

Web Appendix for

State Franchise Laws, Dealer Terminations, and the Auto Crisis

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In this appendix, we first summarize the current regulatory framework for auto dealerships across states by updating Table 1 in Smith (1982). As the language varies in important ways across states, we use our best judgment to translate the language into the categories he used.

We then provide a sample of clauses in the state laws to illustrate each of the types of clauses we discuss in the paper, including legislative intent statements that are briefly mentioned in the conclusion. We do this in the order that the clauses are mentioned in the paper. For the first clause, on licensing, we also reproduce fairly long sections of the Florida and Hawaii laws to give readers a sense of how detailed some of these laws can be, and how clauses can appear in parts of the law that one may not have expected. In both of these cases, many of the restrictions imposed on car makers in particular appear in the licensing segment of the law as the behaviors are deemed grounds for revocation of the manufacturer license to do business in the state. Within the text for Florida, we use red text to highlight the specific clauses that relate to financial incentives offered in other states, or financial incentives for facility improvements, which are also mentioned explicitly in the body of the paper.

Table A: Smith (1982) Summary of State Regulation in 1979, and Authors' 2009 update

	As of 1979				As of 2009			
	Licensed	Territory	Forcing	Termination	Licensed	Territory	Forcing	Termination
Alabama	1	0	0	0	1	1	1	1
Alaska	0	0	0	0	1	1	0	1
Arizona	1	1	1	1	1	1	1	1
Arkansas	1	0	1	1	1	0	1	1
California	1	1	1	1	1	1	1	1
Colorado	1	1	1	1	1	1	1	1
Connecticut	1	0	0	1	1	1	1	1
Delaware	1	0	0	0	1	1	1	1
Florida	1	1	1	1	1	1	1	1
Georgia	1	1	0	1	1	1	1	1
Hawaii	1	1	1	1	1	1*	1	1
Idaho	1	0	1	1	1	1	1	1
Illinois	1	1	1	1	1	1	1	1
Indiana	1	0	0	1	1	0	1	1
Iowa	1	1	1	1	1	1	1	1
Kansas	1	0	1	1	1	1	1	1
Kentucky	1	0	1	1	1	1	1	1
Louisiana	1	0	1	1	1	1	1	1
Maine	0	0	1	1	1	1	1	1
Maryland	1	0	1	1	1	0	1	1
Massachusetts	1	1	1	1	1	1	1	1
Michigan	1	0	1	1	1	1	1	1
Minnesota	1	1	1	1	1	1	1	1
Mississippi	1	0	1	1	1	1	1	1
Missouri	1	0	0	0	1	1	1	1
Montana	0	1	1	1	1	1	1	1
Nebraska	1	1	1	1	1	1	1	1
Nevada	1	1	1	1	1	1	1	1
New Hampshire	0	1	1	1	1	1	1	1
New Jersey	1	0	0	1	1	1	1	1
New Mexico	1	1	1	1	1	1	1	1
New York	0	0	0	1	1	1	1	1
North Carolina	1	1	1	1	1	1	1	1
North Dakota	1	0	0	1	1	1**	1	1**
Ohio	1	1	1	1	1	1	1	1
Oklahoma	1	1	1	1	1	1	1	1
Oregon	1	0	0	0	1	1	1	1
Pennsylvania	1	0	0	1	1	1	1	1
Rhode Island	1	1	1	1	1	1	1	1
South Carolina	1	0	1	1	1	1	1	1
South Dakota	1	1	1	1	1	1	1	1
Tennessee	1	1	1	1	1	1	1	1
Texas	1	1	1	1	1	1	1	1
Utah	1	1	1	1	1	1	1	1
Vermont	0	1	1	1	1	1	1	1
Virginia	1	1	1	1	1	1	1	1
Washington	1	0	1	1	1	1	0	1
West Virginia	1	1	0	1	1	1	1	1
Wisconsin	1	1	1	1	1	1	1	1
Wyoming	1	0	1	1	1	1	1	1
% States Regulating	88%	54%	74%	90%	100%	94%	96%	100%

Notes: *: Manufacturer cannot coerce “any dealer in the State to enter into any agreement with the manufacturer or distributor or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with the dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer”; **: Manufacturer cannot “attempt or threaten to terminate, cancel, or fail to renew, or substantially change the competitive circumstances of the dealership contracts for any reason other than the failure of the automobile or truck retailer to comply with the terms of the contract between the parties.”

Appendix B: Sample Clauses

LICENSING REQUIREMENTS

Hawaii (Div. 2, Tit. 25, Ch. 437)

§437-2 Licenses.

(a) No person shall engage in the business as or serve in the capacity of, or act as a motor vehicle dealer, salesperson, auction, manufacturer, or distributor in this State, or otherwise engage in the business of selling or negotiating for the purchase of motor vehicles in this State without being licensed as provided in this chapter. A license issued under this chapter shall authorize the holder to engage in the business or activities permitted by the license, only in the county for which the license is issued.

(b) A license issued under this chapter shall authorize the holder to engage in the same business at branch locations in the same county for which the license is issued during the term thereof; provided that each branch location of a motor vehicle dealer is approved by the board.

(c) A dealer's license issued to a sole proprietorship or partnership shall authorize the sole proprietor or general partner to engage in the business of a salesperson without a license therefor, only for and in the business of the holder of the dealer's license and only for the county in which the license is issued.

(d) In the event of the dissolution of a partnership, holding a current license issued under this chapter, due to the death of one or more partners, the surviving partners may operate the business under the license for the remaining effective term of the license but not to exceed sixty days. In the event of the death or bankruptcy of the holder of a current license issued under this chapter, the duly appointed personal representative or receiver or trustee in bankruptcy, whichever the case may be, may operate the business under the license for the remaining effective term of the license.

(e) Notwithstanding any provisions of this chapter, the authority of any state or county agency to purchase motor vehicles for state or county use from any dealer licensed under this chapter shall not be limited or conditioned. Any dealer licensed under this chapter may sell vehicles to any state or county agency.

§437-28 Suspension; revocation; fine; denial of issuance or renewal of a license.

(a) In addition to any other actions authorized by law, the board, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, may suspend, revoke, fine, or deny the renewal of any license, or prior to notice and hearing deny the issuance of any license for any cause authorized by law, including but not limited to circumstances where the board finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than ten per cent interest of the applicant or holder:

(1) Has intentionally made a false statement of a material fact in the application for a license or

in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation;

(2) Has failed to comply with, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of motor vehicles or any rule or order made pursuant to this chapter;

(3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase motor vehicles;

(4) Has engaged in business under a past or present license issued pursuant to this chapter, in a manner as to cause injury to the public or to those with whom one is dealing;

(5) Has failed to comply with, observe, or adhere to any law in any other respect on account whereof the board may deem the applicant or holder to be an unfit or improper person to hold a license;

(6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

(7) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors;

(8) In the case of an individual applicant or holder of a license, if the applicant or holder is not at least eighteen years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least eighteen years of age;

(9) Has charged more than the legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of a motor vehicle or any interest therein including an option to purchase;

(10) Has violated any of the laws pertaining to false advertising or to credit sales in the offering, soliciting, selling, or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein;

(11) Has wilfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the sale or purchase of a motor vehicle or any interest therein including an option to purchase;

(12) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued under this chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause;

(13) Has entered or has attempted to enter or proposes to enter into any contract or agreement contrary to this chapter or any rule adopted thereunder;

(14) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor;

(15) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed;

(16) Has entered or attempted to enter any one-payment contract, where the contract is required to be signed by the purchaser prior to removal of the motor vehicle for test driving from the seller's premises;

(17) Being a salesperson or dealer:

(A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer;

(B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle;

(C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or salesperson clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty;

(D) Has sold a new motor vehicle covered by a standard factory warranty without informing the purchaser in writing that any repairs or other work necessary on any accessories which were not installed by the manufacturer of the vehicle may not be obtainable in a geographic location other than where the purchase occurred; provided that the notice required by this section shall conform to the plain language requirements of section 487A-1 regardless of the dollar amount of the transaction;

(E) Has engaged in any improper business conduct, including but not limited to employing, contracting with, or compensating consumer consultants; or

(F) Has sold or leased a new or used motor vehicle, other than at auction, without written documentation that contains the following provision printed legibly in at least fourteen point bold typeface print, upon which the salesperson or dealer shall appropriately indicate the type of sale, and upon which both the customer and salesperson or dealer shall place their initials in the designated spaces, prior to the signing of the contract of sale or lease:

"This (IS) (IS NOT) a door-to-door sale. There (IS A) (IS NO) 3-DAY RIGHT TO CANCEL on this purchase.

