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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 VEHICLES MANUFACTURES, DISTRIBUTORS, AND DEALERS

Introduced By: Senators DiPalma, Ciccone, Britto, McKenney, and LaMountain

Date Introduced: March 07, 2025

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 31-5.1-1, 31-5.1-2 and 31-5.1-4 of the General Laws in Chapter 31-
2 5.1 entitled "Regulation of Business Practices Among Motor Vehicle Manufacturers, Distributors,
3 and Dealers" are hereby amended to read as follows:

4 **31-5.1-1. Definitions.**

5 The following words and phrases, for the purposes of this chapter, have the following
6 meanings:

7 (1) "Common entity" means a person:

8 (i) Who is directly or indirectly controlled by or has more than thirty percent (30%) of its
9 equity interest directly or indirectly owned, beneficially or of record, through any form of
10 ownership structure, by a manufacturer, distributor, factory branch, or an affiliate thereof; or

11 (ii) Who has more than thirty percent (30%) of its equity interest directly or indirectly
12 controlled or owned, beneficially or of record, through any form of ownership structure, by one or
13 more persons who also directly or indirectly control or own, beneficially or of record, more than
14 thirty percent (30%) of the equity interests of a manufacturer, distributor, factory branch, or an
15 affiliate thereof.

16 ~~(1)~~(2) "Designated family member" means the spouse, child, grandchild, parent, brother,
17 or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is
18 entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the

1 owner's will, or who has been nominated in any other written instrument, or who, in the case of an
2 incapacitated owner of a new motor vehicle dealership, has been appointed by a court as the legal
3 representative of the new motor vehicle dealer's property.

4 ~~(2)~~(3) "Distributor" means any person, firm, association, corporation, or trust, resident or
5 nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to
6 new motor vehicle dealers, who maintains factory representatives or ~~who controls~~ any person, firm,
7 association, corporation or trust, resident or nonresident, who ~~in whole or in part offers for sale,~~
8 ~~sells or distributes any new motor vehicle to new motor vehicle dealers~~ .

9 ~~(3)~~(4) "Established place of business" means a permanent, commercial building located
10 within this state, easily accessible and open to the public at all reasonable times, and at which the
11 business of a new motor vehicle dealer, including the display and repair of vehicles, may be
12 lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other
13 land-use regulatory ordinances.

14 ~~(4)~~(5) "Factory branch" means a branch office maintained by a manufacturer for the
15 purpose of selling, or offering for sale, vehicles to a distributor or new motor vehicle dealer, or for
16 directing or supervising in whole or in part factory or distributor representatives.

17 ~~(5)~~(6) "Franchise" means the agreement or contract between any new motor vehicle
18 manufacturer, written or otherwise, and any new motor vehicle dealer which purports to fix the
19 legal rights and liabilities of the parties to that agreement or contract, and pursuant to which the
20 dealer purchases and resells the franchise product or leases or rents the dealership premises.

21 ~~(6)~~(7) "Fraud" includes, in addition to its normal legal connotation, the following: a
22 misrepresentation in any manner, whether intentionally false or due to gross negligence, of a
23 material fact; a promise or representation not made honestly and in good faith; and an intentional
24 failure to disclose a material fact.

25 ~~(7)~~(8) "Good faith" means honesty in fact and the observation of reasonable commercial
26 standards of fair dealing in the trade as defined and interpreted in § 6A-2-103(1)(b).

27 ~~(8)~~(9) "Manufacturer" means any person, partnership, firm, association, corporation, or
28 trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for
29 distribution through distributors of motor vehicles, or any partnership, firm, association, joint
30 venture, corporation, or trust, resident or nonresident, which is a common entity ~~controlled by~~ the
31 manufacturer.

32 ~~(9)~~(10) "Motor vehicle" means every vehicle intended primarily for use and operation on
33 the public highways which is self-propelled, regardless of the size or type of motor or source of
34 power, but not including farm tractors and other machines and tools used in the production,

1 harvesting, and care of farm products.

2 ~~(10)~~(11) “New motor vehicle” means a vehicle ~~which has been sold to a new motor vehicle~~
3 ~~dealer and which has not been used for other than demonstration purposes and on which the original~~
4 ~~title has not been issued from the new motor vehicle dealer.~~ that has never been the subject of a
5 completed, successful, or conditional sale that was subsequently approved other than between new
6 motor vehicle dealers, or between a manufacturer and a new motor vehicle dealer of the same
7 franchise. The term “motor vehicle” also includes any engine, transmission, or rear axle, regardless
8 of whether it is attached to a vehicle chassis, that is manufactured for installation in any motor-
9 driven vehicle with a gross vehicle weight rating of more than sixteen thousand (16,000) pounds
10 that is required to be registered.

11 ~~(11)~~(12) “New motor vehicle dealer” means any person engaged in the business of selling,
12 offering to sell, soliciting, or advertising the sale of new motor vehicles ~~and who holds, or held at~~
13 ~~the time a cause of action under this chapter accrued, a valid sales and service agreement, franchise,~~
14 ~~or contract, granted by the manufacturer or distributor for the retail sale of that manufacturer’s or~~
15 ~~distributor’s new motor vehicles.~~ “New motor vehicle dealer” includes any person who engages
16 exclusively in the repair of motor vehicles, if such repairs are performed as part of a manufacturer’s
17 warrant.

