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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 764 Session of  
2017

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INTRODUCED BY GORDNER, RAFFERTY, TARTAGLIONE AND ARGALL,  
JUNE 14, 2017

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AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 6, 2018

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AN ACT

1 Amending the act of December 22, 1983 (P.L.306, No.84), entitled  
2 "An act providing for the State Board of Vehicle  
3 Manufacturers, Dealers and Salespersons; and providing  
4 penalties," providing for preliminary provisions, further  
5 providing for short title, for definitions, for State Board  
6 of Vehicle Manufacturers, Dealers and Salespersons, for  
7 powers and duties of board, for license to engage in  
8 business, for biennial renewal, for enforcement, for protest  
9 hearing decision within 120 days unless waived by the  
10 parties, for reimbursement for all parts and service required  
11 by the manufacturer or distributor and reimbursement audits,  
12 for damage disclosure, for mediation and arbitration, for  
13 unlawful acts by manufacturers or distributors, for area of  
14 responsibility, for termination of franchises, for industry  
15 reorganization, for succession to franchise ownership, for  
16 manufacturer right of first refusal, for manufacturer or  
17 distributor repurchase of inventory and equipment, for  
18 reimbursement of rental costs for dealer facility, for  
19 grounds for disciplinary proceedings, for administrative  
20 liability of employer, copartnership, association or  
21 corporation, for reinstatement, for application for license,  
22 for refusal of license, for change of salesperson's license  
23 to indicate new employer, for termination of employment or  
24 business, for exemption from licensure and registration, for  
25 limitations on establishing or relocating dealers, for  
26 licensing cost, for penalties, for civil actions for  
27 violations, for fees, for disposition of fees and fines, for  
28 vehicle shows, off-premise sales and exhibitions and for off-  
29 premise sales, shows, exhibitions or rallies on Sundays;  
30 providing for recreational vehicles and for miscellaneous  
31 provisions; further providing for savings provision, for  
32 repeals, expiration of terms of board members and for

1 existing rules and regulations.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. The act of December 22, 1983 (P.L.306, No.84),  
5 known as the Board of Vehicles Act, is amended by adding a  
6 chapter heading to read:

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 2. Section 1 of the act is renumbered to read:

10 Section [1] 101. Short title.

11 This act shall be known and may be cited as the Board of  
12 Vehicles Act.

13 Section 3. The definitions of "motor home," "recreational  
14 vehicle" and "recreational vehicle park trailer" in section 2 of  
15 the act are amended and the section is renumbered and amended by  
16 adding definitions to read:

17 Section [2] 102. Definitions.

18 The following words and phrases when used in this act shall  
19 have the meanings given to them in this section unless the  
20 context clearly indicates otherwise:

21 \* \* \*

22 "Fifth wheel trailer." A vehicle mounted on wheels designed  
23 to provide temporary living quarters for recreational, camping  
24 or travel use which is a size and weight which does not require  
25 a special highway movement permit and is designed to be towed by  
26 a motorized vehicle that contains a towing mechanism mounted  
27 above or forward of the tow vehicle's rear axle.

28 \* \* \*

29 "Folding camping trailer." A vehicle mounted on wheels and  
30 constructed with collapsible side walls that fold for towing by

1 another vehicle and unfold at the campsite to provide temporary  
2 living quarters for recreational, camping or travel use.

3 \* \* \*

4 "Motor home." [A vehicle designed to provide temporary  
5 living quarters, built into an integral part of, or permanently  
6 attached to, a self-propelled vehicle chassis or van.] A  
7 motorized vehicle designed to provide temporary living quarters  
8 for recreational, camping or travel use containing at least four  
9 of the following permanently installed independent life support  
10 systems:

11 (1) A cooking facility with an on-board fire FUEL <--  
12 source.

13 (2) A potable water supply system that includes at least  
14 a sink, a faucet and a water tank with an exterior service  
15 supply connection.

16 (3) A toilet with exterior evacuation.

17 (4) A gas or electric refrigerator.

18 (5) A heating or air conditioning system with an on-  
19 board power or fuel source separate from the vehicle engine.

20 (6) An electric power system separate from the vehicle.

21 "Park model RV." A vehicle that:

22 (1) Is designed and marketed as temporary living  
23 quarters for recreational camping, travel or seasonal use.

24 (2) Is not permanently affixed to real property for use  
25 as a permanent dwelling.

26 (3) Is built on a single chassis mounted on wheels with  
27 a gross trailer area not exceeding 400 square feet in the  
28 set-up mode.

29 (4) Is certified by the manufacturer as complying with  
30 the ANSI A119.5 Park Model Recreational Vehicle Standard.

1 \* \* \*

2 "Recreational vehicle." [A vehicle primarily designed as  
3 temporary living quarters for recreational, camping or travel  
4 use, which either has its own power or is mounted on or drawn by  
5 another vehicle. The term includes a travel trailer,  
6 recreational vehicle park trailer, slide-in camper, camping  
7 trailer and motor home.] A vehicle which is either self-  
8 propelled or towed by a consumer-owned tow vehicle and designed  
9 to provide temporary living quarters for recreational, camping  
10 or travel use that complies with all applicable Federal vehicle  
11 regulations, does not require a special movement permit to <--  
12 legally use on highways and is certified by the manufacturer as  
13 complying with NFPA 1192 Standard on Recreational Vehicles or  
14 ANSI A119.5 Park Model Recreational Vehicle Standard and include  
15 the following types:

- 16 (1) Motor home.  
17 (2) Travel trailer.  
18 (3) Fifth wheel travel trailer.  
19 (4) Folding camping trailer.  
20 (5) Truck camper.  
21 (6) Park model RV.

22 ["Recreational vehicle park trailer." A recreational vehicle  
23 that is built on a single chassis mounted on wheels, has a gross  
24 trailer area not exceeding 400 square feet in the set-up mode  
25 and is certified by the manufacturer as complying with ANSI  
26 A119.5.]

27 \* \* \*

28 "Recreational vehicle warrantor." An individual, firm,  
29 corporation or business entity, including a manufacturer or  
30 supplier that provides a written warranty to a consumer in

1 connection with a new recreational vehicle or a part, accessory  
2 or component of a new recreational vehicle. The term does not  
3 include service contracts, mechanical or other insurance or  
4 extended warranties sold for separate consideration by a dealer  
5 or other person not controlled by a manufacturer.

6 \* \* \*

7 "Travel trailer." A vehicle mounted on wheels and towed by a  
8 consumer's motorized vehicle designed to provide temporary  
9 living quarters for recreational, camping or travel use of a  
10 size and weight as to not require a special highway movement  
11 permit when towed by a motorized vehicle.

12 "Truck camper." A vehicle designed to be placed in the bed  
13 of a pickup truck to provide temporary living quarters for  
14 recreational, camping or travel use.

15 \* \* \*

16 Section 4. The act is amended by adding a chapter heading to  
17 read:

18 CHAPTER 3

19 VEHICLES

20 Section 5. Sections 3 and 4 of the act are amended to read:  
21 Section [3] 301. State Board of Vehicle Manufacturers, Dealers  
22 and Salespersons.

23 (a) Board.--The State Board of Vehicle Manufacturers,  
24 Dealers and Salespersons shall consist of 17 members, one of  
25 whom shall be the Commissioner of Professional and Occupational  
26 Affairs, or his designee, one of whom shall be the Secretary of  
27 the Department of Transportation, or his designee, one of whom  
28 shall be the Director of Consumer Protection in the Office of  
29 Attorney General, or his designee, and the remaining 14 of whom  
30 shall be appointed by the Governor as follows:

1           (1) Three members shall be new vehicle dealers who have  
2 been actively engaged as such for a period of five years  
3 immediately preceding their appointment.

4           (2) Three members shall be used vehicle dealers who have  
5 been actively engaged as such for a period of five years  
6 immediately preceding their appointment. One used vehicle  
7 dealer member beginning with the first vacancy for a used  
8 vehicle dealer after the effective date of this amendment  
9 shall also be an owner, partner or officer of a corporation  
10 or business which is licensed as a vehicle auction and which  
11 has been actively engaged as such for a period of five years  
12 immediately preceding the appointment.

13           (3) One shall be a manufactured housing or mobile home  
14 dealer who has been actively engaged as such for a period of  
15 five years immediately preceding appointment.

16           (4) One shall be a salesperson who has been actively  
17 engaged in the sale of new or used vehicles for a period of  
18 five years immediately preceding appointment. The member  
19 shall not be a dealer or an officer of a corporation or a  
20 member of a partnership engaged in the business of a dealer  
21 at the time of appointment.

22           (5) One shall be a recreational vehicle dealer who has  
23 been actively engaged as such for a period of five years  
24 immediately preceding appointment.

25           (6) One shall be a motorcycle dealer who has been  
26 actively engaged as such for a period of five years  
27 immediately preceding appointment.

28           (6.1) One member shall be a mobility vehicle dealer who  
29 has been actively engaged as such for a period of five years  
30 immediately preceding appointment.

1           (7) Three shall be members of the general public having  
2           no connection with the vehicle business.

3           (b) Terms of members.--The terms of the members of the board  
4 shall be four years for members appointed after the effective  
5 date of this amendment from the respective date of their  
6 appointment, provided that a member may continue for a period  
7 not to exceed six months beyond the expiration of his term if a  
8 successor has yet to be duly appointed and qualified according  
9 to law. The maximum number of consecutive terms a member shall  
10 serve shall be two consecutive four-year terms. In the event  
11 that any member shall die, resign or be removed from office, his  
12 successor shall be appointed and hold office for the unexpired  
13 term.

