINNING ON THE DATE
28 THAT IS 30 DAYS AFTER THE DATE ON WHICH THE STOP-SALE OR DO-NOT-
29 DRIVE ORDER WAS PROVIDED TO THE DEALER, UNTIL THE EARLIER OF THE
30 DATE THE RECALL OR REMEDY PARTS ARE MADE AVAILABLE OR THE DATE

1 THE DEALER SELLS, TRADES OR OTHERWISE DISPOSES OF THE AFFECTED
2 USED VEHICLE. THE FOLLOWING SHALL APPLY:

3 (1) THE VALUE OF A USED VEHICLE SHALL BE THE AVERAGE
4 TRADE-IN VALUE FOR USED VEHICLES AS INDICATED IN AN
5 INDEPENDENT THIRD-PARTY GUIDE FOR THE YEAR, MAKE, MODEL AND
6 MILEAGE OF THE RECALLED VEHICLE AT THE TIME OF THE
7 ANNOUNCEMENT OF THE STOP-SALE ORDER OR THE DO-NOT-DRIVE
8 ORDER.

9 (2) THIS SECTION SHALL ONLY APPLY TO USED VEHICLES
10 SUBJECT TO SAFETY OR EMISSIONS RECALLS PURSUANT TO AND
11 RECALLED IN ACCORDANCE WITH FEDERAL LAW AND REGULATIONS AND
12 WHERE A STOP-SALE ORDER OR A DO-NOT-DRIVE ORDER HAS BEEN
13 ISSUED. FURTHER, THIS SECTION SHALL ONLY APPLY TO NEW VEHICLE
14 DEALERS HOLDING USED VEHICLES FOR SALE THAT ARE A LINE-MAKE
15 THAT THE DEALER IS FRANCHISED TO SELL OR ON WHICH THE DEALER
16 IS AUTHORIZED TO PERFORM RECALL REPAIRS:

17 (I) IN INVENTORY AT THE TIME THE STOP-SALE OR DO-
18 NOT-DRIVE ORDER WAS ISSUED; OR

19 (II) WHICH WERE TAKEN INTO THE USED VEHICLE
20 INVENTORY OF THE DEALER AS A LEASE RETURN VEHICLE OR
21 CONSUMER TRADE-IN INCIDENT TO THE PURCHASE OF A NEW
22 VEHICLE FROM THE DEALER AFTER THE STOP-SALE OR DO-NOT-
23 DRIVE ORDER WAS ISSUED.

24 (3) NOTHING IN THIS SECTION SHALL REQUIRE A MANUFACTURER
25 TO PROVIDE TOTAL COMPENSATION TO A DEALER WHICH WOULD EXCEED
26 THE TOTAL AVERAGE TRADE-IN VALUE OF THE AFFECTED USED MOTOR
27 VEHICLE AS ORIGINALLY DETERMINED UNDER PARAGRAPH (1).

28 (B) VIOLATION.--IT IS A VIOLATION OF THIS SECTION FOR A
29 MANUFACTURER TO REDUCE THE AMOUNT OF COMPENSATION OTHERWISE OWED
30 TO A NEW VEHICLE DEALER BECAUSE THE NEW VEHICLE DEALER HAS

1 SUBMITTED A CLAIM FOR REIMBURSEMENT UNDER THIS SECTION OR WAS
2 OTHERWISE COMPENSATED FOR A VEHICLE SUBJECT TO A RECALL WHERE A
3 STOP-SALE ORDER OR A DO-NOT-DRIVE ORDER HAS BEEN ISSUED. THIS
4 SUBSECTION APPLIES REGARDLESS OF WHETHER THE REDUCTION IN THE
5 AMOUNT OF COMPENSATION OWED TO A NEW VEHICLE DEALER IS THROUGH A
6 CHARGEBACK, REMOVAL FROM AN INCENTIVE PROGRAM, REDUCTION IN
7 AMOUNT OWED UNDER AN INCENTIVE PROGRAM OR ANY OTHER MEANS.

8 (C) PROCEDURE.--A REIMBURSEMENT CLAIM MADE BY NEW VEHICLE
9 DEALERS UNDER THIS SECTION FOR RECALL REMEDIES OR REPAIRS, OR
10 FOR COMPENSATION WHERE NO PART OR REPAIR IS REASONABLY AVAILABLE
11 AND THE USED VEHICLE IS SUBJECT TO A STOP-SALE ORDER OR A DO-
12 NOT-DRIVE ORDER, SHALL BE SUBJECT TO THE SAME LIMITATIONS AND
13 REQUIREMENTS AS A WARRANTY REIMBURSEMENT CLAIM MADE UNDER
14 SECTION [9] 307. A CLAIM SHALL BE EITHER APPROVED OR DISAPPROVED
15 WITHIN 30 DAYS AFTER THE CLAIM IS SUBMITTED TO THE MANUFACTURER
16 IN THE MANNER AND ON THE FORMS THE MANUFACTURER REASONABLY
17 PRESCRIBES. A CLAIM SHALL BE PAID WITHIN 30 DAYS OF APPROVAL OF
18 THE CLAIM BY THE MANUFACTURER. A CLAIM NOT SPECIFICALLY
19 DISAPPROVED IN WRITING WITHIN 30 DAYS AFTER THE MANUFACTURER
20 RECEIVES A SUBMITTED CLAIM SHALL BE DEEMED TO BE APPROVED.

21 (D) ALTERNATIVE COMPENSATION.--AS AN ALTERNATIVE TO THE
22 COMPENSATION PROVIDED FOR UNDER SUBSECTION (A):

23 (1) A MANUFACTURER MAY COMPENSATE ITS NEW VEHICLE
24 DEALERS UNDER A NATIONAL RECALL COMPENSATION PROGRAM IF THE
25 COMPENSATION UNDER THE PROGRAM IS EQUAL TO OR GREATER THAN
26 THAT PROVIDED UNDER SUBSECTION (A); OR

27 (2) THE MANUFACTURER AND DEALER OTHERWISE AGREE TO EQUAL
28 OR GREATER COMPENSATION THAN THAT PROVIDED UNDER SUBSECTION
29 (A).

30 (E) EXCLUSIVE REMEDY.--ANY COMPENSATION PROVIDED TO A NEW

1 VEHICLE DEALER PURSUANT TO THIS SECTION IS EXCLUSIVE AND MAY NOT
2 BE COMBINED WITH ANY OTHER FEDERAL OR STATE RECALL COMPENSATION
3 REMEDY.

4 (F) DISCLOSURE.--

5 (1) A NEW OR USED VEHICLE DEALER SHALL DISCLOSE IN
6 WRITING TO USED VEHICLE RETAIL PURCHASERS AT THE TIME OF SALE
7 THE EXISTENCE OF ANY OPEN, UNREMEDIED RECALLS. BY PROVIDING
8 TO THE USED VEHICLE RETAIL PURCHASER A REPORT OBTAINED FROM
9 THE PUBLICLY ACCESSIBLE INTERNET WEBSITE SAFERCAR.GOV, OR A
10 SUCCESSOR WEBSITE, BASED ON A VEHICLE IDENTIFICATION NUMBER
11 SEARCH, THE DEALER SHALL BE DEEMED TO HAVE COMPLIED WITH THE
12 DISCLOSURE REQUIREMENT UNDER THIS SUBSECTION. FOR THE PURPOSE
13 OF THIS SUBSECTION, FAILURE TO PROVIDE DISCLOSURES TO
14 MULTIPLE VEHICLE RETAIL PURCHASERS AT THE TIME OF SALE IN
15 VIOLATION OF THIS SUBSECTION CONSTITUTES A SINGLE OFFENSE
16 WITH A MAXIMUM FINE OF \$1,000 UNDER SECTION [28(A)] 328(A).

17 (2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO
18 LIMIT ANY CIVIL ACTIONS OR REMEDIES AVAILABLE IN STATUTE OR
19 COMMON LAW.

20 SECTION 11. SECTIONS 10 AND 11 OF THE ACT ARE AMENDED TO
21 READ:

22 Section [10] 308. Damage disclosure.

23 (a) Notice to dealer.--Each manufacturer or distributor of
24 new vehicles sold or transferred to a new vehicle dealer shall
25 notify the new vehicle dealer in writing prior to delivery of
26 the vehicle of any material damage to the vehicle which is known
27 to the manufacturer or distributor which was sustained or
28 incurred by the vehicle at any time after the manufacturing
29 process is complete but prior to delivery of the vehicle to the
30 dealer. A dealer may reject the delivery of a nonconforming

1 vehicle under the provisions of 13 Pa.C.S. (relating to
2 commercial code).

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

9 (c) Exemption.--This section shall not apply to
10 manufacturers and dealers of manufactured housing or to
11 manufacturers, distributors or dealers of motorcycles or
12 recreational vehicles.

13 (d) Other statutes and decisions.--Nothing in this section
14 shall be construed to diminish any obligation to provide notice
15 to the purchaser of a new vehicle which obligation is imposed by
16 any other provision of law or by any judicial decision,
17 including, but not limited to, the act of December 17, 1968
18 (P.L.1224, No.387), known as the Unfair Trade Practices and
19 Consumer Protection Law.

20 Section [11] 309. Mediation and arbitration.

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

22 (1) A dealer or distributor may not file a complaint,
23 petition or protest or bring an action in a court of
24 competent jurisdiction against a manufacturer or distributor
25 based on an alleged violation of this [act] chapter or in a
26 protest action under this [act] chapter regarding an
27 establishment, relocation or termination of a franchise
28 agreement unless the dealer or distributor serves a demand
29 for mediation upon the manufacturer or distributor before or
30 contemporaneous with the filing of the complaint, petition or

1 protest or the bringing of an action. A demand for mediation
2 shall be in writing and served upon the manufacturer or
3 distributor by certified mail at an address designated for
4 that manufacturer or distributor within records of the dealer
5 or distributor. The demand for mediation shall contain a
6 brief statement of the dispute and the relief sought by the
7 dealer or distributor filing the demand.

8 (2) Within 20 days after the date a demand for mediation
9 is served, the parties shall mutually select an independent
10 mediator and meet with that mediator for the purpose of
11 attempting to resolve the dispute. The meeting place shall be
12 in this Commonwealth in a location selected by the mediator.
13 The mediator may extend the date of the meeting for [good]
14 just cause shown by either party or upon stipulation of both
15 parties.

16 (3) The service of a demand for mediation under
17 paragraph (1) shall stay the time for the filing of any
18 complaint, petition, protest or action under this [act]
19 chapter until representatives of both parties have met with a
20 mutually selected mediator for the purpose of attempting to
21 resolve the dispute. If a complaint, petition, protest or
22 action is filed before the meeting, the board or court shall
23 enter an order suspending the proceeding or action until the
24 meeting has occurred and may, upon written stipulation of all
25 parties to the proceeding or action that they wish to
26 continue to mediate under this subsection, enter an order
27 suspending the proceeding or action for as long a period as
28 the board or court considers appropriate. A suspension order
29 issued under this paragraph may be revoked upon motion of any
30 party or upon motion of the board or the court.

1 (4) The board shall encourage dealers, manufacturers and
2 distributors to establish, maintain and administer a panel of
3 mediators who have the character, ability and training to
4 serve as mediators and who have knowledge of the vehicle
5 industry.

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

8 (i) A dealer seeking to dual two or more franchises
9 or a dealer seeking a relocation involving a request to
10 dual two or more franchises unless another dealer of the
11 same line-make has a right to protest the proposed
12 relocation under section [27] 326.

13 (ii) Manufacturers, distributors or dealers of
14 motorcycles.

15 (b) Arbitration of disputes between licensees.--After a
16 dispute arises, the licensees may voluntarily agree to submit a
17 dispute arising under this [act] chapter pertaining to a
18 complaint, petition, protest or action to binding or nonbinding
19 arbitration. Any arbitration proceeding shall be voluntary,
20 initiated by serving a written demand for arbitration on the
21 other party, and shall be conducted under the provisions of 42
22 Pa.C.S. Ch. 73 Subch. A (relating to statutory arbitration) and
23 administered by representatives of dealers, manufacturers or
24 distributors.

25 (c) Immunity and presumption of good faith by mediators and
26 arbitrators.--A mediator or arbitrator is immune from civil
27 liability for any good faith act or omission within the scope of
28 the mediator's or arbitrator's performance of his powers and
29 duties under this section. Every act or omission of a mediator
30 or arbitrator is presumed to be a good faith act or omission.

1 This presumption may be overcome only by clear and convincing
2 evidence.

3 SECTION 12. SECTION 12 OF THE ACT, AMENDED JUNE 28, 2018 <--
4 (P.L.420, NO.59), IS AMENDED TO READ:

5 Section [12] 310. Unlawful acts by manufacturers or
6 distributors.

7 (a) Unlawful coercive acts.--It shall be a violation for any
8 manufacturer, factory branch, distributor, field representative,
9 officer, agent or any representative whatsoever of such
10 manufacturer, factory branch or distributor licensed under this
11 [act] chapter to require, attempt to require, coerce or attempt
12 to coerce any new vehicle dealer in this Commonwealth to:

13 (1) Order or accept delivery of any new vehicle, part or
14 accessory thereof, equipment or any other commodity not
15 required by law which shall not have been voluntarily ordered
16 by the new vehicle dealer, except that this paragraph is not
17 intended to modify or supersede any terms or provisions of
18 the franchise requiring new vehicle dealers to market a
19 representative line of those vehicles which the manufacturer
20 or distributor is publicly advertising.

