

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-1118.01 Jery Payne

SENATE BILL 10-201

SENATE SPONSORSHIP

Mitchell and Romer, Foster, Hodge, Kester, Kopp, Morse, Newell, Penry, Scheffel, Shaffer B., Tapia

HOUSE SPONSORSHIP

Soper and Balmer, Baumgardner, Bradford, Casso, DelGrosso, Hullinghorst, Kagan, Liston, Looper, McNulty, Merrifield, Priola, Rice, Scanlan, Sonnenberg, Stephens

Senate Committees

Business, Labor and Technology

House Committees

Business Affairs and Labor

A BILL FOR AN ACT

101 **CONCERNING ENFORCEMENT OF THE MOTOR VEHICLE FRANCHISE**

102 **LAWS AGAINST CERTAIN TYPES OF LICENSEES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

House Bill 10-1049 created a right of first refusal when a motor vehicle manufacturer terminates a motor vehicle dealer's franchise and within 5 years offers the same franchise within 5 miles of the original franchise. **Section 2** of the bill imposes a civil fine of \$10,000 to \$25,000 on a motor vehicle manufacturer or distributor for failing to offer the right

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unam ended
May 7, 2010

HOUSE
2nd Reading Unam ended
May 6, 2010

SENATE
3rd Reading Unam ended
May 3, 2010

SENATE
2nd Reading Unam ended
April 30, 2010

of first refusal or make a compensation payment required under the right of first refusal. **Section 3** expands the remedies for such failure to include costs of the action that a person licensed under the motor vehicle dealer statutes may recover from a manufacturer or distributor.

Section 1 clarifies that a license may be denied, suspended, or revoked for willfully failing to offer the right of first refusal or make a compensation payment required under the right of first refusal.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-6-118 (1) (c), Colorado Revised Statutes, is
3 amended to read:

4 **12-6-118. Licenses - grounds for denial, suspension, or**
5 **revocation.** (1) A manufacturer's or distributor's license may be denied,
6 suspended, or revoked on the following grounds:

7 (c) Willful failure to comply with ~~any provisions of~~ this part 1,
8 INCLUDING THE RIGHT OF FIRST REFUSAL CREATED IN SECTION 12-6-120.3
9 (5), or any rule or regulation promulgated by the executive director;

10 **SECTION 2.** 12-6-105, Colorado Revised Statutes, is amended
11 BY THE ADDITION OF A NEW SUBSECTION to read:

12 **12-6-105. Powers and duties of executive director.** (3) THE
13 EXECUTIVE DIRECTOR MAY IMPOSE A CIVIL FINE OF NOT LESS THAN TEN
14 THOUSAND DOLLARS AND NOT MORE THAN TWENTY-FIVE THOUSAND
15 DOLLARS ON A MOTOR VEHICLE MANUFACTURER, DISTRIBUTOR, OR
16 MANUFACTURER'S REPRESENTATIVE WHO KNOWINGLY VIOLATES SECTION
17 12-6-120.3 (5). EACH DAY THAT A MANUFACTURER, DISTRIBUTOR, OR
18 MANUFACTURER'S REPRESENTATIVE VIOLATES SECTION 12-6-120.3 (5) BY
19 FAILING TO OFFER THE RIGHT OF FIRST REFUSAL OR FAILING TO MAKE A
20 PAYMENT REQUIRED BY SECTION 12-6-120.3 (5) IS A SEPARATE OFFENSE.

21 **SECTION 3.** 12-6-122 (3), Colorado Revised Statutes, is
22 amended to read:

1 **12-6-122. Right of action for loss.** (3) If any licensee suffers
2 any loss or damage ~~by reason of any unlawful act as provided in~~ BECAUSE
3 OF A VIOLATION OF section 12-6-120 (1) ~~such~~ OR 12-6-120.3 (5), THE
4 licensee shall have a right of action against ~~such~~ THE manufacturer,
5 distributor, or manufacturer representative. In any court action wherein
6 a manufacturer, distributor, or manufacturer representative has been
7 found liable in damages to any licensee under this part 1, any licensee so
8 damaged shall also be entitled to recover reasonable attorney fees AND
9 COSTS as part of his or her damages.

10 **SECTION 4. Applicability.** This act applies to offenses
11 committed on or after the effective date of this act.

12 **SECTION 5. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.