14          (c) Quorum.--A majority of the members of the board who have  
15 been appointed and confirmed shall constitute a quorum. Motions,  
16 questions and decisions of the board shall require the  
17 affirmative vote of a majority of a quorum for adoption. The  
18 board shall select, from among their number, a chairman and a  
19 secretary.

20          (d) Reimbursement of expenses.--Each member of the board,  
21 excepting the Commissioner of Professional and Occupational  
22 Affairs or his designee, the Director of the Bureau of Consumer  
23 Protection in the Office of Attorney General or his designee,  
24 and the Secretary of the Department of Transportation or his  
25 designee, shall be paid reasonable traveling, hotel and other  
26 necessary expenses and per diem compensation at the rate of \$60  
27 for each day of actual service while on board business.

28          (e) Attendance.--A member who fails to attend three  
29 consecutive meetings shall forfeit his seat unless the  
30 Commissioner of Professional and Occupational Affairs, upon

1 written request from the member, finds that the member should be  
2 excused from a meeting because of illness or the death of an  
3 immediate family member.

4 Section [4] 302. Powers and duties of board.

5 (a) Powers and duties.--The board shall have the power and  
6 its duty shall be to:

7 (1) Provide for and regulate the licensing of  
8 salespersons, dealers, vehicle auctions, manufacturers,  
9 factory branches, distributors, distributor branches and  
10 factory or distributor representatives as defined in [this  
11 act] section 102.

12 (2) Review and pass upon the qualifications of  
13 applicants for licensure and to issue, except as otherwise  
14 provided herein, a license to engage in the said businesses  
15 to any applicant who is approved by the board and who meets  
16 the requirements of this [act] chapter and regulations  
17 promulgated in accordance with this [act] chapter.

18 (3) Investigate on its own initiative, upon complaint of  
19 the Department of Transportation, Department of Community and  
20 Economic Development, Department of Revenue or the Office of  
21 the Attorney General, any law enforcement officer or upon the  
22 verified complaint in writing of any person, any allegations  
23 of the wrongful act or acts of any licensee or person  
24 required to be licensed [hereunder] under this chapter. Duly  
25 authorized agents of the Bureau of Professional and  
26 Occupational Affairs shall be authorized to issue  
27 administrative citations for violations of this act in  
28 accordance with section 5 of the act of July 2, 1993  
29 (P.L.345, No.48), entitled "An act empowering the General  
30 Counsel or his designee to issue subpoenas for certain



1 licensing board activities; providing for hearing examiners  
2 in the Bureau of Professional and Occupational Affairs;  
3 providing additional powers to the Commissioner of  
4 Professional and Occupational Affairs; and further providing  
5 for civil penalties and license suspension."

6 (4) Administer and enforce this act and to impose  
7 appropriate administrative discipline upon licensees found to  
8 be in violation of this act.

9 (5) Bring criminal prosecutions for unauthorized,  
10 unlicensed or unlawful practice and bring an action to enjoin  
11 such practices. Duly authorized agents of the bureau shall be  
12 authorized to issue citations in accordance with section 5(a)  
13 of the act of July 2, 1993 (P.L.345, No.48), entitled "An act  
14 empowering the General Counsel or his designee to issue  
15 subpoenas for certain licensing board activities; providing  
16 for hearing examiners in the Bureau of Professional and  
17 Occupational Affairs; providing additional powers to the  
18 Commissioner of Professional and Occupational Affairs; and  
19 further providing for civil penalties and license  
20 suspension," for violations of this act.

21 (6) Require each licensee to register biennially with  
22 the board.

23 (7) Keep a record showing the names and addresses of all  
24 licensees licensed under this [act] chapter.

25 (8) Keep minutes and records of all its transactions and  
26 proceedings especially with relation to the issuance, denial,  
27 registration, formal reprimand, suspension and revocation of  
28 licenses. In all actions or proceedings in any court, a  
29 transcript of any board record or any part thereof, which is  
30 certified to be a true copy by the board, shall be entitled

1 to admission in evidence.

2 (9) Adopt, promulgate and enforce such rules and  
3 regulations consistent with this act as are deemed necessary  
4 and proper to effectuate the provisions of this act.

5 (10) Submit annually, to the Consumer Protection and  
6 Professional Licensure Committee of the Senate and the  
7 Professional Licensure Committee of the House of  
8 Representatives, a description of the types of complaints  
9 received, status of the cases, board action which has been  
10 taken and length of time from the initial complaint to final  
11 board resolution.

12 (11) Submit annually to the department an estimate of  
13 the financial requirements of the board for its  
14 administrative, investigative, legal and miscellaneous  
15 expenses.

16 (12) Submit annually to the House and Senate  
17 Appropriations Committees, 15 days after the Governor has  
18 submitted his budget to the General Assembly, a copy of the  
19 budget request for the upcoming fiscal year which the board  
20 previously submitted to the department.

21 (b) Summary proceedings.--All law enforcement officers in  
22 this Commonwealth may institute summary criminal proceedings in  
23 accordance with the Pennsylvania Rules of Criminal Procedure for  
24 violations of this act. Any person who violates this act shall  
25 be subject to criminal prosecution as provided in section [28]  
26 328.

27 Section 6. Section 5 of the act, amended December 17, 2015  
28 (P.L.450, No.78), is renumbered and amended to read:  
29 Section [5] 303. License to engage in business.

30 (a) License required.--

1           (1) To promote the public safety and welfare, it shall  
2 be unlawful for any person to engage in the business as a  
3 salesperson, dealer, branch lot, wholesale vehicle auction,  
4 public or retail vehicle auction, manufacturer, factory  
5 branch, distributor, distributor branch, factory  
6 representative or distributor representative within this  
7 Commonwealth unless the person has secured a license as  
8 required under this [act] chapter.

9           (2) A person, including, but not limited to,  
10 salespersons, shall not engage in the business for his own  
11 benefit or profit unless he is licensed in accordance with  
12 this [act] chapter.

13           (3) A person shall not act as, offer to act as or hold  
14 himself out to be a broker in the advertising, buying or  
15 selling of any new or used vehicle.

16       (b) Mobile home parks.--

17           (1) It shall be unlawful for any person, for a  
18 commission, compensation or other consideration, to sell or  
19 act as salesperson, broker or sales agent in connection with  
20 the sale of one or more mobile homes located in a mobile home  
21 park, as provided for in section 11 of the act of November  
22 24, 1976 (P.L.1176, No.261), known as the Mobile Home Park  
23 Rights Act, unless such person shall be licensed under this  
24 [act] chapter, except as provided for in paragraph (2).

25           (2) Any real estate salesperson or broker licensed under  
26 the act of February 19, 1980 (P.L.15, No.9), known as the  
27 Real Estate Licensing and Registration Act, may list for sale  
28 any preowned mobile home as defined by the Mobile Home Park  
29 Rights Act, whether or not the mobile home is located in a  
30 mobile home park, without being licensed under the provisions

1 of this [act] chapter. No mobile home park rule shall prevent  
2 the placement of a "for sale" sign on the home and on the  
3 property on which the home is located. Nothing in this  
4 paragraph shall authorize the listing for sale of preowned  
5 mobile homes at a sales lot by a licensed real estate  
6 salesperson or broker unless the salesperson or broker is  
7 also licensed under this [act] chapter and has obtained a  
8 sales tax license from the Department of Revenue.

9 (c) Salespersons to be employed.--It shall be unlawful for  
10 any salesperson who has not been issued a salesperson's license  
11 number by the board to engage in any activity related to the  
12 buying, selling or exchanging of a vehicle for a commission,  
13 compensation or other consideration. Any sale must be conducted  
14 pursuant to and as part of the normal business activities of the  
15 dealer by a person who is a licensed salesperson of the dealer,  
16 unless that person is the dealer. The salesperson shall be  
17 presently employed by the currently licensed vehicle dealer for  
18 whom the salesperson is buying, selling or exchanging.

19 (1) Any salesperson licensed [hereunder] under this  
20 chapter shall be licensed to sell only for one dealer at a  
21 time and his license shall indicate the name of that dealer.

22 (2) A licensed salesperson who is employed by a dealer  
23 who holds a dealer license in more than one category or at  
24 more than one facility may sell for each such dealer or at  
25 each such facility, provided there is common ownership.

26 (d) Display of license.--Each person to whom a license is  
27 issued shall keep the license conspicuously displayed in his  
28 principal office or place of business and shall, when required,  
29 exhibit such license to any member or authorized representative  
30 of the board.

1 (e) Facility requirements for dealers.--

2 (1) Dealers engaged in the business of buying, selling  
3 or exchanging new and used vehicles, trailers or semitrailers  
4 shall maintain an established place of business with a  
5 salesroom devoted principally to the vehicle business, and  
6 new vehicle dealers shall hold a franchise in writing with a  
7 manufacturer or distributor authorizing a new vehicle dealer  
8 to sell a particular line-make of vehicles from the address  
9 of the licensed facility.

10 (i) A vehicle auction shall not be required to meet  
11 the facility requirements [contained in] under this  
12 subsection.

13 (ii) A branch lot shall be a separately licensed  
14 location which meets the facility requirements [defined  
15 herein] under this section and by the regulations as a  
16 main lot, unless used solely for the storage of vehicles.

17 (2) Dealers engaged in the business of buying, selling  
18 or exchanging used vehicles, trailers or semitrailers shall  
19 maintain an established place of business with a salesroom  
20 devoted principally to the vehicle business which is a  
21 building or portion of a building where books and records are  
22 kept.

23 (3) Dealers engaged in the business of buying, selling  
24 or exchanging new manufactured housing and used mobile homes  
25 or manufactured housing shall maintain a minimum usable  
26 display area of 5,000 square feet devoted principally to the  
27 mobile home or manufactured housing business, maintain an  
28 established place of business and hold a contract in writing  
29 with a buyer, seller or manufacturer giving such person  
30 buying or selling rights for new manufactured housing of that

1 particular line from the address of the licensed facility.

