

2025 -- H 5590

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

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A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- REGULATION OF BUSINESS PRACTICES AMONG MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS

Introduced By: Representatives Solomon, Casey, and Finkelman

Date Introduced: February 26, 2025

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 31-5.1-4.1, 31-5.1-4.2, 31-5.1-5, 31-5.1-6, 31-5.1-6.1, 31-5.1-8, 31-
2 5.1-11, 31-5.1-18, 31-5.1-19 and 31-5.1-21 of the General Laws in Chapter 31-5.1 entitled
3 "Regulation of Business Practices Among Motor Vehicle Manufacturers, Distributors, and
4 Dealers" are hereby amended to read as follows:

5 **31-5.1-4.1. Dealership — Survivorship.**

6 (a)(1) Right of designated family member to succeed in dealership ownership. Any owner
7 of a new motor vehicle dealership may appoint by will or any other written instrument a designated
8 family member to succeed in the ownership interest of that owner in the new motor vehicle
9 dealership.

10 (2) Unless there exists good cause for refusal to honor that succession on the part of the
11 manufacturer, ~~or distributor,~~ or factory branch, any designated family member of a deceased or
12 incapacitated owner of a new motor vehicle dealer may succeed to the ownership of the new motor
13 vehicle dealer under the existing franchise provided that:

14 (i) The designated family member gives the manufacturer, ~~or distributor,~~ or factory branch
15 written notice of his or her intention to succeed to the ownership of the new motor vehicle dealer
16 within one hundred twenty (120) days of the owner's death or incapacity;

17 (ii) The designated family member agrees to be bound by all the terms and conditions of
18 the franchise; and

1 (iii) The designated family member shall not operate the dealership unless he or she meets
2 the then-current criteria generally applied by the manufacturer, ~~or distributor,~~ or factory branch in
3 qualifying dealer-operators.

4 (3) The manufacturer, ~~or distributor,~~ or factory branch may request, and the designated
5 family member shall provide, promptly upon the request, personal and financial data that is
6 reasonably necessary to determine whether the succession should be honored.

7 (b) Refusal to honor succession to ownership — *Notice required.*

8 (1) If a manufacturer, ~~or distributor,~~ or factory branch believes that good cause exists for
9 refusing to honor the succession to the ownership of a new motor vehicle dealer by a family member
10 of a deceased or incapacitated owner of a new motor vehicle dealer under the existing franchise
11 agreement, the manufacturer, ~~or distributor,~~ or factory branch may, not more than sixty (60) days
12 following receipt of:

13 (i) Notice of the designated family member's intent to succeed to the ownership of the new
14 motor vehicle dealer; or

15 (ii) Any personal or financial data which it has requested, serve upon the designated family
16 member and the department of revenue notice of its refusal to honor the succession and of its intent
17 to discontinue the existing franchise with the dealer no sooner than ninety (90) days from the date
18 the notice is served.

19 (2) The notice must state the specific grounds for the refusal to honor the succession and
20 of the manufacturer's, ~~or distributor's,~~ or factory branch's intent to discontinue the existing franchise
21 with the new motor vehicle dealer no sooner than ninety (90) days from the date the notice is served.

22 (3) If notice of refusal and discontinuance is not timely served upon the family member,
23 the franchise shall continue in effect subject to termination only as otherwise permitted by this
24 chapter.

25 (c) Written designation of succession unaffected. This chapter does not preclude the owner
26 of a new motor vehicle dealership from designating any person as the owner's successor by written
27 instrument filed with the manufacturer, ~~or distributor,~~ or factory branch and, in the event there is a
28 conflict between that written instrument and the provisions of this section, the written instrument
29 shall govern.

30 **31-5.1-4.2. Establishing new dealerships and relocating existing dealerships.**

31 (a) In the event that a manufacturer, distributor or factory branch seeks to enter into a
32 franchise establishing an additional new motor vehicle dealership, adding an additional location for
33 an existing new motor vehicle dealership, or relocating an existing new motor vehicle dealership
34 within or into a relevant market area where the same line or make is then represented, except when

