
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1454 Session of
1983

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

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, DECEMBER 12, 1983

AN ACT

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

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

24 Section 1. Short title.

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

27 Section 2. Definitions.

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

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

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

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

12 "Broker." Any person who, for a commission, compensation or
13 other valuable consideration, engages or participates in the
14 wholesale or retail sale in one calendar year of five or more
15 used vehicles or any new vehicle as the agent for the buyer or
16 seller. For the purposes of this definition, the broker need not
17 have custody or control of the subject vehicle but shall have
18 the authority of the buyer or seller to negotiate or conduct a
19 transaction on behalf of the buyer or seller. This definition
20 shall specifically include car auctions: Provided, however, That
21 a person licensed as a broker who is solely engaged in the
22 business of conducting a car auction shall not be required to
23 meet the facilities requirements as noted herein.

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

1 vehicle may be reappraised at that time if the dealer or broker
2 can establish that the vehicle has suffered damage or serious
3 mechanical deterioration since date of original valuation.
4 Reappraisal value may determine the allowance made for such used
5 car.

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

12 "Dealer." A person may obtain a license in one or more of
13 the following areas:

14 (1) A person engaged in and devoting a substantial
15 portion of time to the business of buying, selling or
16 exchanging new and used vehicles, trailers or semitrailers on
17 commission, compensation or other consideration, WHO HOLDS A ←
18 WRITTEN CONTRACT WITH A MANUFACTURER, IMPORTER OR
19 DISTRIBUTOR, GIVING SUCH PERSON SELLING RIGHTS FOR NEW MOTOR
20 VEHICLES, TRAILERS OR SEMITRAILERS, or who is an importer or
21 distributor of new motor vehicles, trailers or semitrailers
22 who holds a contract in writing with a ~~buyer, seller or~~ ←
23 manufacturer of motor vehicles, trailers and semitrailers.

24 (2) A person engaged in and devoting a substantial
25 portion of time to the business of buying, selling or
26 exchanging used vehicles, tractors, trailers or semitrailers
27 on commission, compensation or other consideration. The term
28 includes fleet owners who engage directly in the retail sale
29 of fleet vehicles.

30 (3) A person engaged in and devoting a substantial

1 portion of time to the business of buying, selling or
2 exchanging mobile homes, house trailers or office trailers on
3 commission, compensation or other consideration.

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

8 (5) A person engaged in and devoting a substantial
9 portion of time to the business of buying, selling or
10 exchanging new and used recreational vehicles on commission
11 or otherwise. Recreational vehicles shall include motor
12 homes, house trailers or slide-in-campers.

13 (6) A person engaged in and devoting a substantial
14 portion of his time to the business of buying, selling or
15 exchanging used recreational vehicles on commission or
16 otherwise.

17 "Department." The Department of State acting through the
18 Commissioner of Professional and Occupational Affairs.

19 "Distributor." A person, resident or nonresident, who sells
20 or distributes vehicles to dealers or who maintains distributor
21 representatives.

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

24 "Distributor representative." A representative similarly
25 employed by a distributor, distributor branch or wholesaler.

26 "Established place of business." A permanent, enclosed
27 building as more specifically defined by regulation which is
28 accessible and open to the public at all reasonable times and at
29 which the business of a new or used vehicle dealer, including
30 the display and repair of vehicles, may be lawfully conducted in

1 accordance with the terms of applicable building codes, zoning
2 and other land-use regulatory ordinances.

3 "Factory branch." A branch office maintained by a
4 manufacturer for the sale of vehicles to distributors or dealers
5 or for directing or supervising, in whole or part, its
6 representatives.

7 "Factory representative." A representative employed by a
8 manufacturer or by factory branch for the purpose of making or
9 promoting the sale of its vehicles or for supervising or
10 contacting its dealers or prospective dealers.

11 "Fleet owner." Any person who owns a group of 15 or more
12 vehicles.

13 "Franchise." The written agreement or contract between any
14 new vehicle manufacturer and any new vehicle dealer which
15 purports to fix the legal rights and liabilities of the parties
16 to such agreement or contract, and pursuant to which the dealer
17 purchases and resells the franchise product or leases or rents
18 the dealership premises.

19 "Manufacturer." Any person, resident or nonresident, who
20 manufactures or assembles vehicles or who manufactures or
21 installs on previously assembled chassis special bodies or
22 equipment which when installed form an integral part of a
23 vehicle and which constitute a major manufacturing alteration.