18 ~~(12)~~(13) “Person” means a natural person, corporation, partnership, trust, or other entity,
19 and, in case of an entity, it includes any other entity in which it has a majority interest or effectively
20 controls, as well as the individual officers, directors, and other persons in active control of the
21 activities of that entity.

22 ~~(13)~~(14) “Relevant market area” means the area within a radius of twenty (20) miles around
23 an existing dealer or the area of responsibility defined in the franchise, whichever is greater.

24 (15) “Sell”, “selling”, “sold”, “exchange”, “retail sales”, and “leases” includes:

25 (i) Accepting a deposit or receiving a payment for the retail purchase, lease, or other use of
26 a motor vehicle, but does not include facilitating a motor vehicle dealer’s acceptance of a deposit
27 or receipt of a payment from a consumer or receiving payment under a retail installment sale
28 contract;

29 (ii) Accepting a reservation from a retail consumer for the purchase or lease of a vehicle,
30 but does not include a manufacturer, distributor or factory branch accepting a reservation that it
31 assigns to a licensed motor vehicle dealer within this state authorized to sell that make and model;

32 (iii) Setting the retail price for the purchase, lease, or other use of a motor vehicle, but does
33 not include setting a manufacturer’s suggested retail price;

34 (iv) Offering or negotiating with a retail consumer terms for the purchase, lease, or other

1 use of a motor vehicle;

2 (v) Offering or negotiating with a retail consumer a value or a motor vehicle being traded
3 in as part of the purchase, lease, or other use of a motor vehicle, but does not include a website or
4 other means of electronic communication that identifies to a consumer a conditional trade-in value
5 and that contains language informing the consumer that the trade-in value is not binding on any
6 motor vehicle dealer;

7 (vi) Any transaction where the title of a motor vehicle or a used motor vehicle is transferred
8 to a retail consumer;

9 (vii) Any retail lease transaction where a retail consumer leases a vehicle for a period of at
10 least twelve (12) months, but does not include administering lease agreements, taking assignments
11 of leases, performing required actions pursuant to such lease, or receiving payments under a lease
12 agreement that was originated by a motor vehicle dealer;

13 (viii) Displaying sample vehicles, offering or coordinating test drives to customers;

14 (ix) Arranging the pickup or delivery of a newly purchased new motor vehicle; or

15 (x) Compensating employees, agents or contractors to engage in these activities.

16 **31-5.1-2. Application of chapter.**

17 (a) Any person who engages directly or indirectly in purposeful contacts within this state
18 in connection with the offering or advertising for sale of, or has business dealings with respect to,
19 a motor vehicle within the state shall be subject to the provisions of this chapter and shall be subject
20 to the jurisdiction of the courts of this state, upon service of process in accordance with the
21 provisions of the general laws.

22 (b) Any parent, subsidiary, or common entity of a manufacturer, distributor, factory branch,
23 or other entity, which by contractual arrangement or otherwise pursuant to the direction of the
24 manufacturer, engages in the distribution in this state of line-make motor vehicles manufactured or
25 substantially manufactured by such manufacturer, distributor, or factory branch shall be deemed to
26 be the agent of the manufacturer, distributor, or factory branch for the purposes of any franchise
27 agreement entered into between such agent and a motor vehicle dealer engaged in business in this
28 state and shall be bound by the terms and provisions of such franchise agreement as if it were the
29 principal. A manufacturer, distributor, or factory branch of line-make motor vehicles which are
30 offered for sale or lease in this state under any franchise agreement executed by an agent of such
31 manufacturer, distributor, or factory branch is bound by the terms and provisions of such franchise
32 agreement as if it and not the agent had executed the franchise agreement. Said manufacturer,
33 distributor, or factory branch shall be subject to all of the restrictions, limitations, remedies, and
34 penalties of this chapter related to such franchise agreement, the performance thereof, or any cause

1 of action pertaining thereto. The agency relationship established in this section is not intended to
2 apply to a person or entity that engages in the distribution of motor vehicles in this state under its
3 own brand name which are substantially manufactured by another person or entity, provided the
4 distributing person or entity is substantially engaged in the manufacture of other line-make motor
5 vehicles and is licensed in this state as a manufacturer.

6 (c) Notwithstanding any provisions of any law, rule or regulation to the contrary, a motor
7 vehicle dealer licensed pursuant to chapter 5 of title 31 prior to January 1, 2020 and exclusively
8 manufacturing zero-emission vehicles may buy from and sell, offer to sell, or deal to a consumer a
9 zero-emission vehicle; provided that, the dealer owns or operates, directly or indirectly:

10 (i) No more than three (3) places of business in the state; and

11 (ii) At least one retail facility for the servicing, including warranty servicing, of zero
12 emission vehicles sold, offered for sale, or otherwise distributed in this state. This facility shall be
13 furnished with all the equipment required to service a zero-emission vehicle.

14 (d) A franchisor shall not be required to establish or operate a place of business at a retail
15 facility for the servicing of zero emission vehicles.

