
A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INDUSTRY LICENSING ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 437-2, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) A license issued under this chapter shall authorize
4 the holder to engage in the same business at [~~branch~~]:

5 (1) Branch locations in the same county for which the
6 license is issued during the term thereof; provided
7 that each branch location of a motor vehicle dealer is
8 approved by the board[~~-~~]; or

9 (2) Other motor vehicle dealer locations in the same
10 county affiliated by common ownership with the
11 location for which the license is issued during the
12 term thereof.

13 As used in this subsection, "common ownership" shall mean
14 those entities which have the same ownership whether through
15 individuals, corporations, trusts, or other entities."

16 SECTION 2. Section 437-28, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:



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

14 (1) Has intentionally made a false statement of a material
15 fact in the application for a license or in any other
16 statement required by this chapter or has obtained or
17 attempted to obtain a license by fraud or
18 misrepresentation;

19 (2) Has failed to comply with, observe, or adhere to any
20 provision of this chapter or any other law relating to



1 the sale, taxing, or licensing of motor vehicles or
2 any rule or order made pursuant to this chapter;

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

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

13 (5) Has failed to comply with, observe, or adhere to any
14 law in any other respect so that the board deems the
15 applicant or holder to be an unfit or improper person
16 to hold a license;

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

20 (7) Is insolvent, has filed or is the subject of a
21 petition for bankruptcy, wage earner's plan, or



1 financial reorganization plan, or has made or proposes
2 to make an assignment for benefit of creditors;

3 (8) Is not at least eighteen years of age, or in the case
4 of a partnership applicant or holder of a license, if
5 any general or limited partner is not at least
6 eighteen years of age;

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

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

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



1 (12) Has been denied the issuance of a license under this
2 chapter for substantial culpable cause or has had a
3 license issued under this chapter suspended, revoked,
4 or the renewal thereof denied for substantial culpable
5 cause;

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

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

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

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

19 (17) Is a salesperson or dealer and:

20 (A) Has required a purchaser of a motor vehicle as a
21 condition of sale and delivery, to purchase



1 special features, appliances, accessories, or
2 equipment not desired or requested by the
3 purchaser; provided that this prohibition shall
4 not apply as to special features, appliances,
5 accessories, or equipment which are ordinarily
6 installed on the vehicle when received or
7 acquired by the dealer;

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

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

18 (D) Has sold a new motor vehicle covered by a
19 standard factory warranty without informing the
20 purchaser in writing that any repairs or other
21 work necessary on any accessories which were not



1 installed by the manufacturer of the vehicle may
2 not be obtainable in a geographic location other
3 than where the purchase occurred; provided that
4 the notice required by this section shall conform
5 to the plain language requirements of section
6 487A-1, regardless of the dollar amount of the
7 transaction;

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

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



"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) Is an applicant or holder of a dealer's license and:

(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) Is an applicant or holder of an auction's license and
has sold or proposed to sell new motor vehicles
without being franchised therefor; [e#]



1 (20) Is an applicant for a salesperson's license and:

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

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

6 (21) Being a manufacturer or distributor:

7 (A) Has required any dealer in the State to enter
8 into any agreement with the manufacturer or
9 distributor or any other party, to perform any
10 act not required by or to refrain from performing
11 any act not contrary to the reasonable
12 requirements of the franchise agreement with the
13 dealer, by threatening to cancel the franchise
14 agreement or by threatening to refuse, at the
15 expiration of the current franchise agreement, to
16 enter into a new franchise agreement with the
17 dealer;

18 (B) Has required any dealer in the State to enter
19 into any agreement with the manufacturer or
20 distributor or any other party, to perform any
21 act not required by or to refrain from performing



1 any act not contrary to the reasonable
2 requirements of the franchise agreement with the
3 dealer, by awarding or threatening to award a
4 franchise to another person for the sale of the
5 same make of any motor vehicle in the relevant
6 market area of a dealer;

7 (C) Has canceled or failed to renew the franchise
8 agreement of any dealer in the State without good
9 faith, as defined herein. As used in this
10 subparagraph, "good faith" means the duty of each
11 party to any franchise agreement to fully comply
12 with that agreement, or to act in a fair and
13 equitable manner towards each other;

14 (D) Has delayed delivery of or refused to deliver
15 without cause, any new motor vehicle to a dealer,
16 franchised to sell the new motor vehicle, within
17 a reasonable time after receipt of a written
18 order for the vehicle from the dealer. The
19 delivery to another dealer of a motor vehicle of
20 the same model and similarly equipped as the
21 vehicle ordered by a dealer who has not received