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

25 (3) Participate monetarily in an advertising campaign or
26 contest or to purchase unnecessary or unreasonable quantities
27 of any promotional materials, training materials, showroom or
28 other display decorations or materials at the expense of the
29 new vehicle dealer.

30 (4) Enter into any agreement with the manufacturer or to

1 do any other act prejudicial to the new vehicle dealer by
2 threatening to terminate or not renew a franchise or any
3 contractual agreement existing between the dealer and the
4 manufacturer or distributor, except that this paragraph is
5 not intended to preclude the manufacturer or distributor from
6 insisting on compliance with the reasonable terms or
7 provisions of the franchise or other contractual agreement
8 and notice in good faith to any new vehicle dealer of the new
9 vehicle dealer's violation of such terms or provisions shall
10 not constitute a violation of [the act] this chapter.

11 (5) Change the capital structure of the new vehicle
12 dealer or the means by or through which the new vehicle
13 dealer finances the operation of the dealership, provided
14 that the new vehicle dealer at all times meets any reasonable
15 capital standards determined by the manufacturer or
16 distributor in accordance with uniformly applied criteria,
17 and also provided that no change in the capital structure
18 shall cause a change in the principal management or have the
19 effect of a sale of the franchise without the consent of the
20 manufacturer or distributor. The consent shall be granted or
21 denied within 60 days of receipt of a written request from
22 the new vehicle dealer.

23 (6) (i) Refrain from participation in the management
24 of, investment in or the acquisition of any other line of
25 new vehicle or related products. This paragraph does not
26 apply unless the new vehicle dealer maintains a
27 reasonable line of credit for each make or line of new
28 vehicle, the new vehicle dealer remains in compliance
29 with the reasonable terms of the franchise agreement and
30 any reasonable facilities requirements of the

1 manufacturer or distributor, and no change is made in the
2 principal management of the new vehicle dealer. The
3 reasonable facilities requirements shall not include any
4 requirement that a new vehicle dealer establish or
5 maintain exclusive facilities, personnel or display space
6 when such requirements or any of them would be
7 unreasonable in light of economic conditions and would
8 not otherwise be justified by reasonable business
9 considerations.

10 (ii) (A) Nothing in this paragraph shall permit the
11 dualing or relocation and addition of a line-make to
12 the dealership facilities without the new vehicle
13 dealer providing written certification to the
14 manufacturer or distributor that the new vehicle
15 dealer, with the addition of a line-make by the new
16 vehicle dealer, will maintain a reasonable line of
17 credit for each make or line of new vehicle and the
18 new vehicle dealer will remain in compliance with the
19 reasonable terms of the franchise agreement and any
20 reasonable facilities requirements of the
21 manufacturer or distributor, excluding any exclusive
22 facility or nondualing requirements.

23 (B) The dealer shall provide the following
24 information:

25 (I) the address of the proposed new
26 location, if applicable;

27 (II) a brief description of the proposed
28 facility; and

29 (III) the owner of the proposed new
30 location.

1 (C) Any objection by the manufacturer or
2 distributor with regard to the dualing or relocation
3 and dualing of two or more franchises shall be
4 delivered to the dealer within 45 days of receipt of
5 the written certification from the new vehicle
6 dealer. Failure on the part of the manufacturer or
7 distributor to timely respond to a dualing or
8 relocation and dualing certification shall be deemed
9 to be an approval of the new vehicle dealer's
10 certification notice of dualing or relocation and
11 dualing of two or more franchises. The manufacturer
12 or distributor shall execute and deliver a franchise
13 reflecting the relocated address of the dealership
14 facilities to the new vehicle dealer within 30 days
15 of the date of the deemed approval.

16 (iii) A dealer may file a complaint, petition or
17 protest, or bring an action in a court of competent
18 jurisdiction against a manufacturer or distributor, based
19 on a denial of a request by a dealer to dual or relocate
20 and dual two or more franchises without first going
21 through mediation required under section [11] 309. If a
22 dualing or relocation and dualing denial protest is filed
23 with the board, a hearing shall be held within 45 days of
24 the protest's filing and a final determination issued by
25 the board within 90 days of the protest filing. The
26 burden of proof shall be on the manufacturer or
27 distributor to show that the dualing or relocation and
28 dualing is unreasonable. No automobile, motorcycle or
29 truck manufacturer or distributor may limit or restrict
30 the addition of a line-make to the dealership facilities

1 if the new vehicle dealer maintains a reasonable line of
2 credit for each make or line of new vehicle and the new
3 vehicle dealer remains in compliance with the reasonable
4 terms of the franchise agreement and any reasonable
5 facilities requirements of an automobile, motorcycle or
6 truck manufacturer or distributor. This paragraph shall
7 also apply if the dealer seeks to dual two or more line-
8 makes and no relocation will occur. This paragraph shall
9 not impair the rights of another dealer of the same line-
10 make to protest a proposed relocation under section [27]
11 326.

12 (7) Prospectively assent to a release, assignment,
13 novation, waiver or estoppel which would relieve any person
14 from liability to be imposed by this [act] chapter or to
15 require any controversy between a new vehicle dealer and a
16 manufacturer, distributor or representative to be referred to
17 any person other than the duly constituted courts of the
18 Commonwealth or the United States of America, if such
19 referral would be binding upon the new vehicle dealer. A
20 dealer and the manufacturer, distributor or representative,
21 by themselves or through their respective counsel, are
22 permitted to agree to execute a written agreement or to
23 arbitrate in a binding or nonbinding manner after a
24 controversy arises.

25 (8) Expand, construct or significantly modify facilities
26 BEFORE A DATE THAT IS TEN YEARS AFTER THE DATE OF THE <--
27 CONSTRUCTION OF THE FACILITY OR THE ALTERATION OR REMODELING
28 AT THAT LOCATION WAS COMPLETED AND without assurances that
29 the manufacturer or distributor will provide a reasonable
30 supply of new vehicles within a reasonable time so as to

1 justify such an expansion in light of the market and economic
2 conditions. THIS PARAGRAPH SHALL NOT APPLY IF THE EXPANSION, <--
3 CONSTRUCTION OR SIGNIFICANT MODIFICATION IS NECESSARY TO
4 COMPLY WITH A HEALTH OR SAFETY LAW OR TO COMPLY WITH A
5 TECHNOLOGY REQUIREMENT, WHICH IS NECESSARY TO SELL OR SERVICE
6 A VEHICLE THAT THE NEW VEHICLE DEALER IS LICENSED BY THE
7 MANUFACTURER TO SELL OR SERVICE. THIS SECTION SHALL APPLY TO
8 ANY SUCCESSOR DEALER PROVIDED THE DEALER HAS BEEN DESIGNATED
9 AND APPROVED BY THE MANUFACTURER IN THE FRANCHISE AGREEMENT
10 AND THE CONSTRUCTION, ALTERATION OR REMODELING SUBSTANTIALLY
11 COMPLIED WITH THE MANUFACTURER'S BRAND IMAGE STANDARDS OR
12 PLANS THAT THE MANUFACTURER PROVIDED AT THE TIME THE
13 CONSTRUCTION, ALTERATION OR REMODELING WAS COMPLETED. NOTHING
14 IN THIS PARAGRAPH SHALL PROHIBIT A MANUFACTURER FROM:

15 (I) CONTINUING A FACILITY IMPROVEMENT PROGRAM THAT
16 IS IN EFFECT AS OF THE EFFECTIVE DATE OF THIS
17 SUBPARAGRAPH WITH MORE THAN ONE NEW VEHICLE DEALER IN
18 THIS COMMONWEALTH OR TO RENEWING OR MODIFYING THE
19 FACILITY IMPROVEMENT PROGRAM.

20 (II) PROVIDING LUMP SUM OR REGULARLY SCHEDULED
21 PAYMENTS TO ASSIST A NEW VEHICLE DEALER IN MAKING A
22 FACILITY IMPROVEMENT, INCLUDING CONSTRUCTION, ALTERATION
23 OR REMODELING OR INSTALLING SIGNAGE OR AN IMAGE ELEMENT.

24 (III) PROVIDING REIMBURSEMENT TO A NEW VEHICLE
25 DEALER ON REASONABLE, WRITTEN TERMS FOR A PORTION OF THE
26 NEW VEHICLE DEALER'S COST OF MAKING A FACILITY
27 IMPROVEMENT, INCLUDING CONSTRUCTION, ALTERATION OR
28 REMODELING, THE PURCHASE OF GOODS, BUILDING MATERIALS OR
29 SERVICES OR INSTALLING SIGNAGE OR AN IMAGE ELEMENT.

30 (8.1) Unreasonably expand, construct or significantly

1 modify facilities in light of the market and economic
2 conditions or require a separate facility for the sale or
3 service of a line-make of a new vehicle if the market and
4 economic conditions do not clearly justify the separate
5 facility.

6 (8.2) (i) Purchase a good or service from a vendor
7 selected, identified or designated by a manufacturer,
8 factory branch, distributor, distributor branch or an
9 affiliate of a manufacturer, factory branch, distributor,
10 distributor branch by agreement, program, incentive
11 provision or other method if expanding, constructing or
12 significantly modifying a facility without allowing the
13 dealer the option to obtain a good or service of
14 substantially similar quality from a vendor chosen by the
15 dealer and approved by the manufacturer, which approval
16 may not be unreasonably withheld.

17 (ii) Nothing under this paragraph shall be construed
18 to:

19 (A) Allow a dealer or vendor to eliminate or
20 impair a manufacturer's intellectual property rights,
21 including a manufacturer's intellectual property
22 rights in a trademark.

23 (B) Permit a dealer to erect or maintain signs
24 that do not conform to the intellectual property
25 usage guidelines of the manufacturer.

26 (9) Agree as a condition to granting or renewing a
27 franchise to waive, limit or disclaim a right that the dealer
28 may have to protest the establishment or relocation of
29 another vehicle dealer in the relevant market area as
30 provided in section [27] 326, unless such agreement is

1 voluntary.

2 (10) (i) Sell, offer to sell or sell exclusively an
3 extended service contract, extended maintenance plan or
4 similar product, such as gap products, offered, endorsed
5 or sponsored by the manufacturer or distributor by the
6 following means:

7 (A) By an act or statement that the manufacturer
8 or distributor will in any manner impact the dealer,
9 whether it is express or implied or made directly or
10 indirectly.

11 (B) By a contract, or an express or implied
12 offer of contract, made to the dealer on the
13 condition that the dealer shall sell, offer to sell
14 or sell exclusively an extended service contract,
15 extended maintenance plan or similar product offered,
16 endorsed or sponsored by the manufacturer or
17 distributor.

18 (C) By measuring the dealer's performance under
19 the franchise based on the sale of extended service
20 contracts, extended maintenance plans or similar
21 products offered, endorsed or sponsored by the
22 manufacturer or distributor.

23 (D) By requiring the dealer to actively promote
24 the sale of extended service contracts, extended
25 maintenance plans or similar products offered,
26 endorsed or sponsored by the manufacturer or
27 distributor.

28 (ii) Nothing in this paragraph shall prohibit a
29 manufacturer or distributor from providing incentive
30 programs to a new vehicle dealer who makes the voluntary

1 decision to offer to sell, sell or sell exclusively an
2 extended service contract, extended maintenance plan or
3 similar product offered, endorsed or sponsored by the
4 manufacturer or distributor.

5 (b) Violations.--It shall be a violation of this [act]
6 chapter for any manufacturer, factory branch, distributor, field
7 representative, officer, agent or any representative whatsoever
8 of such manufacturer, factory branch or distributor licensed
9 under this [act] chapter to:

10 (1) Delay, refuse or fail to deliver new vehicles or new
11 vehicle parts or accessories in a reasonable time and in
12 reasonable quantity relative to the new vehicle dealer's
13 facilities and sales potential after acceptance of an order
14 from a new vehicle dealer having a franchise for the retail
15 sale of any new vehicle sold or distributed of an order from
16 a new vehicle dealer having a franchise for the retail sale
17 of any new vehicle sold or distributed by the manufacturer or
18 distributor as are covered by such franchise, if such
19 vehicle, parts or accessories are publicly advertised as
20 being available for immediate delivery. There is no violation
21 if the failure is caused by acts or causes beyond the control
22 of the manufacturer or distributor.

23 (2) Unfairly discriminate among its new vehicle dealers
24 with respect to warranty, recall, service contract or any
25 other service required by the manufacturer or distributor
26 with regard to labor or parts reimbursement.