16 **31-5.1-4. Violations.**

17 (a) It shall be deemed a violation of this chapter for any manufacturer, distributor, factory
18 branch, or motor vehicle dealer to engage in any action that is arbitrary, in bad faith, or
19 unconscionable and that causes damage to any of the parties involved or to the public.

20 (b) It shall be deemed a violation of this chapter for a manufacturer, distributor, factory
21 branch, or officer, agent, or other representative of a manufacturer, distributor or factory branch to
22 coerce, or attempt to coerce, any motor vehicle dealer:

23 (1) To order or accept delivery of any motor vehicle or vehicles, equipment, parts, or
24 accessories for them, or any other commodity or commodities that the motor vehicle dealer has not
25 voluntarily ordered.

26 (2) To order or accept delivery of any motor vehicle with special features, accessories, or
27 equipment not included in the list price of that motor vehicle as publicly advertised by the
28 manufacturer, distributor or factory branch of the vehicle.

29 (3) To participate monetarily in an advertising campaign or contest, or to purchase any
30 promotional materials, or training materials, showroom, or other display decorations, or materials
31 at the expense of the new motor vehicle dealership.

32 (4) To enter into any agreement with the manufacturer, distributor or factory branch or to
33 do any other act prejudicial to the new motor vehicle dealer by threatening to terminate or cancel a
34 franchise or any contractual agreement existing between the dealer and the manufacturer.

1 [distributor or factory branch](#); except that this subdivision is not intended to preclude the
2 manufacturer, ~~or~~ distributor, [or factory branch](#) from insisting on compliance with the reasonable
3 terms or provisions of the franchise or other contractual agreement. Notice in good faith to any new
4 motor vehicle dealer of the new motor vehicle dealer's violation of those terms or provisions shall
5 not constitute a violation of the chapter.

6 (5) To refrain from participation in the management of, investment in, or acquisition of any
7 other line of new motor vehicle or related products. This subdivision does not apply unless the new
8 motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor
9 vehicles, the new motor vehicle dealer remains in compliance with any reasonable facilities
10 requirements of the manufacturer, [distributor or factory branch](#); and no change is made in the
11 principal management of the new motor vehicle dealer.

12 (6) To assent to a release, assignment, novation, waiver, or estoppel in connection with the
13 transfer or voluntary termination of a franchise, or that would relieve any person from the liability
14 to be imposed by this law; or to require any controversy between a new motor vehicle dealer and a
15 manufacturer, distributor, or representative to be referred to any person other than the duly
16 constituted courts of this state or of the United States of America, or to the department of revenue
17 of this state, if that referral would be binding upon the new motor vehicle dealer.

18 (7) To order for any person any parts, accessories, equipment, machinery, tools, or any
19 commodities.

20 (c) It shall be deemed a violation of this chapter for a manufacturer, [distributor, factory](#)
21 [branch](#), or officer, agent, or other representative:

22 (1) To refuse to deliver in reasonable quantities and within a reasonable time after receipt
23 of the dealer's order, to any motor vehicle dealer having a franchise or contractual arrangement for
24 the retail sale of new motor vehicles sold or distributed by the manufacturer, [distributor or factory](#)
25 [branch](#) any motor vehicles covered by the franchise or contract, specifically publicly advertised by
26 the manufacturer to be available for immediate delivery. However, the failure to deliver any motor
27 vehicle shall not be considered a violation of this chapter if that failure is due to an act of God,
28 work stoppage, or delay due to a strike or labor difficulty, shortage of materials, a freight embargo,
29 or other cause over which the manufacturer, distributor, [factory branch](#), or wholesaler, its agent,
30 shall have no control.

31 (2) To refuse to deliver, or otherwise deny, to any motor vehicle dealer having a franchise
32 or contractual arrangement for the retail sale of new motor vehicles sold or distributed by the
33 manufacturer any particular new motor vehicle model made or distributed by the manufacturer [or](#)
34 [factory branch](#) under the name of the division of the manufacturer, [distributor or factory branch](#) of

1 which the dealer is an authorized franchise.

2 (3) It shall be deemed a prima facie violation of this chapter for any automotive vehicle
3 division manufacturer, [distributor or factory branch](#) to require any separate franchise or contractual
4 arrangement with any new motor vehicle dealer already a party to a franchise or contractual
5 arrangement with that automotive vehicle division for the retail sale of any particular new motor
6 vehicle model made or distributed by that division.

7 (4) To coerce, or attempt to coerce, any motor vehicle dealer to enter into any agreement
8 with the manufacturer, [distributor, factory branch](#) or their officers, agents, or other representatives,
9 or to do any other act prejudicial to the dealer, by threatening to cancel any franchise or any
10 contractual agreement existing between the manufacturer, [distributor or factory branch](#) and the
11 dealer. Notice in good faith to any motor vehicle dealer of the dealer's violation of any terms or
12 provisions of the franchise or contractual agreement shall not constitute a violation of this chapter.

13 (5) To resort to or use any false or misleading advertisement in connection with his or her
14 business as a manufacturer, [distributor or factory branch](#) an officer, agent, or other representative.

