

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 196

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-1602, IDAHO CODE, TO PROVIDE  
2 FOR LIMITED LIABILITY COMPANIES RELATING TO DEALER AND SALESMAN LICENS-  
3 ING, TO PROVIDE FOR DENIAL OF LICENSES UNDER CERTAIN CONDITIONS AND TO  
4 PROVIDE THAT SPECIFIED LAW SHALL NOT PRECLUDE THE IDAHO DEPARTMENT OF  
5 TRANSPORTATION FROM TAKING ACTION AGAINST A CURRENT LICENSEE; AMEND-  
6 ING SECTION 49-1613, IDAHO CODE, TO REVISE PROVISIONS RELATING TO UN-  
7 LAWFUL ACTS BY LICENSED MANUFACTURERS AND DISTRIBUTORS, TO RESTRICT LI-  
8 CENSED MANUFACTURERS AND DISTRIBUTORS FROM ENGAGING IN CERTAIN ACTS RE-  
9 LATING TO PURCHASERS OF NEW MOTOR VEHICLES, TO REVISE AN EXCEPTION, TO  
10 PROVIDE FOR AN EXTENSION OF THE OPERATION OF A DEALERSHIP BY A MANUFAC-  
11 Turer OR DISTRIBUTOR AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING  
12 SECTION 49-1615, IDAHO CODE, TO PROVIDE FOR SUCCESSORS TO OWNERSHIP OF  
13 DEALERSHIPS AND TO PROVIDE THAT A MANUFACTURER MAY REQUEST AND RECEIVE  
14 CERTAIN INFORMATION FROM A SUCCESSOR TO A DEALERSHIP WHO IS NOT A FAMILY  
15 MEMBER.  
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Section 49-1602, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 49-1602. ADMINISTRATION -- POWERS AND DUTIES. The department shall:  
21 (1) Issue, and for reasonable cause shown, refuse to issue an applicant  
22 any license authorized under the provisions of this chapter. The department  
23 may refuse to issue a license to any applicant, other than a partnership, ~~or~~  
24 corporation, or limited liability company, if the applicant fails to comply  
25 with the terms and provisions of this chapter or the rules of the board, or  
26 if the applicant has been convicted of a violation of any of the provisions  
27 of this chapter or chapter 5, title 49, or section 49-1418 or chapter 6, ti-  
28 tle 48, Idaho Code, or of any federal odometer law or regulation. Should the  
29 applicant be a partnership, ~~or a corporation,~~ or limited liability company,  
30 the department may refuse to issue a license to the applicant where it deter-  
31 mines that one (1) or more of the partners of a partnership, or one (1) or more  
32 of the stockholders or officers of a corporation, or one (1) or more members  
33 or managers of a limited liability company, was previously the holder of a  
34 license which was revoked or suspended, and the license revoked never reis-  
35 sued or the suspended license never reinstated, or that one (1) or more of the  
36 partners, stockholders, ~~or officers,~~ or members or managers of a limited li-  
37 ability company, though not previously the holder of a license, has violated  
38 any of the provisions of this chapter or of an applicable rule or regulation,  
39 or of federal motor vehicle safety standards. The department shall deny a  
40 license under this chapter when the issuance of a new license would cause  
41 a manufacturer or distributor to be in violation of section 49-1613, Idaho

1 Code. This section shall not preclude the department from taking an action  
2 against a current licensee.

3 (2) For just cause shown, revoke or suspend, on terms, conditions, and  
4 for a period of time as the department shall consider fair and just, any li-  
5 cense or licenses issued pursuant to the provisions of this chapter. No li-  
6 cense shall be revoked or suspended unless it shall be shown that the li-  
7 censee has violated a provision of this chapter or of an applicable rule or  
8 regulation, or of federal motor vehicle safety standards.

9 (3) On its own motion, upon the sworn complaint of any person, inves-  
10 tigate any suspected or alleged violation by a licensee of any of the provi-  
11 sions of this chapter or of an applicable rule or regulation.