27 (3) Unreasonably withhold consent to the sale, transfer
28 or exchange of the franchise to a qualified buyer capable of
29 being licensed as a new vehicle dealer in this Commonwealth
30 who meets the manufacturer's or distributor's reasonable

1 requirements for appointment as a dealer.

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

7 (5) Fail to respond in writing to a request for consent
8 as specified in paragraphs (3) and (4) within 60 days of
9 receipt of a written request on the forms, if any, generally
10 utilized by the manufacturer or distributor for such purposes
11 and containing the information required. The failure to
12 respond within the time period set forth in this paragraph
13 shall be deemed to be approval of the request, and the
14 manufacturer or distributor shall execute and deliver a
15 franchise to the applicant within 30 days of the expiration
16 of this time period. A manufacturer or distributor shall
17 acknowledge in writing to the applicant the receipt of the
18 forms, and, if the manufacturer or distributor requires
19 additional information to complete its review, the
20 manufacturer or distributor shall notify the applicant within
21 15 days of the receipt of the forms. If the manufacturer or
22 distributor fails to request additional information from the
23 applicant within 15 days after receipt of the initial forms,
24 the 60-day time period for approval shall be deemed to run
25 from the initial receipt date. Otherwise, the 60-day time
26 period for approval shall run from receipt of the
27 supplemental requested information. In no event shall the
28 total time period for approval exceed 75 days from the date
29 of the receipt of the initial forms.

30 (6) Prevent or attempt to prevent by contract or

1 otherwise, any new vehicle dealer from changing the executive
2 management control of the new vehicle dealer unless the
3 manufacturer or distributor, having the burden of proof, can
4 show that such change of executive management will result in
5 executive management or control by a person or persons who
6 are not of good moral character or who do not meet
7 reasonable, preexisting, and, with consideration given to the
8 volume of sales and service of the dealership, uniformly
9 applied minimum business experience standards. Where the
10 manufacturer or distributor rejects a proposed change in
11 executive management control, the manufacturer or distributor
12 shall give written notice of its reasons to the dealer within
13 60 days of notice to the manufacturer by the dealer of the
14 proposed change; otherwise the change in the executive
15 management of the new vehicle dealer shall be presumptively
16 deemed approved.

17 (7) Offer in connection with a sale of a new vehicle or
18 vehicles to the Federal Government, the Commonwealth or any
19 political subdivision thereof, any discounts, refunds or any
20 other type of inducement to any new vehicle dealer without
21 making the same offer or offers available to all other of its
22 new vehicle dealers within this Commonwealth. This paragraph
23 shall not be construed to prevent the offering of incentive
24 programs or other discounts if the discounts are equally
25 available to all franchised vehicle dealers in this
26 Commonwealth on a proportionally equal basis.

27 (8) Fail to indemnify its franchised dealers,
28 notwithstanding the terms of any franchise agreement, against
29 any judgment for damages or settlement approved in writing by
30 the manufacturer or distributor, including, but not limited

1 to, court costs and reasonable attorney fees of the new
2 vehicle dealer, arising out of complaints, claims or
3 lawsuits, including, but not limited to, strict liability,
4 negligence, misrepresentation, express or implied warranty or
5 rescission of the sale as defined in 13 Pa.C.S. § 2608
6 (relating to revocation of acceptance in whole or in part) to
7 the extent that the judgment or settlement relates solely to
8 the alleged defective or negligent functions by the
9 manufacturer or distributor beyond the control of the dealer.

10 (9) Sell or exchange with a second or final stage
11 manufacturer, retail consumer or end user except through a
12 licensed new vehicle dealer. This paragraph shall not apply
13 to manufacturer or distributor sales of new vehicles to the
14 Federal Government, charitable organizations and employees of
15 the manufacturer.

16 (10) [(i)] Modify a franchise during the term of the
17 franchise or upon its renewal if the modification
18 substantially and adversely affects the new vehicle
19 dealer's rights, obligations, investment or return on
20 investment without giving 60 days' written notice of the
21 proposed modification to the new vehicle dealer unless
22 the modification is required by law, court order or the
23 board. Within the 60-day notice period, the new vehicle
24 dealer may file with the board and serve notice upon the
25 manufacturer or distributor a protest requesting a
26 determination of whether there is [good] just cause for
27 permitting the proposed modification. The board shall
28 promptly schedule a hearing and decide the matter within
29 180 days from the date the protest is filed. Multiple
30 protests pertaining to the same proposed modification

1 shall be consolidated for hearing. The proposed
2 modification shall not take effect pending the
3 determination of the matter. In determining whether there
4 is [good] just cause for permitting a proposed
5 modification, the board shall consider any relevant
6 factors, including, but not limited to:

7 [(A)] (i) The reasons for the proposed
8 modification.

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

12 [(C)] (iii) Whether the proposed modification
13 will have a substantial and adverse effect upon the
14 new vehicle dealer's investment or return on
15 investment.

16 [(D)] (iv) Whether the proposed modification is
17 in the public interest.

18 [(E)] (v) Whether the proposed modification is
19 necessary to the orderly and profitable distribution
20 of products by the manufacturer or distributor.

21 [(F)] (vi) Whether the proposed modification is
22 offset by other modifications beneficial to the new
23 vehicle dealer.

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

26 (11) Fail or refuse to offer to its new vehicle dealers
27 all new model vehicles manufactured for that line-make
28 franchise or require any of its new vehicle dealers to pay an
29 unreasonable fee, unreasonably remodel or renovate the new
30 vehicle dealer's existing facilities, unreasonably purchase

1 or construct a new facility, unreasonably purchase parts,
2 supplies, tools, equipment, operational services, other
3 merchandise or unreasonably participate in training programs
4 in order to receive any new model vehicles, parts or
5 accessories. It shall not be a violation of this paragraph if
6 the manufacturer or distributor fails to supply new vehicle
7 dealers with model vehicles, parts or accessories due to
8 circumstances beyond the control of the manufacturer or
9 distributor, including, but not limited to, strike or labor
10 difficulty, shortage of materials, freight embargo or
11 temporary lack of capacity.

12 (12) Operate a system for the allocation of new vehicles
13 which is not reasonable or fair to a new vehicle dealer. Upon
14 the written request of any of its new vehicle dealers, a
15 manufacturer or distributor shall disclose to the new vehicle
16 dealer the method on which new vehicles are allocated among
17 the new vehicle dealers of the same line-make. The
18 manufacturer distributor has the burden of establishing the
19 fairness of its allocation.

20 (13) Own, operate or control, either directly or
21 indirectly, any vehicle warranty facility. Nothing in this
22 subsection shall prohibit any manufacturer or distributor
23 from owning, operating or controlling any warranty facility
24 for warranty repairs on vehicles owned or operated by the
25 manufacturer or distributor.

26 (14) Compel a dealer through a finance subsidiary of the
27 manufacturer or distributor to agree to unreasonable
28 operating requirements or to directly or indirectly terminate
29 a new vehicle dealer through the actions of a finance
30 subsidiary of the manufacturer or distributor. This paragraph

1 shall not limit the right of a financing entity to engage in
2 business practices in accordance with the trade of retail or
3 wholesale vehicle financing.

4 (15) Use any subsidiary corporation, affiliated
5 corporation or any other controlled corporation, partnership,
6 association, entity or person to accomplish what would
7 otherwise be illegal conduct under this [act] chapter on the
8 part of the manufacturer or distributor.

9 (16) Release to any third party any customer information
10 which has been provided by the new vehicle dealer to the
11 manufacturer or distributor if the customer objects in
12 writing to releasing the information, unless the information
13 is necessary for the manufacturer or distributor to meet its
14 obligations to customers or new vehicle dealers under
15 requirements imposed by Federal or State law.

16 (17) Require or coerce or attempt to require or coerce a
17 new vehicle dealer to pay attorney fees of the manufacturer
18 or distributor related to hearings and appeals brought under
19 this [act] chapter.

20 (18) Vary the price charged to any of its new vehicle
21 dealers, which has the effect of causing a difference in the
22 price of any similarly equipped new vehicle to its new
23 vehicle dealers or to the ultimate purchaser. This paragraph
24 shall not be construed to prevent the offering of incentive
25 programs or other discounts if the incentive or discounts are
26 available to all competing new vehicle dealers of the same
27 line-make in this Commonwealth on a proportionately equal
28 basis.

29 (19) Directly or indirectly condition any of the
30 following actions on a dealer, prospective dealer or owner of

1 an interest in a dealership franchise or facility to enter
2 into a site-control agreement or exclusive use agreement:

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

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

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

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

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

11 Nothing in this paragraph prohibits a dealer, prospective
12 dealer or owner of an interest in a dealership franchise or
13 facility from voluntarily entering into such an agreement for
14 other consideration. However, a provision contained in an
15 agreement which is not voluntarily entered into by a dealer,
16 prospective dealer or owner of an interest in a dealership
17 franchise or facility on or after the effective date of this
18 paragraph that is inconsistent with the provisions of this
19 section shall be a violation of this [act] chapter.

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

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

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

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

1 (2) A manufacturer or distributor may own or hold an
2 interest in a dealer or otherwise operate or control a dealer
3 for a period not to exceed 12 months from the date the
4 manufacturer or distributor acquires an interest in the
5 dealer if:

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

8 (ii) The dealer is for sale by the manufacturer or
9 distributor at a reasonable price and on reasonable terms
10 and conditions.

11 (3) On a showing by a manufacturer or distributor of
12 [good] just cause, the board may extend the time limit set
13 forth in paragraph (2). An extension under this paragraph may
14 not exceed 12 months. Where an extension under this paragraph
15 is sought, the manufacturer or distributor shall provide
16 notice delivered 30 days before the extension request is
17 filed with the board to all the same line-make dealers within
18 a ten-mile radius of the manufacturer or distributor owned,
19 operated or controlled dealer. An application for an
20 extension is subject to protest by a dealer of the same line-
21 make who is within the ten-mile radius of the manufacturer or
22 distributor owned, operated or controlled dealer.

23 (4) For the primary purpose of broadening the diversity
24 of its dealer body and enhancing opportunities for qualified
25 persons who are part of a group who have historically been
26 underrepresented in its dealer body or other qualified
27 persons who lack the resources to purchase a dealer outright,
28 a manufacturer or distributor may temporarily own an interest
29 in a dealer if the manufacturer's or distributor's
30 participation in the dealer is in a bona fide relationship

1 with a franchised dealer who:

2 (i) At or prior to the time the prospective dealer
3 takes an equity interest in the dealer, the prospective
4 dealer is obligated to make a significant investment in
5 the dealer, subject to loss.

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

7 (iii) Operates the dealer under a written agreement
8 to acquire full ownership of the dealer within a
9 reasonable time and under reasonable terms and
10 conditions.

11 (5) A manufacturer or distributor shall not unfairly
12 discriminate or compete in terms of any sales, service or
13 operational activities with a new vehicle dealer of the same
14 line-make when a manufacturer or distributor operates a new
15 vehicle dealer under this subsection.

16 (6) The following shall apply:

17 (i) A manufacturer or distributor may own, operate
18 or control not more than five new vehicle dealerships
19 trading solely in electric vehicles, as defined in 75
20 Pa.C.S. § 102 (relating to definitions), that are not
21 sold as new vehicles by a licensed independent new
22 vehicle dealer pursuant to an existing franchise with a
23 manufacturer or distributor, if each of the following
24 conditions are met:

25 (A) Each of the new vehicle dealerships selling
26 the manufacturer's new motor vehicles in this
27 Commonwealth trade exclusively in the manufacturer's
28 line-make.

29 (B) Each of the new vehicle dealerships selling
30 the manufacturer's motor vehicles in this

1 Commonwealth are determined to be in compliance with
2 this [act] chapter.

3 (C) Either of the following apply:

4 (I) The manufacturer, distributor or a
5 subsidiary, affiliate or controlled entity has
6 not acquired, nor does it hold a controlling
7 interest in another manufacturer or distributor,
8 required to be licensed under this [act] chapter.

9 (II) If a controlling interest is acquired,
10 the manufacturer, distributor or a subsidiary,
11 affiliate or controlled entity may not continue
12 to operate or control a new vehicle dealership
13 under this subsection for a period not more than
14 12 months from the date it acquired the
15 controlling interest.

16 (D) Either of the following apply:

17 (I) A controlling interest in the original
18 manufacturer, distributor or any subsidiary,
19 affiliate or controlled entity was not
20 transferred, sold or conveyed to another
21 manufacturer, distributor, person or entity
22 required to be licensed under this [act] chapter.

23 (II) If a controlling interest is
24 transferred, sold or conveyed to another
25 manufacturer, distributor, person or entity
26 required to be licensed under this [act] chapter,
27 the entity may not continue to operate or control
28 a new vehicle dealership under this subsection
29 for a period not more than 12 months from the
30 date it acquired the controlling interest.

1 (E) The manufacturer shall have continuously
2 offered electric vehicles for sale for a period of
3 not less than 12 months prior to the effective date
4 of this clause.