2 (i) Dealers engaged in the business of buying,  
3 selling or exchanging new manufactured housing, in lieu  
4 of maintaining the minimum usable display area  
5 requirements of this section, shall be authorized to  
6 display, sell, list or offer for sale new manufactured  
7 housing if the new manufactured housing is located on-  
8 site in a mobile home park or new manufactured housing is  
9 on real property owned or rented by a person who through  
10 a written agreement with the dealer authorizes the dealer  
11 to locate the new manufactured housing on the real  
12 property and the dealer is authorized to display, sell,  
13 list or offer the new manufactured housing at the real  
14 property location. Such dealers must maintain an  
15 established place of business and hold a contract in  
16 writing with a buyer, seller or manufacturer giving such  
17 person buying or selling rights for such new manufactured  
18 housing.

19 (ii) A display, sale, listing or offer for sale from  
20 a site or location as permitted by subparagraph (i) shall  
21 not require the issuance of a branch lot license.

22 (4) Dealers engaged in the business of buying, selling  
23 or exchanging used mobile homes or manufactured housing shall  
24 maintain a place of business and a building, or a portion of  
25 a building, where books and records are kept and which is  
26 devoted principally to the mobile home or manufactured  
27 housing business. There shall be no minimum square footage  
28 display area requirement for a used mobile home or  
29 manufactured housing dealer.

30 (i) Dealers engaged in the business of buying,

1 selling or exchanging new manufactured housing or used  
2 mobile homes or manufactured housing in addition to  
3 maintaining the business facility requirements of this  
4 section shall be authorized to display, sell, list or  
5 offer for sale used manufactured housing or mobile homes  
6 if the used manufactured housing or mobile homes are  
7 located on-site in a mobile home park or used  
8 manufactured housing or mobile homes are located on real  
9 property owned or rented by the person who owns the used  
10 manufactured housing or mobile home and the dealer  
11 possesses a written agreement with the person authorizing  
12 the dealer to sell, list or offer the used manufactured  
13 housing or mobile home on behalf of the person from the  
14 real property location.

15 (ii) A display, sale, listing or offer for sale from  
16 a site or location as permitted by subparagraph (i) shall  
17 not require the issuance of a branch lot license.

18 (5) Dealers engaged in the business of buying, selling  
19 or exchanging new or used recreational vehicles shall  
20 maintain an established place of business with a minimum  
21 usable display area of 5,000 square feet devoted principally  
22 to the recreational vehicle business and hold a franchise in  
23 writing with a buyer, seller or manufacturer giving such  
24 person buying or selling rights for new recreational vehicles  
25 of that particular line from the address of the licensed  
26 facility.

27 (f) Wholesale vehicle auction activities.--

28 (1) Wholesale vehicle auctions in wholesale vehicle  
29 auction sales transactions shall permit only the following  
30 persons to sell vehicles at the auction: vehicle dealers

1 licensed under this [act] chapter or by any other state or  
2 jurisdiction, manufacturers, leasing companies, rental  
3 companies, financial institutions, insurance companies,  
4 charitable nonprofit organizations; persons who sell vehicles  
5 owned by their business which are utilized to accomplish  
6 their main business purpose and who do not engage in any  
7 vehicle buying, sales or repair business; and fleet owners.

8 (2) Only vehicle dealers licensed under this [act]  
9 chapter or by any other state or jurisdiction shall be  
10 permitted to purchase vehicles at wholesale vehicle auctions.  
11 In addition to dealers licensed under this [act] chapter or  
12 by any other state or jurisdiction, a vehicle business,  
13 except for repair and towing, transporter, service, financier  
14 or collector/repossessor businesses, registered with the  
15 Department of Transportation and issued a Department of  
16 Transportation identification number or licensed or  
17 registered by any other state or jurisdiction for a similar  
18 activity without being licensed under this [act] chapter  
19 shall be authorized at wholesale vehicle auctions only to  
20 buy, sell or exchange vehicles of the type for which the  
21 business is authorized to engage by the Department of  
22 Transportation or any other state or jurisdiction, provided  
23 that upon buying such vehicle, application for an appropriate  
24 certificate of title or certificate of salvage is made for  
25 the vehicle.

26 (3) A dealer licensed under this [act] chapter without  
27 possessing a wholesale vehicle auction or public or retail  
28 vehicle auction license shall be permitted to sell vehicles  
29 on consignment.

30 (4) A vehicle auction shall only permit a person who is



1 currently employed and licensed as a salesperson for a dealer  
2 who holds a license issued under this [act] chapter or by any  
3 other state or jurisdiction to buy, sell or exchange vehicles  
4 at an auction on behalf of a dealer. This paragraph shall not  
5 apply to a salesperson who is buying, selling or exchanging  
6 vehicles at:

7 (i) wholesale vehicle auctions which are either  
8 fleet sales or manufacturer's sales; or

9 (ii) sales of vehicles for salvage, where the  
10 salesperson shall be permitted to buy, sell or exchange  
11 vehicles for no more than five dealers during the sale.

12 (5) Any person who has had his license under this [act]  
13 chapter or authority to engage as a dealer or salesperson in  
14 any other state or jurisdiction suspended or revoked shall  
15 not be authorized, while the license or authority is  
16 suspended or revoked, to be physically present at a wholesale  
17 vehicle auction during the auctioning of vehicles.

18 (g) Public or retail vehicle auction activities.--

19 (1) Public or retail vehicle auctions shall not be  
20 limited as to who may commission them to sell vehicles or who  
21 may buy vehicles at public or retail auctions, provided that  
22 any buyer or seller is not engaging in the business as a  
23 dealer without a license or as any other person who would be  
24 required to be licensed under this [act] chapter. Any person  
25 who has had his license under this [act] chapter or authority  
26 to engage as a dealer or salesperson in any other state or  
27 jurisdiction suspended or revoked shall not be authorized,  
28 while the license or authority is suspended or revoked, to be  
29 physically present at a public or retail vehicle auction  
30 during the auctioning of vehicles. Public or retail vehicle

1 auctions shall not be required to take title to the vehicles  
2 they offer for sale or have their auctioneers licensed as  
3 salespersons under this [act] chapter. Public or retail  
4 vehicle auctions shall inquire of the seller of the vehicle  
5 and, if applicable, disclose to potential purchasers material  
6 information obtained from the seller regarding the vehicle  
7 being offered for sale as is required of all sellers under  
8 applicable Federal and Pennsylvania laws.

9 (2) Public or retail vehicle auctions shall ensure all  
10 purchasers at the vehicle auction:

11 (i) show proof of identification at the time of  
12 transfer of ownership;

13 (ii) sign the identified name to the transfer of  
14 ownership documents;

15 (iii) pay any applicable tax imposed under Article  
16 II of the act of March 4, 1971 (P.L.6, No.2), known as  
17 the Tax Reform Code of 1971, unless otherwise exempted by  
18 law; and

19 (iv) submit transfer of ownership documents to the  
20 Department of Transportation as required under 75 Pa.C.S.  
21 (relating to vehicles).

22 (g.1) Mobility vehicle dealers.--

23 (1) A licensed dealer classified as a mobility vehicle  
24 dealer may do all of the following:

25 (i) Display, inventory, advertise, solicit,  
26 demonstrate, sell, offer for sale or deliver new and used  
27 mobility vehicles.

28 (ii) Arrange, negotiate and assist a customer  
29 regarding the purchase of a mobility vehicle.

30 (iii) Sell and install equipment and accessories in

1 and provide services for mobility vehicles, in order to  
2 meet the needs of persons with disabilities as drivers or  
3 passengers.

4 (iv) Provide maintenance and repair services for  
5 mobility vehicles.

6 (v) Acquire a new vehicle with a lowered floor or  
7 frame or a raised roof and door in order to fit or equip  
8 the vehicle for retail sale as a new mobility vehicle.

9 (2) A licensed dealer that is classified only as a  
10 mobility vehicle dealer may not offer for sale or sell  
11 vehicles which are not mobility vehicles.

12 (h) Notification of unlicensed persons.--Vehicle auctions  
13 shall post a listing supplied by the board containing the names  
14 of all licensees who are currently revoked or suspended and  
15 persons who were penalized for unlicensed activity within the  
16 past year.

17 Section 7. Sections 6, 7, 8, 9(a)(4) and (e)(3)(ii), 10, 11,  
18 12, 12.1, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,  
19 26, 27, 27.1, 28, 29, 30, 31, 32 and 32.1 of the act are amended  
20 and section 9 is amended by adding a subsection to read:

21 Section [6] 304. Biennial renewal.

22 Each license holder shall be required to renew his license  
23 biennially; as a condition precedent to biennial renewal, the  
24 license holder shall pay a biennial renewal fee and, in the case  
25 of a salesperson or manufacturer's or distributor's  
26 representative, he must be presently employed with a dealer,  
27 manufacturer or distributor which has a current license. The  
28 license holder shall comply with all requirements as set forth  
29 through regulation by the board.

30 Section [7] 305. Enforcement.

1 Notwithstanding the enforcement powers granted to law  
2 enforcement officers to institute summary criminal proceedings  
3 pursuant to section [4(b)] 302(b), the enforcement of the laws  
4 and rules and regulations governing practice under this act is  
5 primarily vested in the board with the following additional  
6 powers and duties to:

7 (1) Inspect all license holders.

8 (2) Authorize investigations of alleged violations.

9 (3) Review and inspect all business records, documents  
10 and files relating to practice under this act.

11 (4) Subpoena witnesses.

12 (5) Take depositions of witnesses in the manner provided  
13 for in civil actions in courts of record.