12 (4) Prescribe forms for applications for licenses and qualifications  
13 for an applicant for licensure. Every application for a license shall con-  
14 tain, in addition to other information required by the department, the fol-  
15 lowing:

16 (a) The name and residence address of the applicant and the trade name,  
17 if any, under which he intends to conduct his business. If the appli-  
18 cant is a copartnership, the name and residence address of each member,  
19 whether a limited or general partner, and the name under which the part-  
20 nership business is to be conducted. If the applicant is a corporation,  
21 the name of the corporation and the name and address of each of its prin-  
22 cipal officers and directors.

23 (b) A complete description, including the city with the street number,  
24 of the principal place of business and any other and additional places  
25 of business operated and maintained by the applicant in conjunction  
26 with the principal place of business.

27 (c) Copies of any letters of franchise for new vehicles that the appli-  
28 cant has been enfranchised to sell or exchange, and the name or names and  
29 addresses of the manufacturer or distributor who has enfranchised the  
30 applicant.

31 (d) Names and addresses of the persons who shall act as salesmen under  
32 the authority of the license, if issued.

33 (e) A copy of the certificate of assumed business name, if required,  
34 shall be filed with the secretary of state.

35 (f) For a manufacturer's license, the name or names and addresses of  
36 each and every distributor, factory branch, and factory representa-  
37 tive.

38 (g) For a salesman's license, certification by the dealer by whom the  
39 salesman will be employed, that he has examined the background of the  
40 applicant, and to the best of the dealer's knowledge, is qualified to be  
41 licensed under the sponsorship of the licensed dealer.

42 (h) Before a dealer who is not exempted from the continuing education  
43 requirements as provided in section 49-1637(2), Idaho Code, may ap-  
44 ply for a renewal of a vehicle dealer's license, he shall provide to  
45 the department a certification from an accredited educational system,  
46 private vocational school, correspondence school or trade association  
47 approved by the department stating that the vehicle dealer has satis-  
48 fied the four (4) hour continuing education requirements as specified  
49 in section 49-1637(1), Idaho Code.

1 (i) Before any vehicle dealer's license is issued by the department  
 2 to an applicant who is not licensed with the department as a dealer  
 3 within the previous twelve (12) calendar months and who is not exempted  
 4 from the continuing education requirements as provided in section  
 5 49-1637(2), Idaho Code, the applicant shall provide to the department  
 6 a certification from an accredited educational institution, private  
 7 vocational school, correspondence school or trade association ap-  
 8 proved by the department stating that the applicant has satisfactorily  
 9 completed the prelicensing class or program requirements, including  
 10 a written examination of material presented, specified in section  
 11 49-1637(1), Idaho Code.

12 (5) Refuse to issue any license under the provisions of this chapter if,  
 13 upon investigation, the department finds that any information contained in  
 14 the application is incomplete, incorrect or fictitious.

15 (6) Require that a dealer's principal place of business, and other  
 16 locations operated and maintained by him in conjunction with his principal  
 17 place of business, have erected or posted signs or devices providing infor-  
 18 mation relating to the dealer's name, location and address of the principal  
 19 place of business, and the number of the license held by the dealer.

20 (7) Provide for regular meetings of the dealer advisory board, to be  
 21 held not less frequently than semiannually. Notices of meetings of the advi-  
 22 sory board shall be mailed to all members not less than five (5) days prior to  
 23 the date on which the meeting is to be held.

24 (8) Inspect, prior to licensing, the principal place of business and  
 25 other sites or locations as may be operated and maintained by the applicant.

26 (9) Seek and consider the advisory board's recommendations and com-  
 27 ments regarding proposed rules promulgated for the administration of the  
 28 provisions of this chapter.

29 (10) Require the attendance of not less than one (1) or more than three  
 30 (3) advisory board members at all hearings held relating to this chapter.