_____ Customer's Initials _____ Salesperson's or Dealer's Initials";

(18) Being an applicant or holder of a dealer's license:

(A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for new vehicles or without providing and maintaining adequate repair facilities and personnel for new vehicles at either the main licensed premises or at any branch location;

(B) Has employed or proposed to employ any salesperson who is not duly licensed under this chapter; or

(C) Has sold or proposed to sell new motor vehicles without being franchised therefor;

(19) Being an applicant or holder of an auction's license has sold or proposed to sell new motor vehicles without being franchised therefor;

(20) Being an applicant for a salesperson's license:

(A) Does not intend to be employed as a salesperson for a licensed motor vehicle dealer; or

(B) Intends to be employed as a salesperson for more than one dealer; or

(21) Being a manufacturer or distributor:

(A) Has attempted to coerce or has coerced any dealer in the State to enter into any agreement with the manufacturer or distributor or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with the dealer, by threatening to cancel the franchise agreement or by threatening to refuse, at the expiration of the current franchise agreement, to enter into a new franchise agreement with the dealer;

(B) Has attempted to coerce or has coerced any dealer in the State to enter into any agreement with the manufacturer or distributor or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with the dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer;

(C) Has attempted to or has canceled or failed to renew the franchise agreement of any dealer in the State without good faith, as defined herein. Upon such a cancellation or failure to renew the franchise agreement, the party canceling or failing to renew the franchise agreement, at the dealer's option, shall either:

(i) Compensate the dealer at the fair market going business value for the dealer's capital

investment, which shall include but not be limited to the going business value of the business, goodwill, property, and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts, and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney's fees incurred in collecting compensation; provided that the investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or

(ii) Compensate the dealer for damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement.

As used in this paragraph, "good faith" means the duty of each party to any franchise agreement to fully comply with that agreement, or to act in a fair and equitable manner towards each other;

(D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a dealer who has not received delivery thereof, but who had placed the written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from a dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor or production difficulty, or other similar cause beyond the reasonable control of the manufacturer;

(E) Has discriminated against any of their franchised dealers in the State by directly or indirectly charging the dealer more for a new motor vehicle or services, parts, or accessories or a higher rate of transportation for transporting the vehicle from the manufacturing or assembly plant to the dealer or any portion of the distance, than is charged to any other of their franchised dealers in the State for the same make, model, and year of a new motor vehicle or for the same devices, parts, or accessories for the similar transportation for the vehicle during the same period. A manufacturer or distributor who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in the State than is provided to any of their competing franchised dealers in the State for the same or lesser price or charge than that imposed upon the franchised dealer in the State during the same period is deemed to have so discriminated against the competing franchised dealer in the State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of the discriminatory act against the franchised dealer in the State. The intent and purpose of this subparagraph is to eliminate inequitable pricing policies set by manufacturers or distributors which result in higher prices of new motor vehicles to the consumer in the State. This subparagraph shall be liberally interpreted to effect its intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed. Nothing contained in this subparagraph shall prohibit establishing delivered

prices or destination charges to dealers in the State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of products to the dealers, including costs that are related to the geographical distances and modes of transportation involved in shipments to this State, or which meet those lower prices established by competitors;

(F) Has required a dealer of new motor vehicles in the State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by the dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, that are regularly installed on that particular model or new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment that are an integral part of the new motor vehicles and cannot be removed therefrom without substantial expense. Nothing in this subparagraph shall make it unlawful for a dealer to sell a vehicle that includes a heater that has been installed as standard equipment;

(G) Has failed to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by the dealer to perform under and comply with manufacturer's warranty agreements. In no event shall any manufacturer or distributor pay its dealers a labor rate per hour for warranty work that is less than that charged by the dealer to the retail customers of the dealer nor shall the rates be more than the retail rates. All claims made by the dealers for compensation for delivery, preparation, and warranty work shall be paid with thirty days after approval and shall be approved or disapproved within thirty days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval;

(H) Has wilfully failed to affix the vehicle bumper impact notice pursuant to section 437-4.5(a), or willfully misstated any information in the notice. Each failure or misstatement is a separate offense;

(I) Has wilfully defaced, or removed the vehicle bumper impact notice required by section 437-4.5(a) prior to delivery of the vehicle to which the notice is required to be affixed to the registered owner or lessee. Each wilful defacement, alteration, or removal is a separate offense; or

(J) Has required a dealer to refrain from participation in the management of, investment in, or the acquisition of, any other line of new motor vehicle or related products; provided that the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicle, remains in compliance with reasonable facilities and other franchise requirements of the manufacturer or distributor, and makes no unauthorized change in the principal management of the dealer.

(b) For disregard of an order suspending a license pursuant to section 436B-23, the board may summarily take possession of and impound all motor vehicles belonging to or in the possession of the licensee whether or not the vehicles are situated upon the licensed premises, pending final action in this case or, without taking possession of the motor vehicles, may render them unusable; provided that the right of the board to take any action and any liens for towing or storage or otherwise arising from the action are subject to and subordinate to any security interest

that has attached to the motor vehicles prior thereto, and the board, prior to taking any action, shall give notice thereof to any secured party whose security interest in the motor vehicles is known to the board or who, prior to any action by the board, had filed a financing statement covering the motor vehicles or had noted the lien on the legal ownership certificates thereof.

(c) Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$100 nor no more than \$1,000 for each violation.

(d) In lieu of or in addition to the fine imposed under this section, the board may require the motor vehicle dealer to make restitution to the customer. Restitution may be imposed in lieu of a fine even though the amount may exceed the fine set forth in subsection (c).

Florida (Title XXIII, Chapter 320, §320.61-320.70, Motor Vehicle Licences)

§320.64 Denial, suspension, or revocation of license; grounds.— A license of a licensee under s. 320.61 may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, upon proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing, and a licensee or applicant shall be liable for claims and remedies provided in ss. 320.695 and 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:

- (1) The applicant or licensee is determined to be unable to carry out contractual obligations with its motor vehicle dealers.
- (2) The applicant or licensee has knowingly made a material misstatement in its application for a license.
- (3) The applicant or licensee willfully has failed to comply with significant provisions of ss. 320.60-320.70 or with any lawful rule or regulation adopted or promulgated by the department.
- (4) The applicant or licensee has indulged in any illegal act relating to his or her business.
- (5) The applicant or licensee has coerced or attempted to coerce any motor vehicle dealer into accepting delivery of any motor vehicle or vehicles or parts or accessories therefor or any other commodities which have not been ordered by the dealer.
- (6) The applicant or licensee has coerced or attempted to coerce any motor vehicle dealer to enter into any agreement with the licensee.
- (7) The applicant or licensee has threatened to discontinue, cancel, or not to renew a franchise agreement of a licensed motor vehicle dealer, where the threatened discontinuation, cancellation, or nonrenewal, if implemented, would be in violation of any of the provisions of s. 320.641.

(8) The applicant or licensee discontinued, canceled, or failed to renew, a franchise agreement of a licensed motor vehicle dealer in violation of any of the provisions of s. 320.641.

(9) The applicant or licensee has threatened to modify or replace, or has modified or replaced, a franchise agreement with a succeeding franchise agreement which would adversely alter the rights or obligations of a motor vehicle dealer under an existing franchise agreement or which substantially impairs the sales, service obligations, or investment of the motor vehicle dealer.

(10)(a) The applicant or licensee has attempted to enter, or has entered, into a franchise agreement with a motor vehicle dealer who does not, at the time of the franchise agreement, have proper facilities to provide the services to his or her purchasers of new motor vehicles which are covered by the new motor vehicle warranty issued by the applicant or licensee.

(b) Notwithstanding any provision of a franchise, a licensee may not require a motor vehicle dealer, by agreement, program, policy, standard, or otherwise, to make substantial changes, alterations, or remodeling to, or to replace a motor vehicle dealer's sales or service facilities unless the licensee's requirements are reasonable and justifiable in light of the current and reasonably foreseeable projections of economic conditions, financial expectations, and the motor vehicle dealer's market for the licensee's motor vehicles.

(c) A licensee may, however, consistent with the licensee's allocation obligations at law and to its other same line-make motor vehicle dealers, provide to a motor vehicle dealer a commitment to supply additional vehicles or provide a loan or grant of money as an inducement for the motor vehicle dealer to expand, improve, remodel, alter, or renovate its facilities if the provisions of the commitment are contained in a writing voluntarily agreed to by the dealer and are made available, on substantially similar terms, to any of the licensee's other same line-make dealers in this state who voluntarily agree to make a substantially similar facility expansion, improvement, remodeling, alteration, or renovation.

(d) Except as provided in paragraph (c), subsection (36), or as otherwise provided by law, this subsection does not require a licensee to provide financial support for, or contribution to, the purchase or sale of the assets of or equity in a motor vehicle dealer or a relocation of a motor vehicle dealer because such support has been provided to other purchases, sales, or relocations.