14 (6) Bring criminal prosecutions for unauthorized,  
15 unlicensed and unlawful practice in accordance with the terms  
16 and provisions of the act of October 15, 1980 (P.L.950,  
17 No.164), known as the Commonwealth Attorneys Act.

18 (7) Obtain injunctions from a court of competent  
19 jurisdiction against persons acting in violation of this act.

20 Section [8] 306. Protest hearing decision within 120 days  
21 unless waived by the parties.

22 (a) Franchise protest hearings to be decided within 120 days  
23 unless waived by the parties.--Any franchise establishment,  
24 relocation, termination or failure to renew hearing based on a  
25 protest by a dealer or distributor of any action by a  
26 manufacturer or distributor alleged to be in violation of a  
27 provision of this [act] chapter must be conducted and the final  
28 determination made within 120 days after the protest is filed.  
29 Unless waived by the parties, failure to do so will be deemed  
30 the equivalent of a determination that the manufacturer or

1 distributor acted with [good] just cause and, in the case of a  
2 protest of a proposed establishment or relocation of a dealer  
3 under section [27] 326, that [good] just cause does not exist  
4 for refusing to permit the proposed additional or relocated new  
5 vehicle dealer unless such delay is caused by acts of the  
6 manufacturer, distributor or the additional or relocating  
7 dealer. Any parties to such a hearing shall have a right of  
8 review of the decision in a court of competent jurisdiction  
9 pursuant to 2 Pa.C.S. § 701 (relating to scope of subchapter).  
10 If the board determined that [good] just cause does not exist  
11 for refusing to permit the proposed additional or relocated new  
12 vehicle dealer and the manufacturer or distributor thereafter  
13 enters into a franchise establishing that new vehicle dealer,  
14 the manufacturer or distributor shall not be liable for damages  
15 based upon such establishment even if a court reverses the  
16 determination of the board.

17 (b) Procedure.--The procedure at the hearing shall be  
18 governed by 1 Pa. Code Pt. II (relating to general rules of  
19 administrative practice and procedure) with the following  
20 exceptions:

21 (1) In the event that the protest involves a termination  
22 or failure to renew the franchise of a new vehicle dealer,  
23 the dealer shall be permitted to review a manufacturer's or  
24 distributor's files related to that dealer upon written  
25 request.

26 (2) The board may order on its own initiative, or  
27 pursuant to a party's request, that part of the evidence for  
28 hearing be submitted to it in the form of depositions.

29 (c) Reconsideration.--In the event a decision of the board  
30 is remanded by a court of competent jurisdiction for further

1 action by the board, the board shall consider the action and  
2 issue a final determination, not later than 120 days following  
3 receipt of the record from such court, unless the 120-day time  
4 period for the board to issue a final determination is waived or  
5 extended by the parties.

6 (d) Dealer protest of automobile, motorcycle or truck  
7 manufacturer act or omission.--

8 (1) Except for protests authorized under section [13 or  
9 27] 312 or 326 and notwithstanding any other remedy available  
10 under this [act] chapter, any new vehicle dealer who believes  
11 that an automobile, motorcycle or truck manufacturer or  
12 distributor with whom the new vehicle dealer holds a  
13 franchise agreement has violated or is violating any  
14 provision of this [act] chapter may file a protest with the  
15 board setting forth the factual and legal basis for such  
16 violation.

17 (2) The board shall issue a final determination within  
18 120 days after the protest is filed, unless the 120-day time  
19 period for the board to issue a final determination is waived  
20 or extended by the parties.

21 (3) It shall be the burden of the automobile, motorcycle  
22 or truck manufacturer to prove it has not violated any  
23 provision of this [act] chapter as set forth in the protest  
24 filed by the new vehicle dealer.

25 (4) The protested action shall not become effective  
26 until the final determination is issued by the board and  
27 shall not be effective thereafter if the board has determined  
28 that there is [good] just cause for not permitting the  
29 protested action.

30 (5) The board shall be empowered to direct or require

1 the automobile, motorcycle or truck manufacturer or  
2 distributor to perform such acts as necessary in order for  
3 the manufacturer or distributor to comply with the provisions  
4 of this [act] chapter.

5 (e) Applicability.--The protest provisions of this section  
6 apply to Chapter 5 activities and actions between recreational  
7 vehicle dealers, manufacturers, distributors and suppliers.

8 Section [9] 307. Reimbursement for all parts and service  
9 required by the manufacturer or distributor;  
10 reimbursement audits.

11 (a) Manufacturers or distributors to notify dealers of their  
12 obligations.--

13 \* \* \*

14 (4) This subsection shall not apply to manufacturers or  
15 distributors of manufactured housing [or recreational  
16 vehicles].

17 \* \* \*

18 (e) Warranty reimbursement and incentive or reimbursement  
19 program approval and audits.--

20 \* \* \*

21 (3) \* \* \*

22 (ii) During the 30-day time period under  
23 subparagraph (i), a new vehicle dealer may file with the  
24 board a protest of the charge-backs as provided for  
25 under section [8] 306. When such a protest is filed, the  
26 board shall inform the manufacturer or distributor that a  
27 timely protest has been filed and that the manufacturer  
28 or distributor shall not charge back the new vehicle  
29 dealer:

30 (A) until the board has held a hearing; or

1 (B) if the board has determined that there is  
2 good cause for not permitting the charge-back of such  
3 new vehicle dealer.

4 \* \* \*

5 (g) Applicability.--This section shall not apply to  
6 recreational vehicle warrantors or dealers.

7 Section [10] 308. Damage disclosure.

8 (a) Notice to dealer.--Each manufacturer or distributor of  
9 new vehicles sold or transferred to a new vehicle dealer shall  
10 notify the new vehicle dealer in writing prior to delivery of  
11 the vehicle of any material damage to the vehicle which is known  
12 to the manufacturer or distributor which was sustained or  
13 incurred by the vehicle at any time after the manufacturing  
14 process is complete but prior to delivery of the vehicle to the  
15 dealer. A dealer may reject the delivery of a nonconforming  
16 vehicle under the provisions of 13 Pa.C.S. (relating to  
17 commercial code).

18 (b) Notice to purchaser.--When selling a new vehicle, each  
19 new vehicle dealer shall notify the purchaser in writing at the  
20 time of sale of any material damage sustained or incurred by the  
21 vehicle at any time after the manufacturing process is complete  
22 which is disclosed by the manufacturer to the new vehicle  
23 dealer.

24 (c) Exemption.--This section shall not apply to  
25 manufacturers and dealers of manufactured housing or to  
26 manufacturers, distributors or dealers of motorcycles or  
27 recreational vehicles.

28 (d) Other statutes and decisions.--Nothing in this section  
29 shall be construed to diminish any obligation to provide notice  
30 to the purchaser of a new vehicle which obligation is imposed by



1 any other provision of law or by any judicial decision,  
2 including, but not limited to, the act of December 17, 1968  
3 (P.L.1224, No.387), known as the Unfair Trade Practices and  
4 Consumer Protection Law.

5 Section [11] 309. Mediation and arbitration.

6 (a) Mediation of disputes between licensees.--

7 (1) A dealer or distributor may not file a complaint,  
8 petition or protest or bring an action in a court of  
9 competent jurisdiction against a manufacturer or distributor  
10 based on an alleged violation of this [act] chapter or in a  
11 protest action under this [act] chapter regarding an  
12 establishment, relocation or termination of a franchise  
13 agreement unless the dealer or distributor serves a demand  
14 for mediation upon the manufacturer or distributor before or  
15 contemporaneous with the filing of the complaint, petition or  
16 protest or the bringing of an action. A demand for mediation  
17 shall be in writing and served upon the manufacturer or  
18 distributor by certified mail at an address designated for  
19 that manufacturer or distributor within records of the dealer  
20 or distributor. The demand for mediation shall contain a  
21 brief statement of the dispute and the relief sought by the  
22 dealer or distributor filing the demand.

23 (2) Within 20 days after the date a demand for mediation  
24 is served, the parties shall mutually select an independent  
25 mediator and meet with that mediator for the purpose of  
26 attempting to resolve the dispute. The meeting place shall be  
27 in this Commonwealth in a location selected by the mediator.  
28 The mediator may extend the date of the meeting for [good]  
29 just cause shown by either party or upon stipulation of both  
30 parties.

1           (3) The service of a demand for mediation under  
2 paragraph (1) shall stay the time for the filing of any  
3 complaint, petition, protest or action under this [act]  
4 chapter until representatives of both parties have met with a  
5 mutually selected mediator for the purpose of attempting to  
6 resolve the dispute. If a complaint, petition, protest or  
7 action is filed before the meeting, the board or court shall  
8 enter an order suspending the proceeding or action until the  
9 meeting has occurred and may, upon written stipulation of all  
10 parties to the proceeding or action that they wish to  
11 continue to mediate under this subsection, enter an order  
12 suspending the proceeding or action for as long a period as  
13 the board or court considers appropriate. A suspension order  
14 issued under this paragraph may be revoked upon motion of any  
15 party or upon motion of the board or the court.

16           (4) The board shall encourage dealers, manufacturers and  
17 distributors to establish, maintain and administer a panel of  
18 mediators who have the character, ability and training to  
19 serve as mediators and who have knowledge of the vehicle  
20 industry.

21           (5) Mandatory mediation under this section shall not be  
22 required of any of the following:

23           (i) A dealer seeking to dual two or more franchises  
24 or a dealer seeking a relocation involving a request to  
25 dual two or more franchises unless another dealer of the  
26 same line-make has a right to protest the proposed  
27 relocation under section [27] 326.

28           (ii) Manufacturers, distributors or dealers of  
29 motorcycles.