1 the corporation operating the new motor vehicle dealership contains one or more officers who were
2 also officers of a dealership operating at the same location as the new motor vehicle dealership
3 immediately prior to the establishment of the new motor vehicle dealership, the manufacturer,
4 [distributor or factory branch](#) shall in writing by certified mail first notify the department and each
5 new motor vehicle dealer in the same line or make in the relevant market area of the intention to
6 establish an additional dealership to add an additional location for an existing new motor vehicle
7 dealership, or to relocate an existing dealership within or into that market area. Within thirty (30)
8 days of receiving notice or within thirty (30) days after the end of any appeal procedure provided
9 by the manufacturer, [distributor or factory branch](#), any affected new motor vehicle dealership may
10 file with the department a protest to the establishing or relocating of the new motor vehicle
11 dealership or adding an additional location for an existing new motor vehicle dealership. When a
12 protest is filed, the department shall inform the manufacturer, [distributor or factory branch](#) that a
13 timely protest has been filed, and that the manufacturer, [distributor or factory branch](#) shall not
14 establish or relocate the proposed new motor vehicle dealership or add the proposed additional
15 location for an existing new motor vehicle dealership until the department has held a hearing, nor
16 until the department has determined that there is good cause for not permitting the new motor
17 vehicle dealership. For the purposes of this section, the reopening in a relevant market area of a
18 new motor vehicle dealership shall be deemed the establishment of an additional new motor vehicle
19 dealership.

20 (b) In determining whether good cause has been established for entering into or relocating
21 an additional franchise for the same line or make, or adding an additional location for an existing
22 new motor vehicle dealership, the department shall take into consideration the existing
23 circumstances, including, but not limited to:

24 (1) Permanence of the investment of the existing new motor vehicle dealer(s) in the
25 community;

26 (2) Whether the new motor vehicle dealers of the same line or make in that relevant market
27 area are providing adequate consumer care for the motor vehicles of the line or make in the market
28 area which shall include the adequacy of motor vehicle sales and service facilities, equipment,
29 supply of motor vehicle parts, and qualified service personnel;

30 (3) Whether there is reasonable evidence that after the granting of the new motor vehicle
31 dealership, that the market would support all of the dealerships of that line or make in the relevant
32 market area;

33 (4) Whether it is injurious to the public welfare for an additional new motor vehicle
34 dealership to be established;

1 (5) The growth or decline in population and new motor vehicle registrations during the past
2 five (5) years in the relevant market area;

3 (6) Whether the manufacturer, [distributor or factory branch](#) is motivated principally by
4 good faith to establish an additional or new motor vehicle dealer and not by non-economic
5 considerations;

6 (7) Whether the manufacturer, [distributor or factory branch](#) has denied its existing new
7 motor vehicle dealers of the same line or make the opportunity for reasonable growth, market
8 expansion, or relocation;

9 (8) The reasonably expected or anticipated vehicle market for the relevant market area,
10 including demographic factors such as age of population, income, size class preference, product
11 popularity, retail lease transactions, or other factors affecting sales to consumers in the relevant
12 market area;

13 (9) Growth or decline in population, density of population, and new car registrations in the
14 relevant market area;

15 (10) Distance, travel time, traffic patterns, and accessibility between the existing new
16 dealership of the same new line make and the location of the proposed new or relocated dealership;

17 (11) The amount of business transacted by existing new motor vehicle dealers of the line
18 or make when compared with the amount of business available to them;

19 (12) Whether the existing new motor vehicle dealers of the line or make are receiving
20 vehicles and parts in quantities promised by the manufacturer, factory branch or distributor and on
21 which promised quantities existing new motor vehicle dealers based their investment and scope of
22 operations.

23 (c) Any parties to a hearing by the department concerning the establishing or relocating of
24 a new motor vehicle dealership or adding an additional location for an existing new motor vehicle
25 dealership shall have a right to a review of the decision in a court of competent jurisdiction.

26 (d) At any hearing conducted by the department under this section, the manufacturer or
27 dealer seeking to establish an additional new motor vehicle dealership, relocate an existing new
28 motor vehicle dealership, or add an additional location for an existing new motor vehicle dealership
29 shall bear the burden of proof in establishing that good cause exists for it.

30 (e) Every person, firm or corporation who prior to the retail sale of a motor vehicle,
31 converts or otherwise assembles, installs or affixes a body, cab or special equipment to a chassis or
32 who adds to, subtracts from or modifies a previously assembled or manufactured motor vehicle
33 shall be required to comply with the requirements of this section.