5 (ii) Nothing under this [act] chapter shall prohibit
6 a manufacturer operating or controlling a new vehicle
7 dealership under this paragraph from owning, operating or
8 controlling a warranty facility for warranty repairs on
9 the manufacturer's line-make of vehicles.

10 (7) Nothing under this subsection shall prohibit the
11 sale or lease of used vehicles obtained as a result of a
12 trade or return of a vehicle during the purchase of a new
13 vehicle under paragraph (6) at a manufacturer's licensed
14 location.

15 (d) Applicability.--

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

19 (1.1) This section shall not apply to manufacturers,
20 distributors or dealers of recreational vehicles.

21 (2) Subsections (b) (13) and (15) and (c) shall not apply
22 to the ownership or activities of a manufacturer in the
23 operation of a licensed dealer or a licensed dealer that
24 fulfills the following conditions:

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

28 (ii) Vehicles sold by the licensed dealer primarily
29 engaged in the business of rental vehicles are limited to
30 those vehicles used for rental purposes or vehicles

1 obtained in trade for such vehicles.

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

5 SECTION 13. SECTIONS 12.1, 13, 14, 15, 16, 17, 18 AND 19 OF <--
6 THE ACT ARE AMENDED TO READ:

7 Section [12.1] 311. Area of responsibility.

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

13 (1) Advance notice from the manufacturer of an
14 alteration of a dealer's area of responsibility shall be
15 given at least 60 days before the effective date of the
16 alteration. The notice shall include an explanation of the
17 basis for the alteration.

18 (2) At any time before the effective date of such
19 alteration of a dealer's area of responsibility, and after
20 the completion of any internal appeal process pursuant to the
21 manufacturer's or distributor's policy manual, the dealer may
22 file a protest as provided for under section [8] 306. In the
23 event a protest is filed, no such alteration of a dealer's
24 area of responsibility shall become effective until final
25 determination by the board.

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

30 (4) If a new vehicle dealer's area of responsibility is

1 altered, the manufacturer shall allow 18 months for the
2 dealer to penetrate the market and to become sales effective
3 prior to taking negative legal action claiming a breach or
4 nonperformance of the dealer's sales performance
5 responsibilities against the dealer.

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

8 Section [13] 312. Termination of franchises.

9 (a) Terminations.--It shall be a violation of this [act]
10 chapter for any manufacturer or distributor, officer, agent or
11 any representative whatsoever to unfairly, without due regard to
12 the equities of said dealer and without just cause, terminate or
13 fail to renew the franchise of any vehicle dealer; or being a
14 manufacturer, to unfairly, without due regard to the equities of
15 a distributor and without just cause, terminate or fail to renew
16 the franchise of any distributor. The manufacturer or
17 distributor shall not meet its burden of proof to terminate or
18 fail to renew the franchise if the acts of the manufacturer or
19 distributor, in whole or in significant part, caused the dealer
20 or distributor to be unable to comply substantially with the
21 reasonable and material requirements of the franchise.

22 (b) Mutual agreement of termination filing.--All existing
23 dealers' franchises shall continue in full force and operation
24 under a newly appointed distributor on the termination of an
25 existing distributor unless a mutual agreement of termination is
26 filed with the board between the newly appointed distributor and
27 such dealer.

28 (c) Notification of termination.--Not less than 60 days
29 advance notice of such termination or failure to renew shall be
30 given the dealer or distributor prior to the effective date

1 thereof unless the nature or character of the reason for
2 termination or failure to renew is such that the giving of such
3 notice would not be in the public interest. A copy of the notice
4 shall also be provided to the board.

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

8 (i) insolvency of the dealer or filing of any
9 petition by or against the dealer under any bankruptcy or
10 receivership law;

11 (ii) failure of the dealer to conduct customary
12 sales and service operations during business hours for
13 seven consecutive business days, except in circumstances
14 beyond the direct control of the dealer;

15 (iii) conviction of the dealer, or any owner
16 thereof, of any felony which is punishable by
17 imprisonment;

18 (iv) suspension or revocation of any license which
19 the new vehicle dealer is required to have to operate a
20 dealership; or

21 (v) based on a determination that there was a
22 fraudulent misrepresentation by the dealer to the
23 manufacturer or distributor which is material to the
24 franchise.

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

28 (d) Appeals.--At any time before the effective date of such
29 termination or failure to renew, the dealer or distributor may
30 appeal to the board for a hearing on the merits, and following

1 due notice to all parties concerned, such hearing shall be
2 promptly held. No such termination or failure to renew shall
3 become effective until final determination of the issue by the
4 board.

5 (e) Burden of proof and just cause terminations on appeal.--
6 In the event of a dealer or distributor appeal of the
7 termination or failure to renew of its franchise, the burden of
8 proof shall be on the manufacturer or distributor to show that
9 such termination or failure to renew was for just cause. Any
10 termination or failure to renew which is subject to section [14]
11 313 shall not be subject to this subsection.

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

14 Section [14] 313. Industry reorganization.

15 (a) Violation.--

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

20 (i) any change in ownership or control of all or any
21 part of the manufacturer's or distributor's business
22 whether by sale or transfer of assets, corporate stock or
23 other equity interest; assignment; merger; consolidation;
24 combination; joint venture; redemption; operation of law;
25 or otherwise; or

26 (ii) the termination, suspension or cessation of all
27 or any part of the manufacturer's or distributor's
28 business operations except for a termination of a part of
29 the manufacturer's or distributor's business operations
30 throughout the United States that is not otherwise part

1 of any change in ownership or control of the
2 manufacturer's or distributor's business.

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

4 (i) a manufacturer or distributor offers a dealer a
5 replacement franchise with reasonable terms or
6 conditions; or

7 (ii) the manufacturer or distributor, within 90 days
8 of the effective date of the termination or failure to
9 renew, compensates the dealer in an amount at least
10 equivalent to the higher of the fair market value of the
11 franchise or portion of the franchise terminated or
12 failed to be renewed on the date the manufacturer or
13 distributor announces the act that results in the
14 termination or nonrenewal of the franchise or the date on
15 which the notice of termination or nonrenewal of the
16 franchise is issued.

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

18 (i) authorizes the dealer to continue servicing and
19 supplying parts, including warranty service and parts,
20 for any goods or services marketed by the dealer pursuant
21 to the franchise for a period of not less than five years
22 from the effective date of the termination or failure to
23 renew and continues to reimburse the dealer for warranty
24 parts and service at the same prices and terms as
25 franchised dealers for the manufacturer or distributor;

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

1 franchised dealers for the manufacturer or distributor;
2 and if a dealer chooses to continue either or both such parts
3 and service operation under subparagraph (i) or (ii), the
4 fair market value compensation of the franchise shall be
5 reduced to reflect the value of continuing either or both
6 such parts and service operation.

7 (b) Acts affecting franchise.--For purposes of subsection
8 (a), the termination or discontinuation of a series, line, brand
9 or class of new vehicle marketed by a manufacturer or
10 distributor as a distinct series, line, brand or class shall be
11 deemed to be the termination or nonrenewal of a franchise even
12 if said series, line, brand or class of new vehicle is part of a
13 franchise including other series, lines, brands or classes of
14 new vehicle, provided that nothing in this subsection shall be
15 construed as prohibiting a manufacturer or distributor from
16 changing, adding or deleting models, specifications, model
17 names, numbers or identifying marks or similar characteristics
18 of the new vehicles it markets, provided that such change,
19 addition or deletion does not result in the termination or
20 discontinuance of a distinct series, line, brand or class of new
21 vehicle.

22 (c) Disputes.--Any dispute arising between a manufacturer or
23 distributor and a dealer under this section involving the
24 determination of the fair market valuation of a franchise shall
25 be determined by a court of competent jurisdiction and not by
26 the board.

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

30 (a) Succession of ownership interest.--Notwithstanding the

1 terms of any franchise, any owner of a new vehicle dealership
2 may appoint, by will or any other written instrument, a
3 designated family member, the spouse, child or grandchild,
4 spouse of a child or grandchild, brother, sister or parent of
5 the dealer owner, or qualified manager, who has been employed at
6 the dealership for at least two years, to succeed to the
7 ownership interest of such owner in the new vehicle dealership.

8 (b) Consent to succession on part of manufacturer or
9 distributor.--Notwithstanding the terms of any franchise, unless
10 there exists [good] just cause to withhold consent to succession
11 on the part of the manufacturer or distributor, any designated
12 family member or qualified manager of the franchise location in
13 question of a retiring, deceased or incapacitated owner of a new
14 vehicle dealership may succeed to the ownership interest of such
15 owner under the existing franchise, provided:

16 (1) The designated family member or qualified manager
17 furnishes written notice to the manufacturer or distributor
18 of his or her intention to succeed to the ownership of the
19 new vehicle dealership within 60 days after the owner's
20 retirement, death or incapacity.

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

24 (c) Submission of personal and financial information.--The
25 manufacturer or distributor may request, and the designated
26 family member or qualified manager shall promptly provide, such
27 personal and financial information as is reasonably necessary to
28 determine whether the succession will be honored.

29 (d) Withholding consent to succession.--If a manufacturer or
30 distributor believes that [good] just cause exists to withhold

1 consent to the succession to the ownership of a new vehicle
2 dealership by a designated family member or qualified manager of
3 a retiring, deceased or incapacitated owner of a new vehicle
4 dealership under the existing franchise, the manufacturer or
5 distributor must serve written notice on the designated family
6 member or qualified manager and on the board of its refusal to
7 honor the succession and intent to discontinue the existing
8 franchise with the new vehicle dealer. Such notice shall be
9 served no later than 60 days after the manufacturer's or
10 distributor's receipt of:

11 (1) notice of the designated family member's or
12 qualified manager's intent to succeed to the ownership of the
13 new vehicle dealer; or

14 (2) any personal or financial information requested by
15 the manufacturer or distributor.

16 (e) Notice requirements.--The notice in subsection (d) shall
17 state the specific grounds to withhold consent to honor the
18 succession and the manufacturer's or distributor's intent to
19 discontinue the franchise with the new vehicle dealer no sooner
20 than 60 days after the date the notice is served. The reasons
21 given for the disapproval or any explanation of those reasons by
22 the manufacturer or distributor shall not subject the
23 manufacturer or distributor to any civil liabilities unless the
24 reasons given or explanations made are malicious and published
25 with the sole intent to cause harm to the dealer or successor.
26 If the notice of refusal and discontinuance is not timely and
27 properly served, the franchise shall continue in effect, subject
28 to termination only as otherwise provided under this [act]
29 chapter.

30 (f) Protest requirements upon withholding of consent.--

1 Within 30 days after receipt of such notice or within 30 days
2 after the end of any appeal procedure provided by the
3 manufacturer or distributor, whichever is greater, the
4 designated family member or qualified manager may file with the
5 board to protest the withholding the consent to honor the
6 succession. When a protest is filed, the board shall promptly
7 notify the manufacturer or distributor that a timely protest has
8 been filed and that such manufacturer or distributor shall not
9 terminate or discontinue the existing franchise until the board
10 has held a hearing and issued a written decision within 120 days
11 of the filing of the protest nor thereafter, unless the board
12 determines that there is [good] just cause for not permitting
13 the succession.

14 (g) Conflicts.--This [act] chapter shall not preclude the
15 owner of a new vehicle dealership from designating any person as
16 his or her successor by written instrument filed with the
17 manufacturer or distributor. In the event of any conflict
18 between such a written instrument which has not been revoked by
19 written notice from the owner to the manufacturer or
20 distributor, and this section, the written instrument shall
21 govern.

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

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

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

30 (a) General rule.--A manufacturer or distributor shall be

1 permitted to enact a right of first refusal to acquire the new
2 vehicle dealer's assets or ownership in the event of a proposed
3 change of all or substantially all ownership or transfer of all
4 or substantially all dealership assets if all of the following
5 requirements are met:

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

10 (2) The exercise of the right of first refusal will
11 result in the dealer and dealer's owners receiving the same
12 or greater consideration as they have contracted to receive
13 in connection with the proposed change of all or
14 substantially all ownership or transfer of all or
15 substantially all dealership assets. In that regard, the
16 following shall apply:

17 (i) The manufacturer or distributor shall have the
18 right to and shall assume the dealer's lease for, or
19 acquire the real property on which the franchise is
20 conducted, on the same terms as those on which the real
21 property or lease was to be sold or transferred to the
22 proposed new owner in connection with the sale of the
23 franchise, unless otherwise agreed to by the dealer and
24 manufacturer or distributor. The manufacturer or
25 distributor shall have the right to assign the lease or
26 to convey the real property.

27 (ii) The manufacturer or distributor shall assume
28 all of the duties, obligations and liabilities contained
29 in the agreements that were to be assumed by the proposed
30 new owner and with respect to which the manufacturer or

1 distributor exercised the right of first refusal,
2 including the duty to honor all time deadlines in the
3 underlying agreements, provided that the manufacturer or
4 distributor has knowledge of such obligations at the time
5 of the exercise of the right of first refusal. Failure by
6 an assignee of the manufacturer or distributor to
7 discharge such obligations shall be deemed a failure by
8 the manufacturer or distributor under this subsection.