15 (6) To sell or lease any new motor vehicle to, or through, any new motor vehicle dealer at
16 a lower actual price therefore than the actual price offered to any other new motor vehicle dealer
17 for the same model vehicle similarly equipped or to utilize any device, including, but not limited
18 to, sales promotion plans or programs, that result in a lesser actual price. The provisions of this
19 paragraph shall not apply to sales to a new motor vehicle dealer for resale to any unit of the United
20 States government or to the state or any of its political subdivisions. A manufacturer, [distributor or](#)
21 [factory branch](#) may not reduce the price of a motor vehicle charged to a dealer or provide different
22 financing terms to a dealer in exchange for the dealer's agreement to:

- 23 (i) Maintain an exclusive sales or service facility;
- 24 (ii) Build or alter a sales or service facility; or
- 25 (iii) Participate in a floor plan or other financing.

26 (7) To sell or lease any new motor vehicle to any person, except a manufacturer's,
27 [distributor or factory branch](#) employee, at a lower actual price than the actual price offered and
28 charged to a new motor vehicle dealer for the same model vehicle similarly equipped or to utilize
29 any device which results in a lesser actual price. The provisions of this paragraph shall not apply
30 to sales to a new motor vehicle dealer for resale to any unit of the United States government, or to
31 the state or any of its political subdivisions.

32 (8) To offer in connection with the sale of any new motor vehicle or vehicles, directly or
33 indirectly, to a fleet purchaser, within or without this state, terms, discounts, refunds, or other
34 similar types of inducements to that purchaser without making the same offer or offers available to

1 all of its new motor vehicles dealers in this state. No manufacturer, [distributor or factory branch](#)
2 may impose or enforce any restrictions against new motor vehicle dealers in this state or their
3 leasing, rental, or fleet divisions or subsidiaries that are not imposed or enforced against any other
4 direct or indirect purchaser from the manufacturer, [distributor or factory branch](#). The provisions of
5 this paragraph shall not apply to sales to a new motor vehicle dealer for resale to any unit of the
6 United States government, or to the state or any of its political subdivisions.

7 (9) To use or consider the performance of a motor vehicle dealer relating to the sale of the
8 manufacturer's, [distributor's or factory branch's](#) vehicles or the motor vehicle dealer's ability to
9 satisfy any minimum sales or market share quota or responsibility relating to the sale of the
10 manufacturer's, [distributor's or factory branch's](#) new vehicles in determining:

11 (i) The motor vehicle dealer's eligibility to purchase program, certified, or other used motor
12 vehicles from the manufacturer, [distributor or factory branch](#);

13 (ii) The volume, type, or model of program, certified, or other used motor vehicles that a
14 motor vehicle dealer is eligible to purchase from the manufacturer, [distributor or factory branch](#);

15 (iii) The price of any program, certified, or other used motor vehicle that the dealer is
16 eligible to purchase from the manufacturer, [distributor or factory branch](#); or

17 (iv) The availability or amount of any discount, credit, rebate, or sales incentive that the
18 dealer is eligible to receive from the manufacturer, [distributor or factory branch](#) for the purchase of
19 any program, certified, or other used motor vehicle offered for sale by the manufacturer.

20 (10) To offer to sell or to sell parts or accessories to any new motor vehicle dealer for use
21 in the dealer's own business for the purpose of repairing or replacing the same parts or accessories
22 or a comparable part or accessory, at a lower actual price than the actual price charged to any other
23 new motor vehicle dealer for similar parts or accessories to use in the dealer's own business. In
24 those cases where new motor vehicle dealers operate or serve as wholesalers of parts and
25 accessories to retail outlets, these provisions shall be construed to prevent a manufacturer,
26 [distributor, factory branch](#) or its agents, from selling to a new motor vehicle dealer who operates
27 and services as a wholesaler of parts and accessories, any parts and accessories that may be ordered
28 by that new motor vehicle dealer for resale to retail outlets at a lower actual price than the actual
29 price charged a new motor vehicle dealer who does not operate or serve as a wholesaler of parts
30 and accessories.

31 (11) To prevent, or attempt to prevent, by contract or otherwise, any new motor vehicle
32 dealer from changing the capital structure of his or her dealership or the means by which, or through
33 which the dealer finances the operation of his or her dealership. However, the new motor vehicle
34 dealer shall at all times meet any reasonable capital standards agreed to between the dealership and

1 the manufacturer, [distributor or factory branch](#); provided, that any change in the capital structure
2 by the new motor vehicle dealer does not result in a change in the executive management control
3 of the dealership.

4 (12) To prevent, or attempt to prevent, by contract or otherwise, any new motor vehicle
5 dealer, or any officer, partner, or stockholder of any new motor vehicle dealer, from selling or
6 transferring any part of the interest of any of them to any other person or persons or party or parties.
7 Provided, however, that no dealer, officer, partner, or stockholder shall have the right to sell,
8 transfer, or assign the franchise or power of management or control without the consent of the
9 manufacturer, [distributor or factory branch](#) except that the consent shall not be unreasonably
10 withheld.