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

27 "Off-premise sale." A sale for a fixed and limited period of
28 time held in the normal marketing area of the participating
29 dealer or dealers, which is conducted for the purpose of
30 exhibiting and selling vehicles at a geographical location not

1 normally used as a dealership.

2 "Person." Any individual, corporation, partnership,
3 association or other entity foreign or domestic.

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

10 "Relevant market area." The area within a radius of 20 miles
11 around an existing dealer or the area of responsibility defined
12 in the franchise, whichever is greater; except that, where a
13 manufacturer is seeking to establish an additional new vehicle
14 dealer, the relevant market area shall be in all instances,
15 except for cities of the first and second class which will be
16 the area within a five-mile radius, the area within a radius of
17 ten miles around the proposed site. Relevant market area shall
18 not apply to mobile home or recreational vehicle dealer or
19 manufacturer agreements.

20 "Retail sale" or "sale at retail." The act or attempted act
21 of selling, bartering, exchanging or otherwise disposing of a
22 vehicle to an ultimate purchaser.

23 "Salesperson." Any person who, for a commission,
24 compensation or other valuable consideration, is employed as a
25 salesperson by a dealer to sell vehicles at retail. Any
26 salesperson licensed hereunder shall be licensed to sell only
27 for one dealer at a time and his license shall indicate the name
28 of that dealer. The term includes the principal, an officer or a
29 partner of a dealer if he personally is actively engaged in the
30 retail sale of vehicles.

1 "Vehicle." Every device which is or may be moved or drawn
2 upon a highway, except DEVICES DESIGNED PRIMARILY FOR USE IN ←
3 CONSTRUCTION OR AGRICULTURE OR ROAD MAINTENANCE, devices moved
4 by human or animal power, those used exclusively upon rails or
5 tracks or motorized pedalcycles.

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

8 Section 3. State Board of Vehicle Manufacturers, Dealers
9 and Salespersons.

10 (a) Board.--The State Board of Vehicle Manufacturers,
11 Dealers and Salespersons shall consist of 17 members, one of
12 whom shall be the Commissioner of Professional and Occupational
13 Affairs, one of whom shall be the Secretary of the Department of
14 Transportation, or his designee, one of whom shall be the
15 Director of Consumer Protection in the Office of Attorney
16 General, or his designee, and the remaining 14 of whom shall be
17 appointed by the Governor as follows:

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

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

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

27 (4) One shall be a salesperson who has been actively
28 engaged in the sale of new or used vehicles for a period of
29 five years immediately preceding appointment. The member
30 shall not be a dealer or an officer of a corporation or a

1 member of a partnership engaged in the business of a dealer
2 at the time of appointment.

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

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

9 (7) Four shall be members of the general public having
10 no connection with the vehicle business.

11 (b) Terms of members.--The terms of the members of the board
12 shall be three years from the respective date of their
13 appointment, provided that a member may continue for a period
14 not to exceed six months beyond the expiration of his term if a
15 successor has yet to be duly appointed and qualified according
16 to law. In the event that any member shall die, resign or be
17 removed from office, his successor shall be appointed and hold
18 office for the unexpired term.

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

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

30 (e) Attendance.--A member who fails to attend three

1 consecutive meetings shall forfeit his seat unless the
2 Commissioner of Professional and Occupational Affairs, upon
3 written request from the member, finds that the member should be
4 excused from a meeting because of illness or the death of an
5 immediate family member.

6 Section 4. Powers and duties of board.

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

8 (1) Provide for and regulate the licensing of
9 salespersons, dealers, brokers, manufacturers, factory
10 branches, distributors, distributor branches, factory or
11 distributor representatives and wholesalers as defined in
12 this act.

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.

18 (3) Investigate on its own initiative, upon complaint of
19 the Department of Transportation, Department of Community
20 Affairs, Department of Revenue or the Office of the Attorney
21 General, or upon the verified complaint in writing of any
22 person, any allegations of the wrongful act or acts of any
23 licensee or person required to be licensed hereunder.

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

27 (5) Bring criminal prosecutions for unauthorized,
28 unlicensed or unlawful practice.

29 (6) Require each licensee to register biennially with
30 the board.

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

3 (8) Keep minutes and records of all its transactions and
4 proceedings especially with relation to the issuance, denial,
5 registration, formal reprimand, suspension and revocation of
6 licenses. In all actions or proceedings in any court, a
7 transcript of any board record or any part thereof, which is
8 certified to be a true copy by the board, shall be entitled
9 to admission in evidence.