9 (3) The proposed change of all or substantially all
10 ownership or transfer of all or substantially all dealership
11 assets does not involve the transfer of assets or the
12 transfer or issuance of stock by the dealer or one or more
13 dealer owners to a designated family member or members, the
14 spouse, child or grandchild, spouse of a child or grandchild,
15 brother, sister or parent of the dealer owner, of one or more
16 dealer owners or to a qualified manager or to a partnership
17 or corporation controlled by such persons.

18 (4) The manufacturer or distributor agrees to pay the
19 reasonable expenses, including reasonable attorney fees which
20 do not exceed the usual, customary and reasonable fees
21 charged for similar work done for other clients, incurred by
22 the proposed new owner and transferee prior to the
23 manufacturer's or distributor's exercise of its right of
24 first refusal in negotiating and implementing the contract
25 for the proposed change of all or substantially all ownership
26 or transfer of all or substantially all dealership assets.
27 Notwithstanding the foregoing, no payment of such expenses
28 and attorney fees shall be required if the dealer has not
29 submitted or caused to be submitted an accounting of those
30 expenses within 20 days of the dealer's receipt of the

1 manufacturer's or distributor's written request for such an
2 accounting. Such an accounting may be requested by a
3 manufacturer or distributor before exercising its right of
4 first refusal.

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

7 Section [17] 316. Manufacturer or distributor repurchase of
8 inventory and equipment.

9 (a) Return of property for repurchase.--A new vehicle dealer
10 shall return property, including, but not limited to, vehicle
11 inventory, parts, equipment, tools and signs, as permitted under
12 this section or as set forth in the franchise agreement, to the
13 manufacturer or distributor within 90 days of the effective date
14 of any termination or nonrenewal of a franchise or upon a
15 termination or cessation of a part of a manufacturer's or
16 distributor's business operations throughout the United States
17 which is not part of any change in ownership, operation or
18 control of all or any part of the manufacturer's or
19 distributor's business under section [14] 313. The manufacturer
20 or distributor shall supply the new vehicle dealer with
21 instructions on the method by which the new vehicle dealer must
22 return the property to the manufacturer or distributor. Within
23 60 days of tender of the property to the manufacturer or
24 distributor, the manufacturer or distributor, including medium
25 and heavy-duty truck component and engine manufacturers or
26 distributors who provide integral parts of vehicles or provide
27 major components by selling directly to dealers, shall
28 repurchase from the new vehicle dealer and remit payment to the
29 new vehicle dealer in accordance with their respective interest
30 in:

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

15 (2) All new, unused, undamaged parts listed in the
16 current price catalog acquired from a manufacturer or
17 distributor or a source approved or recommended by the
18 manufacturer or distributor at the dealer price listed in the
19 current parts catalog, less applicable allowances, plus 5% of
20 the catalog price of the part for the cost of packing and
21 returning the parts to the manufacturer or distributor.
22 Reconditioned or core parts shall be valued at their core
23 value, the price listed in the current parts catalog or the
24 amount paid for expedited return of core parts, whichever is
25 higher.

26 (3) Any special tools or equipment offered for sale
27 during the three years preceding termination or nonrenewal
28 and each trademark or trade name bearing signs which was
29 recommended or required by the manufacturer or distributor at
30 fair market value at the time the notice of termination or

1 nonrenewal is given.

2 In the event the inventory is subject to a security interest,
3 the manufacturer may make payment jointly to the dealer and the
4 holder of the security interest.

5 (b) Failure to pay sums due.--A manufacturer or distributor
6 who fails to pay those sums due the dealer within the prescribed
7 time or at such time as the dealer proffers good title prior to
8 the prescribed time for payment is liable to the new vehicle
9 dealer for:

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

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

14 (3) reasonable attorney fees and costs.

15 (c) Limited applicability.--This section shall not apply to
16 manufacturers, distributors or dealers of recreational vehicles
17 or manufactured housing, nor shall it apply to motorcycle
18 manufacturers, distributors or dealers except when the
19 unilateral termination or failure to renew is by the
20 manufacturer or distributor.

21 Section [18] 317. Reimbursement of rental costs for dealer
22 facility.

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

28 (1) a sum equivalent to rent for the unexpired term of
29 the lease or one year, whichever is less, or such longer term
30 as provided in the franchise, if the new vehicle dealer is

1 leasing the new vehicle dealership facilities from a lessor
2 other than the manufacturer or distributor; or

3 (2) a sum equivalent to the reasonable rental value of
4 the new vehicle dealership facilities for one year or until
5 the facilities are leased or sold, whichever is less, if the
6 new vehicle dealer owns the new vehicle dealership
7 facilities.

8 (b) Extent of requirement.--The rental payment required
9 under subsection (a) is only required to the extent that the
10 facilities were used for activities under the franchise and only
11 to the extent the facilities were not leased for unrelated
12 purposes. If payment under subsection (a) is made, the
13 manufacturer or distributor is entitled to possession and use of
14 the new vehicle dealership facilities for the period rent is
15 paid.

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

19 In addition to any criminal or civil penalties otherwise
20 provided in this act, the board shall have the power to formally
21 reprimand, suspend or revoke any license or refuse to issue or
22 renew any license of an applicant or licensee or a person
23 required to be licensed under this act, if after due notice of
24 and hearing, the person charged is found in violation of or
25 fails to carry out the acts and procedures set forth in this act
26 or is found guilty of committing or attempting to commit any of
27 the acts set forth in section [23] 322 or any of the following
28 acts:

29 (1) Having had a license revoked or suspended by the
30 Commonwealth or another state based on grounds similar to

1 those which in this Commonwealth allow disciplinary
2 proceedings, in which case the record of such revocation or
3 suspension shall be conclusive evidence.

4 (2) Make any substantial misrepresentation of material
5 facts.

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

8 (4) Being a vehicle dealer or salesperson, having within
9 five years prior to the application for or issuance of a
10 license or while his current license is in force pleaded
11 guilty, entered a plea of nolo contendere or been found
12 guilty in a court of competent jurisdiction in this or any
13 other state or Federal jurisdiction of forgery, embezzlement,
14 obtaining money under false pretenses, extortion, conspiracy
15 to defraud, bribery, odometer tampering or any other crime
16 involving moral turpitude.

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

20 (6) Having engaged in false, deceptive or misleading
21 advertising of vehicles.

22 (7) Having committed any act or engaged in conduct in
23 connection with the sale of vehicles which clearly
24 demonstrates unprofessional conduct or incompetency to
25 operate as a licensee under this act.

26 (8) Having made a material misstatement in application
27 for licensure.

28 (9) Having set up, promoted or aided in promotion of a
29 plan by which vehicles are sold to a person for consideration
30 and upon the further consideration that the purchaser agrees

1 to secure one or more persons to participate in the plan by
2 respectively making a similar purchase and in turn agreeing
3 to secure one or more persons likewise to join in said plan,
4 each purchaser being given the right to secure money,
5 credits, goods or something of value, depending upon the
6 number of persons joining in the plan.

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

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

14 (ii) Licensed motorcycle dealers are permitted to
15 buy, sell, exchange, trade or otherwise deal in
16 motorcycles on Sunday without being subject to
17 prosecution under this paragraph.

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

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

27 (13) Failing to take immediate remedial action when the
28 dealer knows that someone in his direct employ or someone who
29 renders vehicle-related services to the dealer for
30 consideration, has unlawfully tampered with the odometer of a

1 vehicle in his care, custody or control or which has been
2 sold or exchanged by the dealer. For the purpose of this
3 paragraph, remedial action shall be defined as at least
4 reporting the incident in writing to the Pennsylvania State
5 Police or the board.

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

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

11 (16) Having had his vehicle business registration plates
12 (dealer identification number) suspended or revoked by the
13 Department of Transportation pursuant to 75 Pa.C.S. § 1374(a)
14 (relating to suspension or revocation of vehicle business
15 registration plates). A certified copy of the decision and
16 order of the Department of Transportation will constitute
17 conclusive evidence.

18 (17) Being a new car dealer whose franchise agreement
19 with a manufacturer or distributor, which gives the subject
20 dealer selling rights for that line-make, has been finally
21 terminated, but who continues to sell new vehicles. A
22 recreational vehicle or manufactured housing dealer, whose
23 franchise was terminated or failed to be renewed by either
24 the manufacturer or the dealer, who owned new vehicles prior
25 to the termination or nonrenewal and sold them subsequent to
26 the termination or nonrenewal is exempt from prosecution
27 under this paragraph. Such dealers shall be authorized to
28 sell as new all new vehicles that remain on their lot after a
29 franchise is terminated or failed to be renewed.

30 (18) Willfully failing to display a license.

1 (19) Failing to obey any order of the board entered
2 pursuant to the act.

3 (20) Permitting or allowing another individual or
4 organization not licensed by the board to use that
5 individual's license for the purpose of operating in this
6 Commonwealth in a capacity for which the individual or
7 organization should have held a license.

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

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

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

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

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

20 (26) Violating any provision of this act.

21 (27) Being an unlicensed salesperson, dealer, vehicle
22 auction, branch lot, manufacturer or any other person or
23 business where a license is required under this act.

24 (28) Any violation of the regulations promulgated by the
25 board.

26 (29) Being a wholesale vehicle auction who permits
27 dealers who are not currently licensed in this Commonwealth
28 or any other state or jurisdiction or a vehicle business
29 registered with the Department of Transportation and issued a
30 Department of Transportation identification number or

1 licensed or registered by any other state or jurisdiction for
2 a similar activity who during the time their licenses or
3 registrations are suspended or revoked by the Commonwealth or
4 any other state to sell, represent or purchase vehicles at an
5 auction.

6 (29.1) Being a wholesale vehicle auction who permits a
7 vehicle business as described under paragraph (29), which is
8 restricted to certain vehicle buys, sales or exchanges as set
9 forth in section [5(f)(2)] 303(f)(2), to buy, sell or
10 exchange vehicles of a type which the vehicle business is not
11 authorized to engage in.

12 (30) Being a dealer which permits salespersons who are
13 not currently licensed in this Commonwealth or any other
14 state or who during the time their licenses are suspended or
15 revoked by the Commonwealth or any other state to sell,
16 represent or purchase vehicles at an auction.

17 (31) Being a public or retail vehicle auction who
18 knowingly and willfully permits any buyer or seller to buy or
19 sell vehicles which results in engaging in the business as
20 dealer without a license or permitting any other person to
21 engage in any activity which would require licensure under
22 this act.

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

26 (33) Being a dealer which willfully permits any person
27 who is not a licensed salesperson or owner of the dealership
28 to use the dealer's dealer identification number issued by
29 the Department of Transportation, vehicle dealer's license
30 number or dealer's vehicle registration plates for the

1 purpose of buying, selling or exchanging vehicles.

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

5 (35) Being a dealer, agent of a dealer or a salesperson
6 who buys, sells or exchanges vehicles with a person who is
7 required to be licensed under this act if the dealer, agent
8 or salesperson knew or should have known that the person is
9 not licensed.

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

14 (37) Failing to produce business records when an
15 authorized agent of the board reasonably requests the
16 licensee to produce business records.

17 (38) Being a person whose license under this act or
18 authority to engage as a dealer or salesperson in any other
19 state or jurisdiction was suspended or revoked and, while the
20 license or authority was suspended or revoked, was physically
21 present at a wholesale vehicle auction or public or retail
22 vehicle auction during the auctioning of vehicles. A vehicle
23 auction shall not be subject to prosecution for a violation
24 of a person being physically present under this paragraph.

25 (39) Being an out-of-State recreational vehicle dealer
26 who, while buying, selling, titling, registering, financing
27 or exchanging recreational vehicles in this Commonwealth,
28 violates a Pennsylvania law or regulation or a law or
29 regulation of the state or jurisdiction of licensure or the
30 state or jurisdiction of domicile regarding the buying,

1 selling, titling, registering, financing or exchanging of
2 recreational vehicles.

3 (40) Being an out-of-State recreational vehicle dealer
4 who fails to demonstrate, upon direction of or investigation
5 by the board or its agents, that the out-of-State
6 recreational vehicle dealer satisfies the provisions of
7 section 32.1(c) regarding participation in this Commonwealth
8 in a recreational vehicle show, recreational vehicle off-
9 premise sale, recreational vehicle exhibition or recreational
10 vehicle rally.

11 SECTION 14. SECTION 20 OF THE ACT IS RENUMBERED TO READ: <--
12 Section [20] 319. Administrative liability of employer,
13 copartnership, association or corporation.

14 In the event of the revocation of the license issued to any
15 member of a partnership or to any officer of an association or
16 corporation, the license issued to a partnership, association or
17 corporation shall be revoked by the board unless, within a time
18 fixed by the board, in the case of a partnership, the connection
19 of the member whose license has been revoked shall be severed
20 and his interest in the partnership and his share in its
21 activities brought to an end, or in the case of an association
22 or corporation, the offending officer shall be discharged and
23 shall have no further participation in its activities.