11 (13) To obtain money, goods, services, anything of value, or any other benefit from any
12 other person with whom the new motor vehicle dealer does business, on account of, or in relation
13 to, the transactions between the dealer and that other person, unless that benefit is promptly
14 accounted for and transmitted to the new motor vehicle dealer.

15 (14) To compete with a new motor vehicle dealer operating under an agreement or
16 franchise from the manufacturer, [distributor or factory branch](#) in the state of Rhode Island;

17 ~~(i) through~~ [Through](#) the ownership, operation, or control of any new motor vehicle dealers
18 in this state, or by participation in the ownership, operation, or control of any new motor vehicle
19 dealer in this state. A manufacturer, [distributor or factory branch](#) shall not be deemed to be
20 competing when operating, controlling, or owning a dealership, either temporarily for a reasonable
21 period, but in any case not to exceed one year, which one-year (1) period may be extended for a
22 one-time, additional period of up to six (6) months upon application to, and approval by, the motor
23 vehicle dealers license and hearing board, which approval shall be subject to the manufacturer,
24 [distributor or factory branch](#) demonstrating the need for this extension, and with other new motor
25 vehicle dealers of the same line or make being given notice and an opportunity to be heard in
26 connection with said application, or in a bona fide relationship in which an independent person had
27 made a significant investment subject to loss in the dealership and can reasonably expect to acquire
28 full ownership of the dealership on reasonable terms and conditions within a reasonable period of
29 time; [or](#)

30 [\(ii\) By selling directly or indirectly new motor vehicles to any retail consumer in the state](#)
31 [except through a new motor vehicle dealer holding a franchise for the line-make that includes the](#)
32 [new motor vehicle. The provisions of this subsection shall not preclude a manufacturer, distributor,](#)
33 [or factory branch from:](#)

34 [\(A\) Selling new vehicles to its employees, family members of employees, retirees and](#)

1 [family members of retirees, not-for-profit organizations, or the federal, state or local governments;](#)

2 [\(B\) Providing information to a consumer for the purpose of marketing; or](#)

3 [\(C\) Displaying vehicles or allowing test drives for promotional purposes at events where](#)
4 [the manufacturer, distributor, or factory branch is a sponsor and the vehicles are not for sale to the](#)
5 [public at the event.](#)

6 (15) To refuse to disclose to any new motor vehicle dealer, handling the same line or make,
7 the manner and mode of distribution of that line or make within the relevant market area.

8 (16) To increase prices of new motor vehicles that the new motor vehicle dealer had
9 ordered for private retail consumers prior to the new motor vehicle dealer's receipt of the written,
10 official price increase notification. A sales contract signed by a private retail consumer shall
11 constitute evidence of an order, provided that the vehicle is in fact delivered to that customer. In
12 the event of manufacturer price reductions or cash rebates paid to the new motor vehicle dealer, the
13 amount of any reduction or rebate received by a new motor vehicle dealer shall be passed on to the
14 private retail consumer by the new motor vehicle dealer. Price reductions shall apply to all vehicles
15 in the dealer's inventory that were subject to the price reduction. Price differences applicable to
16 new model or series motor vehicles at the time of the introduction of new models or series shall not
17 be considered a price increase or price decrease. Price changes caused by either: (i) The addition to
18 a motor vehicle of required or optional equipment; (ii) Revaluation of the United States dollar, in
19 the case of foreign-make vehicles or components; or (iii) An increase in transportation charges due
20 to increased rates imposed by common carriers, shall not be subject to the provisions of this
21 subdivision.

22 (17) To release to any outside party, except under subpoena or as otherwise required by
23 law, or in an administrative, judicial, or arbitration proceeding involving the manufacturer,
24 [distributor, factory branch,](#) or new motor vehicle dealer, any business, financial, or personal
25 information that may be, from time to time, provided by the new motor vehicle dealer to the
26 manufacturer, [distributor or factory branch](#) without the express written consent of the new motor
27 vehicle dealer.

28 (18) To unfairly discriminate among its new motor vehicle dealers with respect to warranty
29 reimbursement, or any program that provides assistance to its dealers, including internet listings;
30 sales leads; warranty policy adjustments; marketing programs; and dealer recognition programs.

31 (19) To unreasonably withhold consent to the sale, transfer, or exchange of the franchise
32 to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state.

33 (20) To fail to respond, in writing, to a request for consent as specified in subdivision (19)
34 of this subsection within sixty (60) days of the receipt of a written request on the forms, if any,

1 generally utilized by the manufacturer ~~or~~ distributor, or factory branch for those purposes and
2 containing the information required therein. The failure to respond shall be deemed to be a consent
3 to the request. A manufacturer, distributor or factory branch may not impose a condition on the
4 approval of a sale, transfer, or exchange of the franchise if the condition would violate the
5 provisions of this chapter if imposed on an existing dealer.

6 (21) To unfairly prevent a new motor vehicle dealer from receiving fair and reasonable
7 compensation for the value of the new motor vehicle dealership.

8 (22) To require that a new motor vehicle dealer execute a written franchise agreement that
9 does not contain substantially the same provisions as the franchise agreement being offered to other
10 new motor vehicle dealers handling the same line or make. In no instance shall the term of any
11 franchise agreement be of a duration of less than three (3) years.