(e) A licensee or its common entity may not take or threaten to take any action that is unfair or adverse to a dealer who does not enter into an agreement with the licensee pursuant to paragraph (c).

(f) This subsection does not affect any contract between a licensee and any of its dealers regarding relocation, expansion, improvement, remodeling, renovation, or alteration which exists on the effective date of this act.

(g) A licensee may set and uniformly apply reasonable standards for a motor vehicle dealer's sales and service facilities which are related to upkeep, repair, and cleanliness.

(h) A violation of paragraphs (b) through (g) is not a violation of s. 320.70 and does not subject any licensee to any criminal penalty under s. 320.70.

(11) The applicant or licensee has coerced a motor vehicle dealer to provide installment financing for the motor vehicle dealer's purchasers with a specified financial institution.

(12) The applicant or licensee has advertised, printed, displayed, published, distributed, broadcast, or televised, or caused or permitted to be advertised, printed, displayed, published, distributed, broadcast, or televised, in any manner whatsoever, any statement or representation with regard to the sale or financing of motor vehicles which is false, deceptive, or misleading.

(13) The applicant or licensee has sold, exchanged, or rented a motorcycle which produces in excess of 5 brake horsepower, knowing the use thereof to be by, or intended for, the holder of a restricted Florida driver's license.

(14) The applicant or licensee has engaged in previous conduct which would have been a ground for revocation or suspension of a license if the applicant or licensee had been licensed.

(15) The applicant or licensee, directly or indirectly, through the actions of any parent of the licensee, subsidiary of the licensee, or common entity causes a termination, cancellation, or nonrenewal of a franchise agreement by a present or previous distributor or importer unless, by the effective date of such action, the applicant or licensee offers the motor vehicle dealer whose franchise agreement is terminated, canceled, or not renewed a franchise agreement containing substantially the same provisions contained in the previous franchise agreement or files an affidavit with the department acknowledging its undertaking to assume and fulfill the rights, duties, and obligations of its predecessor distributor or importer under the terminated, canceled, or nonrenewed franchise agreement and the same is reinstated.

(16) Notwithstanding the terms of any franchise agreement, the applicant or licensee prevents or refuses to accept the succession to any interest in a franchise agreement by any legal heir or devisee under the will of a motor vehicle dealer or under the laws of descent and distribution of this state; provided, the applicant or licensee is not required to accept a succession where such heir or devisee does not meet licensee's written, reasonable, and uniformly applied minimal standard qualifications for dealer applicants or which, after notice and administrative hearing pursuant to chapter 120, is demonstrated to be detrimental to the public interest or to the representation of the applicant or licensee. Nothing contained herein, however, shall prevent a motor vehicle dealer, during his or her lifetime, from designating any person as his or her successor in interest by written instrument filed with and accepted by the applicant or licensee. A licensee who rejects the successor transferee under this subsection shall have the burden of establishing in any proceeding where such rejection is in issue that the rejection of the successor transferee complies with this subsection.

(17) The applicant or licensee has included in any franchise agreement with a motor vehicle dealer terms or provisions that are contrary to, prohibited by, or otherwise inconsistent with the provisions contained in ss. 320.60-320.70, or has failed to include in such franchise agreement a provision conforming to the requirements of s. 320.63(3).

(18) The applicant or licensee has established a system of motor vehicle allocation or distribution or has implemented a system of allocation or distribution of motor vehicles to one or more of its franchised motor vehicle dealers which reduces or alters allocations or supplies of new motor vehicles to the dealer to achieve, directly or indirectly, a purpose that is prohibited by ss. 320.60-320.70, or which otherwise is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause after considering the equities of the affected motor vehicles dealer or dealers. An applicant or licensee shall maintain for 3 years records that describe its methods or formula of allocation and distribution of its motor vehicles and records of its actual allocation and distribution of motor vehicles to its motor vehicle dealers in this state. As used in this subsection, "unfair" includes, without limitation, the refusal or failure to offer to any dealer an equitable supply of new vehicles under its franchise, by model, mix, or colors as the licensee offers or allocates to its other same line-make dealers in the state.

(19) The applicant or licensee, without good and fair cause, has delayed, refused, or failed to provide a supply of motor vehicles by series in reasonable quantities, including the models publicly advertised by the applicant or licensee as being available, or has delayed, refused, or failed to deliver motor vehicle parts and accessories within a reasonable time after receipt of an order by a franchised dealer. However, this subsection is not violated if such failure is caused by acts or causes beyond the control of the applicant or licensee.

(20) The applicant or licensee has required, or threatened to require, a motor vehicle dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel, which instrument or document operates, or is intended by the applicant or licensee to operate, to relieve any person from any liability or obligation under the provisions of ss. 320.60-320.70.

(21) The applicant or licensee has threatened or coerced a motor vehicle dealer toward conduct or action whereby the dealer would waive or forego its right to protest the establishment or relocation of a motor vehicle dealer in the community or territory serviced by the threatened or coerced dealer.

(22) The applicant or licensee has refused to deliver, in reasonable quantities and within a reasonable time, to any duly licensed motor vehicle dealer who has an agreement with such applicant or licensee for the retail sale of new motor vehicles and parts for motor vehicles sold or distributed by the applicant or licensee, any such motor vehicles or parts as are covered by such agreement. Such refusal includes the failure to offer to its same line-make franchised motor vehicle dealers all models manufactured for that line-make, or requiring a dealer to pay any extra fee, require a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or relocate, expand, improve, remodel, renovate, recondition, or alter the dealer's existing facilities, or provide exclusive facilities as a prerequisite to receiving a model or series of vehicles. However, the failure to deliver any motor vehicle or part will not be considered a violation of this section if the failure is due to an act of God, work stoppage, or delay due to a strike or labor difficulty, a freight embargo, product shortage, or other cause over which the applicant or licensee has no control. An applicant or licensee may impose reasonable requirements on the motor vehicle dealer, other than the items listed above, including, but not limited to, the purchase of special tools required to properly service a motor vehicle and the undertaking of sales person or service person training related to the motor vehicle.

(23) The applicant or licensee has competed or is competing with respect to any activity covered by the franchise agreement with a motor vehicle dealer of the same line-make located in this state with whom the applicant or licensee has entered into a franchise agreement, except as permitted in s. 320.645.

(24) The applicant or licensee has sold a motor vehicle to any retail consumer in the state except through a motor vehicle dealer holding a franchise agreement for the line-make that includes the motor vehicle. This section does not apply to sales by the applicant or licensee of motor vehicles to its current employees, employees of companies affiliated by common ownership, charitable not-for-profit-organizations, and the federal government.

(25) The applicant or licensee has undertaken an audit of warranty, maintenance, and other service-related payments or incentive payments, including payments to a motor vehicle dealer under any licensee-issued program, policy, or other benefit, which previously have been paid to a motor vehicle dealer in violation of this section or has failed to comply with any of its obligations under s. 320.696. An applicant or licensee may reasonably and periodically audit a motor vehicle dealer to determine the validity of paid claims as provided in s. 320.696. Audits of warranty, maintenance, and other service-related payments shall be performed by an applicant or licensee only during the 1-year period immediately following the date the claim was paid. Audit of incentive payments shall only be for an 18-month period immediately following the date the incentive was paid. After such time periods have elapsed, all warranty, maintenance, and other service-related payments and incentive payments shall be deemed final and incontrovertible for any reason notwithstanding any otherwise applicable law, and the motor vehicle dealer shall not be subject to any charge-back or repayment. An applicant or licensee may deny a claim or, as a result of a timely conducted audit, impose a charge-back against a motor vehicle dealer for warranty, maintenance, or other service-related payments or incentive payments only if the applicant or licensee can show that the warranty, maintenance, or other service-related claim or incentive claim was false or fraudulent or that the motor vehicle dealer failed to substantially comply with the reasonable written and uniformly applied procedures of the applicant or licensee for such repairs or incentives. An applicant or licensee may not charge a motor vehicle dealer back subsequent to the payment of a warranty, maintenance, or service-related claim or incentive claim unless, within 30 days after a timely conducted audit, a representative of the applicant or licensee first meets in person, by telephone, or by video teleconference with an officer or employee of the dealer designated by the motor vehicle dealer. At such meeting the applicant or licensee must provide a detailed explanation, with supporting documentation, as to the basis for each of the claims for which the applicant or licensee proposed a charge-back to the dealer and a written statement containing the basis upon which the motor vehicle dealer was selected for audit or review. Thereafter, the applicant or licensee must provide the motor vehicle dealer's representative a reasonable period after the meeting within which to respond to the proposed charge-backs, with such period to be commensurate with the volume of claims under consideration, but in no case less than 45 days after the meeting. The applicant or licensee is prohibited from changing or altering the basis for each of the proposed charge-backs as presented to the motor vehicle dealer's representative following the conclusion of the audit unless the applicant or licensee receives new information affecting the basis for one or more charge-backs and that new information is received within 30 days after the conclusion of the timely conducted audit. If the applicant or licensee claims the existence of new information, the dealer must be

given the same right to a meeting and right to respond as when the charge-back was originally presented. After all internal dispute resolution processes provided through the applicant or licensee have been completed, the applicant or licensee shall give written notice to the motor vehicle dealer of the final amount of its proposed charge-back. If the dealer disputes that amount, the dealer may file a protest with the department within 30 days after receipt of the notice. If a protest is timely filed, the department shall notify the applicant or licensee of the filing of the protest, and the applicant or licensee may not take any action to recover the amount of the proposed charge-back until the department renders a final determination, which is not subject to further appeal, that the charge-back is in compliance with the provisions of this section. In any hearing pursuant to this subsection, the applicant or licensee has the burden of proof that its audit and resulting charge-back are in compliance with this subsection.