1 delivery thereof, but who had placed the written
2 order for the vehicle prior to the order of the
3 dealer receiving the vehicle, shall be prima
4 facie evidence of a delayed delivery of, or
5 refusal to deliver, a new motor vehicle without
6 cause. The nondelivery of a new motor vehicle to
7 a dealer within sixty days after receipt of a
8 written order for the vehicle from a dealer shall
9 also be prima facie evidence of delayed delivery
10 of, or refusal to deliver, a new motor vehicle
11 without cause; provided that the delayed delivery
12 of, or refusal to deliver, a motor vehicle shall
13 be deemed with cause if the manufacturer
14 establishes that the delay or refusal to deliver
15 is due to a shortage or curtailment of material,
16 labor, transportation, utility service, labor or
17 production difficulty, or other similar cause
18 beyond the reasonable control of the
19 manufacturer;

20 (E) Has discriminated against any of their franchised
21 dealers in the State by directly or indirectly



1 charging the dealer more for a new motor vehicle
2 or services, parts, or accessories or a higher
3 rate of transportation for transporting the
4 vehicle from the manufacturing or assembly plant
5 to the dealer or any portion of the distance,
6 than is charged to any other of their franchised
7 dealers in the State for the same make, model,
8 and year of a new motor vehicle or for the same
9 devices, parts, or accessories for the similar
10 transportation for the vehicle during the same
11 period. A manufacturer or distributor who
12 provides or causes to be provided greater
13 transportation benefits for a new motor vehicle
14 as aforesaid to any of their franchised dealers
15 in the State than is provided to any of their
16 competing franchised dealers in the State for the
17 same or lesser price or charge than that imposed
18 upon the franchised dealer in the State during
19 the same period is deemed to have so
20 discriminated against the competing franchised
21 dealer in the State. Evidence of similar



1 discriminatory practice against franchised
2 dealers in other states shall not constitute a
3 defense to or justification of the commission of
4 the discriminatory act against the franchised
5 dealer in the State. The intent and purpose of
6 this subparagraph is to eliminate inequitable
7 pricing policies set by manufacturers or
8 distributors which result in higher prices of new
9 motor vehicles to the consumer in the State.
10 This subparagraph shall be liberally interpreted
11 to effectuate its intent and purpose and in the
12 application thereof, the substance and effect and
13 not the form of the acts and transactions shall
14 be primarily considered in determining whether a
15 discriminatory act has been committed. Nothing
16 contained in this subparagraph shall prohibit
17 establishing delivered prices or destination
18 charges to dealers in the State which reasonably
19 reflect the seller's total transportation costs
20 incurred in the manufacture or delivery of
21 products to the dealers, including costs that are



1 related to the geographical distances and modes
2 of transportation involved in shipments to this
3 State, or which meet those lower prices
4 established by competitors;

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



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

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



1 (I) Has wilfully defaced, or removed the vehicle
2 bumper impact notice required by section 437-
3 4.5(a) prior to delivery of the vehicle to which
4 the notice is required to be affixed to the
5 registered owner or lessee. Each wilful
6 defacement, alteration, or removal is a separate
7 offense; ~~[or]~~

8 (J) Has required a dealer to refrain from
9 participation in the management of, investment
10 in, or the acquisition of, any other line of new
11 motor vehicle or related products; provided that
12 the new motor vehicle dealer maintains a
13 reasonable line of credit consistent with the
14 requirements of section 437-7(d)(1) for each make
15 or line of new motor vehicle, remains in
16 compliance with reasonable facilities and other
17 franchise requirements of the manufacturer or
18 distributor, and makes no unauthorized change in
19 the principal management of the dealer~~[-]~~; or

20 (K) Has issued a stop sale directive applicable to a
21 used vehicle manufactured or distributed by the



1 manufacturer or distributor to a dealer that
2 holds a franchise from the manufacturer or
3 distributor if:

4 (i) There are no remedies or parts available to
5 fix the motor vehicle; and

6 (ii) The manufacturer or distributor failed to
7 compensate any dealer by providing payment
8 to the dealer at a rate of at least 1.75 per
9 cent per month, or portion of a month, of
10 the value of a vehicle.