31 SECTION 2. That Section 49-1613, Idaho Code, be, and the same is hereby  
 32 amended to read as follows:

33 49-1613. UNLAWFUL ACTS BY LICENSEE. (1) It shall be unlawful for the  
 34 holder of any license issued under the provisions of this chapter to:

35 (a) Intentionally publish or circulate any advertising which is mis-  
 36 leading or inaccurate in any material particular or which misrepresents  
 37 any of the products sold or furnished by a licensed dealer;

38 (b) Violate any of the provisions of this chapter or any of the applica-  
 39 ble rules;

40 (c) Knowingly purchase, sell or otherwise acquire or dispose of a  
 41 stolen vehicle;

42 (d) Violate any law respecting commerce in vehicles or any lawful rule  
 43 respecting commerce in vehicles promulgated by any licensing or regu-  
 44 lating authority now existing or hereafter created by the laws of the  
 45 state;

46 (e) Engage in the business for which the dealer is licensed without at  
 47 all times maintaining a principal place of business;

48 (f) Engage in a type of business respecting the selling or exchanging of  
 49 vehicles for which he is not licensed;

1 (g) Knowingly purchase a vehicle which has an altered or removed vehi-  
2 cle identification number plate or alter or remove a vehicle identifi-  
3 cation number plate;

4 (h) Violate any provision of this title or any rules promulgated;

5 (i) Violate any provision of the federal motor vehicle safety stan-  
6 dards, federal odometer laws or regulations; or

7 (j) Display for sale, exchange, or sell any vehicle for which the vehi-  
8 cle dealer does not hold title or consignment agreement or other docu-  
9 mentary evidence of his right to the possession of every vehicle in his  
10 possession.

11 (2) It shall be unlawful for any manufacturer or distributor licensed  
12 under this chapter to require, attempt to require, coerce, or attempt to co-  
13 erce, any new vehicle dealer in this state to:

14 (a) Order or accept delivery of any new vehicle, part or accessory,  
15 equipment or any other commodity not required by law which shall not  
16 have been voluntarily ordered by the new vehicle dealer. This para-  
17 graph is not intended to modify or supersede any terms or provisions of a  
18 franchise requiring dealers to market a representative line of vehicles  
19 which the manufacturer or distributor is publicly advertising.

20 (b) Order or accept delivery of any new vehicle with special features,  
21 accessories or equipment not included in the list price of such vehicles  
22 as publicly advertised by the manufacturer or distributor.

23 (c) Participate monetarily in an advertising campaign or contest, or  
24 to purchase any promotional materials, training materials, showroom or  
25 other display decorations or materials at the expense of the dealer.

26 (d) Enter into any agreement with the manufacturer or distributor or to  
27 do any other act prejudicial to the dealer by threatening to terminate  
28 or cancel a franchise or any contractual agreement existing between  
29 the dealer and the manufacturer or distributor. This paragraph is not  
30 intended to preclude the manufacturer or distributor from insisting  
31 on compliance with reasonable terms or provisions of the franchise or  
32 other contractual agreement, and notice in good faith to any dealer of  
33 the dealer's violation of those terms or provisions shall not consti-  
34 tute a violation of the provisions of this chapter.

35 (e) Change the capital structure of the dealer or the means by or  
36 through which the dealer finances the operation of the dealership,  
37 provided that the dealer at all times meets any reasonable capital stan-  
38 dards determined by the manufacturer or distributor in accordance with  
39 uniformly applied criteria. No change in the capital structure shall  
40 cause a change in the principal management or have the effect of a sale  
41 of the franchise without the consent of the manufacturer or distribu-  
42 tor. Consent shall not be unreasonably withheld.

43 (f) Refrain from participation in the management of, investment in, or  
44 the acquisition of any other line of new vehicle or related products.  
45 This paragraph does not apply unless the dealer maintains a reasonable  
46 line of credit for each make or line of new vehicle, and the dealer re-  
47 mains in compliance with any reasonable facilities requirements of the  
48 manufacturer or distributor, and no change is made in the principal man-  
49 agement of the dealership.