34 **31-5.1-5. Delivery obligations.**

1 Every manufacturer, [distributor or factory branch](#) shall specify to the dealer the delivery
2 and preparation obligations of its motor vehicle dealers prior to delivery of new motor vehicles to
3 retail buyers. A copy of the delivery and preparation obligations of its motor vehicle dealers, and a
4 schedule of the compensation to be paid to its motor vehicle dealers for the work and services they
5 shall be required to perform in connection with the delivery and preparation obligations, shall be
6 filed with the department by every motor vehicle manufacturer, [distributor or factory branch](#), and
7 shall constitute the dealer's only responsibility for product liability as between the dealer and the
8 manufacturer. The compensation as set forth on the schedule shall be in accordance with §§ 6A-2-
9 329 and 31-5.1-6.

10 **31-5.1-6. Warranty agreement.**

11 (a) Every manufacturer, [distributor or factory branch](#) shall properly fulfill any warranty
12 agreement and adequately and fairly compensate each of its motor vehicle dealers for labor and
13 parts. In no event shall that compensation fail to include reasonable compensation for diagnostic
14 work, as well as repair service and labor. All claims made by motor vehicle dealers for labor and
15 parts shall be paid in accord with the provisions of this section. [Every manufacturer, distributor or
16 factory branch shall allow not less than one hundred eighty \(180\) days for its new motor vehicle
17 dealers to submit claims for reimbursement for such service required of the dealers by the
18 manufacturer, distributor or factory branch.](#) Any delay in payment after approval or disapproval
19 that is caused by conditions beyond the reasonable control of the manufacturer, [distributor or
20 factory branch](#) shall not constitute a violation of this section. Reimbursement for warranty repairs,
21 ~~or~~ [diagnostic, campaign service, authorized goodwill, directive or bulletin repairs, or manufacturer
22 or distributor required repairs pursuant to a maintenance plan, extended warranty, certified pre-
23 owned warranty, recall, parts exchange program, or a service contract that is issued by the
24 manufacturer, distributor, factory branch, common entity, or agent of the manufacturer, distributor
25 or factory branch](#) work shall be at the dealer retail rate in effect at the time the warranty repair or
26 diagnostic work is performed. Compensation for parts used in warranty service shall be fair and
27 reasonable, as determined by methods described in subsection (b). Compensation for labor used in
28 warranty service shall be fair and reasonable, as determined by methods described in subsection
29 (c).

30 (b) The retail rate customarily charged by the dealer for parts shall be established by the
31 dealer submitting to the manufacturer, ~~or~~ [distributor, or factory branch](#) one hundred (100)
32 sequential non-warranty customer-paid service repair orders that contain warranty-like parts, or
33 sixty (60) consecutive days of non-warranty customer-paid service repair orders that contain
34 warranty-like parts, whichever is less, covering repairs made no more than one hundred eighty

1 (180) days before the submission and declaring the average percentage markup. The average of the
2 markup rates shall be presumed to be fair and reasonable, however, a manufacturer, ~~or~~ distributor,
3 or factory branch may, not later than thirty (30) days after submission, rebut that presumption by
4 reasonably substantiating that the rate is unfair and unreasonable in light of the ~~practices of~~
5 advertised retail rates charged to retail customers for warranty-like repairs by all other franchised
6 motor vehicle dealers in the ~~vicinity~~ relevant market area offering the same line-make vehicles. The
7 retail rate shall go into effect thirty (30) days following the declaration, subject to audit of the
8 submitted repair orders by the franchisor and a rebuttal of the declared rate as described above. If
9 the declared rate is rebutted, the manufacturer, ~~or~~ distributor, or factory branch shall propose an
10 adjustment of the average percentage markup based on that rebuttal not later than thirty (30) days
11 after submission. If the dealer does not agree with the proposed average percentage markup, the
12 dealer may file a protest with the department not later than thirty (30) days after receipt of that
13 proposal by the manufacturer, ~~or~~ distributor, or factory branch. If the protest is filed, the department
14 shall inform the manufacturer, ~~or~~ distributor, or factory branch that a timely protest has been filed
15 and that a hearing will be held on the protest. In any hearing held pursuant to this subsection, the
16 manufacturer, ~~or~~ distributor, or factory branch shall have the burden of proving that the rate
17 declared by the dealer was unfair and unreasonable as described in this subsection and that the
18 proposed adjustment of the average percentage markup is fair and reasonable pursuant to the
19 provisions of this subsection.