10 (9) Adopt, promulgate and enforce such rules and
11 regulations not inconsistent with this act as are deemed
12 necessary and proper to effectuate the provisions of this
13 act, including but not limited to, established place of
14 business.

15 (10) Submit annually, to the Transportation Committees
16 of the House and Senate, a description of the types of
17 complaints received, status of the cases, board action which
18 has been taken and length of time from the initial complaint
19 to final board resolution.

20 (11) Submit annually to the department an estimate of
21 the financial requirements of the board for its
22 administrative, investigative, legal and miscellaneous
23 expenses.

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

29 Section 5. License to engage in business.

30 (a) License required.--To promote the public safety and

1 welfare, it shall be unlawful for any person to engage in the
2 business of salesperson, broker, dealer, manufacturer, factory
3 branch, distributor, distributor branch, factory or distributor
4 representative or wholesaler within this Commonwealth unless he
5 has secured a license as required under this act.

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

13 (c) Salespersons to be employed.--It shall be unlawful for
14 any salesperson to engage in any activity related to the buying,
15 selling or exchanging of a vehicle, unless that person is the
16 dealer or presently employed by a currently licensed vehicle
17 dealer and the sale is conducted pursuant to and as part of the
18 normal business activities of that dealer.

19 (d) Display of license.--Each person to whom a license is
20 issued shall keep the license conspicuously displayed in his
21 principal office or place of business and shall, when required,
22 exhibit such license to any member or authorized representative
23 of the board.

24 (e) Facility requirements for dealers and brokers.--

25 (1) Dealers and brokers engaged in the business of
26 buying, selling or exchanging new and used vehicles, trailers
27 or semitrailers shall maintain a salesroom or garage devoted
28 principally to the motor vehicle business and an established
29 place of business.

30 (2) Dealers and brokers engaged in the business of

1 buying, selling or exchanging used vehicles, trailers or
2 semitrailers shall maintain an established place of business,
3 which includes at least a two bay garage equipped to perform
4 the usual and normal repair and servicing of motor vehicles
5 (or said dealer or broker shall by written contract have
6 available at all times to him such repair and servicing
7 facilities) and upon which or adjacent thereto is a building
8 or portion of a building, owned or rented by such person,
9 where books and records are kept.

10 (3) Dealers and brokers engaged in the business of
11 buying, selling or exchanging new and used mobile homes,
12 house trailers or office trailers shall maintain a minimum
13 usable display area of 5,000 square feet devoted principally
14 to the mobile home, house trailer or office trailer business,
15 maintain an established place of business and hold a contract
16 in writing with a buyer, seller or manufacturer giving such
17 person buying or selling rights for new mobile homes, house
18 trailers or office trailers.

19 (4) Dealers and brokers engaged in the business of
20 buying, selling or exchanging used mobile homes, house
21 trailers or office trailers shall maintain a minimum usable
22 display area of 5,000 square feet, actually occupied by such
23 person, and upon which or adjacent thereto is a building, or
24 a portion of a building, owned or rented by such person,
25 where his books and records are kept and which is devoted
26 principally to the mobile home, house trailer or office
27 trailer business, in which the repair of such vehicles is
28 subordinate or incidental to the business of buying, selling
29 or exchanging such vehicles and who maintains an established
30 place of business.

1 (5) Dealers and brokers engaged in the business of
2 buying, selling or exchanging new or used recreational
3 vehicles shall maintain an established place of business and
4 a minimum usable display area of 5,000 square feet devoted
5 principally to the recreational vehicle business.

6 Section 6. Biennial renewal.

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

14 Section 7. Enforcement.

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

- 18 (1) Inspect all license holders.
- 19 (2) Authorize investigations of alleged violations.
- 20 (3) Review and inspect all business records, documents
21 and files relating to practice under this act.
- 22 (4) Subpoena witnesses.
- 23 (5) Take depositions of witnesses in the manner provided
24 for in civil actions in courts of record.
- 25 (6) Bring criminal prosecutions for unauthorized,
26 unlicensed and unlawful practice in accordance with the terms
27 and provisions of the act of October 15, 1980 (P.L.950,
28 No.164), known as the Commonwealth Attorneys Act.