24 SECTION 15. SECTION 21 OF THE ACT IS AMENDED TO READ: <--
25 Section [21] 320. Reinstatement.

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

29 (b) Revocation.--Unless ordered to do so by a court, the
30 board shall not reinstate the license of a person that has been

1 revoked and such person shall be required to apply for a license
2 after a period of five years in accordance with section [22] 321
3 if he desires to resume operating as a licensee at any time
4 after such revocation.

5 SECTION 16. SECTION 22 OF THE ACT, AMENDED JUNE 28, 2018 <--
6 (P.L.420, NO.59), IS RENUMBERED TO READ:

7 Section [22] 321. Application for license.

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

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

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

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

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

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

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

27 (7) A statement showing whether the applicant has
28 previously applied for a license and the result of such
29 application and whether the applicant has ever been the
30 holder of either a dealer, vehicle auction or salesperson

1 license which was revoked or suspended.

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

7 (9) A statement by the applicant that he has met all
8 facility requirements as noted herein and as required by
9 regulation, EXCEPT AS PROVIDED IN SUBSECTION (A.1). <--

10 (A.1) TEMPORARY PERMIT FOR NEW VEHICLE DEALERS.--UPON <--
11 RECEIPT OF A COMPLETE AND ACCURATE NEW VEHICLE DEALER
12 APPLICATION OR NEW VEHICLE DEALER CHANGE OF ADDRESS APPLICATION,
13 THE BOARD SHALL ISSUE A NEW VEHICLE DEALER LICENSE IMMEDIATELY.
14 IF THE NEW VEHICLE DEALER DOES NOT HAVE THE FRANCHISE APPROVAL
15 LETTER, THE TELEPHONE BUSINESS LINE INFORMATION, THE CERTIFICATE
16 OF OCCUPANCY OR THE LEASE OR DEED FOR THE PROPERTY AVAILABLE
17 WHEN THE APPLICATION HAS BEEN SUBMITTED, THE NEW VEHICLE DEALER
18 SHALL RECEIVE A TEMPORARY PERMIT THAT EXPIRES AT THE END OF 45
19 DAYS FROM THE DATE OF CLOSING. THE NEW VEHICLE DEALER SHALL
20 SUBMIT THE FRANCHISE APPROVAL LETTER, THE TELEPHONE BUSINESS
21 LINE INFORMATION, THE CERTIFICATE OF OCCUPANCY AND THE LEASE OR
22 DEED FOR THE PROPERTY PRIOR TO THE EXPIRATION OF THE TEMPORARY
23 PERMIT. UPON RECEIPT OF THE FRANCHISE APPROVAL LETTER, THE
24 TELEPHONE BUSINESS LINE INFORMATION, THE CERTIFICATE OF
25 OCCUPANCY AND THE LEASE OR DEED FOR THE PROPERTY, THE BOARD
26 SHALL ISSUE A NEW VEHICLE DEALER LICENSE IMMEDIATELY.

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

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

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

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

4 (4) The name and address of the dealer then employing
5 him or into whose employ he is about to enter. If the
6 applicant is to be licensed for a dealer who is licensed in
7 more than one category or at more than one location and the
8 applicant desires to sell for each of the dealer's licensed
9 entities, the name and address of the primary location and of
10 each other entity shall be supplied.

11 (5) The recommendation of his employer or prospective
12 employer certifying that the applicant is honest, trustworthy
13 and of good repute and recommending that a license be
14 granted. In the case of an applicant who is himself a dealer,
15 an officer of a corporation which is a dealer or a member of
16 a partnership which is a dealer, the foregoing recommendation
17 shall be made by another dealer, bank or sales finance
18 company which has personal knowledge concerning the
19 reputation and fitness of the applicant.

20 (6) A statement showing whether the applicant has
21 previously applied for a license and the result of such
22 application and whether the applicant has ever been the
23 holder of a salesperson's license which was revoked or
24 suspended or the subject of disciplinary action by this board
25 or that of any other jurisdiction.

26 (7) The application shall be made upon a form prepared
27 by the board containing such other reasonable information as
28 the board shall require.

29 (c) Application for license other than as a dealer, vehicle
30 auction or salesperson.--Application for license other than as a

1 dealer, vehicle auction or salesperson shall be made in writing
2 to the board accompanied by the required fee. The board may
3 require, in such application or otherwise, information relating
4 to the applicant's background and his financial standing, all of
5 which may be considered by the board in determining the fitness
6 of said applicant to engage in the business for which he desires
7 to be licensed.

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

12 (1) Name of applicant and location of principal place of
13 business for the license which is the subject of the
14 application and the location of any other place of business
15 within this Commonwealth.

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

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

20 (4) A statement showing whether the applicant has
21 previously applied for a license and the result of such
22 application.

23 (e) Change of ownership.--A dealer or vehicle auction shall
24 supply the board with information regarding any change in named
25 owners. The information shall include a statement of the
26 previous history, record and reputation in the business of the
27 new owner. Where the same business name and address is to be
28 retained, any change in owners shall only require the licensee
29 to inform the board of the change in owners but shall not
30 require the licensee to submit to the entire license application

1 process as set forth by this act or corresponding regulations.

2 SECTION 17. SECTIONS 23, 24, 25 AND 26 OF THE ACT ARE
3 RENUMBERED TO READ:

<--

4 Section [23] 322. Refusal of license.

5 The board may refuse to issue a license if the applicant has
6 committed any of the acts set forth as grounds for the
7 suspension or revocation of a license or the board finds that
8 the applicant continued to engage in an activity in violation of
9 this act during the suspension or revocation period. The board
10 may also refuse to issue a license when it determines:

11 (1) That the applicant was previously the holder of a
12 license issued under this act, which license was revoked for
13 cause or which license was suspended for cause and the terms
14 of the suspension have not been fulfilled.

15 (2) That the applicant was previously a limited or
16 general partner, stockholder, director or officer of a
17 partnership or corporation whose license issued under the
18 authority of this act was revoked for cause and never
19 reissued or was suspended for cause and the terms of
20 suspension have not been fulfilled.

21 (3) If the applicant is a partnership or corporation,
22 that one or more of the limited or general partners,
23 stockholders, directors or officers of the partnership or
24 corporation was previously the holder of a license issued
25 under the authority of this act which was revoked for cause
26 or was suspended for cause and the terms of the suspension
27 have not been fulfilled, or that by reason of the facts and
28 circumstances touching the organization, control and
29 management of the partnership or corporation business, the
30 policy of such business will be directed, controlled or

1 managed by individuals who, by reason of their conviction of
2 violations of the provisions of this act, would be ineligible
3 for a license and that by licensing such corporation or
4 partnership, the purposes of this act would likely be
5 defeated.

6 (4) That the applicant is a vehicle dealer, vehicle
7 auction or salesperson who, having within five years prior to
8 the application for or issuance of a license or while a
9 current license is in force, pleaded guilty, entered a plea
10 of nolo contendere or has been found guilty in a court of
11 competent jurisdiction in Federal or in this or any other
12 state jurisdiction of forgery, embezzlement, obtaining money
13 under false pretenses, extortion, conspiracy to defraud,
14 bribery, odometer tampering or any other crime involving
15 moral turpitude.

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

18 Whenever a licensed salesperson desires to change his
19 employment from one licensed dealer to another, he shall notify
20 the board in writing using the appropriate form, which is
21 completed in its entirety and is accurate, no later than ten
22 days after the date of change, pay the required fee and return
23 the current license if not previously returned. The board shall
24 issue a new license upon receipt of a complete and accurate
25 salesperson's transfer application. In the interim at such time
26 as the change in affiliation of the salesperson occurs, he shall
27 maintain a copy of the notification sent to the board as his
28 temporary license pending receipt of his new current license.
29 This temporary transfer license shall expire at the end of 45
30 days from the date on the transfer application. It shall be the

1 duty of the applicant to notify the board if a new license or
2 other pertinent communication is not received from the board
3 within 30 days of the submission of the transfer application.
4 The new license shall be issued for the remainder of the period
5 covered by the previous license. The fee for the issuance of
6 such changed license shall be determined by regulation.

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

8 (a) Salesperson's license to be surrendered after
9 termination of employment.--Within ten days after termination of
10 employment, the dealer shall surrender that salesperson's
11 license to the board. If the license is not in the dealer's
12 possession, then it will be the responsibility of the
13 salesperson to return the license to the board.

14 (b) Dealer's, branch lot or vehicle auction license to be
15 surrendered after termination of business.--Within ten days
16 after termination of business activities, the dealer, branch lot
17 or vehicle auction shall surrender to the board all of its
18 licenses and its salespersons' licenses issued by the board.

19 Section [26] 325. Exemption from licensure and registration.

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

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

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

28 (3) The sale, exchange or purchase by a person in one
29 calendar year of fewer than five vehicles, except
30 manufactured housing or mobile homes, on which sales tax has

1 been paid at the purchase of the vehicle by that person.
2 Where such a vehicle is authorized under Article II of the
3 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
4 Code of 1971, to be transferred from the person who paid the
5 sales tax to another without being subject to sales tax, such
6 as, but not limited to, wife and husband transfers or
7 disbursements from an estate to a beneficiary, the recipient
8 of the vehicle shall be permitted to sell such vehicle
9 without paying sales tax prior to his sale of the vehicle.

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

13 SECTION 18. SECTION 27 OF THE ACT IS AMENDED TO READ: <--

14 Section [27] 326. Limitations on establishing or relocating
15 dealers.

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

17 (1) In the event that a manufacturer seeks to enter into
18 a franchise establishing an additional new vehicle dealer or
19 relocating an existing new vehicle dealer within or into a
20 relevant market area where the same line-make is then
21 represented, the manufacturer shall in writing first notify
22 the board and each new vehicle dealer in such line-make in
23 the relevant market area of the intention to establish an
24 additional dealer or to relocate an existing dealer within or
25 into that market area. Within 20 days after the end of any
26 appeal procedure provided by the manufacturer, any such new
27 vehicle dealer may file with the board a protest to the
28 establishing or relocating of the new vehicle dealer. When
29 such a protest is filed, the board shall inform the
30 manufacturer that a timely protest has been filed, and that

1 the manufacturer shall not establish the proposed new vehicle
2 dealer or relocate the new vehicle dealer until the board has
3 held a hearing, nor thereafter, if the board has determined
4 that there is [good] just cause for not permitting the
5 addition or relocation of such new vehicle dealer.

6 (2) The notice required by this subsection shall include
7 the following information:

8 (i) The location of the proposed additional or
9 relocating new vehicle dealer.

10 (ii) An explanation of the appeal procedure provided
11 by the manufacturer or distributor, if any, to the
12 establishment of the proposed additional new vehicle
13 dealer or relocation of the new vehicle dealer.

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

18 (3) Under this subsection, relocating an existing new
19 vehicle dealer shall include any instance where an existing
20 dealer sells or otherwise transfers all or substantially all
21 of its business to a new owner and the new owner, who has
22 been approved by the manufacturer or distributor to enter
23 into a franchise agreement, seeks to relocate the ongoing,
24 operating dealership franchise from its current licensed
25 address to a site within the relevant market area of the
26 existing dealer which is not within five miles of another
27 licensed new vehicle dealer for the same line-make of vehicle
28 as set forth in subsection (b) (1).

29 (4) (i) Where an automobile, motorcycle or truck
30 manufacturer or distributor seeks to enter into an

1 agreement or franchise establishing an additional vehicle
2 warranty service facility or seeks to relocate an
3 existing vehicle warranty service facility within or into
4 a radius of five miles surrounding where an existing new
5 vehicle dealer vehicle warranty service facility of the
6 same line-make is then represented, except in cases
7 involving a franchised new medium or heavy-duty truck
8 dealer, in which case the affected radius shall be the
9 relevant market area or the area of responsibility as
10 defined in the dealer's franchise, whichever is greater,
11 the automobile, motorcycle or truck manufacturer shall in
12 writing first notify the board and each affected new
13 vehicle dealer vehicle warranty service facility of such
14 line-make of the intention to establish an additional
15 vehicle warranty service facility or to relocate an
16 existing vehicle warranty service facility within or into
17 the affected market areas.

18 (ii) The notice required by subparagraph (i) shall
19 include the following information:

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

22 (B) An explanation of the appeal procedure
23 provided by the automobile, motorcycle or truck
24 manufacturer or distributor, if any, to the
25 establishment of the proposed additional vehicle
26 warranty service facility or relocation of the
27 vehicle warranty service facility.

28 (C) An explanation of the existing new vehicle
29 dealer's or vehicle warranty service facility's
30 rights to file a protest with the board to the

1 establishment of the proposed vehicle warranty
2 service facility or the relocation of the vehicle
3 warranty service facility.

4 (iii) Within 20 days after the end of any appeal
5 procedure provided by the automobile, motorcycle or truck
6 manufacturer, any such new vehicle warranty dealer
7 vehicle service facility may file with the board a
8 protest to the establishment or relocation of the vehicle
9 warranty service facility.