30           (b) Arbitration of disputes between licensees.--After a

1 dispute arises, the licensees may voluntarily agree to submit a  
2 dispute arising under this [act] chapter pertaining to a  
3 complaint, petition, protest or action to binding or nonbinding  
4 arbitration. Any arbitration proceeding shall be voluntary,  
5 initiated by serving a written demand for arbitration on the  
6 other party, and shall be conducted under the provisions of 42  
7 Pa.C.S. Ch. 73 Subch. A (relating to statutory arbitration) and  
8 administered by representatives of dealers, manufacturers or  
9 distributors.

10 (c) Immunity and presumption of good faith by mediators and  
11 arbitrators.--A mediator or arbitrator is immune from civil  
12 liability for any good faith act or omission within the scope of  
13 the mediator's or arbitrator's performance of his powers and  
14 duties under this section. Every act or omission of a mediator  
15 or arbitrator is presumed to be a good faith act or omission.  
16 This presumption may be overcome only by clear and convincing  
17 evidence.

18 Section [12] 310. Unlawful acts by manufacturers or  
19 distributors.

20 (a) Unlawful coercive acts.--It shall be a violation for any  
21 manufacturer, factory branch, distributor, field representative,  
22 officer, agent or any representative whatsoever of such  
23 manufacturer, factory branch or distributor licensed under this  
24 [act] chapter to require, attempt to require, coerce or attempt  
25 to coerce any new vehicle dealer in this Commonwealth to:

26 (1) Order or accept delivery of any new vehicle, part or  
27 accessory thereof, equipment or any other commodity not  
28 required by law which shall not have been voluntarily ordered  
29 by the new vehicle dealer, except that this paragraph is not  
30 intended to modify or supersede any terms or provisions of

1 the franchise requiring new vehicle dealers to market a  
2 representative line of those vehicles which the manufacturer  
3 or distributor is publicly advertising.

4 (2) Order or accept delivery of any new vehicle with  
5 special features, accessories or equipment not included in  
6 the list price of such vehicles as publicly advertised by the  
7 manufacturer or distributor.

8 (3) Participate monetarily in an advertising campaign or  
9 contest or to purchase unnecessary or unreasonable quantities  
10 of any promotional materials, training materials, showroom or  
11 other display decorations or materials at the expense of the  
12 new vehicle dealer.

13 (4) Enter into any agreement with the manufacturer or to  
14 do any other act prejudicial to the new vehicle dealer by  
15 threatening to terminate or not renew a franchise or any  
16 contractual agreement existing between the dealer and the  
17 manufacturer or distributor, except that this paragraph is  
18 not intended to preclude the manufacturer or distributor from  
19 insisting on compliance with the reasonable terms or  
20 provisions of the franchise or other contractual agreement  
21 and notice in good faith to any new vehicle dealer of the new  
22 vehicle dealer's violation of such terms or provisions shall  
23 not constitute a violation of [the act] this chapter.

24 (5) Change the capital structure of the new vehicle  
25 dealer or the means by or through which the new vehicle  
26 dealer finances the operation of the dealership, provided  
27 that the new vehicle dealer at all times meets any reasonable  
28 capital standards determined by the manufacturer or  
29 distributor in accordance with uniformly applied criteria,  
30 and also provided that no change in the capital structure

1 shall cause a change in the principal management or have the  
2 effect of a sale of the franchise without the consent of the  
3 manufacturer or distributor. The consent shall be granted or  
4 denied within 60 days of receipt of a written request from  
5 the new vehicle dealer.

6 (6) (i) Refrain from participation in the management  
7 of, investment in or the acquisition of any other line of  
8 new vehicle or related products. This paragraph does not  
9 apply unless the new vehicle dealer maintains a  
10 reasonable line of credit for each make or line of new  
11 vehicle, the new vehicle dealer remains in compliance  
12 with the reasonable terms of the franchise agreement and  
13 any reasonable facilities requirements of the  
14 manufacturer or distributor, and no change is made in the  
15 principal management of the new vehicle dealer. The  
16 reasonable facilities requirements shall not include any  
17 requirement that a new vehicle dealer establish or  
18 maintain exclusive facilities, personnel or display space  
19 when such requirements or any of them would be  
20 unreasonable in light of economic conditions and would  
21 not otherwise be justified by reasonable business  
22 considerations.

23 (ii) (A) Nothing in this paragraph shall permit the  
24 dualing or relocation and addition of a line-make to  
25 the dealership facilities without the new vehicle  
26 dealer providing written certification to the  
27 manufacturer or distributor that the new vehicle  
28 dealer, with the addition of a line-make by the new  
29 vehicle dealer, will maintain a reasonable line of  
30 credit for each make or line of new vehicle and the

1 new vehicle dealer will remain in compliance with the  
2 reasonable terms of the franchise agreement and any  
3 reasonable facilities requirements of the  
4 manufacturer or distributor, excluding any exclusive  
5 facility or nondualing requirements.

6 (B) The dealer shall provide the following  
7 information:

8 (I) the address of the proposed new  
9 location, if applicable;

10 (II) a brief description of the proposed  
11 facility; and

12 (III) the owner of the proposed new  
13 location.

14 (C) Any objection by the manufacturer or  
15 distributor with regard to the dualing or relocation  
16 and dualing of two or more franchises shall be  
17 delivered to the dealer within 45 days of receipt of  
18 the written certification from the new vehicle  
19 dealer. Failure on the part of the manufacturer or  
20 distributor to timely respond to a dualing or  
21 relocation and dualing certification shall be deemed  
22 to be an approval of the new vehicle dealer's  
23 certification notice of dualing or relocation and  
24 dualing of two or more franchises. The manufacturer  
25 or distributor shall execute and deliver a franchise  
26 reflecting the relocated address of the dealership  
27 facilities to the new vehicle dealer within 30 days  
28 of the date of the deemed approval.

29 (iii) A dealer may file a complaint, petition or  
30 protest, or bring an action in a court of competent

1 jurisdiction against a manufacturer or distributor, based  
2 on a denial of a request by a dealer to dual or relocate  
3 and dual two or more franchises without first going  
4 through mediation required under section [11] 309. If a  
5 dualing or relocation and dualing denial protest is filed  
6 with the board, a hearing shall be held within 45 days of  
7 the protest's filing and a final determination issued by  
8 the board within 90 days of the protest filing. The  
9 burden of proof shall be on the manufacturer or  
10 distributor to show that the dualing or relocation and  
11 dualing is unreasonable. No automobile, motorcycle or  
12 truck manufacturer or distributor may limit or restrict  
13 the addition of a line-make to the dealership facilities  
14 if the new vehicle dealer maintains a reasonable line of  
15 credit for each make or line of new vehicle and the new  
16 vehicle dealer remains in compliance with the reasonable  
17 terms of the franchise agreement and any reasonable  
18 facilities requirements of an automobile, motorcycle or  
19 truck manufacturer or distributor. This paragraph shall  
20 also apply if the dealer seeks to dual two or more line-  
21 makes and no relocation will occur. This paragraph shall  
22 not impair the rights of another dealer of the same line-  
23 make to protest a proposed relocation under section [27]  
24 326.

25 (7) Prospectively assent to a release, assignment,  
26 novation, waiver or estoppel which would relieve any person  
27 from liability to be imposed by this [act] chapter or to  
28 require any controversy between a new vehicle dealer and a  
29 manufacturer, distributor or representative to be referred to  
30 any person other than the duly constituted courts of the

1 Commonwealth or the United States of America, if such  
2 referral would be binding upon the new vehicle dealer. A  
3 dealer and the manufacturer, distributor or representative,  
4 by themselves or through their respective counsel, are  
5 permitted to agree to execute a written agreement or to  
6 arbitrate in a binding or nonbinding manner after a  
7 controversy arises.

8 (8) Expand, construct or significantly modify facilities  
9 without assurances that the manufacturer or distributor will  
10 provide a reasonable supply of new vehicles within a  
11 reasonable time so as to justify such an expansion in light  
12 of the market and economic conditions.

13 (8.1) Unreasonably expand, construct or significantly  
14 modify facilities in light of the market and economic  
15 conditions or require a separate facility for the sale or  
16 service of a line-make of a new vehicle if the market and  
17 economic conditions do not clearly justify the separate  
18 facility.

19 (8.2) (i) Purchase a good or service from a vendor  
20 selected, identified or designated by a manufacturer,  
21 factory branch, distributor, distributor branch or an  
22 affiliate of a manufacturer, factory branch, distributor,  
23 distributor branch by agreement, program, incentive  
24 provision or other method if expanding, constructing or  
25 significantly modifying a facility without allowing the  
26 dealer the option to obtain a good or service of  
27 substantially similar quality from a vendor chosen by the  
28 dealer and approved by the manufacturer, which approval  
29 may not be unreasonably withheld.

30 (ii) Nothing under this paragraph shall be construed



1 to:

2 (A) Allow a dealer or vendor to eliminate or  
3 impair a manufacturer's intellectual property rights,  
4 including a manufacturer's intellectual property  
5 rights in a trademark.

6 (B) Permit a dealer to erect or maintain signs  
7 that do not conform to the intellectual property  
8 usage guidelines of the manufacturer.

9 (9) Agree as a condition to granting or renewing a  
10 franchise to waive, limit or disclaim a right that the dealer  
11 may have to protest the establishment or relocation of  
12 another vehicle dealer in the relevant market area as  
13 provided in section [27] 326, unless such agreement is  
14 voluntary.

15 (10) (i) Sell, offer to sell or sell exclusively an  
16 extended service contract, extended maintenance plan or  
17 similar product, such as gap products, offered, endorsed  
18 or sponsored by the manufacturer or distributor by the  
19 following means:

20 (A) By an act or statement that the manufacturer  
21 or distributor will in any manner impact the dealer,  
22 whether it is express or implied or made directly or  
23 indirectly.