20 (c) The retail rate customarily charged by the dealer for non-warranty labor may be
21 established by submitting to the manufacturer, ~~or~~ distributor, or factory branch all non-warranty
22 customer-paid service repair orders covering repairs made during the month prior to the submission
23 and dividing the amount of the dealer's total labor sales by the number of total labor hours that
24 generated those sales. Compensation for warranty labor shall equal the dealer's effective non-
25 warranty labor rate multiplied by the time guide used by the dealer for non-warranty customer-paid
26 service repair orders. If no time guide exists for a warranty repair, compensation for warranty labor
27 shall equal the dealer's effective non-warranty labor rate multiplied by the time actually spent to
28 complete the repair order and shall not be less than the time charged to retail customers for the
29 same or similar work performed. The average labor rate shall be presumed to be fair and reasonable,
30 provided a manufacturer, ~~or~~ distributor, or factory branch may, not later than thirty (30) days after
31 submission, rebut the presumption by reasonably substantiating that the rate is unfair and
32 unreasonable in light of the practices of all other franchised motor vehicle dealers in the vicinity
33 offering the same line-make vehicles. The average labor rate shall go into effect thirty (30) days
34 following the declaration, subject to audit of the submitted repair orders by the franchisor and a

1 rebuttal of the declared rate. If the declared rate is rebutted, the manufacturer, ~~or~~ distributor, or
2 factory branch shall propose an adjustment of the average labor rate based on the rebuttal not later
3 than thirty (30) days after submission. If the dealer does not agree with the proposed average labor
4 rate, the dealer may file a protest with the department not later than thirty (30) days after receipt of
5 that proposal by the manufacturer, ~~or~~ distributor, or factory branch. If a protest is filed, the
6 department shall inform the manufacturer, ~~or~~ distributor, or factory branch that a timely protest has
7 been filed and that a hearing will be held on the protest. In any hearing held pursuant to this
8 subsection, the manufacturer, ~~or~~ distributor, or factory branch shall have the burden of proving that
9 the rate declared by the dealer was unfair and unreasonable as described in this subsection and that
10 the proposed adjustment of the average labor rate is fair and reasonable pursuant to the provisions
11 of this subsection.

12 (d) In calculating the retail rate customarily charged by the dealer for parts and labor, the
13 following work shall not be included in the calculation:

14 (1) Repairs for manufacturer, ~~or~~ distributor, or factory branch special events, specials, or
15 promotional discounts for retail customer repairs;

16 (2) Parts sold at wholesale;

17 (3) Engine assemblies and transmission assemblies;

18 (4) Routine maintenance not covered under any retail customer warranty, such as fluids,
19 filters, and belts not provided in the course of repairs;

20 (5) Nuts, bolts, fasteners, and similar items that do not have an individual part number;

21 (6) Tires; and

22 (7) Vehicle reconditioning.

23 (e) If a manufacturer, ~~or~~ distributor, or factory branch furnishes a part or component to a
24 dealer at no cost, to use in performing repairs under a recall, campaign service action, or warranty
25 repair, the manufacturer, ~~or~~ distributor, or factory branch shall compensate the dealer for the part
26 or component in the same manner as warranty parts compensation under this section by
27 compensating the dealer the average markup on the cost for the part or component as listed in the
28 manufacturer's, ~~or~~ distributor's, or factory branch's price schedule less the cost for the part or
29 component.

30 (f) A manufacturer, ~~or~~ distributor, or factory branch may not require a dealer to establish
31 the retail rate customarily charged by the dealer for parts and labor by an unduly burdensome or
32 time-consuming method or by requiring information that is unduly burdensome or time consuming
33 to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. A
34 dealer may not declare an average percentage markup or average labor rate more than twice in one

1 calendar year.

2 (g) A manufacturer, ~~or distributor,~~ or factory branch may not otherwise recover its costs
3 from dealers within this state, including an increase in the wholesale price of a vehicle or surcharge
4 imposed on a dealer solely intended to recover the cost of reimbursing a dealer for parts and labor
5 pursuant to this section, provided a manufacturer, ~~or distributor,~~ or factory branch shall not be
6 prohibited from increasing prices for vehicles or parts in the normal course of business.