10 (iv) When such a protest is filed, the board shall
11 inform the automobile, motorcycle or truck manufacturer
12 that a timely protest has been filed and that the
13 automobile, motorcycle or truck manufacturer shall not
14 establish the proposed vehicle warranty service facility
15 or relocate the vehicle warranty service facility until
16 the board has held a hearing nor thereafter if the board
17 has determined that there is [good] just cause for not
18 permitting the addition or relocation of such vehicle
19 warranty service facility.

20 (v) In determining whether [good] just cause exists
21 to allow for the establishment or relocation of a vehicle
22 warranty service facility, the board shall consider the
23 same type of circumstances as established in subsection
24 (c).

25 (b) Nonapplicability of section.--This section does not
26 apply:

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

1 (2) If the proposed new vehicle dealer is to be
2 established at or within two miles of a location at which a
3 former licensed new vehicle dealer for the same line-make of
4 new vehicle had ceased operating within the previous two
5 years. For purposes of this section, a former vehicle dealer
6 shall have ceased operations on the date on which the
7 franchise or agreement shall have been finally terminated.

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

11 (4) To manufactured housing or recreational vehicle
12 dealers.

13 (c) Board to consider existing circumstances.--In
14 determining whether [good] just cause has been established for
15 not entering into or relocating an additional new vehicle dealer
16 for the same line-make, the board shall take into consideration
17 the existing circumstances, including, but not limited to:

18 (1) Permanency of the investment of both the existing
19 and proposed new vehicle dealers.

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

22 (3) Effect on the consuming public in the relevant
23 market area.

24 (4) Whether it is injurious or beneficial to the public
25 welfare for an additional new vehicle dealer to be
26 established.

27 (5) Whether the new vehicle dealers of the same line-
28 make in that relevant market area are providing adequate
29 competition and convenient customer care for the vehicles of
30 the line-make in the market area which shall include the

1 adequacy of vehicle sales and service facilities, equipment,
2 supply of vehicle parts and qualified service personnel.

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

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

8 SECTION 19. SECTION 27.1 OF THE ACT, AMENDED JUNE 28, 2018 <--
9 (P.L.420, NO.59), IS AMENDED TO READ:

10 Section [27.1] 327. Licensing cost.

11 (a) Licensing cost.--Subject to the limitations established
12 under subsection (c), a licensed dealer who has a contract with
13 the Department of Transportation pursuant to 75 Pa.C.S. § 7501
14 (relating to authorization of messenger and agent services) may
15 charge the purchaser of a vehicle a licensing cost permissible
16 under 75 Pa.C.S. Ch. 19 (relating to fees) and the act of
17 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade
18 Practices and Consumer Protection Law, and regulations
19 promulgated thereunder, to include any of the following:

20 (1) The actual cost incurred by the dealer for fees
21 associated with titling and registering the vehicle,
22 including messenger fees, notary fees and electronic
23 transaction fees.

24 (2) A documentary preparation charge for:

25 (i) Preparation and completion of documents required
26 to register and license the vehicle under 75 Pa.C.S.
27 (relating to vehicles).

28 (ii) Collection and submission of taxes payable by
29 the purchaser.

30 (iii) Preparation of any other information

1 associated with titling and registration of a vehicle.

2 (IV) COMPLYING WITH FEDERAL AND STATE LAWS AND <--
3 REGULATIONS RELATING TO THE PRIVACY AND SAFEGUARDING OF
4 CUSTOMER INFORMATION REQUIREMENTS, PROVIDING FINANCIAL
5 SERVICES TO THE CUSTOMER AND PREPARATION AND RETRIEVAL OF
6 DOCUMENTS.

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

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

11 (1) A dealer which provides electronic transaction
12 services for documents under subsection (a)(2) may impose a
13 maximum charge of \$100 for calendar year 2008 and a maximum
14 charge of \$120 for calendar year 2009.

15 (2) A dealer which does not provide electronic
16 transaction services for document preparation under
17 subsection (a)(2) may impose a maximum charge of \$80 for
18 calendar year 2008 and a maximum charge of \$100 for calendar
19 year 2009.

20 (d) Adjustment.--Beginning in January 2010, and annually
21 thereafter, the licensing cost for documentary preparation shall
22 be adjusted in accordance with the Federal Consumer Price Index
23 for All Urban Consumers (CPI-U) for all items as published by
24 the United States Department of Labor, Bureau of Labor
25 Statistics, for the previous 12-month period on a cumulative
26 basis. Any adjustment which is less than 50¢ shall be rounded
27 down to the next lowest dollar amount and any adjustment which
28 is 50¢ or greater shall be rounded up to the next highest dollar
29 amount.

30 (e) Fees.--Licensing costs under this section shall not be

1 considered fees for purposes of section [30 or 31] 330 or 331.

2 SECTION 20. SECTIONS 28, 29, 30, 31, 32, 32.1 AND 33 OF THE <--
3 ACT ARE RENUMBERED TO READ:

4 Section [28] 328. Penalties.

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

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

26 (c) Additional remedy.--In addition to any other civil
27 remedy or criminal penalty provided for in this act, the board
28 by a vote of the majority of the authorized membership of the
29 board as provided by law, or by a vote of the majority of the
30 duly qualified and confirmed membership, may levy a civil

1 penalty of up to \$1,000 on any current licensee who violates any
2 provision of this act or on any person who engages in an
3 activity required to be licensed by this act. The board shall
4 levy this penalty only after affording the accused party the
5 opportunity for a hearing as provided in 2 Pa.C.S. (relating to
6 administrative law and procedure).

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

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

19 Section [30] 330. Fees.

20 (a) General rule.--All fees required under the provisions of
21 this act shall be fixed by the board by regulation and shall be
22 subject to review in accordance with the act of June 25, 1982
23 (P.L.633, No.181), known as the Regulatory Review Act. If the
24 revenues generated by fees, fines and civil penalties imposed in
25 accordance with the provisions of this act are not sufficient to
26 match expenditures over a two-year period, the board shall
27 increase those fees by regulation, subject to review in
28 accordance with the Regulatory Review Act, such that the
29 projected revenues will meet or exceed projected expenditures.

30 (b) Increases by bureau.--If the Bureau of Professional and

1 Occupational Affairs determines that the fees established by the
2 board are inadequate to meet the minimum enforcement efforts
3 required, then the bureau, after consultation with the board,
4 shall increase the fees by regulation, subject to review in
5 accordance with the Regulatory Review Act, such that adequate
6 revenues are raised to meet the required enforcement effort.

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

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

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

17 Section [32] 332. Vehicle shows, off-premise sales and
18 exhibitions.

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

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

29 (1) An event operated to benefit a charitable
30 organization or group of organizations approved under section

1 501(c) (3) of the Internal Revenue Code of 1954 (68A Stat. 3,
2 26 U.S.C. § 501(c) (3)).

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

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

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

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

22 (f) Applicability.--This section shall not apply to
23 recreational vehicle dealers.

24 Section [32.1] 332.1. Recreational vehicle shows, recreational
25 vehicle off-premise sales, recreational vehicle
26 exhibitions and recreational vehicle rallies.

27 (a) Participation.--A recreational vehicle dealer,
28 salesperson, distributor, manufacturer or manufacturer's
29 representative licensed under this act may participate in a
30 recreational vehicle show, recreational vehicle off-premise

1 sale, recreational vehicle exhibition or recreational vehicle
2 rally. A recreational vehicle dealer shall be permitted to
3 conduct a recreational vehicle show, recreational vehicle
4 exhibition or recreational vehicle rally at its established
5 place of business.

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

24 (c) Out-of-State recreational vehicle dealers.--An out-of-
25 State recreational vehicle dealer licensed in another state or
26 jurisdiction or domiciled in another state or jurisdiction that
27 does not require licensure shall register with the board on a
28 form prescribed by the board before participating in this
29 Commonwealth in a recreational vehicle show, recreational
30 vehicle off-premise sale, recreational vehicle exhibition or

1 recreational vehicle rally. The following apply:

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

3 (i) Notification of the out-of-State recreational
4 vehicle dealer's intent to participate in this
5 Commonwealth in a recreational vehicle show, recreational
6 vehicle off-premise sale, recreational vehicle exhibition
7 or recreational vehicle rally.

8 (ii) Agreement to comply with all Federal and State
9 laws and regulations relating to the buying, selling,
10 exchanging, titling, registration or financing of
11 recreational vehicles.

12 (iii) Agreement by the out-of-State recreational
13 vehicle dealer to submit to the jurisdiction of the
14 Commonwealth for purposes of disciplinary action of
15 imposition of a civil or criminal penalty or assessment
16 under subsection (b) resulting from a violation under
17 subparagraph (ii).

18 (iv) Evidence of the posting of a bond under
19 subsection (b).

20 (v) Payment of a participation fee.

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

24 (2) If the board has taken action within the last five
25 years to sanction an out-of-State recreational vehicle
26 dealer, the board may:

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

30 (ii) order that the out-of-State recreational

1 vehicle dealer be denied access to all recreational
2 vehicle shows, recreational vehicle off-premise sales,
3 recreational vehicle exhibitions and recreational vehicle
4 rallies in this Commonwealth.

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

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

16 (A) A minimum of ten recreational vehicle
17 dealers at the show are licensed in this
18 Commonwealth.

19 (B) More than 50% of the participating
20 recreational vehicle dealers are licensed in this
21 Commonwealth.

22 (C) The state in which the out-of-State
23 recreational vehicle dealer is licensed is contiguous
24 to this Commonwealth and permits recreational vehicle
25 dealers licensed in this Commonwealth to participate
26 in recreational vehicle shows in that state under
27 conditions substantially equivalent to the conditions
28 imposed upon dealers from that state to participate
29 in recreational vehicle shows in this Commonwealth.

30 (ii) When the recreational vehicle show, sale,

1 exhibition or rally opens to the public, it has a total
2 of at least 50 recreational vehicle dealers from this
3 Commonwealth and from another state participating with
4 permission of the dealer's licensed manufacturer and
5 meets all of the following requirements:

6 (A) The show, sale, exhibition or rally is trade
7 oriented and predominantly funded by recreational
8 vehicle manufacturers.

9 (B) All of the participating dealers who are not
10 licensed in this Commonwealth are from a state
11 contiguous to this Commonwealth which permits
12 recreational vehicle dealers licensed in this
13 Commonwealth to participate in recreational vehicle
14 shows in that state under conditions substantially
15 equivalent to the conditions imposed upon dealers
16 from that state to participate in recreational
17 vehicle shows in this Commonwealth.

18 (4) The board shall report a violation of Pennsylvania
19 law or regulation to the state or jurisdiction in which the
20 out-of-State recreational vehicle dealer is licensed or
21 domiciled.

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

25 (6) The board may accept registration information and
26 payment electronically.

27 (7) An out-of-State recreational vehicle dealer may not
28 participate in a recreational vehicle show, recreational
29 vehicle off-premise sale, recreational vehicle exhibition or
30 recreational vehicle rally in this Commonwealth, unless the

1 out-of-State recreational vehicle dealer satisfies at least
2 four of the listed activities at its facility in the
3 contiguous state in which it is licensed or domiciled that
4 does not require licensure:

5 (i) Accepting delivery of new recreational vehicles
6 from the recreational vehicle dealer's manufacturer for
7 which the recreational vehicle dealer possesses an
8 agreement with the manufacturer to sell its new
9 recreational vehicles.

10 (ii) Maintaining inventory and offering recreational
11 vehicles for sale to the public.

12 (iii) Consummating and finalizing recreational
13 vehicle sales.

14 (iv) Servicing or repairing recreational vehicles.

15 (v) Delivering recreational vehicles to purchasers
16 with recreational vehicle titling, registrations issued
17 and taxes collected and paid to the dealer's appropriate
18 home state agencies.

19 ~~Section 8. (Reserved).~~

<--

20 ~~Section 9. Section 33 of the act is renumbered and amended~~
21 ~~to read:~~

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

24 (1) The following shall be permitted to be open on
25 Sundays:

26 (i) Off-premise vehicle sales, shows and
27 exhibitions.

28 (ii) recreational vehicle shows, recreational
29 vehicle off-premise sales, recreational vehicle
30 exhibitions and recreational vehicle rallies.

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

5 (3) Normal vehicle business practices shall be allowed
6 at recreational vehicle shows, recreational vehicle off-
7 premise sales, recreational vehicle exhibitions and
8 recreational vehicle rallies. Recreational vehicle dealers
9 are permitted to consummate final sales contracts on Sundays.

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

12 Section ~~10~~ 21. The act is amended by adding a chapter to <--
13 read:

14 CHAPTER 5

15 RECREATIONAL VEHICLES

16 Section 501. Legislative intent.

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

22 Section 502. Definitions.

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

26 "Area of sales responsibility." The geographical area,
27 agreed to by the dealer and the manufacturer in the
28 manufacturer/dealer agreement, within which the dealer has the
29 exclusive right to display and sell the manufacturer's new
30 recreational vehicles of a particular line-make to the retail

1 public.