24 (B) By a contract, or an express or implied  
25 offer of contract, made to the dealer on the  
26 condition that the dealer shall sell, offer to sell  
27 or sell exclusively an extended service contract,  
28 extended maintenance plan or similar product offered,  
29 endorsed or sponsored by the manufacturer or  
30 distributor.

1 (C) By measuring the dealer's performance under  
2 the franchise based on the sale of extended service  
3 contracts, extended maintenance plans or similar  
4 products offered, endorsed or sponsored by the  
5 manufacturer or distributor.

6 (D) By requiring the dealer to actively promote  
7 the sale of extended service contracts, extended  
8 maintenance plans or similar products offered,  
9 endorsed or sponsored by the manufacturer or  
10 distributor.

11 (ii) Nothing in this paragraph shall prohibit a  
12 manufacturer or distributor from providing incentive  
13 programs to a new vehicle dealer who makes the voluntary  
14 decision to offer to sell, sell or sell exclusively an  
15 extended service contract, extended maintenance plan or  
16 similar product offered, endorsed or sponsored by the  
17 manufacturer or distributor.

18 (b) Violations.--It shall be a violation of this [act]  
19 chapter for any manufacturer, factory branch, distributor, field  
20 representative, officer, agent or any representative whatsoever  
21 of such manufacturer, factory branch or distributor licensed  
22 under this [act] chapter to:

23 (1) Delay, refuse or fail to deliver new vehicles or new  
24 vehicle parts or accessories in a reasonable time and in  
25 reasonable quantity relative to the new vehicle dealer's  
26 facilities and sales potential after acceptance of an order  
27 from a new vehicle dealer having a franchise for the retail  
28 sale of any new vehicle sold or distributed of an order from  
29 a new vehicle dealer having a franchise for the retail sale  
30 of any new vehicle sold or distributed by the manufacturer or

1 distributor as are covered by such franchise, if such  
2 vehicle, parts or accessories are publicly advertised as  
3 being available for immediate delivery. There is no violation  
4 if the failure is caused by acts or causes beyond the control  
5 of the manufacturer or distributor.

6 (2) Unfairly discriminate among its new vehicle dealers  
7 with respect to warranty, recall, service contract or any  
8 other service required by the manufacturer or distributor  
9 with regard to labor or parts reimbursement.

10 (3) Unreasonably withhold consent to the sale, transfer  
11 or exchange of the franchise to a qualified buyer capable of  
12 being licensed as a new vehicle dealer in this Commonwealth  
13 who meets the manufacturer's or distributor's reasonable  
14 requirements for appointment as a dealer.

15 (4) Unreasonably withhold consent to the relocation of  
16 an existing new vehicle dealer. If the relocation involves  
17 dualing of two or more franchises, the requirements of  
18 subsection (a)(6)(ii) and (iii) shall apply and paragraph (5)  
19 shall not apply.

20 (5) Fail to respond in writing to a request for consent  
21 as specified in paragraphs (3) and (4) within 60 days of  
22 receipt of a written request on the forms, if any, generally  
23 utilized by the manufacturer or distributor for such purposes  
24 and containing the information required. The failure to  
25 respond within the time period set forth in this paragraph  
26 shall be deemed to be approval of the request, and the  
27 manufacturer or distributor shall execute and deliver a  
28 franchise to the applicant within 30 days of the expiration  
29 of this time period. A manufacturer or distributor shall  
30 acknowledge in writing to the applicant the receipt of the

1 forms, and, if the manufacturer or distributor requires  
2 additional information to complete its review, the  
3 manufacturer or distributor shall notify the applicant within  
4 15 days of the receipt of the forms. If the manufacturer or  
5 distributor fails to request additional information from the  
6 applicant within 15 days after receipt of the initial forms,  
7 the 60-day time period for approval shall be deemed to run  
8 from the initial receipt date. Otherwise, the 60-day time  
9 period for approval shall run from receipt of the  
10 supplemental requested information. In no event shall the  
11 total time period for approval exceed 75 days from the date  
12 of the receipt of the initial forms.

13 (6) Prevent or attempt to prevent by contract or  
14 otherwise, any new vehicle dealer from changing the executive  
15 management control of the new vehicle dealer unless the  
16 manufacturer or distributor, having the burden of proof, can  
17 show that such change of executive management will result in  
18 executive management or control by a person or persons who  
19 are not of good moral character or who do not meet  
20 reasonable, preexisting, and, with consideration given to the  
21 volume of sales and service of the dealership, uniformly  
22 applied minimum business experience standards. Where the  
23 manufacturer or distributor rejects a proposed change in  
24 executive management control, the manufacturer or distributor  
25 shall give written notice of its reasons to the dealer within  
26 60 days of notice to the manufacturer by the dealer of the  
27 proposed change; otherwise the change in the executive  
28 management of the new vehicle dealer shall be presumptively  
29 deemed approved.

30 (7) Offer in connection with a sale of a new vehicle or

1 vehicles to the Federal Government, the Commonwealth or any  
2 political subdivision thereof, any discounts, refunds or any  
3 other type of inducement to any new vehicle dealer without  
4 making the same offer or offers available to all other of its  
5 new vehicle dealers within this Commonwealth. This paragraph  
6 shall not be construed to prevent the offering of incentive  
7 programs or other discounts if the discounts are equally  
8 available to all franchised vehicle dealers in this  
9 Commonwealth on a proportionally equal basis.

10 (8) Fail to indemnify its franchised dealers,  
11 notwithstanding the terms of any franchise agreement, against  
12 any judgment for damages or settlement approved in writing by  
13 the manufacturer or distributor, including, but not limited  
14 to, court costs and reasonable attorney fees of the new  
15 vehicle dealer, arising out of complaints, claims or  
16 lawsuits, including, but not limited to, strict liability,  
17 negligence, misrepresentation, express or implied warranty or  
18 rescission of the sale as defined in 13 Pa.C.S. § 2608  
19 (relating to revocation of acceptance in whole or in part) to  
20 the extent that the judgment or settlement relates solely to  
21 the alleged defective or negligent functions by the  
22 manufacturer or distributor beyond the control of the dealer.

23 (9) Sell or exchange with a second or final stage  
24 manufacturer, retail consumer or end user except through a  
25 licensed new vehicle dealer. This paragraph shall not apply  
26 to manufacturer or distributor sales of new vehicles to the  
27 Federal Government, charitable organizations and employees of  
28 the manufacturer.

29 (10) [(i)] Modify a franchise during the term of the  
30 franchise or upon its renewal if the modification

1 substantially and adversely affects the new vehicle  
2 dealer's rights, obligations, investment or return on  
3 investment without giving 60 days' written notice of the  
4 proposed modification to the new vehicle dealer unless  
5 the modification is required by law, court order or the  
6 board. Within the 60-day notice period, the new vehicle  
7 dealer may file with the board and serve notice upon the  
8 manufacturer or distributor a protest requesting a  
9 determination of whether there is [good] just cause for  
10 permitting the proposed modification. The board shall  
11 promptly schedule a hearing and decide the matter within  
12 180 days from the date the protest is filed. Multiple  
13 protests pertaining to the same proposed modification  
14 shall be consolidated for hearing. The proposed  
15 modification shall not take effect pending the  
16 determination of the matter. In determining whether there  
17 is [good] just cause for permitting a proposed  
18 modification, the board shall consider any relevant  
19 factors, including, but not limited to:

20 [(A)] (i) The reasons for the proposed  
21 modification.

22 [(B)] (ii) Whether the proposed modification is  
23 applied to or affects all new vehicle dealers in a  
24 nondiscriminatory manner.

25 [(C)] (iii) Whether the proposed modification  
26 will have a substantial and adverse effect upon the  
27 new vehicle dealer's investment or return on  
28 investment.

29 [(D)] (iv) Whether the proposed modification is  
30 in the public interest.

1            [(E)] (v) Whether the proposed modification is  
2            necessary to the orderly and profitable distribution  
3            of products by the manufacturer or distributor.

4            [(F)] (vi) Whether the proposed modification is  
5            offset by other modifications beneficial to the new  
6            vehicle dealer.

7            [(ii) This paragraph shall not apply to recreational  
8            vehicle manufacturers, distributors or dealers.]

9            (11) Fail or refuse to offer to its new vehicle dealers  
10           all new model vehicles manufactured for that line-make  
11           franchise or require any of its new vehicle dealers to pay an  
12           unreasonable fee, unreasonably remodel or renovate the new  
13           vehicle dealer's existing facilities, unreasonably purchase  
14           or construct a new facility, unreasonably purchase parts,  
15           supplies, tools, equipment, operational services, other  
16           merchandise or unreasonably participate in training programs  
17           in order to receive any new model vehicles, parts or  
18           accessories. It shall not be a violation of this paragraph if  
19           the manufacturer or distributor fails to supply new vehicle  
20           dealers with model vehicles, parts or accessories due to  
21           circumstances beyond the control of the manufacturer or  
22           distributor, including, but not limited to, strike or labor  
23           difficulty, shortage of materials, freight embargo or  
24           temporary lack of capacity.

25           (12) Operate a system for the allocation of new vehicles  
26           which is not reasonable or fair to a new vehicle dealer. Upon  
27           the written request of any of its new vehicle dealers, a  
28           manufacturer or distributor shall disclose to the new vehicle  
29           dealer the method on which new vehicles are allocated among  
30           the new vehicle dealers of the same line-make. The

1 manufacturer distributor has the burden of establishing the  
2 fairness of its allocation.

3 (13) Own, operate or control, either directly or  
4 indirectly, any vehicle warranty facility. Nothing in this  
5 subsection shall prohibit any manufacturer or distributor  
6 from owning, operating or controlling any warranty facility  
7 for warranty repairs on vehicles owned or operated by the  
8 manufacturer or distributor.

