
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1454 Session of
1983

INTRODUCED BY HUTCHINSON, DININNI AND LETTERMAN, SEPTEMBER 19,
1983

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 26, 1983

AN ACT

1 Providing for the State Board of Vehicle Manufacturers, Dealers
2 and Salespersons; and providing penalties.

3 TABLE OF CONTENTS

4 Section 1. Short title.

5 Section 2. Definitions.

6 Section 3. State Board of Vehicle Manufacturers, Dealers
7 and Salespersons.

8 Section 4. Powers and duties of board.

9 Section 5. License to engage in business.

10 Section 6. Biennial renewal.

11 Section 7. Enforcement.

12 Section 8. Warranty and predelivery obligations.

13 Section 9. Unlawful acts by manufacturers, factory branches,
14 distributors, field representatives, officers,
15 agents or any representatives of manufacturers,
16 factory branches or distributors.

17 Section 10. Grounds for disciplinary proceedings.

- 1 Section 11. Administrative liability of employer,
2 copartnership, association or corporation.
- 3 Section 12. Reinstatement.
- 4 Section 13. Application for license.
- 5 Section 14. Refusal of license.
- 6 Section 15. Change of salesperson's license to indicate new
7 employer.
- 8 Section 16. Termination of employment or business.
- 9 Section 17. Exemption from licensure and registration.
- 10 Section 18. Limitations on establishing or relocating dealers.
- 11 Section 19. Penalties.
- 12 Section 20. Civil actions for violations.
- 13 Section 21. Applicability of act.
- 14 Section 22. Fees.
- 15 Section 23. Disposition of fees and fines.
- 16 Section 24. Vehicle shows and exhibitions.
- 17 Section 25. Savings provision.
- 18 Section 26. Limitations.
- 19 Section 27. Repeals.
- 20 Section 28. Expiration of terms of board members.
- 21 Section 29. Expiration of act.
- 22 Section 30. Effective date.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. Short title.

26 This act shall be known and may be cited as the Board of
27 Vehicles Act.

28 Section 2. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Agreement." A contract or franchise or any other written
3 instrument which describes the contractual relationship between
4 a manufacturer, distributor, importer or dealer and at least one
5 other person.

6 "Board." The State Board of Vehicle Manufacturers, Dealers
7 and Salespersons.

8 "Branch lot." An office and lot maintained in addition to
9 the main office and lot of a licensed vehicle dealer. The branch
10 lot shall meet the facility requirements defined herein and by
11 regulations as a main lot, unless used solely for the storage of
12 vehicles.

13 "Broker." Any person who, for a commission, compensation or
14 other valuable consideration, engages or participates in the
15 wholesale or retail sale in one calendar year of five or more
16 used vehicles or any new vehicle as the agent for the buyer or
17 seller. For the purposes of this definition, the broker need not
18 have custody or control of the subject vehicle but shall have
19 the authority of the buyer or seller to negotiate or conduct a
20 transaction on behalf of the buyer or seller. This definition
21 shall specifically include car auctions.

22 "Bushing." The practice of increasing the selling price of a
23 vehicle above that originally quoted the purchaser or decreasing
24 the allowance for trade-in of a used vehicle after the purchaser
25 has signed a purchase order or contract which is subject to
26 subsequent acceptance by the seller. If a used vehicle is being
27 used as the down payment and it is not to be delivered to the
28 dealer until delivery of the new vehicle, the used vehicle may
29 be reappraised at that time if the dealer can establish that the
30 vehicle has suffered damage or serious mechanical deterioration

1 since date of original valuation. Reappraisal value may
2 determine the allowance made for such used car.

3 "Curb-stoner or unlicensed salesperson." Any person who, for
4 a commission, compensation or other valuable consideration, and
5 without being licensed in accordance with this act as a
6 salesperson, engages in the wholesale or retail sale, exchange
7 or purchase in one calendar year of five or more used vehicles
8 or any new vehicle.

9 "Dealer." All of the following:

10 (1) A person engaged in and devoting a substantial
11 portion of time to the business of buying, selling or
12 exchanging new and used vehicles, trailers or semitrailers on
13 commission, compensation or other consideration.

14 (2) A person engaged in and devoting a substantial
15 portion of time to the business of buying, selling or
16 exchanging used vehicles, tractors, trailers or semitrailers
17 on commission, compensation or other consideration. The term
18 includes fleet owners who engage directly in the retail sale
19 of fleet vehicles.

20 (3) A person engaged in and devoting a substantial
21 portion of time to the business of buying, selling or
22 exchanging mobile homes, house trailers or office trailers on
23 commission, compensation or other consideration.

24 (4) A person engaged in and devoting a substantial
25 portion of time to the business of buying, selling or
26 exchanging used mobile homes, house trailers or office
27 trailers on commission, compensation or other consideration.

28 (5) A person engaged in and devoting a substantial
29 portion of time to the business of buying, selling or
30 exchanging new and used recreational vehicles on commission

1 or otherwise.

2 (6) A person engaged in and devoting a substantial
3 portion of his time to the business of buying, selling or
4 exchanging used recreational vehicles on commission or
5 otherwise.

6 "Department." The Department of State acting through the
7 Commissioner of Professional and Occupational Affairs.

8 "Distributor." A person, resident or nonresident, who sells
9 or distributes vehicles to dealers or who maintains distributor
10 representatives.

11 "Distributor branch." A branch office similarly maintained
12 by a distributor or wholesaler for like purposes.

13 "Distributor representative." A representative similarly
14 employed by a distributor, distributor branch or wholesaler.