(26) Notwithstanding the terms of any franchise agreement, including any licensee's program, policy, or procedure, the applicant or licensee has refused to allocate, sell, or deliver motor vehicles; charged back or withheld payments or other things of value for which the dealer is otherwise eligible under a sales promotion, program, or contest; prevented a motor vehicle dealer from participating in any promotion, program, or contest; or has taken or threatened to take any adverse action against a dealer, including charge-backs, reducing vehicle allocations, or terminating or threatening to terminate a franchise because the dealer sold or leased a motor vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, unless the licensee proves that the dealer knew or reasonably should have known that the customer intended to export or resell the motor vehicle. There is a rebuttable presumption that the dealer neither knew nor reasonably should have known of its customer's intent to export or resell the vehicle if the vehicle is titled or registered in any state in this country. A licensee may not take any action against a motor vehicle dealer, including reducing its allocations or supply of motor vehicles to the dealer, or charging back a dealer for an incentive payment previously paid, unless the licensee first meets in person, by telephone, or video conference with an officer or other designated employee of the dealer. At such meeting, the licensee must provide a detailed explanation, with supporting documentation, as to the basis for its claim that the dealer knew or reasonably should have known of the customer's intent to export or resell the motor vehicle. Thereafter, the motor vehicle dealer shall have a reasonable period, commensurate with the number of motor vehicles at issue, but not less than 15 days, to respond to the licensee's claims. If, following the dealer's response and completion of all internal dispute resolution processes provided through the applicant or licensee, the dispute remains unresolved, the dealer may file a protest with the department within 30 days after receipt of a written notice from the licensee that it still intends to take adverse action against the dealer with respect to the motor vehicles still at issue. If a protest is timely filed, the department shall notify the applicant or licensee of the filing of the protest, and the applicant or licensee may not take any action adverse to the dealer until the department renders a final determination, which is not subject to further appeal, that the licensee's proposed action is in compliance with the provisions of this subsection. In any hearing pursuant to this subsection, the applicant or licensee has the burden of proof on all issues raised by this subsection.

(27) Notwithstanding the terms of any franchise agreement, the applicant or licensee has failed or refused to indemnify and hold harmless any motor vehicle dealer against any judgment for damages, or settlements agreed to by the applicant or licensee, including, without limitation,

court costs and reasonable attorneys fees, arising out of complaints, claims, or lawsuits, including, without limitation, strict liability, negligence, misrepresentation, express or implied warranty, or revocation or rescission of acceptance of the sale of a motor vehicle, to the extent the judgment or settlement relates to the alleged negligent manufacture, design, or assembly of motor vehicles, parts, or accessories. Nothing herein shall obviate the licensee's obligations pursuant to chapter 681.

(28) The applicant or licensee has published, disclosed, or otherwise made available in any form information provided by a motor vehicle dealer with respect to sales prices of motor vehicles or profit per motor vehicle sold. Other confidential financial information provided by motor vehicle dealers shall not be published, disclosed, or otherwise made publicly available except in composite form. However, this information may be disclosed with the written consent of the dealer or in response to a subpoena or order of the department, a court or a lawful tribunal, or introduced into evidence in such a proceeding, after timely notice to an affected dealer.

(29) The applicant or licensee has failed to reimburse a motor vehicle dealer in full for the reasonable cost of providing a loaner vehicle to any customer who is having a vehicle serviced at the motor vehicle dealer, if a loaner is required by the applicant or licensee, or a loaner is expressly part of an applicant or licensee's customer satisfaction index or computation.

(30) The applicant or licensee has conducted or threatened to conduct any audit of a motor vehicle dealer in order to coerce or attempt to coerce the dealer to forego any rights granted to the dealer under ss. 320.60-320.70 or under the agreement between the licensee and the motor vehicle dealer. Nothing in this section shall prohibit an applicant or licensee from reasonably and periodically auditing a dealer to determine the validity of paid claims, as permitted under this chapter, if the licensee complies with the provisions of ss. 320.60-320.70 applicable to such audits.

(31) From and after the effective date of enactment of this provision, the applicant or licensee has offered to any motor vehicle dealer a franchise agreement that:

(a) Requires that a motor vehicle dealer bring an administrative or legal action in a venue outside of this state;

(b) Requires that any arbitration, mediation, or other legal proceeding be conducted outside of this state; or

(c) Requires that a law of a state other than Florida be applied to any legal proceeding between a motor vehicle dealer and a licensee.

(32) Notwithstanding the terms of any franchise agreement, the applicant or licensee has rejected or withheld approval of any proposed transfer in violation of s. 320.643 or a proposed change of executive management in violation of s. 320.644.

(33) The applicant or licensee has attempted to sell or lease, or has sold or leased, used motor vehicles at retail of a line-make that is the subject of any franchise agreement with a motor

vehicle dealer in this state, other than trucks with a net weight of more than 8,000 pounds.

(34) The applicant or licensee, after the effective date of this subsection, has included in any franchise agreement with a motor vehicle dealer a mandatory obligation or requirement of the motor vehicle dealer to purchase, sell, or lease, or offer for purchase, sale, or lease, any quantity of used motor vehicles.

(35) The applicant or licensee has refused to assign allocation earned by a motor vehicle dealer, or has refused to sell motor vehicles to a motor vehicle dealer, because the motor vehicle dealer has failed or refused to purchase, sell, lease, or certify a certain quantity of used motor vehicles prescribed by the licensee.

(36)(a) Notwithstanding the terms of any franchise agreement, in addition to any other statutory or contractual rights of recovery after the voluntary or involuntary termination, cancellation, or nonrenewal of a franchise, failing to pay the motor vehicle dealer, as provided in paragraph (d), the following amounts:

1. The net cost paid by the dealer for each new car or truck in the dealer's inventory with mileage of 2,000 miles or less, or a motorcycle with mileage of 100 miles or less, exclusive of mileage placed on the vehicle before it was delivered to the dealer.
2. The current price charged for each new, unused, undamaged, or unsold part or accessory that:
 - a. Is in the current parts catalogue and is still in the original, resalable merchandising package and in an unbroken lot, except that sheet metal may be in a comparable substitute for the original package; and
 - b. Was purchased by the dealer directly from the manufacturer or distributor or from an outgoing authorized dealer as a part of the dealer's initial inventory.
3. The fair market value of each undamaged sign owned by the dealer which bears a trademark or trade name used or claimed by the applicant or licensee or its representative which was purchased from or at the request of the applicant or licensee or its representative.
4. The fair market value of all special tools, data processing equipment, and automotive service equipment owned by the dealer which:
 - a. Were recommended in writing by the applicant or licensee or its representative and designated as special tools and equipment;
 - b. Were purchased from or at the request of the applicant or licensee or its representative; and
 - c. Are in usable and good condition except for reasonable wear and tear.
5. The cost of transporting, handling, packing, storing, and loading any property subject to repurchase under this section.

(b) If the termination, cancellation, or nonrenewal of the dealer's franchise is the result of the bankruptcy or reorganization of a licensee or its common entity, or the result of a licensee's plan, scheme, or policy, whether or not publicly declared, which is intended to or has the effect of decreasing the number of, or eliminating, the licensee's franchised motor vehicle dealers of a line-make in this state, or the result of a termination, elimination, or cessation of manufacture or reorganization of a licensee or its common entity, or the result of a termination, elimination, or cessation of manufacture or distribution of a line-make, in addition to the above payments to the dealer, the licensee or its common entity, shall be liable to and shall pay the motor vehicle dealer for an amount at least equal to the fair market value of the franchise for the line-make, which shall be the greater of the value determined as of the day the licensee announces the action that results in the termination, cancellation, or nonrenewal, or the value determined on the day that is 12 months before that date. Fair market value of the franchise for the line-make includes only the goodwill value of the dealer's franchise for that line-make in the dealer's community or territory.

