
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1454 Session of
1983

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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, DECEMBER 13, 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.

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

21 SECTION 28. EXISTING RULES AND REGULATIONS. <—

22 Section ~~28~~ 29. 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: Provided, however, That
22 a person licensed as a broker who is solely engaged in the
23 business of conducting a car auction shall not be required to
24 meet the facilities requirements as noted herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the display and repair of vehicles, may be lawfully conducted in
2 accordance with the terms of applicable building codes, zoning
3 and other land-use regulatory ordinances.

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

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

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

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

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

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

28 "Off-premise sale." A sale for a fixed and limited period of
29 time held in the normal marketing area of the participating
30 dealer or dealers, which is conducted for the purpose of

1 exhibiting and selling vehicles at a geographical location not
2 normally used as a dealership.

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

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

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

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

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

1 retail sale of vehicles.

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

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

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

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

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

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

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

28 (4) One shall be a salesperson who has been actively
29 engaged in the sale of new or used vehicles for a period of
30 five years immediately preceding appointment. The member

1 shall not be a dealer or an officer of a corporation or a
2 member of a partnership engaged in the business of a dealer
3 at the time of appointment.

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

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

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

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

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

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

1 (e) Attendance.--A member who fails to attend three
2 consecutive meetings shall forfeit his seat unless the
3 Commissioner of Professional and Occupational Affairs, upon
4 written request from the member, finds that the member should be
5 excused from a meeting because of illness or the death of an
6 immediate family member.

7 Section 4. Powers and duties of board.

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

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

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

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

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

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

30 (6) Require each licensee to register biennially with

1 the board.

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

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

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

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

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

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

30 Section 5. License to engage in business.

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

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

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

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

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

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

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

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

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

1 place of business.

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

7 Section 6. Biennial renewal.

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

15 Section 7. Enforcement.

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

19 (1) Inspect all license holders.

20 (2) Authorize investigations of alleged violations.

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

23 (4) Subpoena witnesses.

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

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

30 Any hearing on a protest by a dealer of any action by a

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

20 Section 8. Warranty and predelivery obligations.

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

30 (b) Schedule of compensation to include reasonable

1 compensation.--In no event shall the schedule of compensation
2 fail to include reasonable compensation for diagnostic work,
3 repair service and labor. Time allowances for the diagnosis and
4 performance of warranty work and service shall be reasonable and
5 adequate for the work to be performed. In the determination of
6 what constitutes reasonable compensation, the principal factors
7 to be given consideration shall be the prevailing wage rates
8 being paid by the dealers in the community in which the dealer
9 is doing business. The hourly labor rate paid to a dealer for
10 warranty services shall not be less than the rate charged by the
11 dealer for like service to nonwarranty customers for nonwarranty
12 service and repairs at a reasonable rate.

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

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

1 parts or accessories or other functions by the manufacturer,
2 beyond the control of the dealer.

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

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

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

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

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

29 (4) Enter into any agreement with the manufacturer or to
30 do any other act prejudicial to the new vehicle dealer by

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

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

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

29 (7) Prospectively assent to a release, assignment,
30 novation, waiver or estoppel which would relieve any person

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

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

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

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

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

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

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

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

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

1 ~~of the Federal Government, the Commonwealth or any of its~~
2 ~~political subdivisions.~~

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

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

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

29 (c) Canceling of franchises.--It shall be a violation of
30 this act for any manufacturer, factory branch, distributor,

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

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

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

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

17 Section 10. Grounds for disciplinary proceedings.

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

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

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

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

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

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

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

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

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

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

1 each purchaser being given the right to secure money,
2 credits, goods or something of value, depending upon the
3 number of persons joining in the plan.

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

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

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

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

1 Pennsylvania State Police or the board.

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

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

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

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

17 (18) Willfully failing to display a license.

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

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

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

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

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

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

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

8 (26) Any violation of this act.

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

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

21 Section 12. Reinstatement.

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

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

30 Section 13. Application for license.

1 (a) Contents of application; dealer's or broker's license.--
2 Application for license as a dealer or broker shall be made in
3 writing to the board, signed by the applicant, setting forth the
4 following:

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

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

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

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

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

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

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

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

30 (9) A statement by the applicant that he has met all

1 facility requirements as noted herein and as required by
2 regulation.

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

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

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

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

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

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

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

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

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

10 Section 14. Refusal of license.

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

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

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

25 (3) If the applicant is a partnership or corporation,
26 that one or more of the limited or general partners,
27 stockholders, directors or officers of the partnership or
28 corporation was previously the holder of a license issued
29 under the authority of this act which was revoked for cause
30 or was suspended for cause and the terms of the suspension

1 have not been fulfilled, or that by reason of the facts and
2 circumstances touching the organization, control and
3 management of the partnership or corporation business, the
4 policy of such business will be directed, controlled or
5 managed by individuals who, by reason of their conviction of
6 violations of the provisions of this act, would be ineligible
7 for a license and that by licensing such corporation or
8 partnership, the purposes of this act would likely be
9 defeated.

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

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

21 Section 16. Termination of employment or business.

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

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

1 board its vehicle dealer's or broker's license.

2 Section 17. Exemption from licensure and registration.

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

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

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

11 Section 18. Limitations on establishing or relocating dealers.

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

1 (b) Nonapplicability of section.--This section does not
2 apply:

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

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

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

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

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

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

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

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

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

1 established.

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

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

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

13 Section 19. Penalties.

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

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

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

1 Section 20. Civil actions for violations.

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

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

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

21 Section 21. Fees.

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

1 projected revenues will meet or exceed projected expenditures.

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

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

14 Section 22. Disposition of fees and fines.

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

19 Section 23. Vehicle shows and exhibitions.

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

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

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

1 hours of operation.

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

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

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

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

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

30 (7) Upon satisfaction that all obligations of the show

1 promoter, pursuant to this section, have been completed, the
2 original check or bond shall be returned to the promoter.

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

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

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

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

12 Section 24. Savings provision.

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

18 Section 25. Reestablishment of agency.

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

24 Section 26. Repeals.

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

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

30 Section 27. Expiration of terms of board members.

1 Persons who are members of the State Board of Motor Vehicle
2 Manufacturers, Dealers and Salesmen DECEMBER 31, 1983 shall <—
3 serve on ~~said board~~ THE BOARD CREATED UNDER THIS ACT until their <—
4 current terms expire or until their successors are duly
5 appointed and qualified, but no longer than six months after the
6 expiration of their terms.

7 SECTION 28. EXISTING RULES AND REGULATIONS. <—

8 EACH RULE AND REGULATION OF THE BOARD IN EFFECT ON DECEMBER
9 31, 1983, SHALL REMAIN IN EFFECT AFTER SUCH DATE UNTIL REPEALED
10 OR AMENDED BY THE BOARD.

11 Section ~~28~~ 29. Effective date. <—

12 This act shall take effect January 1, 1984.