1 (g) Prospectively assent to a release, assignment, novation, waiver or  
2 estoppel which would relieve any person from liability to be imposed by  
3 this chapter or to require any controversy between a dealer and a man-  
4 manufacturer, distributor, or representatives, to be referred to any per-  
5 son other than the duly constituted courts of the state or the United  
6 States, or to the director, if that referral would be binding upon the  
7 dealer.

8 (h) Either establish or maintain exclusive facilities, personnel, or  
9 display space.

10 (i) Expand facilities without a written guarantee of a sufficient sup-  
11 ply of new vehicles so as to justify an expansion, in light of the market  
12 and economic conditions.

13 (j) Make significant modifications to an existing dealership or to  
14 construct a new vehicle dealership facility without providing a writ-  
15 ten guarantee of a sufficient supply of new vehicles so as to justify  
16 modification or construction, in light of the market and economic con-  
17 ditions.

18 (3) It shall be unlawful for any manufacturer or distributor licensed  
19 under this chapter to:

20 (a) Delay, refuse, or fail to deliver new vehicles or new vehicle parts  
21 or accessories in a reasonable time, and in reasonable quantity, rela-  
22 tive to the dealer's facilities and sales potential in the dealer's rel-  
23 evant market area, after acceptance of an order from a dealer having a  
24 franchise for the retail sale of any new vehicle sold or distributed by  
25 the manufacturer or distributor, any new vehicle, parts or accessories  
26 to new vehicles as are covered by the franchise, if the vehicle, parts,  
27 or accessories are publicly advertised as being available for delivery  
28 or actually being delivered. These provisions are not violated, how-  
29 ever, if failure is caused by acts or causes beyond the control of the  
30 manufacturer or distributor.

31 (b) Refuse to disclose to any dealer handling the same line, the manner  
32 and mode of distribution of that line within the relevant market area.

33 (c) Obtain money, goods, service, or any other benefit from any other  
34 person with whom the dealer does business, on account of, or in relation  
35 to, the transaction between the dealer and other person, other than for  
36 compensation for services rendered, unless the benefit is promptly ac-  
37 counted for, and transmitted to the dealer.

38 (d) Increase prices of new vehicles which the dealer had ordered for  
39 consumers prior to the dealer's receipt of the written official price  
40 increase notification. A sales contract signed by a consumer shall  
41 constitute evidence of each such order, provided that the vehicle is in  
42 fact delivered to that customer. In the event of manufacturer or dis-  
43 tributor price reductions or cash rebates paid to the dealer, the amount  
44 of any reduction or rebate received by a dealer shall be passed on to the  
45 private retail consumer by the dealer. Price reductions shall apply to  
46 all vehicles in the dealer's inventory which were subject to the price  
47 reduction. Price differences applicable to new model or series shall  
48 not be considered a price increase or price decrease. Price changes  
49 caused by the addition to a vehicle of required or optional equipment,  
50 or revaluation of the United States dollar, in the case of foreign-make

1 vehicles or components, or an increase in transportation charges due to  
2 increased rates imposed by a carrier, shall not be subject to the provi-  
3 sions of this subsection.

4 (e) Release to any outside party, except under subpoena or as other-  
5 wise required by law or in an administrative, judicial or arbitration  
6 proceeding involving the manufacturer or distributor or dealer, any  
7 business, financial, or personal information which may be provided from  
8 time to time by the dealer to the manufacturer or distributor without  
9 the express written consent of the dealer.

10 (f) Deny any dealer the right of free association with any other dealer  
11 for any lawful purpose.