15 "Established place of business." A permanent, enclosed
16 building as more specifically defined by regulation which is
17 accessible and open to the public at all reasonable times and at
18 which the business of a new or used vehicle dealer, including
19 the display and repair of vehicles, may be lawfully conducted in
20 accordance with the terms of applicable building codes, zoning
21 and other land-use regulatory ordinances.

22 "Factory branch." A branch office maintained by a
23 manufacturer for the sale of vehicles to distributors or dealers
24 or for directing or supervising, in whole or part, its
25 representatives.

26 "Factory representative." A representative employed by a
27 manufacturer or by factory branch for the purpose of making or
28 promoting the sale of its vehicles or for supervising or
29 contacting its dealers or prospective dealers.

30 "Fleet owner." Any person who owns a group of 15 or more

1 vehicles.

2 "Franchise." The written agreement or contract between any
3 new vehicle manufacturer and any new vehicle dealer which
4 purports to fix the legal rights and liabilities of the parties
5 to such agreement or contract, and pursuant to which the dealer
6 purchases and resells the franchise product or leases or rents
7 the dealership premises.

8 "Manufacturer." Any person, resident or nonresident, who
9 manufactures or assembles vehicles or who manufactures or
10 installs on previously assembled chassis special bodies or
11 equipment which when installed form an integral part of a
12 vehicle and which constitute a major manufacturing alteration.

13 "Motorcycle." A vehicle having a seat or saddle for the use
14 of the rider and designed to travel on not more than three
15 wheels in contact with the ground.

16 "Off-premise sale." A sale for a fixed and limited period of
17 time held in the normal marketing area of the participating
18 dealer or dealers, which is conducted for the purpose of
19 exhibiting and selling vehicles at a geographical location not
20 normally used as a dealership.

21 "Person." Any individual, corporation, partnership,
22 association or other entity foreign or domestic.

23 "Recreational vehicle." A vehicular unit primarily designed
24 as temporary living quarters for recreational, camping or travel
25 use, which either has its own motive power or is mounted on or
26 drawn by another vehicle but shall not include a camping
27 trailer. The basic entities are: travel trailer, house trailer,
28 slide-on camper and motor home.

29 "Relevant market area." The area within a radius of 20 miles
30 around an existing dealer or the area of responsibility defined

1 in the franchise, whichever is greater; except that, where a
2 manufacturer is seeking to establish an additional new vehicle
3 dealer, the relevant market area shall be in all instances,
4 except for cities of the first and second class which will be
5 the area within a five-mile radius, the area within a radius of
6 ten miles around the proposed site. Relevant market area shall
7 not apply to mobile home or recreational vehicle dealer or
8 manufacturer agreements.

9 "Retail sale" or "sale at retail." The act or attempted act
10 of selling, bartering, exchanging or otherwise disposing of a
11 vehicle to an ultimate purchaser.

12 "Salesperson." Any person who, for a commission,
13 compensation or other valuable consideration, is employed as a
14 salesperson by a dealer to sell vehicles at retail. Any
15 salesperson licensed hereunder shall be licensed to sell only
16 for one dealer at a time and his license shall indicate the name
17 of that dealer. The term includes the principal, an officer or a
18 partner of a dealer if he personally is actively engaged in the
19 retail sale of vehicles.

20 "Vehicle." Every device which is or may be moved or drawn
21 upon a highway, except devices moved by human or animal power,
22 those used exclusively upon rails or tracks or motorized
23 pedalcycles.

24 "Wholesaler." A resident person who is in the business of
25 buying, selling or exchanging vehicles to dealers.

26 Section 3. State Board of Vehicle Manufacturers, Dealers
27 and Salespersons.

28 (a) Board.--The State Board of Vehicle Manufacturers,
29 Dealers and Salespersons shall consist of 17 members, one of
30 whom shall be the Commissioner of Professional and Occupational

1 Affairs, one of whom shall be the Secretary of the Department of
2 Transportation, or his designee, one of whom shall be the
3 Director of Consumer Protection in the Office of Attorney
4 General, or his designee, and the remaining 14 of whom shall be
5 appointed by the Governor as follows:

6 (1) Three members shall be new car dealers who have been
7 actively engaged as such for a period of five years
8 immediately preceding their appointment.

9 (2) Three members shall be used car dealers who have
10 been actively engaged as such for a period of five years
11 immediately preceding their appointment.

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

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

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

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

27 (7) Four shall be members of the general public having
28 no connection with the vehicle business, particularly
29 repairing or financing of vehicles.

30 (b) Terms of members.--The terms of the members of the board

1 shall be three years from the respective date of their
2 appointment, provided that a member may continue for a period
3 not to exceed six months beyond the expiration of his term if a
4 successor has yet to be duly appointed and qualified according
5 to law. In the event that any member shall die, resign or be
6 removed from office, his successor shall be appointed and hold
7 office for the unexpired term.

8 (c) Quorum.--Nine members of the board shall constitute a
9 quorum. The board shall select, from among their number, a
10 chairman and a secretary.

11 (d) Reimbursement of expenses.--Each member of the board,
12 excepting the Commissioner of Professional and Occupational
13 Affairs, the Director of the Bureau of Consumer Protection in
14 the Office of Attorney General or his designee, and the
15 Secretary of the Department of Transportation or his designee,
16 shall be paid traveling and other necessary expenses and per
17 diem compensation at the rate of \$60 for each day of actual
18 service while on board business.

19 (e) Attendance.--A member who fails to attend three
20 consecutive meetings shall forfeit his seat unless the
21 Commissioner of Professional and Occupational Affairs, upon
22 written request from the member, finds that the member should be
23 excused from a meeting because of illness or the death of an
24 immediate family member.

25 Section 4. Powers and duties of board.

26 The board shall have the power and its duty shall be to:

27 (1) Provide for and regulate the licensing of
28 salespersons, dealers, brokers, manufacturers, factory
29 branches, distributors, distributor branches, factory or
30 distributor representatives and wholesalers as defined in

1 this act.