11 For the purposes of this subparagraph, the value
12 of a recalled vehicle shall be determined to be
13 the average trade-in value for used vehicles as
14 indicated by an independent third party guide for
15 the year, make, model, and mileage of the
16 recalled vehicle. The compensation shall be
17 calculated from the thirty-first day after the
18 recall was issued or the thirty-first day after
19 the vehicle was acquired by the dealer, whichever
20 is later. The manufacturer or distributor shall
21 pay the required compensation within thirty days



1 after the motor vehicle's application for payment
2 and continue payment until parts are available to
3 fix the motor vehicle."

4 SECTION 3. Section 437-52, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~f~~]§437-52[~~f~~] Reciprocal rights and obligations among
7 dealers, manufacturers, and distributors of motor vehicles. A
8 manufacturer or distributor shall not:

- 9 (1) Require any dealer in the State to enter into any
10 agreement with the manufacturer or distributor or any
11 other party that requires the law of another
12 jurisdiction to apply to any dispute between the
13 dealer and manufacturer or distributor, or requires
14 that the dealer bring an action against the
15 manufacturer or distributor in a venue outside of
16 Hawaii, or requires the dealer to agree to arbitration
17 or waive its rights to bring a cause of action against
18 the manufacturer or distributor, unless done in
19 connection with a settlement agreement to resolve a
20 matter or pending dispute between a manufacturer or
21 distributor, or officer, agent, or other



1 representative thereof, and the dealer; provided,
2 however, that such agreement has been entered
3 voluntarily for adequate and valuable consideration;
4 and provided further that the renewal or continuation
5 of a franchise agreement shall not by itself
6 constitute adequate and valuable consideration;

7 (2) Require any dealer in the State to enter into any
8 agreement with the manufacturer or distributor or any
9 other party, to prospectively assent to a release,
10 assignment, novation, waiver, or estoppel, which
11 instrument or document operates, or is intended by the
12 applicant or licensee to operate, to relieve any
13 person from any liability or obligation of this
14 chapter, unless done in connection with a settlement
15 agreement to resolve a matter or pending dispute
16 between a manufacturer or distributor, or officer,
17 agent, or other representative thereof, and the
18 dealer; provided, however, that such agreement has
19 been entered voluntarily for adequate and valuable
20 consideration; and provided further that the renewal



1 or continuation of a franchise agreement shall not by
2 itself constitute adequate and valuable consideration;

3 (3) Cancel or fail to renew the franchise agreement of any
4 dealer in the State without providing notice, and
5 without good cause and good faith, as provided in
6 section 437-58;

7 (4) Refuse or fail to offer an incentive program, bonus
8 payment, holdback margin, or any other mechanism that
9 effectively lowers the net cost of a vehicle to any
10 franchised dealer in the State if the incentive,
11 bonus, or holdback is made to one or more same line
12 make dealers in the State;

13 (5) Unreasonably prevent or refuse to approve the
14 relocation of a dealership to another site within the
15 dealer's relevant market area. The dealer shall
16 provide the manufacturer or distributor with notice of
17 the proposed address and a reasonable site plan of the
18 proposed location. The manufacturer or distributor
19 shall approve or deny the request in writing no later
20 than sixty days after receipt of the request. Failure



1 to deny the request within sixty days constitutes
2 approval;

3 (6) Require a dealer to construct, renovate, or make
4 substantial alterations to the dealer's facilities
5 unless the manufacturer or distributor can demonstrate
6 that such construction, renovation, or alteration
7 requirements are reasonable and justifiable based on
8 reasonable business considerations, including current
9 and reasonably foreseeable projections of economic
10 conditions existing in the automotive industry at the
11 time such action would be required of the dealer, and
12 agrees to make a good faith effort to make available,
13 at the dealer's option, a reasonable quantity and mix
14 of new motor vehicles, which, after a reasonable
15 analysis of market conditions, are projected to meet
16 the sales level necessary to support the increased
17 overhead incurred by the dealer as a result of the
18 required construction, renovation, or alteration;
19 provided, however, that a dealer may be required by a
20 manufacturer or distributor to make reasonable
21 facility improvements and technological upgrades



1 necessary to support the technology of the
2 manufacturer's or distributor's vehicles. If the
3 dealer chooses not to make such facility improvements
4 or technological upgrades, the manufacturer or
5 distributor shall not be obligated to provide the
6 dealer with the vehicles which require the
7 improvements or upgrades[+]. A dealer that has
8 completed facility construction, renovation, or
9 substantial alteration, shall be deemed to be in
10 compliance with any facility component of a
11 manufacturer or distributor incentive program during
12 the ten year period following the completion of the
13 upgrade and shall be eligible for all facility-related
14 incentives and benefits during the ten year period
15 following the upgrade's completion; provided that no
16 changes have been made to the facility since the
17 manufacturer's or distributor's approval that would
18 render the facility substantially non-compliant,
19 regardless of whether the manufacturer's or
20 distributor's image or program has changed. Facility
21 changes that are necessitated due to damage sustained