29 Any hearing on a protest by a dealer of any action by a
30 manufacturer alleged to be in violation of a provision of this

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

19 Section 8. Warranty and predelivery obligations.

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

29 (b) Schedule of compensation to include reasonable
30 compensation.--In no event shall the schedule of compensation

1 fail to include reasonable compensation for diagnostic work,
2 repair service and labor. Time allowances for the diagnosis and
3 performance of warranty work and service shall be reasonable and
4 adequate for the work to be performed. In the determination of
5 what constitutes reasonable compensation, the principal factors
6 to be given consideration shall be the prevailing wage rates
7 being paid by the dealers in the community in which the dealer
8 is doing business. The hourly labor rate paid to a dealer for
9 warranty services shall not be less than the rate charged by the
10 dealer for like service to nonwarranty customers for nonwarranty
11 service and repairs at a reasonable rate.

12 (c) Copy of obligation to be filed with board.--A copy of
13 the delivery and preparation obligations of its dealers shall be
14 filed with the board by every vehicle manufacturer and shall
15 constitute the dealer's only responsibility for product
16 liability as between the dealer and the manufacturer.

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

1 beyond the control of the dealer.

2 Section 9. Unlawful acts by manufacturers, factory branches,
3 distributors, field representatives, officers,
4 agents or any representatives of manufacturers,
5 factory branches or distributors.

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

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

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

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

28 (4) Enter into any agreement with the manufacturer or to
29 do any other act prejudicial to the new vehicle dealer by
30 threatening to terminate or cancel a franchise or any

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

9 (5) Change the capital structure of the new vehicle
10 dealer or the means by or through which the new vehicle
11 dealer finances the operation of the dealership, provided
12 that the new vehicle dealer at all times meets any reasonable
13 capital standards determined by the manufacturer in
14 accordance with uniformly applied criteria, and also provided
15 that no change in the capital structure shall cause a change
16 in the principal management or have the effect of a sale of
17 the franchise without the consent of the manufacturer or
18 distributor; the consent shall not be unreasonably withheld.

19 (6) Refrain from participation in the management of,
20 investment in or the acquisition of any other line of new
21 vehicle or related products. This paragraph does not apply
22 unless the new vehicle dealer maintains a reasonable line of
23 credit for each make or line of new vehicle, the new vehicle
24 dealer remains in compliance with the franchise agreement and
25 any reasonable facilities requirements of the manufacturer,
26 and no change is made in the principal management of the new
27 vehicle dealer.

28 (7) Prospectively assent to a release, assignment,
29 novation, waiver or estoppel which would relieve any person
30 from liability to be imposed by this act or to require any

1 controversy between a new vehicle dealer and a manufacturer,
2 distributor or representative to be referred to any person
3 other than the duly constituted courts of the Commonwealth or
4 the United States of America, if such referral would be
5 binding upon the new vehicle dealer.

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

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

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

25 (2) Unfairly discriminate among its new vehicle dealers
26 with respect to warranty 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 (4) Fail to respond in writing to a request for consent

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

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

22 ~~(6) Offer to sell or lease, or to sell or lease, any new~~ <—
23 ~~vehicle to, or through, any new vehicle dealer at a lower~~
24 ~~actual price than the actual price offered to any other new~~
25 ~~vehicle dealer for the same model vehicle similarly equipped~~
26 ~~or to utilize any device including, but not limited to, sales~~
27 ~~promotion plans or programs which result in such lesser~~
28 ~~actual price. The provisions of this paragraph shall not~~
29 ~~apply to sales to a new vehicle dealer for resale to any unit~~
30 ~~of the Federal Government, the Commonwealth or any of its~~

1 ~~political subdivisions.~~

2 ~~(7) Offer to sell or lease, or to sell or lease, any new~~
3 ~~vehicle to any person, except a manufacturer's employee at a~~
4 ~~lower actual price than the actual price offered and charged~~
5 ~~to a new vehicle dealer for the same model vehicle similarly~~
6 ~~equipped or to utilize any device which results in such~~
7 ~~lesser actual price. The provisions of this paragraph shall~~
8 ~~not apply to sales to a new vehicle dealer for resale to any~~
9 ~~unit of the Federal Government, the Commonwealth or any of~~
10 ~~its political subdivisions.~~

11 ~~(8)~~ (6) Offer in connection with a sale of a new vehicle
12 or vehicles to the Federal Government, the Commonwealth or
13 any political subdivision thereof, any discounts, refunds or
14 any other type of inducement to any new vehicle dealer
15 without making the same offer or offers available to all
16 other of its new vehicle dealers within this Commonwealth.