2 (2) Review and pass upon the qualifications of
3 applicants for licensure and to issue, except as otherwise
4 provided herein, a license to engage in the said businesses
5 to any applicant who is approved by the board and who meets
6 the requirements of this act.

7 (3) Investigate on its own initiative, upon complaint of
8 the Department of Transportation, Department of Community
9 Affairs, Department of Revenue or the Office of the Attorney
10 General, or upon the verified complaint in writing of any
11 person, any allegations of the wrongful act or acts of any
12 licensee or person required to be licensed hereunder.

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

16 (5) Bring criminal prosecutions for unauthorized,
17 unlicensed or unlawful practice.

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

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

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

29 (9) Adopt, promulgate and enforce such rules and
30 regulations not inconsistent with this act as are deemed

1 necessary and proper to effectuate the provisions of this
2 act, including but not limited to, established place of
3 business.

4 (10) Submit annually, to the Transportation Committees
5 of the House and Senate, a description of the types of
6 complaints received, status of the cases, board action which
7 has been taken and length of time from the initial complaint
8 to final board resolution.

9 (11) Submit annually to the department, and to the House
10 and Senate Appropriations Committees, 15 days after the
11 Governor has submitted his budget to the General Assembly, an
12 estimate of the financial requirements of the board for its
13 administrative, investigative, legal and miscellaneous
14 expenses.

15 Section 5. License to engage in business.

16 (a) License required.--To promote the public safety and
17 welfare, it shall be unlawful for any person to engage in the
18 business of salesperson, broker, dealer, manufacturer, factory
19 branch, distributor, distributor branch, factory or distributor
20 representative or wholesaler within this Commonwealth unless he
21 has secured a license as required under this act.

22 (b) Mobile home parks.--It shall be unlawful for any person,
23 for a commission, compensation or other consideration, to sell
24 or act as salesperson, broker or sales agent in connection with
25 the sale of one or more mobile homes located in a mobile home
26 park, as provided for in section 11 of the act of November 24,
27 1976 (P.L.1176, No.261), known as the Mobile Home Park Rights
28 Act, unless such person shall be licensed under this act.

29 (c) Salespersons to be employed.--It shall be unlawful for
30 any salesperson to engage in any activity related to the buying,

1 selling or exchanging of a vehicle, unless that person is the
2 dealer or presently employed by a currently licensed vehicle
3 dealer and the sale is conducted pursuant to and as part of the
4 normal business activities of that dealer.

5 (d) Display of license.--Each person to whom a license is
6 issued shall keep the license conspicuously displayed in his
7 principal office or place of business and shall, when required,
8 exhibit such license to any member or authorized representative
9 of the board.

10 Section 6. Biennial renewal.

11 Each license holder shall be required to renew his license
12 biennially; as a condition precedent to biennial renewal, the
13 license holder shall pay a biennial renewal fee and, in the case
14 of a salesperson or manufacturer's representative, he must be
15 presently employed with a dealer or manufacturer which has a
16 current license. The license holder shall comply with all
17 requirements as set forth through regulation by the board.

18 Section 7. Enforcement.

19 The enforcement of the laws and rules and regulations
20 governing practice under this act is primarily vested in the
21 board with the following additional powers and duties to:

- 22 (1) Inspect all license holders.
- 23 (2) Authorize investigations of alleged violations.
- 24 (3) Review and inspect all business records, documents
25 and files relating to practice under this act.
- 26 (4) Subpoena witnesses.
- 27 (5) Take depositions of witnesses in the manner provided
28 for in civil actions in courts of record.
- 29 (6) Bring criminal prosecutions for unauthorized,
30 unlicensed and unlawful practice in accordance with the terms

1 and provisions of the act of October 15, 1980 (P.L.950,
2 No.164), known as the Commonwealth Attorneys Act.
3 Any hearing on a protest by a dealer of any action by a
4 manufacturer alleged to be in violation of a provision of this
5 act must be conducted and the final determination made within
6 120 days after the protest is filed. Unless waived by the
7 parties, failure to do so will be deemed the equivalent of a
8 determination that the manufacturer acted with good cause and,
9 in the case of a protest of a proposed establishment or
10 relocation of a dealer under section 10, that good cause does
11 not exist for refusing to permit the proposed additional or
12 relocated new vehicle dealer, unless such delay is caused by
13 acts of the manufacturer or the additional or relocating dealer.
14 Any parties to such a hearing shall have a right of review of
15 the decision in a court of competent jurisdiction pursuant to 2
16 Pa.C.S. § 701 (relating to scope of subchapter). If the board
17 determined that good cause does not exist for refusing to permit
18 the proposed additional or relocated new vehicle dealer, and the
19 manufacturer thereafter enters into a franchise establishing
20 that new vehicle dealer, the manufacturer shall not be liable
21 for damages based upon such establishment even if a court
22 reverses the determination of the board.

23 Section 8. Warranty and predelivery obligations.

24 (a) Manufacturers to notify dealers of their obligations.--
25 Each new vehicle manufacturer shall specify in writing to each
26 of its new vehicle dealers licensed in this Commonwealth the
27 dealer's obligations for predelivery preparation and warranty
28 service on its products, shall compensate the new vehicle dealer
29 for service required of the dealer by the manufacturer and shall
30 provide the dealer with the schedule of compensation to be paid

1 the dealer for parts, work and service, and the time allowance
2 for the performance of such work and service.

3 (b) Copy of obligation to be filed with board.--A copy of
4 the delivery and preparation obligations of its dealers shall be
5 filed with the board by every vehicle manufacturer and shall
6 constitute the dealer's only responsibility for product
7 liability as between the dealer and the manufacturer.