12 (23) To require that a new motor vehicle dealer provide exclusive facilities, personnel, or
13 display space taking into consideration changing market conditions, or that a dealer execute a site
14 control agreement giving a manufacturer, distributor or factory branch control over the dealer's
15 facilities.

16 (24) To require that a dealer expand, alter, improve, renovate, or remodel facilities without
17 a guarantee of a sufficient supply of new motor vehicles to justify that expansion or to require that
18 a dealer expand facilities to a greater degree than is necessary to sell and service the number of
19 vehicles that the dealer sold and serviced in the most recent calendar year.

20 (25) To prevent a dealer from adjusting his or her facilities to permit a relocation of office
21 space, showroom space, and service facilities so long as the relocation is within five hundred (500)
22 yards of the present location.

23 (26) To engage in any predatory practice against a new motor vehicle dealer.

24 (27) To prevent, prohibit, or coerce any new motor vehicle dealer from charging any
25 consumer any fee allowed to be charged by the dealer under Rhode Island law or regulation except
26 as related to eligible participants under a military discount program in which the dealer voluntarily
27 participates and receives financial compensation from the manufacturer, distributor or factory
28 branch ~~or distributor~~, to the extent that such a program is not offered to the general public.

29 (d) It shall be a violation of this chapter for a manufacturer, distributor or factory branch to
30 terminate, cancel, or fail to renew the franchise of a new motor vehicle dealer except as provided
31 in this subsection:

32 (1) Notwithstanding the terms, provisions, or conditions of any franchise, whether entered
33 into before or after the enactment of this chapter or any of its provisions, or notwithstanding the
34 terms or provisions of any waiver, whether entered into before or after the enactment of this chapter

1 or any of its provisions, no manufacturer, distributor or factory branch shall cancel, terminate, or
2 fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer,
3 distributor or factory branch has:

- 4 (i) Satisfied the notice requirement of this subsection;
- 5 (ii) Has good cause for the cancellation, termination, or nonrenewal;
- 6 (iii) Has not committed any violations set forth in subsection (b) of this section; and
- 7 (iv) Has acted in good faith as defined in this chapter and has complied with all provisions
8 of this chapter.

9 (2) Notwithstanding the terms, provisions, or conditions of any franchise or the terms or
10 provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation, or
11 nonrenewal when:

12 (i) There is a failure by the new motor vehicle dealer to comply with a provision of the
13 franchise, which provision is both reasonable and of material significance to the franchise
14 relationship, provided that the dealer has been notified, in writing, of the failure within one hundred
15 eighty (180) days after the manufacturer, distributor or factory branch first acquired knowledge of
16 that failure;

17 (ii) If the failure by the new motor vehicle dealer, as provided in paragraph (i) of this
18 subdivision, relates to the performance of the new motor vehicle dealer in sales or service, then
19 good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable
20 performance criteria established by the manufacturer, distributor or factory branch if the new motor
21 vehicle dealer was apprised by the manufacturer, distributor or factory branch, in writing, of that
22 failure; and:

23 (A) The notification stated that notice was provided of failure of performance pursuant to
24 paragraph (i) of this subdivision;

25 (B) The new motor vehicle dealer was afforded a reasonable opportunity, for a period of
26 not less than six (6) months, to comply with those criteria; **and**

27 (C) The new motor vehicle dealer did not demonstrate substantial progress towards
28 compliance with the manufacturer's performance criteria during that period-; and

29 (D) The performance criteria employed shall:

30 (I) Take into account the actual vehicle allocation offered to the dealer by the manufacturer,
31 distributor, or factory branch, as well as the dealer's inventory levels relevant to achieve any
32 minimum performance standards to which the manufacturer, distributor, or factory branch holds
33 the dealer accountable; provided, however, the failure to provide allocation of any products or
34 vehicles, including by series, product line, or model, may not be considered a violation of this

1 chapter if such failure is due to the dealer's refusal or declination to accept product allocation
2 offered;

3 (II) Not be unfair, unreasonable, arbitrary or inequitable; and

4 (III) Consider the relevant and material local and state or regional criteria, including
5 prevailing economic conditions affecting the sales or service performance of a vehicle dealer.

6 (3) The manufacturer, distributor or factory branch shall have the burden of proof for
7 showing that the notice requirements have been complied with; that there was good cause for the
8 franchise termination; cancellation or nonrenewal; and that the manufacturer, distributor or factory
9 branch has acted in good faith.

10 (i) Notwithstanding the terms, provisions, or conditions of any franchise, prior to the
11 termination, cancellation, or nonrenewal of any franchise, the manufacturer, distributor or factory
12 branch shall furnish notification of the termination, cancellation, or nonrenewal to the new motor
13 vehicle dealer as follows:

14 (A) In the manner described in paragraph (ii) of this subdivision; and

15 (B) Not fewer than ninety (90) days prior to the effective date of the termination,
16 cancellation, or nonrenewal; or

17 (C) Not fewer than fifteen (15) days prior to the effective date of the termination,
18 cancellation, or nonrenewal for any of the following reasons:

19 (I) Insolvency of the new motor vehicle dealer, or the filing of any petition by, or against,
20 the new motor vehicle dealer under any bankruptcy or receivership law;

21 (II) Failure of the new motor vehicle dealer to conduct his customary sales and service
22 operations during his or her customary business hours for seven (7) consecutive business days;

23 (III) Final conviction of the new motor vehicle dealer, or any owner or operator of the
24 dealership, of a crime which is associated with or related to, the operation of the dealership;

25 (IV) Revocation of any license that the new motor vehicle dealer is required to have to
26 operate a dealership; or

27 (D) Not fewer than one hundred eighty (180) days prior to the effective date of the
28 termination or cancellation where the manufacturer, ~~or~~ distributor or factory branch is discontinuing
29 the sale of the product line.