17 ~~(9) Offer in connection with the sale of any new vehicle~~ <—
18 ~~or new vehicles to a purchaser of more than ten new vehicles~~
19 ~~per model year, terms, discounts, refunds or other similar~~
20 ~~inducements to that purchaser without making the same offer~~
21 ~~or offers available on the same terms to all other purchasers~~
22 ~~of more than ten new vehicles per model year from its new~~
23 ~~vehicle dealers in this Commonwealth. No manufacturer or~~
24 ~~distributor may impose or enforce any restrictions against~~
25 ~~these new vehicle dealers, their leasing, rental or fleet~~
26 ~~divisions or subsidiaries that is not imposed or enforced~~
27 ~~against any other similar purchaser.~~

28 (c) Cancelling of franchises.--It shall be a violation of
29 this act for any manufacturer, factory branch, distributor,
30 field representative, officer, agent or any representative

1 whatsoever of a vehicle manufacturer or factory branch to
2 unfairly, without due regard to the equities of said dealer and
3 without just provocation, cancel the franchise of any vehicle
4 dealer; or being a manufacturer, factory branch or importer, to
5 unfairly, without due regard to the equities of a distributor
6 and without just provocation cancel the franchise of any
7 distributor. All existing dealers' franchises shall continue in
8 full force and operation under a newly appointed distributor on
9 the termination of an existing distributor unless a mutual
10 agreement of cancellation is filed with the board between the
11 newly appointed distributor and such dealer. Not less than 60
12 days advance notice of such termination, cancellation or failure
13 to renew shall be given the dealer prior to the effective date
14 thereof unless the nature or character of the reason for
15 termination, cancellation or failure to renew is such that the
16 giving of such notice would not be in the public interest. At
17 any time before the effective date of such termination,
18 cancellation or failure to renew, the dealer may appeal to the
19 board for a hearing on the merits, and following due notice to
20 all parties concerned, such hearing shall be promptly held. No
21 such termination, cancellation or failure to renew shall become
22 effective until final determination of the issue by the board.
23 In the event of a dealer appeal, the burden of proof shall be on
24 the manufacturer to show that such termination, cancellation or
25 failure to renew was for good cause and in good faith.

26 (d) Bushing.--It shall be a violation for any vehicle dealer
27 or broker having accepted an order of purchase or a contract
28 from a buyer which offer of purchase or contract is subject to
29 subsequent acceptance by the seller, if such arrangement results
30 in the practice of bushing. For the purpose of this subsection,

1 bushing is defined as the practice of increasing the selling
2 price of a car above that originally quoted the purchaser or
3 decreasing the allowance for trade-in of a used car after the
4 purchaser has signed a purchase order or contract which is
5 subject to subsequent acceptance by the seller, however, if a
6 used car is being used as the down payment and it is not to be
7 delivered to the dealer or broker until the delivery of the new
8 car, the used car shall be reappraised at that time and such
9 reappraisal value shall determine the allowance made for such
10 used car.

11 (e) Construction of section.--This section shall not be
12 construed to prevent the offering of incentive programs or other
13 discounts if such discounts are equally available to all
14 franchised vehicle dealers in this Commonwealth on a
15 proportionately equal basis.

16 Section 10. Grounds for disciplinary proceedings.

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

25 (1) Having had his license revoked or suspended by the
26 Commonwealth or another state based on grounds similar to
27 those which in this Commonwealth allow disciplinary
28 proceedings, in which case the record of such revocation or
29 suspension shall be conclusive evidence.

30 (2) Knowingly make any substantial misrepresentation of

1 material facts.

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

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

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

17 (6) Having engaged in false, deceptive or misleading
18 advertising of vehicles.

19 (7) Having committed any act or engaged in conduct in
20 connection with the sale of vehicles which clearly
21 demonstrates incompetency.

22 (8) Having made a material misstatement in application
23 for license.

24 (9) Having set up, promoted or aided in promotion of a
25 plan by which vehicles are sold to a person for consideration
26 and upon the further consideration that the purchaser agrees
27 to secure one or more persons to participate in the plan by
28 respectively making a similar purchase and in turn agreeing
29 to secure one or more persons likewise to join in said plan,
30 each purchaser being given the right to secure money,

1 credits, goods or something of value, depending upon the
2 number of persons joining in the plan.