8 (c) Indemnification required.--Notwithstanding the terms of
9 any franchise agreement, it shall be a violation for any new
10 vehicle manufacturer to fail to indemnify its franchised dealers
11 against any judgment for damages or settlement approved in
12 writing by the manufacturer, including, but not limited to,
13 court costs and reasonable attorneys' fees of the new vehicle
14 dealer, arising out of complaints, claims or lawsuits including,
15 but not limited to, strict liability, negligence,
16 misrepresentation, express or implied warranty or rescission of
17 the sale as defined in 13 Pa.C.S. § 2608 (relating to revocation
18 of acceptance in whole or in part) to the extent that the
19 judgment or settlement relates solely to the alleged defective
20 or negligent manufacture, assembly or design of new vehicles,
21 parts or accessories or other functions by the manufacturer,
22 beyond the control of the dealer.

23 Section 9. Unlawful acts by manufacturers, factory branches,
24 distributors, field representatives, officers,
25 agents or any representatives of manufacturers,
26 factory branches or distributors.

27 (a) Unlawful acts by manufacturers.--It shall be a violation
28 for any manufacturer, factory branch, distributor, field
29 representative, officer, agent or any representative whatsoever
30 of such manufacturer, factory branch or distributor licensed

1 under this act to require, attempt to require, coerce or attempt
2 to coerce any new vehicle dealer in this Commonwealth to:

3 (1) Order or accept delivery of any new vehicle, part or
4 accessory thereof, equipment or any other commodity not
5 required by law which shall not have been voluntarily ordered
6 by the new vehicle dealer, except that this paragraph is not
7 intended to modify or supersede any terms or provisions of
8 the franchise requiring new vehicle dealers to market a
9 representative line of those vehicles which the manufacturer
10 or distributor is publicly advertising.

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

15 (3) Participate monetarily in an advertising campaign or
16 contest or to purchase any promotional materials, training
17 materials, showroom or other display decorations or materials
18 at the expense of the new vehicle dealer.

19 (4) Enter into any agreement with the manufacturer or to
20 do any other act prejudicial to the new vehicle dealer by
21 threatening to terminate or cancel a franchise or any
22 contractual agreement existing between the dealer and the
23 manufacturer, except that this paragraph is not intended to
24 preclude the manufacturer or distributor from insisting on
25 compliance with the reasonable terms or provisions of the
26 franchise or other contractual agreement and notice in good
27 faith to any new vehicle dealer of the new vehicle dealer's
28 violation of such terms or provisions shall constitute a
29 violation of the act.

30 (5) Change the capital structure of the new vehicle

1 dealer or the means by or through which the new vehicle
2 dealer finances the operation of the dealership, provided
3 that the new vehicle dealer at all times meets any reasonable
4 capital standards determined by the manufacturer in
5 accordance with uniformly applied criteria, and also provided
6 that no change in the capital structure shall cause a change
7 in the principal management or have the effect of a sale of
8 the franchise without the consent of the manufacturer or
9 distributor; the consent shall not be unreasonably withheld.

10 (6) Refrain from participation in the management of,
11 investment in or the acquisition of any other line of new
12 vehicle or related products. This paragraph does not apply
13 unless the new vehicle dealer maintains a reasonable line of
14 credit for each make or line of new vehicle, the new vehicle
15 dealer remains in compliance with the franchise agreement and
16 any reasonable facilities requirements of the manufacturer,
17 and no change is made in the principal management of the new
18 vehicle dealer.

19 (7) Prospectively assent to a release, assignment,
20 novation, waiver or estoppel which would relieve any person
21 from liability to be imposed by this act or to require any
22 controversy between a new vehicle dealer and a manufacturer,
23 distributor or representative to be referred to any person
24 other than the duly constituted courts of the Commonwealth or
25 the United States of America, if such referral would be
26 binding upon the new vehicle dealer.

27 (8) Expand, construct or significantly modify facilities
28 without assurances that the franchisor will provide a
29 reasonable supply of new vehicles within a reasonable time so
30 as to justify such an expansion in light of the market and

1 economic conditions.

2 (b) Additional unlawful acts of manufacturers.--It shall be
3 a violation of this act for any manufacturer, factory branch or
4 distributor licensed under this act to:

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

16 (2) Unfairly discriminate among its new vehicle dealers
17 with respect to warranty reimbursement.

18 (3) Unreasonably withhold consent to the sale, transfer
19 or exchange of the franchise to a qualified buyer capable of
20 being licensed as a new vehicle dealer in this Commonwealth.

21 (4) Fail to respond in writing to a request for consent
22 as specified in paragraph (3) within 60 days of receipt of a
23 written request on the forms, if any, generally utilized by
24 the manufacturer or distributor for such purposes and
25 containing the information required. Such failure to respond
26 shall be deemed to be refusal to consent to the request.

27 (5) Prevent or attempt to prevent by contract or
28 otherwise, any new vehicle dealer from changing the executive
29 management control of the new vehicle dealer unless the
30 manufacturer, having the burden of proof, can show that such

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

13 (6) Offer to sell or lease, or to sell or lease, any new
14 vehicle to, or through, any new vehicle dealer at a lower
15 actual price than the actual price offered to any other new
16 vehicle dealer for the same model vehicle similarly equipped
17 or to utilize any device including, but not limited to, sales
18 promotion plans or programs which result in such lesser
19 actual price. The provisions of this paragraph shall not
20 apply to sales to a new vehicle dealer for resale to any unit
21 of the Federal Government, the Commonwealth or any of its
22 political subdivisions.