30 (ii) Notification under this subsection shall be in writing, shall be by certified mail or
31 personally delivered to the new motor vehicle dealer, and shall contain:

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

33 (B) A statement of the reasons for the termination, cancellation, or nonrenewal; and

34 (C) The date on which the termination, cancellation, or nonrenewal shall take effect.

1 (iii) Upon the involuntary or voluntary termination, nonrenewal, or cancellation of any
2 franchise, by either the manufacturer, [distributor or factory branch](#) or the new motor vehicle dealer,
3 notwithstanding the terms of any franchise whether entered into before or after the enactment of
4 this chapter or any of its provisions, the new motor vehicle dealer shall be allowed fair and
5 reasonable compensation by the manufacturer, [distributor or factory branch](#) for the following:

6 (A) The new motor vehicle dealer's cost, less allowances paid by the manufacturer,
7 [distributor or factory branch](#) of each new, undamaged, unsold, and unaltered, except for dealer-
8 installed, manufacturer-, ~~[distributor-](#)~~ ~~[or factory branch-](#)~~authorized accessories, motor vehicle,
9 regardless of model year purchased from the manufacturer, [distributor or factory branch](#) or another
10 dealer of the same line or make in the ordinary course of business within twenty-four (24) months
11 of termination, having five hundred (500) or fewer miles recorded on the odometer that is in the
12 new motor vehicle dealer's inventory at the time of termination, nonrenewal, or cancellation.

13 (B) The new motor vehicle dealer's cost of each new, unused, undamaged, and unsold part
14 or accessory that is in the current parts catalogue, or is identical to a part or accessory in the current
15 parts catalogue except for the number assigned to the part or accessory due to a change in the
16 number after the purchase of the part or accessory, and that is still in the original, resalable
17 merchandising package and in an unbroken lot, except that, in the case of sheet metal, a comparable
18 substitute for the original package may be used.

19 (C) The fair market value of each undamaged sign, normal wear and tear excepted, owned
20 by the dealer that bears a trademark or trade name used or claimed by the manufacturer, [distributor](#)
21 [or factory branch](#) that was purchased as a requirement of the manufacturer, [distributor or factory](#)
22 [branch](#).

23 (D) The fair market value of all special tools, and automotive services equipment owned
24 by the dealer that: (I) Were recommended in writing and designated as special tools and equipment;
25 (II) Were purchased as a requirement of the manufacturer, [distributor or factory branch](#); and (III)
26 Are in usable and good condition except for reasonable wear and tear.

27 (E) The cost of transporting, handling, packing, storing, and loading any property that is
28 subject to repurchase under this section.

29 (F) The payments above are due within sixty (60) days from the date the dealer submits an
30 accounting to the manufacturer, [distributor or factory branch](#) of the vehicle inventory subject to
31 repurchase, and for other items within sixty (60) days from the date the dealer submits an
32 accounting of the other items subject to repurchase, provided, the new motor vehicle dealer has
33 clear title (or will have clear title upon using the repurchase funds to obtain clear title) to the
34 inventory and other items and is in a position to convey that title to the manufacturer, [distributor or](#)

1 [factory branch](#). If the inventory or other items are subject to a security interest, the manufacturer,
2 [distributor or factory branch](#), wholesaler, or franchisor may make payment jointly to the dealer and
3 the holder of the security interest. In no event shall the payments be made later than ninety (90)
4 days of the effective date of the termination, cancellation, or nonrenewal.

5 (iv) In the event the termination, cancellation, or nonrenewal is involuntary and not
6 pursuant to subsection (3)(i)(C) of this section and:

7 (A) The new motor vehicle dealer is leasing the dealership facilities from a lessor other
8 than the manufacturer, [distributor or factory branch](#), the manufacturer, [distributor or factory branch](#)
9 shall pay the new motor vehicle dealer a sum equivalent to the rent for the unexpired term of the
10 lease or (2) two year's rent, whichever is less; or

11 (B) If the new motor vehicle dealer owns the facilities, the manufacturer, [distributor or](#)
12 [factory branch](#) shall pay the new motor vehicle dealer a sum equivalent to the reasonable rental
13 value of the facilities for two (2) years; if:

14 (I) The new motor vehicle dealer is unable to reasonably utilize the facilities for another
15 purpose;

16 (II) The new motor vehicle dealer, or the manufacturer, [distributor or factory branch](#) acting
17 as its agent, is unable to make arrangements for the cancellation or assumption of its lease
18 obligations by another party in the case of leased facilities, or is unable to sell dealer-owned
19 facilities; and

20 (III) Only to the extent those facilities were required as a condition of the franchise and
21 used to conduct sales and service operations related to the franchise product.