1 from a natural disaster or as a result of necessary
2 safety upgrades shall not be considered a change to
3 the facility that renders the facility substantially
4 non-compliant. Eligibility for facility-related
5 incentives under this paragraph shall not apply to
6 lump-sum payments so long as the compensation relates
7 to the cost of the facility upgrade and is not paid on
8 a per vehicle basis;

- 9 (7) Require the dealer to establish or maintain an
10 exclusive showroom or facility unless justified by
11 current and reasonably expected future economic
12 conditions existing in the dealer's market and the
13 automobile industry at the time the request for an
14 exclusive showroom or facility is made; provided that
15 the foregoing shall not restrict the terms and
16 conditions of any agreement for which the dealer has
17 voluntarily accepted separate and valuable
18 consideration;
- 19 (8) Condition the award of an additional franchise on the
20 dealer entering a site control agreement or the dealer
21 waiving its rights to protest the manufacturer's or



1 distributor's award of an additional franchise within
2 the dealer's relevant market area; provided that the
3 foregoing shall not restrict the terms and conditions
4 of any agreement for which the dealer has voluntarily
5 accepted separate and valuable consideration;

6 (9) Require a dealer or the dealer's employees to attend a
7 training program that does not relate directly to the
8 sales or service of a new motor vehicle in the line
9 make of that sold or serviced, or both, by the dealer;

10 (10) Require a dealer to pay all or part of the cost of an
11 advertising campaign or contest, or purchase any
12 promotional materials, showroom, or other display
13 decorations or materials at the expense of the dealer
14 without the consent of the dealer, which consent shall
15 not be unreasonably withheld;

16 (11) Implement or establish a customer satisfaction index
17 or other system measuring a customer's degree of
18 satisfaction with a dealer as a sale or service
19 provider unless any such system is designed and
20 implemented in such a way that is fair and equitable
21 to both the manufacturer and the dealer. In any



1 dispute between a manufacturer, distributor, and a
2 dealer, the party claiming the benefit of the system
3 as justification for acts in relation to the franchise
4 shall have the burden of demonstrating the fairness
5 and equity of the system both in design and
6 implementation in relation to the pending dispute.

7 Upon request of any dealer, a manufacturer or
8 distributor shall disclose in writing to such dealer a
9 description of how that system is designed and applied
10 to such dealer;

11 (12) Implement or establish an unreasonable, arbitrary, or
12 unfair sales or other performance standard in
13 determining a dealer's compliance with a franchise
14 agreement[+]. A performance standard is deemed
15 unreasonable, arbitrary, or unfair if the standard
16 does not include all relevant local market factors
17 including but not limited to market demographics,
18 change in population, product popularity, number of
19 competitor dealers, the geographic configuration of
20 the dealer's assigned territory as set forth in the



1 franchise agreement, and consumer travel patterns;

2 [~~or~~]

3 (13) Implement or establish a system of motor vehicle
4 allocation or distribution to one or more of its
5 dealers that is unfair, inequitable, or unreasonably
6 discriminatory. As used in this paragraph, "unfair"
7 includes without limitation, requiring a dealer to
8 accept new vehicles not ordered by the dealer or the
9 refusal or failure to offer to any dealer all models
10 offered to its other same line make dealers in the
11 State. The failure to deliver any motor vehicle shall
12 not be considered a violation of this section if such
13 failure is due to an act of God, work stoppage, or
14 delay caused by a strike or labor difficulty, shortage
15 of products or materials, freight delays, embargo, or
16 other causes of which the motor vehicle franchisor
17 shall have no control. Notwithstanding the foregoing,
18 a dealer may be required by a manufacturer or
19 distributor to make reasonable facility improvements
20 and technological upgrades necessary to support the
21 technology of the manufacturer's or distributor's



1 vehicles. If the dealer chooses not to make such
2 facility improvements or technological upgrades, the
3 manufacturer or distributor shall not be obligated to
4 provide the dealer with the vehicles which require the
5 improvements or upgrades[-];