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

4 "Distributor." A person, firm, corporation or business
5 entity that purchases new recreational vehicles for resale to
6 dealers.

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

10 "Family member." A spouse, child, grandchild, parent,
11 sibling, niece or nephew or the spouse of a child, grandchild,
12 sibling, niece or nephew.

13 "Line-make." A specific series of recreational vehicles
14 that:

15 (1) Are identified by a common series trade name or
16 trademark.

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

20 (3) Have lengths and interior floor plans that
21 distinguish the recreational vehicles from other recreational
22 vehicles with substantially the same decor, equipment,
23 features, price and weight.

24 (4) Belong to a single, distinct classification of
25 recreational vehicle product type having a substantial degree
26 of commonality in the construction of the chassis, frame and
27 body.

28 (5) The manufacturer/dealer agreement authorizes a
29 dealer to sell.

30 "Manufacturer." A person, firm, corporation or business

1 entity that engages in the manufacturing of recreational
2 vehicles.

3 "Manufacturer/dealer agreement." A written agreement or
4 contract entered into between a manufacturer and a dealer that
5 fixes the rights and responsibilities of the parties and under
6 which the dealer sells new recreational vehicles.

7 "Proprietary part." A part manufactured by or for and sold
8 exclusively by a manufacturer.

9 "Supplier." A person, firm, corporation or business entity
10 that engages in the manufacturing of recreational vehicle parts,
11 accessories or components.

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

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

22 Section 503. Written agreements and designated territories.

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

27 (b) Area of sales responsibility.--The manufacturer shall
28 designate the area of sales responsibility exclusively assigned
29 to a dealer in the manufacturer/dealer agreement and may not
30 change the area or contract with another dealer for sale of the

1 same line-make in the designated area for the duration of the
2 agreement.

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

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

12 Section 504. Termination, cancellation, nonrenewal and
13 alteration of dealership by manufacturer.

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

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

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

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

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

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

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

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

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

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

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

22 (2) If the deficiencies are rectified within 90 days,
23 the manufacturer's or distributor's notice shall be voided.
24 If the dealer fails to provide the notice of intent to cure
25 the deficiencies in the prescribed time period or fails to
26 cure the deficiencies in the time period provided, the
27 termination, cancellation or nonrenewal shall take effect 30
28 days after the dealer's receipt of the original notice. If
29 the dealer has new and untitled inventory on hand, it may be
30 sold under section 506.

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

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

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

12 (3) A significant misrepresentation by the dealer
13 materially affecting the business relationship.

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

16 (5) A material violation of this chapter which is not
17 resolved within 30 days after the written notice by the
18 manufacturer.

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

24 Section 505. Termination, cancellation, nonrenewal and
25 alteration of dealership by dealer.

26 (a) General rule.--A dealer may terminate or cancel its
27 manufacturer/dealer agreement with a manufacturer or distributor
28 with or without just cause by giving 30 days' written notice.

29 (1) If the termination or cancellation is for just
30 cause, the notice shall state all reasons for the proposed

1 termination or cancellation and shall state that if, within
2 30 days following receipt of the notice, the manufacturer or
3 distributor provides to the dealer a written notice of intent
4 to cure all claimed deficiencies, the manufacturer or
5 distributor will then have 90 days following receipt of the
6 original notice to rectify the deficiencies.

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

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

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

25 (2) The business operations of the manufacturer have
26 been abandoned or closed for 10 consecutive business days,
27 unless the closing is due to an act of God, strike, labor
28 difficulty or other cause over which the manufacturer has no
29 control.

30 (3) A significant misrepresentation by the manufacturer

1 materially affecting the business relationship.

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

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

7 Section 506. Repurchase of inventory.

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

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

23 (2) In the event any of the vehicles repurchased under
24 this section are damaged, but do not trigger a consumer
25 disclosure requirement, the amount due the dealer shall be
26 reduced by the cost to repair the vehicle. Damage prior to
27 delivery to the dealer that is disclosed at the time of
28 delivery will not disqualify repurchase under this
29 subsection.

30 (3) All undamaged accessories and proprietary parts sold

1 to the dealer for resale within the 12 months prior to
2 termination, cancellation or nonrenewal, if accompanied by
3 the original invoice, at 105% of the original net price paid
4 to the manufacturer or distributor to compensate the dealer
5 for handling, packing and shipping the parts.

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

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

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

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

25 Section 507. Transfer of dealership and family succession.

26 (a) General rule.--

27 (1) If a dealer desires to make a change in ownership by
28 the sale of the business assets, stock transfer or otherwise,
29 the dealer shall give the manufacturer or distributor written
30 notice at least 30 business days before the closing,

1 including all supporting documentation as may be reasonably
2 required by the manufacturer or distributor to determine if
3 an objection to the sale may be made. In the absence of a
4 breach by the selling dealer of its manufacturer/dealer
5 agreement or this chapter, the manufacturer or distributor
6 shall not object to the proposed change in ownership unless
7 the prospective transferee:

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

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

12 (iii) lacks a license required by law;

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

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

20 (2) If the manufacturer or distributor objects to a
21 proposed change of ownership, the manufacturer or distributor
22 shall give written notice of its reasons to the dealer within
23 10 business days after receipt of the dealer's notification
24 and complete documentation. The manufacturer or distributor
25 has the burden of proof with regard to its objection. If the
26 manufacturer or distributor does not give timely notice of
27 its objection, the change or sale shall be deemed approved.

28 (3) It is unlawful for a manufacturer or distributor to
29 fail to provide a dealer an opportunity to designate, in
30 writing, a family member as a successor to the dealership. It

1 is unlawful to prevent or refuse to honor the succession to a
2 dealership by a family member of the dealer unless the
3 manufacturer or distributor has provided to the dealer
4 written notice of its objections within 10 days after receipt
5 of the dealer's modification of the dealer's succession plan.
6 In the absence of a breach of the dealer agreement, the
7 manufacturer may object to the succession for the following
8 reasons only:

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

11 (ii) bankruptcy or insolvency of the successor
12 during the past 10 years;

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

15 (iv) the successor does not have an active line of
16 credit sufficient to purchase the manufacturer's product;
17 or

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

19 (b) Burden of proof.--The manufacturer or distributor has
20 the burden of proof regarding the manufacturer's or
21 distributor's objection. A family member may not succeed to a
22 dealership if the succession involves, without the
23 manufacturer's or distributor's consent, a relocation of the
24 business or an alteration of the terms and conditions of the
25 manufacturer/dealer agreement.

26 Section 508. Warranty obligations.

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

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

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

3 (3) Provide to the dealer the schedule of compensation
4 to be paid and the time allowances for the performance of
5 work and service. The schedule of compensation must include
6 reasonable compensation for diagnostic work, as well as
7 warranty labor.

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

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

23 (d) Audits.--Warranty audits of dealer records may be
24 conducted by the warrantor on a reasonable basis, and dealer
25 claims for warranty compensation may not be denied except for
26 cause, such as performance of nonwarranty repairs, material
27 noncompliance with the warrantor's published policies and
28 procedures, lack of material documentation, fraud or
29 misrepresentation.

30 (e) Warranty claims.--The dealer shall submit warranty

1 claims within 45 days after completing work.

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

7 (g) Disapproval of warranty claims.--The warrantor shall
8 disapprove warranty claims in writing within 45 days after the
9 date of submission by the dealer in the manner and form
10 prescribed by the warrantor. Claims not specifically disapproved
11 in writing within 45 days shall be construed to be approved and
12 must be paid within 60 days of submission.

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

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

17 (2) Fail to include, in written notices of factory
18 campaigns to recreational vehicle owners and dealers, the
19 expected date by which necessary parts and equipment,
20 including tires and chassis or chassis parts, will be
21 available to dealers to perform the campaign work. The
22 warrantor may ship parts to the dealer to effect the campaign
23 work, and, if the parts are in excess of the dealer's
24 requirements, the dealer may return unused parts to the
25 warrantor for credit after completion of the campaign.

26 (3) Fail to compensate its dealers for authorized
27 repairs effected by the dealer on merchandise damaged in
28 manufacture or transit to the dealer, if the carrier is
29 designated by the warrantor, factory branch, distributor or
30 distributor branch.

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

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

9 (6) Require the dealer to make warranties to customers
10 in any manner related to the manufacture of the recreational
11 vehicle.

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

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

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

20 (3) Fail to accurately document the time spent
21 completing each repair, the total number of repair attempts
22 conducted on a single unit and the number of repair attempts
23 for the same repair conducted on a single vehicle.

24 (4) Fail to notify the warrantor within 10 days of a
25 second repair attempt which impairs the use, value or safety
26 of the vehicle.

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

30 (6) Make fraudulent warranty claims or misrepresent the

1 terms of a warranty.

2 Section 509. Indemnification.

3 (a) General rule.--Notwithstanding the terms of a
4 manufacturer/dealer agreement, it is a violation of this chapter
5 for:

6 (1) A warrantor to fail to indemnify and hold harmless
7 its new recreational vehicle dealer against losses or damages
8 to the extent that the losses or damages are caused by the
9 negligence or willful misconduct of the warrantor.

10 (2) A new recreational vehicle dealer to be denied
11 indemnification for failing to discover, disclose or remedy a
12 defect in the design or manufacturing of a new recreational
13 vehicle or new recreational trailer.

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

19 (b) Denial of indemnification.--A new recreational vehicle
20 dealer may be denied indemnification if the new recreational
21 vehicle dealer fails to remedy a known and announced defect in
22 accordance with the written instructions of a warrantor for whom
23 the new recreational vehicle dealer is obligated to perform
24 warranty service.

25 (c) Pending lawsuits.--

26 (1) A new recreational vehicle dealer shall provide to a
27 warrantor a copy of any pending lawsuit in which allegations
28 are made that are covered by the provisions of this section
29 within 10 days after receiving the suit. This subsection
30 shall continue to apply even after the new recreational

1 vehicle is titled.

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

8 Section 510. Inspection and rejection by dealer.

9 (a) General rule.--Whenever a new recreational vehicle is
10 damaged prior to transit to the dealer or is damaged in transit
11 to the dealer when the carrier or means of transportation has
12 been selected by the manufacturer or distributor, the dealer
13 shall notify the manufacturer or distributor of the damage
14 within the time frame specified in the manufacturer/dealer
15 agreement and:

16 (1) request from the manufacturer or distributor
17 authorization to replace the components, parts and
18 accessories damaged or otherwise correct the damage; or

19 (2) reject the vehicle within the time frame set forth
20 in subsection (d).

21 (b) Refusal or failure to repair.--If the manufacturer or
22 distributor refuses or fails to authorize repair of the damage
23 within 10 days after receipt of notification or if the dealer
24 rejects the recreational vehicle because of damage, ownership of
25 the new recreational vehicle shall revert to the manufacturer or
26 distributor.

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

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

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

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

25 (1) When selling a new recreational vehicle, each new
26 recreational vehicle dealer shall notify the purchaser in
27 writing at the time of sale of any material damage sustained
28 or incurred by the recreational vehicle at any time after the
29 manufacturing process is complete which is disclosed by the
30 manufacturer to the new recreational vehicle dealer.

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

8 Section 511. Coercion of dealer prohibited.

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

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

12 (2) enter into an agreement with the manufacturer or
13 distributor; or

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

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

24 Section 512. Applicability.

25 To the extent the provisions of this chapter are inconsistent
26 with any other provisions of this act as applied to a
27 recreational vehicle dealer, manufacturer, distributor or
28 supplier this chapter controls. Unless inconsistent with the
29 provisions in this chapter or expressly excluded, the provisions
30 of this act apply to recreational vehicle dealers,

1 manufacturers, distributors and suppliers.

2 Section 513. Severability.

3 The provisions of this chapter are severable. If any
4 provision of this chapter or its application to any person or
5 circumstance is held invalid, the invalidity shall not affect
6 other provisions or applications of this chapter which can be
7 given effect without the invalid provision or application.

8 Section ~~11~~ 22. The act is amended by adding a chapter <--
9 heading to read:

10 CHAPTER 7

11 MISCELLANEOUS PROVISIONS

12 Section ~~12~~ 23. Sections 34, 35, 36 and 37 of the act are <--
13 renumbered to read:

14 Section [34] 701. Savings provision.

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

19 Section [35] 702. Repeals.

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

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

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

26 Persons who are members of the State Board of Motor Vehicle
27 Manufacturers, Dealers and Salespersons on the effective date of
28 this act shall serve on the board created under this act until
29 their current three-year terms expire or until their successors
30 are duly appointed and qualified, but no longer than six months

1 after the expiration of their terms.

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

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

6 Section ~~13~~ 24. The addition of Chapter 5 of the act shall <--
7 apply to recreational vehicle manufacturer/dealer agreements
8 entered into or renewed on or after the effective date of this
9 act.

10 Section ~~14~~ 25. This act shall take effect in 365 days. <--