12 ~~(g) Unfairly compete with a dealer in the same line make, operating~~  
13 ~~under an agreement or franchise from the aforementioned manufacturer~~  
14 ~~or distributor, in the relevant market area~~ Engage in the distribution,  
15 sale, lease, or offer for sale or lease, of a new motor vehicle to pur-  
16 chasers who acquire the vehicle in this state except through a dealer  
17 with whom the manufacturer or distributor has established a written  
18 franchise agreement. A manufacturer or distributor shall not, however,  
19 ~~be deemed to be competing in violation of this section~~ when operating  
20 a dealership ~~either temporarily for a reasonable period, in any case~~  
21 ~~not to exceed one (1) year, or in a retail operation which is for sale~~  
22 ~~to any qualified independent person at a fair and reasonable price, or~~  
23 ~~in a relationship in which an independent person has made a significant~~  
24 ~~investment subject to loss in the dealership and can reasonably expect~~  
25 ~~to acquire full ownership of that dealership on reasonable terms and~~  
26 ~~conditions. Upon a showing of good cause by the manufacturer or dis-~~  
27 ~~tributor to the department, the period of temporary ownership operation~~  
28 ~~may be extended up to one (1) additional year, resulting in a maximum~~  
29 ~~temporary ownership operation period of two (2) years.~~

30 (h) Unfairly discriminate among its dealers with respect to warranty  
31 reimbursement.

32 (i) Unreasonably withhold consent to the sale, transfer, or exchange of  
33 the franchise to a qualified buyer capable of being licensed as a dealer  
34 in this state or to condition the sale, transfer, or exchange of a fran-  
35 chise agreement upon site control or an agreement to renovate or make  
36 improvements to a facility, unless required by the technology of a motor  
37 vehicle being sold at the facility. Provided however, that a voluntary  
38 acceptance of such conditions by the dealer in writing including, but  
39 not limited to, a written agreement for which the dealer has accepted  
40 separate and valuable consideration, shall not constitute a violation.

41 (j) Fail to respond in writing to a request for consent as specified in  
42 paragraph (i) of this subsection within sixty (60) days of receipt of a  
43 written request on the forms, if any, generally utilized by the manufac-  
44 turer or distributor for those purposes and containing the required in-  
45 formation. Failure to respond shall be deemed to be consent to the re-  
46 quest.

47 (k) Prevent or attempt to prevent, by contract or otherwise, any dealer  
48 from changing the executive management control of the dealership unless  
49 the manufacturer or distributor, having the burden of proof, can show  
50 that the change of executive management will result in executive man-

1 agement or control by a person or persons who are not of good moral char-  
2 acter or who do not meet reasonable, preexisting and, with considera-  
3 tion given to the volume of sales and service of the dealership, uni-  
4 formly applied minimum business experience standards. Where the manu-  
5 facturer or distributor rejects a proposed change in executive manage-  
6 ment control, the manufacturer or distributor shall give written notice  
7 of his reasons to the dealer within sixty (60) days of notice to the man-  
8 ufacturer or distributor by the dealer of the proposed change; other-  
9 wise, the change in the executive management of the dealership shall be  
10 presumptively considered approved.

11 (l) Terminate, cancel or fail to renew any franchise solely because of  
12 the death or incapacity of an owner who is not listed in the franchise  
13 as one on whose expertise and abilities the manufacturer or distributor  
14 relied in the granting of the franchise.

15 (m) Prevent or attempt to prevent the dealer, by written instrument  
16 or otherwise, from either receiving the fair market value of the deal-  
17 ership in a sale transaction, or from transferring the dealership to a  
18 spouse or legal heir, as specified in this chapter.

19 (n) Engage in any predatory practice or discrimination against any  
20 dealer.

21 (o) Resort to or to use any false or misleading advertisement in the  
22 conducting of his business as a manufacturer or distributor in this  
23 state.

24 (p) Make any false or misleading statement, either directly or through  
25 any agent or employee, in order to induce any dealer to enter into any  
26 agreement or franchise, or to take any action which is prejudicial to  
27 that dealer or his business.

28 (q) Require or coerce dealers to participate in local or national ad-  
29 vertising campaigns or contests or to require or coerce dealers to pur-  
30 chase promotional or display materials.