7 (h) ~~Each manufacturer or distributor shall perform all warranty obligations, include in~~
8 ~~written notices of factory recalls to owners and dealers the expected date by which necessary parts~~
9 ~~and equipment will be available to dealers for the correction of the defects, and compensate dealers~~
10 ~~for repairs necessitated by such recall.~~

11 (i) A claim filed under this section or § 31-5.1-6.1 by a dealer with a manufacturer, ~~or~~
12 distributor, or factory branch shall be:

13 (1) In the manner and form prescribed by the manufacturer, ~~or distributor,~~ or factory
14 branch; and

15 (2)(i) Approved or disapproved within (30) days of receipt.

16 (ii) A claim not approved or disapproved within thirty (30) days of receipt shall be deemed
17 approved.

18 (iii) Payment of, or credit issued on, a claim filed under this section shall be made within
19 thirty (30) days of approval.

20 (3)(i) If a claim filed under this section is shown by the manufacturer, ~~or distributor,~~ or
21 factory branch to be false or unsubstantiated, the manufacturer, ~~or distributor,~~ or factory branch
22 may charge back the claim within twelve (12) months from the date the claim was paid or credit
23 issued.

24 (ii) A manufacturer, ~~or distributor,~~ or factory branch shall not charge back a claim based
25 solely on a motor vehicle dealer's incidental failure to comply with a specific claim processing
26 requirement, such as a clerical error or other administrative technicality that does not put into
27 question the legitimacy of the claim after the motor vehicle dealer properly resubmits the claim in
28 accordance with the manufacturer's, ~~distributor's,~~ or factory branch's submission guidelines.

29 (iii) A dealer shall have no less than sixty (60) days from the date of written notification
30 by a manufacturer, ~~or distributor,~~ or factory branch of a proposed charge back ~~to the~~ by certified
31 United States mail, return receipt requested, identifying the specific claim documentation procedure
32 or procedures violated by the dealer to resubmit a claim for payment or compensation if the claim
33 was denied for a dealer's incidental failure as set forth in subsection (i)(3)(ii) of this section,
34 ~~whether the chargeback was a direct or an indirect transaction.~~

1 (iv) This subdivision does not limit the right of a manufacturer, ~~or~~ distributor, or factory
2 branch to charge back for any claim that is proven to be fraudulent.

3 **31-5.1-6.1. Obligations during recalls.**

4 (a) A manufacturer, distributor, or factory branch shall compensate its new motor vehicle
5 dealers for all labor and parts required by the manufacturer, distributor, or factory branch to perform
6 recall repairs. Compensation for recall repairs shall be at the dealer retail rate in effect at the time
7 the recall repair work is performed. The dealer retail rate for parts and labor shall be at the same
8 rates as those provided for under § 31-5.1-6. If parts or a remedy are not reasonably available to
9 perform a recall service or repair on a used vehicle held for sale by the dealer authorized to sell
10 new vehicles of the same line-make within thirty (30) days of the manufacturer, distributor, or
11 factory branch issuing the initial notice of recall and the manufacturer, distributor, or factory branch
12 has issued a “Stop-Sale,” or “Do-Not-Drive,” order on the vehicle, the manufacturer, distributor,
13 or factory branch shall compensate the dealer at a rate of at least one and one-half percent (1.5%)
14 of the value of the vehicle per month, or portion of a month, while the recall or remedy parts are
15 unavailable and the “Stop-Sale,” or “Do-Not-Drive,” order remains in effect. A “Stop-Sale” shall
16 be defined as a notification issued by a vehicle manufacturer, distributor, or factory branch to its
17 franchised dealerships stating that certain used vehicles in inventory shall not be sold or leased, at
18 retail and/or wholesale, due to a federal safety recall for a defect or a noncompliance, or a federal
19 or California emissions recall.

20 (b) The value of a used vehicle shall be the average trade-in value for used vehicles as
21 indicated in an independent, third-party guide for the year, make, model, and mileage of the recalled
22 vehicle on the later of:

- 23 (1) The date the “Stop-Sale” or “Do-Not-Drive” order was issued; or
- 24 (2) The date the vehicle is taken in the used motor vehicle inventory.