23 (7) Offer to sell or lease, or to sell or lease, any new
24 vehicle to any person, except a manufacturer's employee at a
25 lower actual price than the actual price offered and charged
26 to a new vehicle dealer for the same model vehicle similarly
27 equipped or to utilize any device which results in such
28 lesser actual price. The provisions of this paragraph shall
29 not apply to sales to a new vehicle dealer for resale to any
30 unit of the Federal Government, the Commonwealth or any of

1 its political subdivisions.

2 (8) Offer in connection with a sale of a new vehicle or
3 vehicles to the Federal Government, the Commonwealth or any
4 political subdivision thereof, any discounts, refunds or any
5 other type of inducement to any new vehicle dealer without
6 making the same offer or offers available to all other of its
7 new vehicle dealers within this Commonwealth.

8 (9) Offer in connection with the sale of any new vehicle
9 or new vehicles to a purchaser of more than ten new vehicles
10 per model year, terms, discounts, refunds or other similar
11 inducements to that purchaser without making the same offer
12 or offers available on the same terms to all other purchasers
13 of more than ten new vehicles per model year from its new
14 vehicle dealers in this Commonwealth. No manufacturer or
15 distributor may impose or enforce any restrictions against
16 these new vehicle dealers, their leasing, rental or fleet
17 divisions or subsidiaries that is not imposed or enforced
18 against any other similar purchaser.

19 (c) Cancelling of franchises.--Being a manufacturer, factory
20 branch, distributor, field representative, officer, agent or any
21 representative whatsoever of such vehicle manufacturer or
22 factory branch, who has unfairly, without due regard to the
23 equities of said dealer and without just provocation, cancelled
24 the franchise of any vehicle dealer; or being a manufacturer,
25 factory branch or importer, who unfairly, without due regard to
26 the equities of a distributor and without just provocation
27 cancelled the franchise of any distributor. All existing
28 dealers' franchises shall continue in full force and operation
29 under a newly appointed distributor on the termination of an
30 existing distributor unless a mutual agreement of cancellation

1 is filed with the board between the newly appointed distributor
2 and such dealer. Not less than 60 days advance notice of such
3 termination, cancellation or failure to renew shall be given the
4 dealer prior to the effective date thereof unless the nature or
5 character of the reason for termination, cancellation or failure
6 to renew is such that the giving of such notice would not be in
7 the public interest. At any time before the effective date of
8 such termination, cancellation or failure to renew, the dealer
9 may appeal to the board for a hearing on the merits, and
10 following due notice to all parties concerned, such hearing
11 shall be promptly held. No such termination, cancellation or
12 failure to renew shall become effective until final
13 determination of the issue by the board. In the event of a
14 dealer appeal, the burden of proof shall be on the manufacturer
15 to show that such termination, cancellation or failure to renew
16 was for good cause and in good faith.

17 (d) Bushing.--Being a vehicle dealer having accepted an
18 order of purchase or a contract from a buyer which offer of
19 purchase or contract is subject to subsequent acceptance by the
20 seller, if such arrangement results in the practice of bushing.
21 For the purpose of this subsection, bushing is defined as the
22 practice of increasing the selling price of a car above that
23 originally quoted the purchaser or decreasing the allowance for
24 trade-in of a used car after the purchaser has signed a purchase
25 order or contract which is subject to subsequent acceptance by
26 the seller, however, if a used car is being used as the down
27 payment and it is not to be delivered to the dealer until the
28 delivery of the new car, the used car shall be reappraised at
29 that time and such reappraisal value shall determine the
30 allowance made for such used car.

1 (e) Construction of section.--This section shall not be
2 construed to prevent the offering of incentive programs or other
3 discounts if such discounts are equally available to all
4 franchised vehicle dealers in this Commonwealth on a
5 proportionately equal basis.

6 Section 10. Grounds for disciplinary proceedings.

7 The board shall have the power to formally reprimand, suspend
8 or revoke any license or refuse to issue or renew any license of
9 an applicant or licensee or a person required to be licensed
10 under this act, if after due notice of and hearing, the person
11 charged is found in violation of or fails to carry out the acts
12 and procedures set forth in sections 5 and 8 or is found guilty
13 of committing or attempting to commit any of the acts set forth
14 in section 13 or any of the following acts:

15 (1) Having had his license revoked or suspended by the
16 Commonwealth or another state based on grounds similar to
17 those which in this Commonwealth allow disciplinary
18 proceedings, in which case the record of such revocation or
19 suspension shall be conclusive evidence.

20 (2) Knowingly make any substantial misrepresentation of
21 material facts.

22 (3) Knowingly make any false promise of a character
23 likely to influence, persuade or induce the sale of a
24 vehicle.

25 (4) Being a vehicle dealer or salesperson, having within
26 three years prior to the application for or issuance of a
27 license or while his current license is in force pleaded
28 guilty, entered a plea of nolo contendere or been found
29 guilty in a court of competent jurisdiction in this or any
30 other state or Federal jurisdiction of forgery, embezzlement,

1 obtaining money under false pretenses, extortion, conspiracy
2 to defraud, bribery, odometer tampering or any other crime
3 involving moral turpitude.

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

7 (6) Having engaged in false, deceptive or misleading
8 advertising of vehicles.

9 (7) Having committed any act or engaged in conduct in
10 connection with the sale of vehicles which clearly
11 demonstrates incompetency.

12 (8) Having made a material misstatement in application
13 for license.

14 (9) Having set up, promoted or aided in promotion of a
15 plan by which vehicles are sold to a person for consideration
16 and upon the further consideration that the purchaser agrees
17 to secure one or more persons to participate in the plan by
18 respectively making a similar purchase and in turn agreeing
19 to secure one or more persons likewise to join in said plan,
20 each purchaser being given the right to secure money,
21 credits, goods or something of value, depending upon the
22 number of persons joining in the plan.