6 (14) Require a dealer that is constructing, renovating, or
7 substantially altering its dealership facility to
8 purchase goods, building materials, or services for
9 the dealership facilities including but not limited to
10 office furniture, design features, flooring, and wall
11 coverings from a vendor chosen by the manufacturer or
12 distributor, if goods, building materials, or services
13 of substantially similar appearance, function, design,
14 and quality are available from other sources, and the
15 franchised motor vehicle dealer has received the
16 manufacturer or distributor's approval. The approval
17 shall not be unreasonably withheld or delayed. In the
18 event that a manufacturer or distributor does not
19 approve the dealer's use of substantially similar
20 items, the manufacturer or distributor shall, at the
21 time of disapproval, provide the dealer with a



1 detailed list of reasons in writing as to why the
2 proposed alternative items are not acceptable.

3 Nothing in this paragraph shall be construed to allow
4 a franchised motor vehicle dealer to impair or
5 eliminate a manufacturer or distributor's intellectual
6 property or trademark rights and trade dress usage
7 guidelines, or to impair other intellectual property
8 interests owned or controlled by the manufacturer or
9 distributor, including the design and use of signs; or

10 (15) Require a dealer to provide its customer and
11 prospective customer information, customer lists,
12 service files, transaction data, or other proprietary
13 business information, or access to the dealer's data
14 management system unless:

15 (A) Written consent is provided by the dealer,

16 (B) The customer information is for the sale and
17 delivery of a new motor vehicle to a consumer; or

18 (C) The information is provided to validate and pay
19 consumer or dealer incentives, for evaluation of
20 dealer performance, for analytics, or for
21 submission to the manufacturer for any services



1 supplied by the dealer for any claim for warranty
2 parts or repairs.

3 Nothing in this paragraph shall limit the
4 manufacturer's ability to require or use customer
5 information to satisfy any safety or recall notice
6 obligation or other legal obligation. Notwithstanding
7 the foregoing, a manufacturer or distributor shall not
8 release or cause to be released a dealer's nonpublic
9 customer information to another dealer unless the
10 franchise has been terminated, or to any other third
11 party unless the manufacturer or distributor provides
12 the dealer with written notice in advance of the third
13 party that the manufacturer or distributor intends to
14 distribute the information and the dealer provides
15 written consent for such release of information.

16 A manufacturer or distributor shall not condition
17 participation in or eligibility for an incentive or
18 bonus program upon the dealer providing such customer
19 and prospective customer information, customer lists,
20 service files, transaction data, or other proprietary
21 business information.



1 A manufacturer or distributor shall not determine
2 compliance with the franchise agreement based upon the
3 dealer providing access to the information described
4 in this subsection. To the extent that a manufacturer
5 or distributor accesses the dealer's data management
6 system, the manufacturer or distributor shall
7 reimburse the dealer for any and all costs imposed on
8 the dealer by the data management system provider
9 associated with the dealer providing access to the
10 manufacturer or distributor. Notwithstanding the
11 terms or conditions of any consent or franchise, every
12 manufacturer, distributor, or third party acting on
13 behalf of or through any manufacturer or distributor,
14 having electronic access to consumer or customer data
15 or other information in a data management system
16 utilized by a dealer, or who has otherwise been
17 provided consumer or customer data or information by
18 the dealer, shall fully indemnify and hold harmless
19 any dealer from whom it has acquired such consumer or
20 customer data or other information from all damages,
21 costs, and expenses incurred by such dealer. Such



indemnification by the manufacturer or distributor
includes, but is not limited to judgments,
settlements, fines, penalties, litigation costs,
defense costs, court costs, costs related to the
disclosure of security breaches, and attorneys' fees
arising out of complaints, claims, civil or
administrative actions, and, to the fullest extent
allowable under the law, governmental investigations
and prosecutions to the extent caused by a security
breach or the access, storage, maintenance, use,
sharing, disclosure, or retention of such dealer's
consumer or customer data or other information, or
maintenance or services provided to any data
management system utilized by a dealer."

SECTION 4. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Motor Vehicle Industry Licensing Act; Dealers; Manufacturers;
Distributors

Description:

Allows a licensed motor vehicle dealer to engage in business at multiple locations affiliated by common ownership within the same county. Authorizes revocation, suspension, or denial of a manufacturer's or distributor's license or fines for failure to compensate a dealer for a recalled vehicle. Clarifies the rights and obligations of dealers, manufacturers, and distributors with respect to improvements and upgrades on dealers' facilities, dealers' performance standards, and access to dealers' business information. (HB2433 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