22 (v) In addition to any injunctive relief and any other damages allowable by this chapter, if
23 the manufacturer, [distributor or factory branch](#) is discontinuing the product line or fails to prove
24 that there was good cause for the termination, cancellation, or nonrenewal, or if the manufacturer,
25 [distributor or factory branch](#) fails to prove that the manufacturer, [distributor or factory branch](#) acted
26 in good faith, then the manufacturer, [distributor or factory branch](#) shall pay the new motor vehicle
27 dealer fair and reasonable compensation for the value of the dealership as an ongoing business.

28 In addition to the other compensation described in paragraphs (iii) and (iv) above and in
29 this section, the manufacturer, [distributor or factory branch](#) shall also reimburse the dealer for any
30 costs incurred for facility upgrades or alterations required by the manufacturer, [distributor or](#)
31 [factory branch](#) within two (2) years of the effective date of the termination.

32 (vi) If a manufacturer, [distributor or factory branch](#) is discontinuing the product line and
33 thus, as a result a franchise for the sale of motor vehicles is subject to termination, cancellation, or
34 nonrenewal, the manufacturer, [distributor or factory branch](#) shall:

1 (A) Authorize the dealer, at the dealer's option, that remains a franchised dealer of the
2 manufacturer, [distributor or factory branch](#) regardless of the discontinuation of a product line, to
3 continue servicing and supplying parts (without prejudice to the right of the manufacturer,
4 [distributor or factory branch](#) to also authorize other franchised dealers to provide service and parts
5 for a discontinued product line), including services and parts pursuant to a warranty issued by the
6 manufacturer, [distributor or factory branch](#) for any goods or services marketed by the dealer
7 pursuant to the motor vehicle franchise for a period of not less than five (5) years from the effective
8 date of the termination, cancellation, or nonrenewal;

9 (B) Continue to reimburse the dealer that remains a franchised dealer of the manufacturer,
10 [distributor or factory branch](#) regardless of the discontinuation of a product line or another
11 franchised dealer of the manufacturer, [distributor or factory branch](#) in the area for warranty parts
12 and service in an amount, and on terms not less favorable than, those in effect prior to the
13 termination, cancellation, or nonrenewal;

14 (C) The manufacturer, [distributor or factory branch](#) shall continue to supply the dealer that
15 remains a franchised dealer of the manufacturer, [distributor or factory branch](#) regardless of the
16 discontinuation of a product line or another franchised dealer of the manufacturer, [distributor or](#)
17 [factory branch](#) in the area with replacement parts for any goods or services marketed by the dealer
18 pursuant to the franchise agreement for a period of not less than five (5) years from the effective
19 date of the termination, cancellation, or nonrenewal, at a price, and on terms not less favorable than,
20 those in effect prior to the termination, cancellation, or nonrenewal;

21 (vii) The requirements of this section do not apply to a termination, cancellation, or
22 nonrenewal due to the sale of the assets or stock of the motor vehicle dealer.

23 (D) To be entitled to facilities assistance from the manufacturer, [distributor or factory](#)
24 [branch](#) as described above, the dealer shall have the obligation to mitigate damages by listing the
25 dealership facilities for lease or sublease with a licensed real estate agent within thirty (30) days
26 after the effective date of the termination of the franchise and thereafter be reasonably cooperating
27 with such real estate agent in the performance of the agent's duties and responsibilities. If the dealer
28 is able to lease or sublease the dealership facilities on terms that are consistent with local zoning
29 requirements to preserve the right to sell motor vehicles from the dealership facilities and the terms
30 of the dealer's lease, the dealer shall be obligated to pay the manufacturer, [distributor or factory](#)
31 [branch](#) the net revenue received from such mitigation, but only following receipt of facilities
32 assistance payments pursuant to this chapter, and only up to the total amount of facilities assistance
33 payments that the dealer has received.

34 (e) It shall be deemed a violation of this chapter for a motor vehicle dealer:

1 (1) To require a purchaser of a new motor vehicle, as a condition of the sale and delivery
2 thereof, to also purchase special features, equipment, parts, or accessories not desired or requested
3 by the purchaser. This prohibition shall not apply as to special features, equipment, parts, or
4 accessories that are already installed on the car before sale by the dealer.

5 (2) To represent and sell as a new motor vehicle any motor vehicle that is a used motor
6 vehicle.

7 (3) To resort to or use any false or misleading advertisement in connection with his or her
8 business as a motor vehicle dealer.

9 (4) To engage in any deception or fraudulent practice in the repair of motor vehicles.

10 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 VEHICLES MANUFACTURES, DISTRIBUTORS, AND
DEALERS

1 This act would extend certain protocols applicable to motor vehicle manufacturers to their
2 distributors and factory branches, amend definitions relative to common entities and sales, as well
3 as prohibit any motor vehicle manufacturers, common entities, affiliates or joint ventures licensed
4 after January 1, 2020 from directly selling to the public.

5 This act would take effect upon passage.

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