9 (14) Compel a dealer through a finance subsidiary of the  
10 manufacturer or distributor to agree to unreasonable  
11 operating requirements or to directly or indirectly terminate  
12 a new vehicle dealer through the actions of a finance  
13 subsidiary of the manufacturer or distributor. This paragraph  
14 shall not limit the right of a financing entity to engage in  
15 business practices in accordance with the trade of retail or  
16 wholesale vehicle financing.

17 (15) Use any subsidiary corporation, affiliated  
18 corporation or any other controlled corporation, partnership,  
19 association, entity or person to accomplish what would  
20 otherwise be illegal conduct under this [act] chapter on the  
21 part of the manufacturer or distributor.

22 (16) Release to any third party any customer information  
23 which has been provided by the new vehicle dealer to the  
24 manufacturer or distributor if the customer objects in  
25 writing to releasing the information, unless the information  
26 is necessary for the manufacturer or distributor to meet its  
27 obligations to customers or new vehicle dealers under  
28 requirements imposed by Federal or State law.

29 (17) Require or coerce or attempt to require or coerce a  
30 new vehicle dealer to pay attorney fees of the manufacturer



1 or distributor related to hearings and appeals brought under  
2 this [act] chapter.

3 (18) Vary the price charged to any of its new vehicle  
4 dealers, which has the effect of causing a difference in the  
5 price of any similarly equipped new vehicle to its new  
6 vehicle dealers or to the ultimate purchaser. This paragraph  
7 shall not be construed to prevent the offering of incentive  
8 programs or other discounts if the incentive or discounts are  
9 available to all competing new vehicle dealers of the same  
10 line-make in this Commonwealth on a proportionately equal  
11 basis.

12 (19) Directly or indirectly condition any of the  
13 following actions on a dealer, prospective dealer or owner of  
14 an interest in a dealership franchise or facility to enter  
15 into a site-control agreement or exclusive use agreement:

16 (i) awarding of a franchise to a prospective dealer;

17 (ii) adding of a line-make or franchise to an  
18 existing dealer's franchise or facility;

19 (iii) renewing of an existing dealer's franchise;

20 (iv) approving of the relocation of an existing  
21 dealer's franchise or facility; or

22 (v) approving of the sale or transfer of a dealer's  
23 ownership of a franchise or facility.

24 Nothing in this paragraph prohibits a dealer, prospective  
25 dealer or owner of an interest in a dealership franchise or  
26 facility from voluntarily entering into such an agreement for  
27 other consideration. However, a provision contained in an  
28 agreement which is not voluntarily entered into by a dealer,  
29 prospective dealer or owner of an interest in a dealership  
30 franchise or facility on or after the effective date of this

1 paragraph that is inconsistent with the provisions of this  
2 section shall be a violation of this [act] chapter.

3 (c) Restriction on ownership of dealer.--

4 (1) Except as otherwise provided in this subsection, a  
5 manufacturer or distributor shall not:

6 (i) own or hold an interest, other than a passive,  
7 minority interest in a publicly traded dealer held for  
8 investment purposes, in a dealer licensed under this  
9 [act] chapter which is engaging in the business of  
10 buying, selling or exchanging vehicles; or

11 (ii) operate or control a dealer licensed under this  
12 [act] chapter which is engaging in the business of  
13 buying, selling or exchanging vehicles.

14 (2) A manufacturer or distributor may own or hold an  
15 interest in a dealer or otherwise operate or control a dealer  
16 for a period not to exceed 12 months from the date the  
17 manufacturer or distributor acquires an interest in the  
18 dealer if:

19 (i) The person from whom the manufacturer or  
20 distributor acquired the dealer was a franchised dealer.

21 (ii) The dealer is for sale by the manufacturer or  
22 distributor at a reasonable price and on reasonable terms  
23 and conditions.

24 (3) On a showing by a manufacturer or distributor of  
25 [good] just cause, the board may extend the time limit set  
26 forth in paragraph (2). An extension under this paragraph may  
27 not exceed 12 months. Where an extension under this paragraph  
28 is sought, the manufacturer or distributor shall provide  
29 notice delivered 30 days before the extension request is  
30 filed with the board to all the same line-make dealers within

1 a ten-mile radius of the manufacturer or distributor owned,  
2 operated or controlled dealer. An application for an  
3 extension is subject to protest by a dealer of the same line-  
4 make who is within the ten-mile radius of the manufacturer or  
5 distributor owned, operated or controlled dealer.

6 (4) For the primary purpose of broadening the diversity  
7 of its dealer body and enhancing opportunities for qualified  
8 persons who are part of a group who have historically been  
9 underrepresented in its dealer body or other qualified  
10 persons who lack the resources to purchase a dealer outright,  
11 a manufacturer or distributor may temporarily own an interest  
12 in a dealer if the manufacturer's or distributor's  
13 participation in the dealer is in a bona fide relationship  
14 with a franchised dealer who:

15 (i) At or prior to the time the prospective dealer  
16 takes an equity interest in the dealer, the prospective  
17 dealer is obligated to make a significant investment in  
18 the dealer, subject to loss.

19 (ii) Has an ownership interest in the dealer.

20 (iii) Operates the dealer under a written agreement  
21 to acquire full ownership of the dealer within a  
22 reasonable time and under reasonable terms and  
23 conditions.

24 (5) A manufacturer or distributor shall not unfairly  
25 discriminate or compete in terms of any sales, service or  
26 operational activities with a new vehicle dealer of the same  
27 line-make when a manufacturer or distributor operates a new  
28 vehicle dealer under this subsection.

29 (6) The following shall apply:

30 (i) A manufacturer or distributor may own, operate

1 or control not more than five new vehicle dealerships  
2 trading solely in electric vehicles, as defined in 75  
3 Pa.C.S. § 102 (relating to definitions), that are not  
4 sold as new vehicles by a licensed independent new  
5 vehicle dealer pursuant to an existing franchise with a  
6 manufacturer or distributor, if each of the following  
7 conditions are met:

8 (A) Each of the new vehicle dealerships selling  
9 the manufacturer's new motor vehicles in this  
10 Commonwealth trade exclusively in the manufacturer's  
11 line-make.

12 (B) Each of the new vehicle dealerships selling  
13 the manufacturer's motor vehicles in this  
14 Commonwealth are determined to be in compliance with  
15 this [act] chapter.

16 (C) Either of the following apply:

17 (I) The manufacturer, distributor or a  
18 subsidiary, affiliate or controlled entity has  
19 not acquired, nor does it hold a controlling  
20 interest in another manufacturer or distributor,  
21 required to be licensed under this [act] chapter.

22 (II) If a controlling interest is acquired,  
23 the manufacturer, distributor or a subsidiary,  
24 affiliate or controlled entity may not continue  
25 to operate or control a new vehicle dealership  
26 under this subsection for a period not more than  
27 12 months from the date it acquired the  
28 controlling interest.

29 (D) Either of the following apply:

30 (I) A controlling interest in the original

1 manufacturer, distributor or any subsidiary,  
2 affiliate or controlled entity was not  
3 transferred, sold or conveyed to another  
4 manufacturer, distributor, person or entity  
5 required to be licensed under this [act] chapter.

6 (II) If a controlling interest is  
7 transferred, sold or conveyed to another  
8 manufacturer, distributor, person or entity  
9 required to be licensed under this [act] chapter,  
10 the entity may not continue to operate or control  
11 a new vehicle dealership under this subsection  
12 for a period not more than 12 months from the  
13 date it acquired the controlling interest.

14 (E) The manufacturer shall have continuously  
15 offered electric vehicles for sale for a period of  
16 not less than 12 months prior to the effective date  
17 of this clause.

18 (ii) Nothing under this [act] chapter shall prohibit  
19 a manufacturer operating or controlling a new vehicle  
20 dealership under this paragraph from owning, operating or  
21 controlling a warranty facility for warranty repairs on  
22 the manufacturer's line-make of vehicles.

23 (7) Nothing under this subsection shall prohibit the  
24 sale or lease of used vehicles obtained as a result of a  
25 trade or return of a vehicle during the purchase of a new  
26 vehicle under paragraph (6) at a manufacturer's licensed  
27 location.

28 (d) Applicability.--

29 (1) Subsections (b)(11) through (17) and (c) shall not  
30 apply to manufacturers, distributors or dealers of

1 manufactured housing [or recreational vehicles].

2 (1.1) This section shall not apply to manufacturers,  
3 distributors or dealers of recreational vehicles.

4 (2) Subsections (b) (13) and (15) and (c) shall not apply  
5 to the ownership or activities of a manufacturer in the  
6 operation of a licensed dealer or a licensed dealer that  
7 fulfills the following conditions:

8 (i) The manufacturer maintains an ownership interest  
9 in, operates or controls a licensed dealer whose primary  
10 business purpose is the rental of vehicles.

11 (ii) Vehicles sold by the licensed dealer primarily  
12 engaged in the business of rental vehicles are limited to  
13 those vehicles used for rental purposes or vehicles  
14 obtained in trade for such vehicles.

15 (iii) Any warranty repairs are limited to those  
16 repairs conducted on the vehicles used in the vehicle  
17 rental business or vehicles sold by the licensed dealer.

18 Section [12.1] 311. Area of responsibility.

19 (a) General rule.--It shall be a violation of this [act]  
20 chapter for any manufacturer or distributor, officer, agent or  
21 any representative of a manufacturer or distributor to  
22 unreasonably alter a new vehicle dealer's area of  
23 responsibility. The following shall apply:

24 (1) Advance notice from the manufacturer of an  
25 alteration of a dealer's area of responsibility shall be  
26 given at least 60 days before the effective date of the  
27 alteration. The notice shall include an explanation of the  
28 basis for the alteration.