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

27 (11) Being a dealer who advertises or otherwise holds
28 out to the public that he is selling new vehicles for which
29 he does not hold a contract in writing with a manufacturer,
30 importer or distributor giving said dealer authority to sell

1 such vehicles.

2 (12) Being a dealer who sells new vehicles for which he
3 does not hold a contract in writing with a manufacturer,
4 importer or distributor giving said dealer authority to sell
5 these vehicles. For the purpose of paragraph (11) and this
6 paragraph, the term "new vehicle" shall mean a new vehicle
7 which has never been registered or titled in Pennsylvania or
8 any other state on which a tax for education imposed by the
9 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
10 Code of 1971, has not been paid prior to the sale.

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

20 (14) Engaging in the business for which such dealer is
21 licensed without at all times maintaining an established
22 place of business as required.

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

25 (16) Having had his vehicle business registration plates
26 (dealer identification number) suspended by the Department of
27 Transportation pursuant to 75 Pa.C.S. § 1374(a) (relating to
28 suspension of vehicle business registration plates). A
29 certified copy of the decision and order of the Department of
30 Transportation will constitute conclusive evidence.

1 (17) Being a new car dealer whose franchise, contract or
2 agreement with a manufacturer, which gives the subject dealer
3 selling rights for that line-make, has been finally
4 terminated, but who continues to sell new vehicles.

5 (18) Willfully failing to display a license.

6 (19) Failing to obey any order of the board entered
7 pursuant to the act.

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

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

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

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

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

23 (25) Failing to pay over taxes or fees collected by him
24 to the Commonwealth at the time and in the manner required by
25 law.

26 Section 11. Administrative liability of employer,
27 copartnership, association or corporation.

28 In the event of the revocation of the license issued to any
29 member of a partnership or to any officer of an association or
30 corporation, the license issued to a partnership, association or

1 corporation shall be revoked by the board unless, within a time
2 fixed by the board, in the case of a partnership, the connection
3 of the member whose license has been revoked shall be severed
4 and his interest in the partnership and his share in its
5 activities brought to an end, or in the case of an association
6 or corporation, the offending officer shall be discharged and
7 shall have no further participation in its activities.

8 Section 12. Reinstatement.

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

12 (b) Revocation.--Unless ordered to do so by a court, the
13 board shall not reinstate the license of a person that has been
14 revoked and such person shall be required to apply for a license
15 in accordance with section 13 if he desires to practice at any
16 time after such revocation.

17 Section 13. Application for license.

18 (a) Contents of application; dealer's license.--Application
19 for license as a dealer shall be made in writing to the board,
20 signed by the applicant, setting forth the following:

21 (1) Name of applicant and location of principal place of
22 business.

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

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

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

29 (5) If new vehicles are to be sold, the make or makes to
30 be handled.

1 (6) A statement of the previous history, record and
2 association of the applicant and of each owner, partner,
3 officer and director, which statement shall be sufficient to
4 establish to the satisfaction of the board the reputation in
5 business of the applicant.

6 (7) A statement showing whether the applicant has
7 previously applied for a license and the result of such
8 application and whether the applicant has ever been the
9 holder of either a dealer or salesperson license which was
10 revoked or suspended.

11 (8) If the applicant is a corporation or partnership, a
12 statement showing whether any of the partners, employees,
13 officers or directors have been refused a dealer's or
14 salesperson's license or have been the holder of such license
15 which was revoked or suspended.

16 (9) A statement by the applicant that he has met all
17 facility requirements as noted herein and as required by
18 regulation.

19 (b) Contents of application; salesperson's license.--
20 Application for license as a salesperson shall be made in
21 writing to the board, signed by the applicant, setting forth the
22 following:

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

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

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

27 (4) The name and address of the dealer then employing
28 him or into whose employ he is about to enter.

29 (5) The recommendation of his employer or prospective
30 employer certifying that the applicant is honest, trustworthy

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

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

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

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

25 Section 14. Refusal of license.

26 The board may refuse to issue a license if the applicant has
27 committed any of the acts set forth as grounds for the
28 suspension or revocation of a license. The board may also refuse
29 to issue a license when it determines:

30 (1) That the applicant was previously the holder of a

1 license issued under this act, which license was revoked for
2 cause or which license was suspended for cause and the terms
3 of the suspension have not been fulfilled.

4 (2) That the applicant was previously a limited or
5 general partner, stockholder, director or officer of a
6 partnership or corporation whose license issued under the
7 authority of this act was revoked for cause and never
8 reissued or was suspended for cause and the terms of
9 suspension have not been fulfilled.

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

26 Section 15. Change of salesperson's license to indicate new
27 employer.

28 If a person holding a currently valid license desires to be
29 licensed to sell for another employer, he shall make application
30 to the board for the issuance of a new license showing the name

1 of his proposed new employer. Such application shall be made on
2 a form of application prescribed by the board and shall include
3 the recommendation of his proposed new employer. The new license
4 shall be issued for the remainder of the period covered by the
5 previous license. The fee for the issuance of such changed
6 license shall be \$5.

7 Section 16. 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.

14 (b) Dealer's license to be surrendered after termination of
15 business.--Within ten days after termination of business
16 activities, the dealer shall surrender to the board its vehicle
17 dealer's license.

18 Section 17. Exemption from licensure and registration.

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

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

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

27 Section 18. Limitations on establishing or relocating dealers.

28 (a) Additional or relocation of new vehicle dealers.--In the
29 event that a manufacturer seeks to enter into a franchise
30 establishing an additional new vehicle dealer or relocating an

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

17 (b) Nonapplicability of section.--This section does not
18 apply:

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

23 (2) If the proposed new vehicle dealer is to be
24 established at or within two miles of a location at which a
25 former licensed new vehicle dealer for the same line-make of
26 new vehicle had ceased operating within the previous two
27 years. For purposes of this section, a former vehicle dealer
28 shall have ceased operations on the date on which the
29 franchise or agreement shall have been finally terminated.

