
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1328 Session of
2010

INTRODUCED BY ERICKSON, ALLOWAY, LOGAN, TOMLINSON, ORIE,
RAFFERTY, D. WHITE, KASUNIC, EARLL, WAUGH, FONTANA, M. WHITE,
BROWNE, FOLMER, MELLOW, WOZNIAK, O'PAKE, BAKER, MENSCH,
DINNIMAN, GREENLEAF, BOSCOLA, STACK, STOUT, YAW, COSTA,
SCARNATI, GORDNER, CORMAN, WARD AND BRUBAKER, APRIL 27, 2010

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
APRIL 27, 2010

AN ACT

1 Amending the act of December 22, 1983 (P.L.306, No.84), entitled
2 "An act providing for the State Board of Vehicle
3 Manufacturers, Dealers and Salespersons; and providing
4 penalties," further providing for definitions and for
5 unlawful acts by manufacturers or distributors.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 2 of the act of December 22, 1983
9 (P.L.306, No.84), known as the Board of Vehicles Act, is amended
10 by adding a definition to read:

11 Section 2. Definitions.

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

15 * * *

16 "Site-control agreement" or "exclusive use agreement." An
17 agreement that, regardless of its name, title, form or the

1 parties entering into it, has the effect of:

2 (1) controlling the use and development of the premises
3 of a dealer's franchise or facility;

4 (2) requiring a dealer to establish or maintain an
5 exclusive dealership facility on the premises of the dealer's
6 franchise or facility;

7 (3) restricting the power or authority of the dealer or
8 the lessor if the dealer leases the dealership premises, to
9 transfer, sell, lease, develop, redevelop or change the use
10 of the dealership premises, whether by sublease, lease,
11 collateral pledge of lease, right of first refusal to
12 purchase or lease, option to purchase or lease or any similar
13 arrangement; or

14 (4) establishing a valuation process or formula for the
15 dealership premises that does not allow for the dealership
16 premises to be transferred, sold or leased by the dealer at
17 the highest and best use valuation for the dealership
18 premises.

19 * * *

20 Section 2. Section 12(b) of the act is amended by adding a
21 paragraph to read:

22 Section 12. Unlawful acts by manufacturers or distributors.

23 * * *

24 (b) Violations.--It shall be a violation of this act for any
25 manufacturer, factory branch, distributor, field representative,
26 officer, agent or any representative whatsoever of such
27 manufacturer, factory branch or distributor licensed under this
28 act to:

29 * * *

30 (19) Directly or indirectly condition any of the

1 following actions on a dealer, prospective dealer or owner of
2 an interest in a dealership franchise or facility to enter
3 into a site control agreement or exclusive use agreement:

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

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

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

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

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

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

21 * * *

22 Section 3. This act shall take effect in 60 days.