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

7 (11) Being a dealer or broker who advertises or
8 otherwise holds out to the public that he is selling new
9 vehicles for which he does not hold a contract in writing
10 with a manufacturer, importer or distributor giving said
11 dealer authority to sell such vehicles.

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

22 (13) Failing to take immediate remedial action when the
23 dealer knows that someone in his direct employ or someone who
24 renders vehicle-related services to the dealer for
25 consideration, has unlawfully tampered with the odometer of a
26 vehicle in his care, custody or control or which has been
27 sold or exchanged by the dealer at wholesale or retail. For
28 the purpose of this paragraph, remedial action shall be
29 defined as at least reporting the incident in writing to the
30 Pennsylvania State Police or the board.

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

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

6 (16) Having had his vehicle business registration plates
7 (dealer identification number) suspended by the Department of
8 Transportation pursuant to 75 Pa.C.S. § 1374(a) (relating to
9 suspension of vehicle business registration plates). A
10 certified copy of the decision and order of the Department of
11 Transportation will constitute conclusive evidence.

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

16 (18) Willfully failing to display a license.

17 (19) Failing to obey any order of the board entered
18 pursuant to the act.

19 (20) Permitting or allowing another individual or
20 organization not licensed by the board to use that
21 individual's license for the purpose of operating in this
22 Commonwealth in a capacity for which the individual or
23 organization should have held a license.

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

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

30 (23) Collecting a tax or fee and failing to issue a true

1 copy of the tax report to the purchaser as required by law.

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

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

7 (26) Any violation of this act.

8 Section 11. Administrative liability of employer,
9 copartnership, association or corporation.

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

20 Section 12. Reinstatement.

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

24 (b) Revocation.--Unless ordered to do so by a court, the
25 board shall not reinstate the license of a person that has been
26 revoked and such person shall be required to apply for a license
27 after a period of five years in accordance with section 13 if he
28 desires to practice at any time after such revocation.

29 Section 13. Application for license.

30 (a) Contents of application; dealer's or broker's license.--

1 Application for license as a dealer or broker shall be made in
2 writing to the board, signed by the applicant, setting forth the
3 following:

4 (1) Name of applicant and location of principal place of
5 business.

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

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

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

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

14 (6) A statement of the previous history, record and
15 association of the applicant and of each owner, partner,
16 officer and director, which statement shall be sufficient to
17 establish to the satisfaction of the board the reputation in
18 business of the applicant.

19 (7) A statement showing whether the applicant has
20 previously applied for a license and the result of such
21 application and whether the applicant has ever been the
22 holder of either a dealer, broker or salesperson license
23 which was revoked or suspended.

24 (8) If the applicant is a corporation or partnership, a
25 statement showing whether any of the partners, employees,
26 officers or directors have been refused a dealer's or
27 salesperson's license or have been the holder of such license
28 which was revoked or suspended.

29 (9) A statement by the applicant that he has met all
30 facility requirements as noted herein and as required by

1 regulation.

2 (b) Contents of application; salesperson's license.--

3 Application for license as a salesperson shall be made in
4 writing to the board, signed by the applicant, setting forth the
5 following:

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

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

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

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

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

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

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

30 (c) Application for license other than as a dealer, broker

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

9 Section 14. Refusal of license.

10 The board may refuse to issue a license if the applicant has
11 committed any of the acts set forth as grounds for the
12 suspension or revocation of a license. The board may also refuse
13 to issue a license when it determines:

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

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

24 (3) If the applicant is a partnership or corporation,
25 that one or more of the limited or general partners,
26 stockholders, directors or officers of the partnership or
27 corporation was previously the holder of a license issued
28 under the authority of this act which was revoked for cause
29 or was suspended for cause and the terms of the suspension
30 have not been fulfilled, or that by reason of the facts and

1 circumstances touching the organization, control and
2 management of the partnership or corporation business, the
3 policy of such business will be directed, controlled or
4 managed by individuals who, by reason of their conviction of
5 violations of the provisions of this act, would be ineligible
6 for a license and that by licensing such corporation or
7 partnership, the purposes of this act would likely be
8 defeated.