(c) This subsection does not apply to a termination, cancellation, or nonrenewal that is implemented as a result of the sale of the assets or corporate stock or other ownership interests of the dealer.

(d) The dealer shall return the property listed in this subsection to the licensee within 90 days after the effective date of the termination, cancellation, or nonrenewal. The licensee shall supply the dealer with reasonable instructions regarding the method by which the dealer must return the property. Absent shipping instructions and prepayment of shipping costs from the licensee or its common entity, the dealer shall tender the inventory and other items to be returned at the dealer's facility. The compensation for the property shall be paid by the licensee or its common entity simultaneously with the tender of inventory and other items, provided that, if the dealer does not have clear title to the inventory and other items and is not in a position to convey that title to the licensee, payment for the property being returned may be made jointly to the dealer and the holder of any security interest.

(37) Notwithstanding the terms of any franchise agreement, the applicant or licensee has refused to allow or has limited or restricted a motor vehicle dealer from acquiring or adding a sales or service operation for another line-make of motor vehicles at the same or expanded facility at which the motor vehicle dealer currently operates a dealership unless the applicant or licensee can demonstrate that such refusal, limitation, or restriction is justified by consideration of reasonable facility and financial requirements and the dealer's performance for the existing line-make.

(38) The applicant or licensee has failed or refused to offer a bonus, incentive, or other benefit program, in whole or in part, to a dealer or dealers in this state which it offers to all of its other same line-make dealers nationally or to all of its other same line-make dealers in the licensee's designated zone, region, or other licensee-designated area of which this state is a part, unless the failure or refusal to offer the program in this state is reasonably supported by substantially different economic or marketing considerations than are applicable to the licensee's same line-make dealers in this state. For purposes of this chapter, a licensee may not establish this state alone as a designated zone, region, or area or any other designation for a specified territory. A

licensee may offer a bonus, rebate, incentive, or other benefit program to its dealers in this state which is calculated or paid on a per vehicle basis and is related in part to a dealer's facility or the expansion, improvement, remodeling, alteration, or renovation of a dealer's facility. Any dealer who does not comply with the facility criteria or eligibility requirements of such program is entitled to receive a reasonable percentage of the bonus, incentive, rebate, or other benefit offered by the licensee under that program by complying with the criteria or eligibility requirements unrelated to the dealer's facility under that program. For purposes of the previous sentence, the percentage unrelated to the facility criteria or requirements is presumed to be "reasonable" if it is not less than 80 percent of the total of the per vehicle bonus, incentive, rebate, or other benefits offered under the program.

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, any of the preceding provisions by an applicant or licensee will or can adversely and pecuniarily affect the complaining dealer, shall be entitled to pursue all of the remedies, procedures, and rights of recovery available under ss. 320.695 and 320.697.

TERMINATION, CANCELLATION AND NON-RENEWAL

Alabama (Title 8, Chapter 20, §§8-20-1-13)

Section 5: Limitations on cancellations, modifications, terminations and nonrenewals of franchise relationships.

(a) Notwithstanding the terms, provisions, or conditions of any agreement or franchise or notwithstanding the terms or provisions of any waiver, no manufacturer shall cancel, terminate, modify, fail to renew, or refuse to continue any franchise relationship with a licensed new motor vehicle dealer unless the manufacturer has:

- (1) Satisfied the notice requirement of this section;
- (2) Acted in good faith as defined in this chapter;
- (3) Has good cause for the cancellation, termination, modification, nonrenewal, or noncontinuance.

(b) Notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation, modification, nonrenewal, or noncontinuance when:

- (1) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship, provided that the manufacturer first acquired actual or constructive knowledge of such failure not

more than 180 days prior to the date on which notification is given by the manufacturer pursuant to the requirements of this section;

(2) If the failure by the new motor vehicle dealer to comply with a provision of the franchise relates to the performance of the dealer in sales or service, then good cause shall be defined as the failure of the dealer to substantially comply with the reasonable performance provisions of the franchise if:

a. The new motor vehicle dealer was apprised by the manufacturer in writing of such failure; and

1. Said notification stated that notice was provided of failure of performance pursuant to this chapter; and

2. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than six months, to exert good faith efforts to carry out such provisions; and

3. The new motor vehicle dealer did not demonstrate substantial compliance with the manufacturer's performance standards during such period and that the failure to demonstrate such compliance was not due to factors which were beyond the control of such dealer.

b. Such failure thereafter continued within the period which began not more than 180 days before the date notification of termination, cancellation, modification, or nonrenewal was given pursuant to this section; and

(c) The manufacturer shall have the burden of proof for showing that it has acted in good faith, that the notice requirements have been complied with, and that there was good cause for the franchise termination, cancellation, modification, nonrenewal, or noncontinuance.

(d) Notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, prior to the termination, cancellation, modification, or nonrenewal of any franchise, the manufacturer shall furnish notification of such termination, cancellation, modification, or nonrenewal to the new motor vehicle dealer as follows:

(1) In the manner described in subsection (e); and

(2) Not less than 90 days prior to the effective date of such termination, cancellation, modification, or nonrenewal or not less than 30 days prior to the effective date of such termination, cancellation, or nonrenewal with respect to any of the following:

a. Filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;

b. Willful or intentional misrepresentation made by the new motor vehicle dealer with the express intent to defraud the manufacturer or distributor;

c. Failure of the new motor vehicle dealer to conduct its customary sales and service operations

during its customary business hours for seven consecutive business days;

d. Final conviction (including appeal) of the new motor vehicle dealer, principal owner or principal executive manager of any felony.

(e) Notification under this section shall be in writing; shall be by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:

(1) A statement of intention to terminate the franchise, cancel the franchise, modify the franchise or not to renew the franchise; and

(2) A statement of the reasons for the termination, cancellation, modification, or nonrenewal; and

(3) The date on which such termination, cancellation, modification, or nonrenewal takes effect.

(f) Upon the termination, cancellation, or nonrenewal by the manufacturer of any franchise for good cause, the new motor vehicle dealer shall be paid fair and reasonable compensation by the manufacturer for the:

(1) New motor vehicle inventory of the current and previous model year which has been acquired from the manufacturer. Any new and unused motor vehicle repurchased by the manufacturer shall be repurchased at the net cost to the dealer;

(2) Supplies and parts acquired by the new motor vehicle dealer from the manufacturer or its approved sources within seven years prior to the effective date of the termination, cancellation, or nonrenewal;

(3) Equipment, signs and furnishings acquired by the new motor vehicle dealer from the manufacturer or its approved sources;

(4) Special tools;

(5) Dealership facilities, if the facilities were required to be purchased or constructed as a precondition to obtaining the franchise or to its renewal by the manufacturer. The manufacturer shall use its best efforts to locate a purchaser who will offer to purchase the facilities at a reasonable price. If the manufacturer does not locate a purchaser within a reasonable time, the manufacturer will pay the dealer an amount equivalent to the reasonable rental value of such facilities for three years during which time the manufacturer shall be entitled to possession of said facilities. If the facilities were leased and the lease was required as a precondition to obtaining the franchise or to its renewal by the manufacturer, then the manufacturer shall use its best efforts to locate a lessee who will offer to lease the premises for a reasonable term at a reasonable rent. If the manufacturer does not locate a lessee within a reasonable time, the manufacturer shall pay such rent for three years or the remainder of the term of the lease, whichever is less and the manufacturer shall have the option to succeed to the rights of the dealer under the lease.

(g) Upon the termination, cancellation, or nonrenewal by the manufacturer of any franchise

without good cause, the new motor vehicle dealer shall be paid fair and reasonable compensation by the manufacturer for the personal property described in subdivisions (f)(1) through (f)(4) and for the dealership facilities, if the facilities were required to be purchased or constructed as a precondition to obtain the franchise or to its renewal by the manufacturer. If the facilities were leased and the lease was required as a precondition to obtaining the franchise or to its renewal by the manufacturer, then the manufacturer shall be liable for payment of the rent for the remainder of the term of the lease during which time the manufacturer shall be entitled to possession of said facilities. The manufacturer shall also pay the dealer fair and reasonable compensation for the value of the dealership within six months after the date of termination, cancellation, or nonrenewal.

(h) Upon the termination, cancellation, or nonrenewal by the manufacturer of any franchise as a result of willful or intentional misrepresentations made by the new motor vehicle dealer with the express intent to defraud the manufacturer or distributor or upon the termination, cancellation, or nonrenewal by the motor vehicle dealer, the new motor vehicle dealer shall be paid fair and reasonable compensation by the manufacturer for the personal property described in subdivisions (f)(1) through (f)(4).