30 (3) To the relocation of an existing dealer to a site

1 that is further away from the nearest dealer of the same
2 line-make.

3 (4) To mobile home or recreational vehicle dealers.

4 (c) Board to consider existing circumstances.--In
5 determining whether good cause has been established for not
6 entering into or relocating an additional new vehicle dealer for
7 the same line-make, the board shall take into consideration the
8 existing circumstances, including, but not limited to:

9 (1) Permanency of the investment of both the existing
10 and proposed new vehicle dealers.

11 (2) Growth or decline in population and new car
12 registrations in the relevant market area.

13 (3) Effect on the consuming public in the relevant
14 market area.

15 (4) Whether it is injurious or beneficial to the public
16 welfare for an additional new vehicle dealer to be
17 established.

18 (5) Whether the new vehicle dealers of the same line-
19 make in that relevant market area are providing adequate
20 competition and convenient customer care for the vehicles of
21 the line-make in the market area which shall include the
22 adequacy of vehicle sales and service facilities, equipment,
23 supply of vehicle parts and qualified service personnel.

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

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

29 Section 19. Penalties.

30 (a) Unlicensed salespersons and brokers.--Whoever engages in

1 the occupation of vehicle salesperson or who sells or acts as a
2 sales agent or broker in connection with the sale of a vehicle
3 or of a mobile home in a mobile home park, without being
4 licensed and registered as required by this act or exempted from
5 licensure or shall present or attempt to use as his own the
6 license of another or shall give any false or forged evidence of
7 any kind to the board or to any member in order to obtain a
8 license, or shall refuse upon request to furnish business
9 records, documents and files relating to practice under this
10 act, or shall otherwise violate the provisions of this act shall
11 be guilty of a summary offense and, upon conviction, shall be
12 ordered to pay a fine of \$500. A second violation of this act
13 shall constitute a summary offense and, upon conviction, the
14 violator shall be ordered to pay a fine of \$1,000. For the
15 purpose of this act the sale of each vehicle in violation of
16 this act constitutes a separate offense.

17 (b) Unlicensed manufacturers, etc.--Whoever engages in the
18 business of vehicle dealer, manufacturer, factory branch,
19 distributor, distributor branch, factory or distributor
20 representative or wholesaler without being licensed and
21 registered as required or exempted from licensure as provided,
22 or shall present or attempt to use as his own the license of
23 another or shall give any false or forged evidence of any kind
24 to the board or to any member in order to obtain a license or
25 shall refuse, upon request, to furnish business records,
26 documents and files relating to practice or shall otherwise
27 violate the provisions of this act, shall be guilty of a summary
28 offense and, upon conviction, shall be sentenced to pay a fine
29 of \$500 or any higher amount equal to double the pecuniary gain
30 derived from the offense. A second violation of this act shall

1 constitute a summary offense and, upon conviction, the violator
2 shall be ordered to pay a fine of \$1,000. For the purpose of
3 this act the sale of each vehicle in violation of this act
4 constitutes a separate offense.

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

17 Section 20. Civil actions for violations.

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

30 (b) Punitive damages.--If any person engages in continued

1 multiple violations of a provision or provisions of this act,
2 the court may award punitive damages in addition to any other
3 damages under this act.

4 (c) Attorney's fees.--In any action the prevailing party may
5 be awarded a reasonable attorney's fee and costs at the court's
6 discretion.

7 Section 21. Applicability of act.

8 (a) Persons having contacts in Pennsylvania subject to
9 act.--Any person who engages directly or indirectly in doing
10 business within the Commonwealth in connection with the offering
11 or advertising for sale or is doing business with respect to a
12 new or used vehicle sale shall be subject to the provisions of
13 this act and shall be subject to the jurisdiction of the courts
14 of this Commonwealth.

15 (b) Act controls over written instruments.--The
16 applicability of this act shall not be affected by a choice of
17 law clause in any franchise, agreement, waiver, novation or any
18 other written instrument.

19 Section 22. Fees.

20 ~~(a) Licensure fees. The fee for an applicant for licensure~~ <—
21 ~~shall be:~~

22 ~~(1) For salesperson, \$15 for the initial registration~~
23 ~~and \$10 for each biennial renewal.~~

24 ~~(2) For dealers, \$25 for the initial registration and~~
25 ~~\$15 for each biennial renewal. Each office or branch shall be~~
26 ~~separately licensed and shall pay the same fees. Each used~~
27 ~~car lot not immediately adjacent to the licensed premises~~
28 ~~shall be issued a supplemental license for which a biennial~~
29 ~~fee of \$10 shall be charged.~~

30 ~~(3) For manufacturers, brokers, distributors or~~

1 ~~wholesalers, the same as for dealers.~~

2 ~~(4) For factory representatives or distributor branch~~
3 ~~representatives, the same as for salespersons.~~

4 ~~(b) Other fees. Manufacturers, wholesalers and distributors~~
5 ~~may operate as a dealer without any additional fee or license.~~

6 (A) GENERAL RULE.--ALL FEES REQUIRED UNDER THE PROVISIONS OF <—
7 THIS ACT SHALL BE FIXED BY THE BOARD BY REGULATION AND SHALL BE
8 SUBJECT TO REVIEW IN ACCORDANCE WITH THE ACT OF JUNE 25, 1982
9 (P.L.633, NO.181), KNOWN AS THE REGULATORY REVIEW ACT. IF THE
10 REVENUES GENERATED BY FEES, FINES AND CIVIL PENALTIES IMPOSED IN
11 ACCORDANCE WITH THE PROVISIONS OF THIS ACT ARE NOT SUFFICIENT TO
12 MATCH EXPENDITURES OVER A TWO-YEAR PERIOD, THE BOARD SHALL
13 INCREASE THOSE FEES BY REGULATION, SUBJECT TO REVIEW IN
14 ACCORDANCE WITH THE REGULATORY REVIEW ACT, SUCH THAT THE
15 PROJECTED REVENUES WILL MEET OR EXCEED PROJECTED EXPENDITURES.