9 Section 15. Change of salesperson's license to indicate new
10 employer.

11 If a person holding a currently valid license desires to be
12 licensed to sell for another employer, he shall make application
13 to the board for the issuance of a new license showing the name
14 of his proposed new employer. Such application shall be made on
15 a form of application prescribed by the board and shall include
16 the recommendation of his proposed new employer. The new license
17 shall be issued for the remainder of the period covered by the
18 previous license. The fee for the issuance of such changed
19 license shall be determined by regulation.

20 Section 16. Termination of employment or business.

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

27 (b) Dealer's or broker's license to be surrendered after
28 termination of business.--Within ten days after termination of
29 business activities, the dealer or broker shall surrender to the
30 board its vehicle dealer's or broker's license.

1 Section 17. Exemption from licensure and registration.

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

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

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

10 Section 18. Limitations on establishing or relocating dealers.

11 (a) Additional or relocation of new vehicle dealers.--In the
12 event that a manufacturer seeks to enter into a franchise
13 establishing an additional new vehicle dealer or relocating an
14 existing new vehicle dealer within or into a relevant market
15 area where the same line-make is then represented, the
16 manufacturer shall in writing first notify the board and each
17 new vehicle dealer in such line-make in the relevant market area
18 of the intention to establish an additional dealer or to
19 relocate an existing dealer within or into that market area.
20 Within 20 days after the end of any appeal procedure provided by
21 the manufacturer, any such new vehicle dealer may file with the
22 board a protest to the establishing or relocating of the new
23 vehicle dealer. When such a protest is filed, the board shall
24 inform the manufacturer that a timely protest has been filed,
25 and that the manufacturer shall not establish or relocate the
26 proposed new vehicle dealer until the board has held a hearing,
27 nor thereafter, if the board has determined that there is good
28 cause for not permitting the addition or relocation of such new
29 vehicle dealer.

30 (b) Nonapplicability of section.--This section does not

1 apply:

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

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

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

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

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

22 (1) Permanency of the investment of both the existing
23 and proposed new vehicle dealers.

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

26 (3) Effect on the consuming public in the relevant
27 market area.

28 (4) Whether it is injurious or beneficial to the public
29 welfare for an additional new vehicle dealer to be
30 established.

1 (5) Whether the new vehicle dealers of the same line-
2 make in that relevant market area are providing adequate
3 competition and convenient customer care for the vehicles of
4 the line-make in the market area which shall include the
5 adequacy of vehicle sales and service facilities, equipment,
6 supply of vehicle parts and qualified service personnel.

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

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

12 Section 19. Penalties.

13 (a) Unlicensed salespersons and brokers.--Whoever engages in
14 the occupation of vehicle salesperson or who sells or acts as a
15 sales agent or broker in connection with the sale of a vehicle
16 or of a mobile home in a mobile home park, without being
17 licensed and registered as required by this act or exempted from
18 licensure or shall present or attempt to use as his own the
19 license of another or shall give any false or forged evidence of
20 any kind to the board or to any member in order to obtain a
21 license, or shall refuse upon request to furnish business
22 records, documents and files relating to practice under this
23 act, or shall otherwise violate the provisions of this act shall
24 be guilty of a summary offense and, upon conviction, shall be
25 ordered to pay a fine of \$500. A second violation of this act
26 shall constitute a summary offense and, upon conviction, the
27 violator shall be ordered to pay a fine of \$1,000. For the
28 purpose of this act the sale of each vehicle in violation of
29 this act constitutes a separate offense.

30 (b) Unlicensed manufacturers, etc.--Whoever engages in the

1 business of vehicle dealer, manufacturer, factory branch,
2 distributor, distributor branch, factory or distributor
3 representative or wholesaler without being licensed and
4 registered as required or exempted from licensure as provided,
5 or shall present or attempt to use as his own the license of
6 another or shall give any false or forged evidence of any kind
7 to the board or to any member in order to obtain a license or
8 shall refuse, upon request, to furnish business records,
9 documents and files relating to practice or shall otherwise
10 violate the provisions of this act, shall be guilty of a summary
11 offense and, upon conviction, shall be sentenced to pay a fine
12 of \$500 or any higher amount equal to double the pecuniary gain
13 derived from the offense. A second violation of this act shall
14 constitute a summary offense and, upon conviction, the violator
15 shall be ordered to pay a fine of \$1,000. For the purpose of
16 this act the sale of each vehicle in violation of this act
17 constitutes a separate offense.