(i) The fair and reasonable compensation to the dealer shall be paid by the manufacturer within 90 days after tender by the dealer of the items in subdivisions (f)(1) through (f)(4) at the dealership premises, provided the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.

Maine (Title 10: COMMERCE AND TRADE, Part 3: REGULATION OF TRADE, Chapter 204: BUSINESS PRACTICES BETWEEN MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS AND DEALERS)

§1174. PROHIBITED CONDUCT

The following acts shall be deemed unfair methods of competition and unfair and deceptive practices. It shall be unlawful for any:

...

3. Certain interference in dealer's business. Manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof:

...

O. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise and notwithstanding the terms or provisions of any waiver, unless a manufacturer has:

- (1) Satisfied the notice requirement of paragraph R;
- (2) Acted in good faith as defined in this chapter; and
- (3) Has good cause for the cancellation, termination, nonrenewal or noncontinuance.

The manufacturer has the burden of proof for showing that it has acted in good faith, that the notice requirements have been complied with and that there was good cause for the franchise termination, cancellation, nonrenewal or noncontinuance; [1997, c. 521, §15 (AMD).]

P. To terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, unless good cause exists. Good cause may not be shown or based solely on the desire of the manufacturer, distributor, distributor branch or division or officer, agent or other representative thereof for market penetration. Good cause exists for the purposes of a termination, cancellation, nonrenewal or noncontinuance when:

- (1) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise, which provision is both reasonable and of material significance to the franchise relationship, as long as compliance on the part of the new motor vehicle dealer is reasonably possible and the manufacturer first acquired actual or constructive knowledge of the failure not more than 180 days prior to the date on which notification is given pursuant to paragraph R.

When the failure by the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales or service, the failure of the new motor vehicle dealer to effectively carry out the performance provisions of the franchise is good cause if:

- (a) The new motor vehicle dealer was apprised by the manufacturer in writing of that failure; the notification stated that notice was provided of failure of performance pursuant to this section; and the new motor vehicle dealer was afforded a reasonable opportunity for a period of not less than 180 days to exert good faith efforts to carry out the performance provisions;
 - (b) The failure thereafter continued within the period that began not more than 180 days before the date notification of termination, cancellation, noncontinuance or nonrenewal was given pursuant to paragraph R; and
 - (c) The new motor vehicle dealer has not substantially complied with reasonable performance criteria established by the manufacturer and communicated to the dealer;
or
- (3) The dealer and the manufacturer or distributor agree not to renew the franchise, although the dealer is entitled to the protections set forth in paragraph S in any termination, cancellation, nonrenewal or noncontinuance, whether by the manufacturer or the dealer; however, a termination, cancellation, nonrenewal or noncontinuance resulting from a sale

of the assets or stock of the dealer or when a franchisee of motor homes, as defined in Title 29-A, section 101, subsection 40, voluntarily terminates a motor home franchise is exempt from the requirements of paragraph S; [2009, c. 367, §3 (AMD).]

TERRITORIAL RESTRICTIONS (OR NON-ENCROACHMENT RULES)

North Carolina (Article 12. Motor Vehicle Dealers and Manufacturers Licensing Law)

§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.

...

(5) To enter into a franchise establishing an additional new motor vehicle dealer or relocating an existing new motor vehicle dealer into a relevant market area where the same line make is then represented without first notifying in writing the Commissioner and each new motor vehicle dealer in that line make in the relevant market area of the intention to establish an additional dealer or to relocate an existing dealer within or into that market area. Within 30 days of receiving such notice or within 30 days after the end of any appeal procedure provided by the manufacturer, any new motor vehicle dealer may file with the Commissioner a protest to the establishing or relocating of the new motor vehicle dealer. When a protest is filed, the Commissioner shall promptly inform the manufacturer that a timely protest has been filed, and that the manufacturer shall not establish or relocate the proposed new motor vehicle dealer until the Commissioner has held a hearing and has determined that there is good cause for permitting the addition or relocation of such new motor vehicle dealer.

...

- b. In determining whether good cause has been established for not entering into or relocating an additional new motor vehicle dealer for the same line make, the Commissioner shall take into consideration the existing circumstances, including, but not limited to:
1. The permanency of the investment of both the existing and proposed additional new motor vehicle dealers;
 2. Growth or decline in population, density of population, and new car registrations in the relevant market area;
 3. Effect on the consuming public in the relevant market area;
 4. Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;
 5. Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient customer care for the motor

vehicles of the same line make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel;

6. Whether the establishment of an additional new motor vehicle dealer or relocation of an existing new motor vehicle dealer in the relevant market area would increase competition in a manner such as to be in the long-term public interest; and

7. The effect on the relocating dealer of a denial of its relocation into the relevant market area.

c. The Commissioner shall try to conduct the hearing and render his final determination if possible, within 180 days after a protest is filed.

d. Any parties to a hearing by the Commissioner concerning the establishment or relocating of a new motor vehicle dealer shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150B of the General Statutes.

e. In a hearing involving a proposed additional dealership, the manufacturer or distributor has the burden of proof under this section. In a proceeding involving the relocation of an existing dealership, the dealer seeking to relocate has the burden of proof under this section.

f. If the Commissioner determines, following a hearing, that good cause exists for permitting the proposed additional or relocated motor vehicle dealership, the dealer seeking the proposed additional or relocated motor vehicle dealership must, within two years, obtain a license from the Commissioner for the sale of vehicles at the relevant site, and actually commence operations at the site selling new motor vehicles of all line makes, as permitted by the Commissioner. Failure to obtain a permit and commence sales within two years shall constitute waiver by the dealer of the dealer's right to the additional or relocated dealership, requiring renotification, a new hearing, and a new determination as provided in this section. If the Commissioner fails to determine that good cause exists for permitting the proposed additional or relocated motor vehicle dealership, the manufacturer seeking the proposed additional dealership or dealer seeking to relocate may not again provide notice of its intention or otherwise attempt to establish an additional dealership or relocate to any location within 10 miles of the site of the original proposed additional dealership or relocation site for a minimum of three years from the date of the Commissioner's determination.

New Jersey (SENATE, No. 1093, introduced May 1998, amending the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.) in regard to motor vehicle franchises.)

5. Section 8 of P.L.1982, c.156 (C.56:10-23) is amended to read as follows:

8. a. In determining whether the grant, relocation, reopening or reactivation of a franchise or establishment, relocation, reopening or reactivation of a business will be injurious to existing franchisees or to the public interest, the committee may consider, but shall not be limited to considering the following:

(1) The effect that the proposed franchise or business would have on the provision of stable, adequate and reliable sales and service to purchasers of vehicles in the same line make in the

relevant market area;

(2) The effect that the proposed franchise or business would have on the stability of existing franchisees in the same line make in the relevant market area;

(3) Whether the existing franchisees in the same line make in the relevant market area are providing adequate and convenient consumer service for motor vehicles of the line make in the relevant market area, which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts and qualified service personnel;

(4) The effect on a relocating dealer of a denial of its relocation into the relevant market area.

b. In determining whether the grant, relocation, reopening or reactivation of a franchise or establishment, relocation, reopening or reactivation of a business will be injurious to existing franchisees or to the public interest, it shall be presumed that the proposed grant, relocation, reopening or reactivation of the franchise or establishment, relocation, reopening or reactivation of the business will be injurious to existing franchisees or to the public interest if:

(1) for the 24 month period prior to notice pursuant to section 4 of P.L.1982, c.156 (C.56:10-19), the average sales penetration of the franchisees given notice pursuant to section 4 of P.L.1982, c.156 (C.56:10-19) is at least equal to the average sales penetration of all franchisees in the same line make in the most local zone, district, region or other geographic designation used by the motor vehicle franchisor into which the proposed franchise or business will be assigned, it being the intent of this paragraph (1) of this subsection b. to compare the franchisees given notice to other franchisees in the immediately surrounding area;

(2) the proposed franchise or business is likely to cause not less than a 25% reduction in new vehicle sales or not less than a 25% reduction in gross income for the protesting franchisee;

(3) the proposed franchise or business will not operate a full service franchise or business at the proposed location; or

(4) an owner or operator of the proposed franchise or business has engaged in materially unfair or deceptive business practices with respect to a motor vehicle franchise or business.

c. The presumption in subsection b. of this section shall not apply to the grant, reopening or reactivation of a franchise or to the establishment, reopening or reactivation of a business if the proposed franchisee is a minority or a woman.

PROHIBITION AGAINST QUANTITY FORCING

New Jersey (SENATE, No. 1093, introduced May 1998, amending the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.) in regard to motor

vehicle franchises.)