25 (c) This section shall apply only to used vehicles subject to safety or emissions recalls
26 pursuant to and recalled in accordance with federal law and regulations adopted thereunder and
27 where a “Stop-Sale,” or “Do-Not-Drive,” order has been issued; provided, further, that this section
28 shall apply only to new motor vehicle dealers holding used vehicles for sale that are a line-make
29 that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs.
30 This section further shall apply only to new motor vehicle dealers holding an affected used motor
31 vehicle for sale that was:

- 32 (1) In inventory at the time the “Stop-Sale” or “Do-Not-Drive” order was issued;
- 33 (2) Taken in the used motor vehicle inventory of the new motor vehicle dealer as a
34 consumer trade-in incident to the purchase of a new motor vehicle before or after the “Stop-Sale”

1 or “Do-Not-Drive” order was issued; or

2 (3) Properly taken in the used motor vehicle inventory of the new motor vehicle dealer as
3 a lease return vehicle returned to the new motor vehicle dealer before or after the “Stop-Sale” or
4 “Do-Not-Drive” order was issued in accordance with the terms of the applicable contract.

5 (d) It shall be a violation of this section for a manufacturer, [distributor, or factory branch](#)
6 to reduce the amount of compensation otherwise owed to a new motor vehicle dealer, whether
7 through a chargeback; removal from an incentive program; reduction in amount owed under an
8 incentive program; or any other means, because the new motor vehicle dealer has submitted a claim
9 for reimbursement under this section, or was otherwise compensated for a vehicle subject to a recall
10 where a “Stop-Sale,” or “Do-Not-Drive,” order has been issued.

11 (e) All reimbursement claims made by new motor vehicle dealers pursuant to this section
12 for recall remedies or repairs, or for compensation where no part or repair is reasonably available
13 and the vehicle is subject to a “Stop-Sale” or “Do-Not-Drive” order, shall be subject to the same
14 limitations and requirements as a warranty reimbursement claim made under § 31-5.1-6. ~~Claims~~
15 ~~shall be either approved or disapproved within thirty (30) days after they are submitted to the~~
16 ~~manufacturer in the manner and on the forms the manufacturer reasonably prescribes. All claims~~
17 ~~shall be paid within thirty (30) days of approval of the claim by the manufacturer. Any claim not~~
18 ~~specifically disapproved in writing within thirty (30) days after the manufacturer receives a~~
19 ~~properly submitted claim shall be deemed to be approved. In the alternative, a manufacturer may~~
20 ~~compensate its franchised dealers under a national recall compensation program provided the~~
21 ~~compensation under the program is equal to or greater than that provided under subsection (a) of~~
22 ~~this section or the manufacturer and dealer otherwise agree.~~

23 (f) Nothing in this section shall require a manufacturer, [distributor, or factory branch](#) to
24 provide total compensation to a new motor vehicle dealer that would exceed the total average trade-
25 in value of the affected used motor vehicle as determined under subsection (b) of this section.

26 (g) Any remedy provided to a dealer under this section is exclusive and may not be
27 combined with any other state recall compensation remedy.

28 **31-5.1-8. Agreements.**

29 The provisions of this chapter shall apply to all written or oral agreements between a
30 manufacturer, [distributor, or factory branch](#) and a motor vehicle dealer including, but not limited
31 to, the franchise offering; the franchise agreement; sales of goods, services, or advertising; leases
32 of mortgages of real or personal property; promises to pay; security interests; pledges; insurance
33 contracts; advertising contracts; construction or installation contracts; servicing contracts; and all
34 other agreements in which the manufacturer, wholesaler, ~~or~~ [distributor, or factory branch](#),

1 wholesaler, or distributor has any direct or indirect interest.

2 **31-5.1-11. Sales to the state.**

3 In connection with a sale of a motor vehicle or vehicles to the state or to any political
4 subdivision, no manufacturer, distributor, [factory branch](#) or wholesaler shall offer any discounts,
5 refunds, or any other similar type of inducement to any dealer without making the same offer or
6 offers to all other of its dealers within the relevant market area, and if any inducements are made,
7 the manufacturer, distributor, [factory branch](#), or wholesaler shall give simultaneous notice to all of
8 its dealers within the relevant market area.

9 **31-5.1-18. Transportation damages.**

10 (a) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, the
11 new motor vehicle dealer is solely liable for damages to new motor vehicles after acceptance from
12 the carrier and before delivery to the ultimate purchaser.

13 (b) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, the
14 manufacturer, [distributor, or factory branch](#) is liable for all damages to motor vehicles before
15 delivery to a carrier or transporter.

16 (c) The new motor vehicle dealer is liable for damages to new motor vehicles after delivery
17 to the carrier only if the dealer selects the method of transportation, mode of transportation, and the
18 carrier. In all other instances, the manufacturer, [distributor, or factory branch](#) is liable for carrier-
19 related new motor vehicle damage.