18 (c) Additional remedy.--In addition to any other civil
19 remedy or criminal penalty provided for in this act, the board
20 by a vote of the majority of the authorized membership of the
21 board as provided by law, or by a vote of the majority of the
22 duly qualified and confirmed membership, may levy a civil
23 penalty of up to \$1,000 on any current licensee who violates any
24 provision of this act or on any person who engages in an
25 activity required to be licensed by this act. The board shall
26 levy this penalty only after affording the accused party the
27 opportunity for a hearing as provided in Title 2 of the
28 Pennsylvania Consolidated Statutes (relating to administrative
29 law and procedure).

30 Section 20. Civil actions for violations.

1 (a) Action for damages.--Notwithstanding the terms,
2 provisions or conditions of any agreement or franchise or other
3 terms or provisions of any novation, waiver or other written
4 instrument, any person who is or may be injured by a violation
5 of a provision of this act or any party to a franchise who is so
6 injured in his business or property by a violation of a
7 provision of this act relating to that franchise, or any person
8 so injured because he refuses to accede to a proposal for an
9 arrangement which, if consummated, would be in violation of this
10 act, may bring an action for damages and equitable relief,
11 including injunctive relief, in any court of competent
12 jurisdiction.

13 (b) Punitive damages.--If any person engages in continued
14 multiple violations of a provision or provisions of this act,
15 the court may award punitive damages in addition to any other
16 damages under this act.

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

20 Section 21. Fees.

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

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

8 (C) EXISTING FEES.--ALL FEES FIXED PURSUANT TO SECTION 211 <—
9 OF THE ACT OF JULY 1, 1978 (P.L.700, NO.124), KNOWN AS THE
10 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS FEE ACT, SHALL
11 CONTINUE IN FULL FORCE AND EFFECT UNTIL CHANGED BY THE BOARD
12 PURSUANT TO SUBSECTION (A).

13 Section 22. Disposition of fees and fines.

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

18 Section 23. Vehicle shows and exhibitions.

19 (a) Participation.--Any licensed dealer or manufacturer may
20 participate in any approved public vehicle show or exhibition
21 which has been submitted by the show promoter and has been
22 approved by the board.

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

26 (1) Submit a request for a show at least 60 days in
27 advance of the show date with: name, address and telephone
28 number of the show promoter, name and location of the show,
29 types of vehicles to be displayed at the show, show dates and
30 hours of operation.

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

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

10 (4) Submit a certified check or an equivalent bond,
11 payable to the Commonwealth of Pennsylvania, equal to the
12 number of participating dealers, at a rate per dealer or
13 manufacturer to be determined by regulation. Said check or
14 bond shall be forfeited to the Commonwealth, by the promoter,
15 for noncompliance with this section.

16 (5) Sign a statement that the show promoter agrees to
17 allow the board to review the list of exhibitors and warrants
18 to the board that all Commonwealth exhibitors are properly
19 licensed. If the board determines a dealer or manufacturer is
20 not licensed, it shall note an exception to the list and the
21 promoter shall exclude the dealer or manufacturer from the
22 show.

23 (6) Submit within 14 days after show completion, a final
24 list of the actual dealers and manufacturers participating in
25 the show. The board shall then request a second certified
26 check equivalent to the number of out-of-state dealers and
27 manufacturers at the rate per out-of-state dealer or
28 manufacturer to be determined by regulation.

29 (7) Upon satisfaction that all obligations of the show
30 promoter, pursuant to this section, have been completed, the

1 original check or bond shall be returned to the promoter.

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

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

6 (1) Vehicle shows or exhibits shall be permitted to be
7 open on Sundays.

8 (2) Normal vehicle business practices shall be allowed
9 on Sunday except that no final sales contract may be
10 consummated on a Sunday.

11 Section 24. Savings provision.

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

17 Section 25. Reestablishment of agency.

18 This act, with respect to the State Board of Motor Vehicle
19 Manufacturers, Dealers and Salesmen, shall constitute the
20 legislation required to reestablish an agency pursuant to the
21 act of December 22, 1981 (P.L.508, No.142), known as the Sunset
22 Act.

23 Section 26. Repeals.

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

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

29 Section 27. Expiration of terms of board members.

30 Persons who are members of the State Board of Motor Vehicle

1 Manufacturers, Dealers and Salesmen shall serve on said board
2 until their current terms expire or until their successors are
3 duly appointed and qualified, but no longer than six months
4 after the expiration of their terms.

5 Section 28. Effective date.

6 This act shall take effect January 1, 1984.