31 (r) Charge back, deny motor vehicle allocation, withhold payments, or  
32 take other actions against a dealer, or to condition a franchise agree-  
33 ment, or renewal of a franchise agreement, or to condition sales, ser-  
34 vice, parts, or finance incentives upon site control or an agreement to  
35 renovate or make improvements to a facility unless required by the tech-  
36 nology of a motor vehicle being sold at the facility. Provided however,  
37 that a voluntary acceptance of such conditions by the dealer in writing  
38 including, but not limited to, a written agreement for which the dealer  
39 has accepted separate and valuable consideration, shall not constitute  
40 a violation.

41 (s) Charge back, deny motor vehicle allocation, withhold payments, or  
42 take other actions against a motor vehicle dealer if a motor vehicle  
43 sold by the motor vehicle dealer is exported from Idaho or the dealer's  
44 assigned area of responsibility unless the manufacturer, distributor,  
45 or manufacturer representative proves that the motor vehicle dealer  
46 knew or reasonably should have known a motor vehicle was intended to  
47 be exported, which shall operate as a rebuttable presumption that the  
48 motor vehicle dealer did not have such knowledge. This paragraph does  
49 not apply if exporting of motor vehicles outside of the state of Idaho is  
50 provided for by the manufacturer or distributor.

1 (4) It is unlawful for any manufacturer or distributor or any offi-  
2 cer, agent or representative to coerce, or attempt to coerce, any dealer  
3 in this state to offer to sell or sell any extended service contract or ex-  
4 tended maintenance plan that is offered, sold, backed by or sponsored by  
5 the manufacturer or distributor or to sell, assign or transfer any retail  
6 installment sales contract, obtained by the dealer in connection with the  
7 sale by him in this state of new vehicles, manufactured or sold by the man-  
8 ufacturer or distributor, to a specified finance company or class of such  
9 companies, or to any other specified person, by any of the acts or means set  
10 forth, namely by:

11 (a) Any statement, suggestion, promise or threat that the manufac-  
12 turer or distributor will, in any manner, benefit or injure the dealer,  
13 whether the statement, suggestion, threat or promise is express or im-  
14 plied or made directly or indirectly;

15 (b) Any act that will benefit or injure the dealer;

16 (c) Any contract, or any express or implied offer of contract, made  
17 directly or indirectly to a dealer for handling new vehicles, on the  
18 condition that the dealer shall offer to sell or sell any extended  
19 service contract or extended maintenance plan that is offered, sold,  
20 backed by, or sponsored by the manufacturer or distributor or sell, as-  
21 sign or transfer his retail installment sales contract in this state to  
22 a specified finance company or class of such companies, or to any other  
23 specified person; or

24 (d) Any express or implied statement or representation made directly or  
25 indirectly that the dealer is under any obligation whatsoever to offer  
26 to sell or sell any extended service contract or extended maintenance  
27 plan that is offered, sold, backed by, or sponsored by the manufacturer  
28 or distributor or to sell, assign or transfer any of his retail sales  
29 contracts, in this state, on new vehicles manufactured or sold by that  
30 manufacturer or distributor to a finance company or class of companies,  
31 or other specified person, because of any relationship or affiliation  
32 between the manufacturer or distributor and a finance company or compa-  
33 nies, or a specified person or persons.

34 (e) Nothing contained in this subsection shall prohibit a manufacturer  
35 or distributor from offering or providing incentive benefits or bonus  
36 programs to a retail motor vehicle dealer or prospective retail motor  
37 vehicle dealer in this state who makes the voluntary decision to offer  
38 to sell or sell any extended service contract or extended maintenance  
39 plan offered, sold, backed or sponsored by the manufacturer or distrib-  
40 utor to sell, assign or transfer any retail installment sale or lease by  
41 him in this state of motor vehicles manufactured or sold by the manufac-  
42 turer or distributor to a specified finance company or leasing company  
43 controlled by or affiliated with the manufacturer or distributor.