16 (B) INCREASES BY BUREAU.--IF THE BUREAU OF PROFESSIONAL AND
17 OCCUPATIONAL AFFAIRS DETERMINES THAT THE FEES ESTABLISHED BY THE
18 BOARD ARE INADEQUATE TO MEET THE MINIMUM ENFORCEMENT EFFORTS
19 REQUIRED, THEN THE BUREAU, AFTER CONSULTATION WITH THE BOARD,
20 SHALL INCREASE THE FEES BY REGULATION, SUBJECT TO REVIEW IN
21 ACCORDANCE WITH THE REGULATORY REVIEW ACT, SUCH THAT ADEQUATE
22 REVENUES ARE RAISED TO MEET THE REQUIRED ENFORCEMENT EFFORT.

23 Section 23. Disposition of fees and fines.

24 All civil fines and fees shall be paid into the Special
25 Augmentation Fund established by section 301 of the act of July
26 1, 1978 (P.L.700, No.124), known as the Bureau of Professional
27 and Occupational Affairs Fee Act. All criminal fines shall be
28 paid into the State Treasury for the use of the Commonwealth.

29 Section 24. Vehicle shows and exhibitions.

30 (a) Participation.--Any licensed dealer or manufacturer may

1 participate in any approved public vehicle show or exhibition
2 which has been submitted by the show promoter and has been
3 approved by the board.

4 (b) Conditions for approval.--Approval of a show or
5 exhibition by the board shall require the show promoter to meet
6 the following requirements:

7 (1) Submit a request for a show at least 60 days in
8 advance of the show date with: name, address and telephone
9 number of the show promoter, name and location of the show,
10 types of vehicles to be displayed at the show, show dates and
11 hours of operation.

12 (2) Submit a list of the maximum number of participating
13 dealers and manufacturers and an approximate number of
14 vehicles to be displayed. This shall not be construed to
15 prohibit one dealer or manufacturer from promoting and
16 participating in their own show with no other exhibitors.

17 (3) Submit the name, address and license number of each
18 participating dealer and manufacturer known to be exhibiting
19 in the show or exhibit at least 14 days prior to the date of
20 the show opening.

21 (4) Submit a certified check or equivalent bond made out
22 to the Department of State equal to the number of
23 participating dealers and manufacturers, at the rate of \$25
24 per dealer or manufacturer.

25 (5) Submit within 14 days after show completion, a
26 revised list of exhibiting dealers and manufacturers with
27 additions and deletions from originally submitted list.

28 (6) Sign a statement that the show promoter willingly
29 agrees to allow the board to review the final list of
30 exhibitors and comply with the final board decision that all

1 listed exhibitors were properly licensed. If the board finds
2 an unlicensed dealer it shall note an exception to the list
3 and the promoter shall exclude that dealer from the show. The
4 board shall then request a second certified check equivalent
5 to the number of out-of-state dealers and manufacturers, at
6 the rate of \$25 per out-of-state dealer or manufacturer. Upon
7 satisfaction that all obligations of the show promoter have
8 been completed, the original show promoter's check shall be
9 returned.

10 (c) Limitations on fees.--No other fees shall be charged
11 licensed vehicle dealers and manufacturers for participating in
12 vehicle shows or exhibits by the board.

13 (d) Shows or exhibits on Sundays.--

14 (1) Vehicle shows or exhibits shall be permitted to be
15 open on Sundays.

16 (2) Normal vehicle business practices shall be allowed
17 on Sunday except that no final sales contract may be
18 consummated on a Sunday.

19 Section 25. Savings provision.

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

25 Section 26. Limitations.

26 (a) Two-year statute of limitation.--Actions arising out of
27 any provision of this act shall be commenced within a two-year
28 period of the accrual of the cause of action. If a person liable
29 hereunder conceals the cause of action from the knowledge of the
30 person entitled to bring it, the period prior to the discovery

1 of his cause of action by the person entitled shall be excluded
2 in determining the time limited for the commencement of the
3 action.

4 (b) One-year statute of limitation.--If a cause of action
5 accrues during the pendency of any civil, criminal or
6 administrative proceeding against a person brought by the
7 Federal Government, or any of its agencies under the antitrust
8 laws, the Federal Trade Commission Act, or any other Federal
9 act, or the laws as to franchising, actions may be commenced
10 within one year after the final disposition of such civil,
11 criminal or administrative proceeding.

12 (c) Exemption.--This section shall not apply to any action
13 by the board regarding a formal reprimand of any licensee, the
14 suspension or revocation of any license, the refusal to renew
15 any license, or the levying of a civil penalty of up to \$1,000
16 on any licensee or on any unlicensed person who engages in an
17 activity required to be licensed by this act.

18 Section 27. Repeals.

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

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

24 Section 28. Expiration of terms of board members.

25 Persons who are members of the State Board of Motor Vehicle
26 Manufacturers, Dealers and Salesmen shall serve on said board
27 until their current terms expire or until their successors are
28 duly appointed and qualified, but no longer than six months
29 after the expiration of their terms.

30 Section 29. Expiration of act.

1 This act shall expire December 31, 1991.

2 Section 30. Effective date.

3 This act shall take effect January 1, 1984.