6. (New section) It shall be a violation of P.L.1971, c.356 (C. 56:10-1 et seq.) for any motor vehicle franchisor, directly or indirectly, through any officer, agent or employee, to engage in any of the following practices:

...

g. To require or attempt to require a motor vehicle franchisee to accept delivery of any motor vehicle, part or accessory, or any other commodity connected therewith, which is not as ordered by the motor vehicle franchisee.

North Carolina (Chapter 20, Article 12, §§20-285 to 20-308.2: Motor Vehicle Dealers and Manufacturers Licensing Law)

§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

(1) To require, coerce, or attempt to coerce any dealer to accept delivery of any motor vehicle or vehicles, parts or accessories therefor, or any other commodities, which shall not have been ordered by that dealer, or to accept delivery of any motor vehicle or vehicles which have been equipped in a manner other than as specified by the dealer.

PROHIBITION AGAINST PRICE DISCRIMINATION

Colorado (TITLE 12, ARTICLE 6, PART 1, §§12-6-120 - 12-6-120.7)

(p) To discriminate between or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make based upon unreasonable sales and service standards; (SB09- 091)(Effective 7-1-2009)

(q) To fail to make practically available any incentive, rebate, bonus, or other similar benefit to a motor vehicle dealer that is offered to another motor vehicle dealer of the same line-make within this state; (SB09-091)(Effective 7-1-2009)

Delaware (Title 6, SUBTITLE II, CHAPTER 49: MOTOR VEHICLE FRANCHISING PRACTICES)

§ 4913. Unlawful acts by manufacturers.

(b) It shall be a violation of this chapter for any manufacturer:

(1) To delay, refuse or fail to deliver new motor vehicles or new motor vehicle parts or accessories in a reasonable time, and in reasonable quantity relative to the new motor vehicle dealer's facilities and sales potential in the new motor vehicle dealer's relevant market area, after acceptance of an order from a new motor vehicle dealer having a franchise for the retail sale of any new motor vehicle sold or distributed by the manufacturer, any new motor vehicle, parts or accessories to new vehicles as are covered by such franchise, if such vehicle, parts or accessories are publicly advertised as being available for immediate delivery or actually being delivered. This paragraph is not violated, however, if such failure is caused by acts or causes beyond the control of the manufacturer.

(2) To refuse to disclose to any new motor vehicle dealer, handling the same line-make, any matters relating to the manner and mode of distribution of that line-make within the State, including, without limitation, matters related to establishment or relocation of dealers under § 4915 of this title (but with appropriate exclusion of financial information not essential to a complete understanding of the manufacturer's manner and mode of distribution).

(3) To obtain money, goods, service or any other benefit from any other person with whom the new motor vehicle dealer does business, on account of, or in relation to, the transaction between the new motor vehicle dealer and such other person, other than for compensation for services rendered, unless such benefit is promptly accounted for, and transmitted to, the new motor vehicle dealer.

(4) To increase prices of new motor vehicles which the new motor vehicle dealer had ordered for consumers prior to the new motor vehicle dealer's receipt of the written official price increase notification. A sales contract signed by a consumer shall constitute evidence of each such order provided that the vehicle is in fact delivered to that customer. In the event of manufacturer price reductions or cash rebates paid to the new motor vehicle dealer, the amount of any such reduction or rebate received by a new motor vehicle dealer shall be passed on to the consumer by the new motor vehicle dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series shall not be considered a price increase or price decrease. Price changes caused by either: (i) The addition to a motor vehicle of required or optional equipment; or (ii) revaluation of the United States dollar, in the case of foreign-make vehicles or components; or (iii) an increase in transportation charges due to increased rates imposed by carriers; shall not be subject to this paragraph.

...

(8) To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement.

...

(10) To offer to sell or lease, or to sell or lease, any new motor vehicle to any new motor vehicle dealer at a lower actual invoice price than the actual invoice price offered to another for the same model vehicle, notwithstanding the availability of incentive programs or sales promotion plans or other similar programs available to new motor vehicle dealers at the time of consumer purchase.

(11) To use a promotional program or device or an incentive, payment or other benefit, whether paid at the time of sale of the new motor vehicle to the dealer or later, that results in the sale or offer to sell a new motor vehicle at a lower price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is available to another dealer in the State during a similar time period. This subdivision shall not prohibit a promotional or incentive program that is functionally available to competing dealers of the same line-make in the State.

(12) To engage in any predatory practice or discrimination against any new motor vehicle dealer or unreasonably discriminate between or among dealers in the sale of a motor vehicle owned by the manufacturer or distributor.

PAYMENT FOR WARRANTY WORK

New Jersey (SENATE, No. 1093, introduced May 1998, amending the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.) in regard to motor vehicle franchises.)

4. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read as follows:

3. If any motor vehicle franchise shall require or permit motor vehicle franchisees to perform services or provide parts in satisfaction of a warranty or franchisor-administered service or repair plan issued by the motor vehicle franchisor:

a. The motor vehicle franchisor shall reimburse each motor vehicle franchisee for such services as are rendered and for such parts as are supplied, in an amount equal to the prevailing retail price charged by such motor vehicle franchisee for such services and parts in circumstances where such services are rendered or such parts supplied other than pursuant to warranty or under the franchisor-administered service or repair plan; provided that such motor vehicle franchisee's prevailing retail price is not unreasonable when compared with that of the holders of motor vehicle franchises from the same motor vehicle franchisor for identical merchandise or services in the geographic area in which the motor vehicle franchisee is engaged in business.

b. The motor vehicle franchisor shall not by agreement, by restrictions upon reimbursement, or otherwise, restrict the nature and extent of services to be rendered or parts to be provided so that

such restriction prevents the motor vehicle franchisee from satisfying the warranty or franchisor-administered service or repair plan by rendering services in a good and workmanlike manner and providing parts which are required in accordance with generally accepted standards. Any such restriction shall constitute a prohibited practice hereunder.

c. The motor vehicle franchisor shall reimburse the motor vehicle franchisee pursuant to subsection a. of this section, without deduction, for services performed on, and parts supplied for, a motor vehicle by the motor vehicle franchisee in good faith and in accordance with generally accepted standards, notwithstanding any requirement that the motor vehicle franchisor accept the return of the motor vehicle or make payment to a consumer with respect to the motor vehicle pursuant to the provisions of P.L.1988, c.123 (C.56:12-29 et seq.).

Illinois (815 ILCS 710/) Motor Vehicle Franchise Act

Sec. 6. Warranty agreements; claims; approval; payment; written disapproval.

(a) Every manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division shall properly fulfill any warranty agreement and adequately and fairly compensate each of its motor vehicle dealers for labor and parts.

(b) In no event shall such compensation fail to include reasonable compensation for diagnostic work, as well as repair service, labor, and parts. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this Section, the principal factor to be given consideration shall be the prevailing wage rates being paid by the dealer in the relevant market area in which the motor vehicle dealer is doing business, and in no event shall such compensation of a motor vehicle dealer for warranty service be less than the rates charged by such dealer for like service to retail customers for nonwarranty service and repairs. The franchiser shall reimburse the franchisee for any parts provided in satisfaction of a warranty at the prevailing retail price charged by that dealer for the same parts when not provided in satisfaction of a warranty; provided that such motor vehicle franchisee's prevailing retail price is not unreasonable when compared with that of the holders of motor vehicle franchises from the same motor vehicle franchiser for identical merchandise in the geographic area in which the motor vehicle franchisee is engaged in business. All claims, either original or resubmitted, made by motor vehicle dealers hereunder and under Section 5 for such labor and parts shall be either approved or disapproved within 30 days following their submission. All approved claims shall be paid within 30 days following their approval. The motor vehicle dealer who submits a claim which is disapproved shall be notified in writing of the disapproval within the same period, and each such notice shall state the specific grounds upon which the disapproval is based. The motor vehicle dealer shall be permitted to correct and resubmit such disapproved claims within 30 days of receipt of disapproval. Any claims not specifically disapproved in writing within 30 days from their submission shall be deemed approved and payment shall follow within 30 days. The manufacturer or franchiser shall have the right to require reasonable documentation for claims and to audit such claims within a one year period from the date the claim was paid or credit issued by the manufacturer or franchiser, and to charge back any false or unsubstantiated claims. The audit and charge back provisions of this Section also apply to all other incentive and reimbursement programs for a period of one year after the date the claim was paid or credit issued by the manufacturer or franchiser. However, the manufacturer retains the

right to charge back any fraudulent claim if the manufacturer establishes in a court of competent jurisdiction in this State that the claim is fraudulent.