20 (d) On any new motor vehicle, any uncorrected damage or any corrected damage exceeding
21 six percent (6%) of the manufacturer's, [distributor's, or factory branch's](#) suggested retail price, as
22 defined in 26 U.S.C. § 4216 and measured by retail repair costs, must be disclosed in writing prior
23 to delivery. Damage to glass, tires, and bumpers is excluded from the six percent (6%) rule when
24 replaced by identical manufacturer's, [distributor's, or factory branch's](#) original equipment.

25 (e) Repaired damage to a customer ordered new motor vehicle, not exceeding the six
26 percent (6%) rule, shall not constitute grounds for revocation of the customer order. The customer's
27 right of revocation ceases upon his or her acceptance of delivery of the vehicle.

28 (f) If damage to a vehicle exceeds the six percent (6%) rule at either the time the new motor
29 vehicle is accepted by the new motor vehicle dealer, or whenever the risk of loss is shifted to the
30 dealer (as defined in subsection (c)), whichever occurs first, then the dealer may reject the vehicle
31 within a reasonable time. Should the dealer elect to repair any damage exceeding the six percent
32 (6%) rule, full disclosure shall be made by the dealer in writing to the customer and an
33 acknowledgment by the customer is required. If there is less than six percent (6%) damage as
34 described in subsection (d) of this section, no disclosure is required. Pre-delivery mechanical work

1 shall not require a disclosure.

2 **31-5.1-19. Risk of loss.**

3 (a) If a new motor vehicle dealer determines the method of transportation, as defined in §
4 31-5.1-18(c), then the risk of loss passes to the dealer upon delivery of the vehicle to the carrier.

5 (b) In every other instance, the risk of loss remains with the manufacturer, distributor, or
6 factory branch until such time as the new motor vehicle dealer accepts the vehicle from the carrier.

7 **31-5.1-21. Promotional activities.**

8 (a) Upon filing of a claim, manufacturer, ~~or~~ distributor, or factory branch shall compensate
9 a dealer for any incentive or reimbursement program sponsored by the manufacturer, ~~or~~ distributor,
10 or factory branch, under the terms of which the dealer is eligible for compensation.

11 (b)(1) A claim filed under this section shall be:

12 (i) In the manner and form prescribed by the manufacturer, ~~or~~ distributor, or factory branch;

13 and

14 (ii) Approved or disapproved within thirty (30) days of receipt.

15 (2) A claim not approved or disapproved within thirty (30) days of receipt shall be deemed
16 approved.

17 (3) Payment of a claim filed under this section shall be made within thirty (30) days of
18 approval.

19 (c)(1) If a claim filed under this section is shown by the manufacturer, ~~or~~ distributor, or
20 factory branch to be false or unsubstantiated, the manufacturer, ~~or~~ distributor, or factory branch
21 may charge back the claim within one year from the date the claim was paid or credit issued or one
22 year from the end of a manufacturer, distributor or factory branch program that does not exceed
23 one year in length, whichever is later.

24 (i) A manufacturer, ~~or~~ distributor, or factory branch shall not charge back a claim based
25 solely on a motor vehicle dealer's incidental failure to comply with a specific claim processing
26 requirement, such as a clerical error or other administrative technicality that does not put into
27 question the legitimacy of the claim after the motor vehicle dealer properly resubmits the claim in
28 accordance with the manufacturer's, ~~or~~ distributor's, or factory branch's submission guidelines.

29 (ii) A dealer shall have no less than sixty (60) days from the date of notification by a
30 manufacturer, ~~or~~ distributor, or factory branch of a charge back to the dealer to resubmit a claim
31 for payment or compensation if the claim was denied for a dealer's incidental failure as set forth in
32 subsection (c)(1)(ii) whether the chargeback was a direct or an indirect transaction.

33 (2) This paragraph does not limit the right of a manufacturer, ~~or~~ distributor, or factory
34 branch to charge back for any claim that is proven fraudulent.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- REGULATION OF BUSINESS
PRACTICES AMONG MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND
DEALERS

1 This act would extend certain protocols applicable to motor vehicle manufacturers to their
2 distributors and factory branches, as well as update warranty reimbursement and recall obligation
3 policies.

4 This act would take effect upon passage.

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LC001309
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