44 Any statement, threats, promises, acts, contracts or offers of con-  
45 tracts, when the effect may be to lessen or eliminate competition or tend to  
46 create a monopoly, are declared unfair trade practices and unfair methods of  
47 competition, against the policy of this state, and are unlawful.

48 (5) It is unlawful for any manufacturer or distributor or agent or em-  
49 ployee of a manufacturer or distributor to use a written instrument, agree-



1 ment, or waiver to attempt to nullify any of the provisions of this section,  
2 and such agreement, written instrument or waiver shall be null and void.

3 (6) It shall be unlawful, directly or indirectly, to impose unrea-  
4 sonable restrictions on the dealer relative to the sale, transfer, right  
5 to renew, termination discipline, noncompetition covenants, site control  
6 (whether by sublease, collateral pledge of lease, or otherwise), right of  
7 first refusal to purchase, option to purchase, compliance with subjective  
8 standards and assertion of legal or equitable rights.

9 (7) The provisions of this chapter shall apply to all written franchise  
10 agreements between a manufacturer or distributor and a dealer, including  
11 the franchise offering, the franchise agreement, sales of goods, services  
12 or advertising, leases or mortgages of real or personal property, promises  
13 to pay, security interests, pledges, insurance contract, advertising con-  
14 tract, construction or installation contract, servicing contracts and all  
15 other agreements where the manufacturer or distributor has any direct or  
16 indirect interest.

17 SECTION 3. That Section 49-1615, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 49-1615. SUCCESSION TO OWNERSHIP. Notwithstanding the terms, provi-  
20 sions or conditions of any franchise:

21 (1) A licensee may appoint by will, or any other written instrument, a  
22 designated family member or successor to succeed in the ownership interest  
23 in the dealership.

24 (2) Unless there exists good cause for refusal to honor succession on  
25 the part of the manufacturer, any designated family member or successor of a  
26 deceased or incapacitated owner of a dealership may succeed to the ownership  
27 under the existing franchise, provided the designated family member or suc-  
28 cessor gives the manufacturer written notice of his intention to succeed to  
29 the ownership of the dealership within one hundred twenty (120) days of the  
30 owner's death or incapacity, and the designated family member or successor  
31 agrees to be bound by all the terms and conditions of the franchise.

32 (3) The manufacturer may request, and the designated family member or  
33 successor shall provide, promptly upon request, personal and financial data  
34 that is reasonably necessary to determine whether the succession should be  
35 honored.

36 (4) The manufacturer may request, and a successor who is not a family  
37 member shall provide, promptly upon request, information about the succes-  
38 sor's experience and professional qualifications that are reasonably neces-  
39 sary to determine whether the succession should be honored.

40 (5) If a manufacturer believes that good cause exists for refusing to  
41 honor the succession to the ownership of a dealership by a family member or  
42 successor of a deceased or incapacitated owner of a dealership under the ex-  
43 isting franchise agreement, the manufacturer may, not more than sixty (60)  
44 days following receipt of notice of the designated family member's or suc-  
45 cessor's intent to succeed to the ownership of the dealership, or any per-  
46 sonal or financial data which it has requested, serve upon the designated  
47 family member or successor and the department, notice of its refusal to honor  
48 the succession and of its intent to discontinue the existing franchise with  
49 the dealer no sooner than ninety (90) days from the date notice is served.

1 The notice must state the specific grounds for a refusal to honor the suc-  
2 cession. A protest may be filed in accordance with the provisions of section  
3 49-1617, Idaho Code.

4 (~~5~~6) If notice of refusal and discontinuance is not timely served upon  
5 the family member or successor, the franchise shall continue in effect sub-  
6 ject to termination only as otherwise permitted under this chapter.

7 (~~6~~7) This chapter does not preclude the owner of a dealership from des-  
8 ignating any person as his successor by written instrument filed with the  
9 manufacturer and, in the event there is a conflict between that written in-  
10 strument and the provisions of this section, and that written instrument has  
11 not been revoked by the owner of the dealership, in writing, to the manufac-  
12 turer, then the written instrument shall govern.