(c) The motor vehicle franchiser shall not, by agreement, by restrictions upon reimbursement, or otherwise, restrict the nature and extent of services to be rendered or parts to be provided so that such restriction prevents the motor vehicle franchisee from satisfying the warranty by rendering services in a good and workmanlike manner and providing parts which are required in accordance with generally accepted standards. Any such restriction shall constitute a prohibited practice.

(d) For the purposes of this Section, the "prevailing retail price charged by that dealer for the same parts" means the price paid by the motor vehicle franchisee for parts, including all shipping and other charges, multiplied by the sum of 1.0 and the franchisee's average percentage markup over the price paid by the motor vehicle franchisee for parts purchased by the motor vehicle franchisee from the motor vehicle franchiser and sold at retail. The motor vehicle franchisee may establish average percentage markup under this Section by submitting to the motor vehicle franchiser 100 sequential customer paid service repair orders or 90 days of customer paid service repair orders, whichever is less, covering repairs made no more than 180 days before the submission, and declaring what the average percentage markup is. The average percentage markup so declared shall go into effect 30 days following the declaration, subject to audit of the submitted repair orders by the motor vehicle franchiser and adjustment of the average percentage markup based on that audit. Any audit must be conducted within 30 days following the declaration. Only retail sales not involving warranty repairs, parts covered by subsection (e) of this Section, or parts supplied for routine vehicle maintenance, shall be considered in calculating average percentage markup. No motor vehicle franchiser shall require a motor vehicle franchisee to establish average percentage markup by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, part by part or transaction by transaction calculations. A motor vehicle franchisee shall not request a change in the average percentage markup more than twice in one calendar year.

(e) If a motor vehicle franchiser supplies a part or parts for use in a repair rendered under a warranty other than by sale of that part or parts to the motor vehicle franchisee, the motor vehicle franchisee shall be entitled to compensation equivalent to the motor vehicle franchisee's average percentage markup on the part or parts, as if the part or parts had been sold to the motor vehicle franchisee by the motor vehicle franchiser. The requirements of this subsection (e) shall not apply to entire engine assemblies and entire transmission assemblies. In the case of those assemblies, the motor vehicle franchiser shall reimburse the motor vehicle franchisee in the amount of 30% of what the motor vehicle franchisee would have paid the motor vehicle franchiser for the assembly if the assembly had not been supplied by the franchiser other than by the sale of that assembly to the motor vehicle franchisee.

POST-TERMINATION PAYMENT REQUIREMENTS

Colorado (Title 12, Article 6, Part 1, §§12-6-120 - 12-6-120.7)

(r) To fail to pay to a motor vehicle dealer: (SB09-091)(Effective 7-1-2009)

(I) Within ninety days after the termination, cancellation, or nonrenewal of a franchise for the failure of a dealer to meet performance sales and service obligations or after the termination, elimination, or cessation of a line-make, the cost of the lease for the facilities used for the franchise or line-make for the unexpired term of the lease, not to exceed one year; except that: (A) If the motor vehicle dealer owns the facilities, the value of renting such facilities for one year, prorated for each line-make based upon total sales volume for the previous twelve months before the involuntary termination;

...

(II) Within ninety days after the termination, elimination, or cessation of a line-make, the fair market value of the motor vehicle dealer's goodwill for the line-make as of the date the manufacturer or distributor announces the action that results in the termination, elimination, or cessation, not including any amounts paid under sub-subparagraphs (a) to (e) of subparagraph (I) of paragraph (I) of this subsection (1)

Virginia (Title 46.2, Chapter 15, §§46.2-1566 to 1573.1)

§ 46.2-1569. Other coercion of dealers; transfer, grant, succession to and cancellation of dealer franchises; delivery of vehicles, parts, and accessories.

Notwithstanding the terms of any franchise agreement, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or their representatives:

...

5b. Upon the involuntary or voluntary termination, nonrenewal, or cancellation of the franchise of any dealer, by either the manufacturer, distributor, or factory branch or by the dealer, notwithstanding the terms of any franchise whether entered into before or after the enactment of this section, to fail to pay the dealer for at least the following:

(1) The dealer cost plus any charges by the franchisor for distribution, delivery, and taxes paid by the dealer, less all allowances paid to the dealer by the franchisor, for new and undamaged motor vehicles in the dealer's inventory acquired from the franchisor or from another dealer of the same line - make in the ordinary course of business within 18 months of termination;

(2) The dealer cost as shown in the price catalog of the franchisor current at the time of repurchase of each new, unused, undamaged, and unsold part or accessory if such part or accessory is in the current parts catalog and is still in the original, resalable merchandising package and in unbroken lots, except that in the case of sheet metal, a comparable substitute for the original package may be used;

(3) The fair market value of each undamaged sign owned by the dealer that bears a trademark, trade name or commercial symbol used or claimed by the franchisor if such sign was purchased from or at the request of the franchisor;

(4) The fair market value of all special tools and automotive service equipment owned by the dealer that were recommended and designated as special tools or equipment by the franchisor, if the tools and equipment are in usable and good condition, normal wear and tear excepted; and

(5) The reasonable cost of transporting, handling, packing, and loading of motor vehicles, parts, signs, tools, and special equipment subject to repurchase hereunder.

The provisions of this subdivision do not apply to a dealer who is unable to convey clear title to the property identified in this subdivision.

For purposes of this subdivision, a voluntary termination shall not include the transfer of the terminating dealer's franchised business in connection with a transfer of that business by means of sale of the equity ownership or assets thereof to another dealer.

5c. If the termination, cancellation, or nonrenewal of the dealer's franchise is the result of the termination, elimination, or cessation of a line-make by the manufacturer, distributor, or factory branch, then, in addition to the payments to the dealer pursuant to subdivision 5b, the manufacturer, distributor, or factory branch shall be liable to the dealer for the following:

(1) An amount at least equivalent to the fair market value of the franchise for the line-make, which shall be the greater of that value determined as of (i) the date the franchisor announces the action that results in termination, cancellation, or nonrenewal, (ii) the date the action that resulted in the termination, cancellation, or nonrenewal first became general knowledge, or (iii) the day 12 months prior to the date on which the notice of termination, cancellation, or nonrenewal is issued. In determining the fair market value of a franchise for a line-make, if the line-make is not the only line-make for which the dealer holds a franchise in the dealership facilities, the dealer shall also be entitled to compensation for the contribution of the line-make to payment of the rent or to covering obligation for the fair rental value of the dealership facilities for the period set forth in subdivision 5c (2). Fair market value of the franchise for the line-make shall only include the goodwill value of the dealer's franchise for that line-make in the dealer's relevant market area.

(2) If the line-make is the only line-make for which the dealer holds a franchise in the dealership facilities, the manufacturer, distributor, or factory branch shall also pay assistance with respect to the dealership facilities leased or owned by the dealer as follows: (i) the manufacturer, distributor, or factory branch shall pay the dealer a sum equivalent to the rent for the unexpired term of the lease or three years' rent, whichever is the lesser, or (ii) if the dealer owns the dealership facilities, the manufacturer, distributor, or factory branch shall pay the dealer a sum equivalent to the reasonable rental value of the dealership facilities for three years.

To be entitled to facilities assistance from the manufacturer, distributor, or factory branch, the

dealer shall have the obligation to mitigate damages by listing the dealership facilities for lease or sublease with a licensed real estate agent within 30 days after the effective date of the termination of the franchise and thereafter by reasonably cooperating with such real estate agent in the performance of the agent's duties and responsibilities. If the dealer is able to lease or sublease the dealership facilities on terms that are consistent with local zoning requirements to preserve the right to sell motor vehicles from the dealership facilities and the terms of the dealer's lease, the dealer shall be obligated to pay the manufacturer the net revenue received from such mitigation, but only following receipt of facilities assistance payments pursuant to clause (i) or (ii) of subdivision 5c (2), and only up to the total amount of facilities assistance payments that the dealer has received.

STATEMENTS OF LEGISLATIVE INTENT

Florida (Title XXIII, Chapter 320, §320.61-320.70 , Motor Vehicle Licences)

§320.605 Legislative intent.--It is the intent of the Legislature to protect the public health, safety, and welfare of the citizens of the state by regulating the licensing of motor vehicle dealers and manufacturers, maintaining competition, providing consumer protection and fair trade and providing minorities with opportunities for full participation as motor vehicle dealers.

North Carolina (Chapter 20, Article 12, §§20-285 to 20-308.2: Motor Vehicle Dealers and Manufacturers Licensing Law)

N.C. Gen. Stat. § 20-285.:

. . . the distribution of motor vehicles in the State of North Carolina vitally affects the general economy of the State and the public interest and public welfare, and in the exercise of its police power, it is necessary to regulate and license motor vehicle manufacturers, distributors, dealers, salesmen, and their representatives doing business in North Carolina, in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this State.