29 (2) At any time before the effective date of such  
30 alteration of a dealer's area of responsibility, and after

1 the completion of any internal appeal process pursuant to the  
2 manufacturer's or distributor's policy manual, the dealer may  
3 file a protest as provided for under section [8] 306. In the  
4 event a protest is filed, no such alteration of a dealer's  
5 area of responsibility shall become effective until final  
6 determination by the board.

7 (3) If a dealer protests under paragraph (2), the burden  
8 of proof shall be on the manufacturer to show that the  
9 dealer's area of responsibility is reasonable and justifiable  
10 in light of the market conditions.

11 (4) If a new vehicle dealer's area of responsibility is  
12 altered, the manufacturer shall allow 18 months for the  
13 dealer to penetrate the market and to become sales effective  
14 prior to taking negative legal action claiming a breach or  
15 nonperformance of the dealer's sales performance  
16 responsibilities against the dealer.

17 (b) Exception.--This section shall not apply to recreational  
18 vehicle manufacturers, distributors or dealers.

19 Section [13] 312. Termination of franchises.

20 (a) Terminations.--It shall be a violation of this [act]  
21 chapter for any manufacturer or distributor, officer, agent or  
22 any representative whatsoever to unfairly, without due regard to  
23 the equities of said dealer and without just cause, terminate or  
24 fail to renew the franchise of any vehicle dealer; or being a  
25 manufacturer, to unfairly, without due regard to the equities of  
26 a distributor and without just cause, terminate or fail to renew  
27 the franchise of any distributor. The manufacturer or  
28 distributor shall not meet its burden of proof to terminate or  
29 fail to renew the franchise if the acts of the manufacturer or  
30 distributor, in whole or in significant part, caused the dealer

1 or distributor to be unable to comply substantially with the  
2 reasonable and material requirements of the franchise.

3 (b) Mutual agreement of termination filing.--All existing  
4 dealers' franchises shall continue in full force and operation  
5 under a newly appointed distributor on the termination of an  
6 existing distributor unless a mutual agreement of termination is  
7 filed with the board between the newly appointed distributor and  
8 such dealer.

9 (c) Notification of termination.--Not less than 60 days  
10 advance notice of such termination or failure to renew shall be  
11 given the dealer or distributor prior to the effective date  
12 thereof unless the nature or character of the reason for  
13 termination or failure to renew is such that the giving of such  
14 notice would not be in the public interest. A copy of the notice  
15 shall also be provided to the board.

16 (1) The 60-day notice period required by this subsection  
17 may be reduced to not less than 15 consecutive business days  
18 if the ground for termination or failure to renew is:

19 (i) insolvency of the dealer or filing of any  
20 petition by or against the dealer under any bankruptcy or  
21 receivership law;

22 (ii) failure of the dealer to conduct customary  
23 sales and service operations during business hours for  
24 seven consecutive business days, except in circumstances  
25 beyond the direct control of the dealer;

26 (iii) conviction of the dealer, or any owner  
27 thereof, of any felony which is punishable by  
28 imprisonment;

29 (iv) suspension or revocation of any license which  
30 the new vehicle dealer is required to have to operate a



1 dealership; or

2 (v) based on a determination that there was a  
3 fraudulent misrepresentation by the dealer to the  
4 manufacturer or distributor which is material to the  
5 franchise.

6 (2) The 60-day notice period under this subsection is  
7 not required if the new vehicle dealer or distributor waives  
8 it voluntarily in writing.

9 (d) Appeals.--At any time before the effective date of such  
10 termination or failure to renew, the dealer or distributor may  
11 appeal to the board for a hearing on the merits, and following  
12 due notice to all parties concerned, such hearing shall be  
13 promptly held. No such termination or failure to renew shall  
14 become effective until final determination of the issue by the  
15 board.

16 (e) Burden of proof and just cause terminations on appeal.--  
17 In the event of a dealer or distributor appeal of the  
18 termination or failure to renew of its franchise, the burden of  
19 proof shall be on the manufacturer or distributor to show that  
20 such termination or failure to renew was for just cause. Any  
21 termination or failure to renew which is subject to section [14]  
22 313 shall not be subject to this subsection.

23 (f) Exception.--This section shall not apply to recreational  
24 vehicle manufacturers, distributors or dealers.

25 Section [14] 313. Industry reorganization.

26 (a) Violation.--

27 (1) It shall be a violation of this [act] chapter for a  
28 manufacturer or distributor directly or indirectly or through  
29 any officer, agent or employee to terminate or fail to renew  
30 a franchise of a new vehicle dealer in connection with:

1           (i) any change in ownership or control of all or any  
2 part of the manufacturer's or distributor's business  
3 whether by sale or transfer of assets, corporate stock or  
4 other equity interest; assignment; merger; consolidation;  
5 combination; joint venture; redemption; operation of law;  
6 or otherwise; or

7           (ii) the termination, suspension or cessation of all  
8 or any part of the manufacturer's or distributor's  
9 business operations except for a termination of a part of  
10 the manufacturer's or distributor's business operations  
11 throughout the United States that is not otherwise part  
12 of any change in ownership or control of the  
13 manufacturer's or distributor's business.

14       (2) Paragraph (1) shall not apply if:

15           (i) a manufacturer or distributor offers a dealer a  
16 replacement franchise with reasonable terms or  
17 conditions; or

18           (ii) the manufacturer or distributor, within 90 days  
19 of the effective date of the termination or failure to  
20 renew, compensates the dealer in an amount at least  
21 equivalent to the higher of the fair market value of the  
22 franchise or portion of the franchise terminated or  
23 failed to be renewed on the date the manufacturer or  
24 distributor announces the act that results in the  
25 termination or nonrenewal of the franchise or the date on  
26 which the notice of termination or nonrenewal of the  
27 franchise is issued.

28       (3) If the manufacturer or distributor either or both:

29           (i) authorizes the dealer to continue servicing and  
30 supplying parts, including warranty service and parts,

1 for any goods or services marketed by the dealer pursuant  
2 to the franchise for a period of not less than five years  
3 from the effective date of the termination or failure to  
4 renew and continues to reimburse the dealer for warranty  
5 parts and service at the same prices and terms as  
6 franchised dealers for the manufacturer or distributor;

7 (ii) continues to supply the dealer with replacement  
8 parts for any goods or services marketed by the dealer  
9 pursuant to the franchise for a period of not less than  
10 five years from the effective date of the termination or  
11 failure to renew at the same prices and terms as  
12 franchised dealers for the manufacturer or distributor;

13 and if a dealer chooses to continue either or both such parts  
14 and service operation under subparagraph (i) or (ii), the  
15 fair market value compensation of the franchise shall be  
16 reduced to reflect the value of continuing either or both  
17 such parts and service operation.

18 (b) Acts affecting franchise.--For purposes of subsection

19 (a), the termination or discontinuation of a series, line, brand  
20 or class of new vehicle marketed by a manufacturer or  
21 distributor as a distinct series, line, brand or class shall be  
22 deemed to be the termination or nonrenewal of a franchise even  
23 if said series, line, brand or class of new vehicle is part of a  
24 franchise including other series, lines, brands or classes of  
25 new vehicle, provided that nothing in this subsection shall be  
26 construed as prohibiting a manufacturer or distributor from  
27 changing, adding or deleting models, specifications, model  
28 names, numbers or identifying marks or similar characteristics  
29 of the new vehicles it markets, provided that such change,  
30 addition or deletion does not result in the termination or

1 discontinuance of a distinct series, line, brand or class of new  
2 vehicle.

3 (c) Disputes.--Any dispute arising between a manufacturer or  
4 distributor and a dealer under this section involving the  
5 determination of the fair market valuation of a franchise shall  
6 be determined by a court of competent jurisdiction and not by  
7 the board.

8 (d) Exemption.--This section shall not apply to motorcycle  
9 or recreational vehicle manufacturers, distributors or dealers.  
10 Section [15] 314. Succession to franchise ownership.

11 (a) Succession of ownership interest.--Notwithstanding the  
12 terms of any franchise, any owner of a new vehicle dealership  
13 may appoint, by will or any other written instrument, a  
14 designated family member, the spouse, child or grandchild,  
15 spouse of a child or grandchild, brother, sister or parent of  
16 the dealer owner, or qualified manager, who has been employed at  
17 the dealership for at least two years, to succeed to the  
18 ownership interest of such owner in the new vehicle dealership.

19 (b) Consent to succession on part of manufacturer or  
20 distributor.--Notwithstanding the terms of any franchise, unless  
21 there exists [good] just cause to withhold consent to succession  
22 on the part of the manufacturer or distributor, any designated  
23 family member or qualified manager of the franchise location in  
24 question of a retiring, deceased or incapacitated owner of a new  
25 vehicle dealership may succeed to the ownership interest of such  
26 owner under the existing franchise, provided:

27 (1) The designated family member or qualified manager  
28 furnishes written notice to the manufacturer or distributor  
29 of his or her intention to succeed to the ownership of the  
30 new vehicle dealership within 60 days after the owner's

1 retirement, death or incapacity.

2 (2) The designated family member or qualified manager  
3 agrees to be bound by all then existing terms and conditions  
4 of the franchise.

5 (c) Submission of personal and financial information.--The  
6 manufacturer or distributor may request, and the designated  
7 family member or qualified manager shall promptly provide, such  
8 personal and financial information as is reasonably necessary to  
9 determine whether the succession will be honored.

10 (d) Withholding consent to succession.--If a manufacturer or  
11 distributor believes that [good] just cause exists to withhold  
12 consent to the succession to the ownership of a new vehicle  
13 dealership by a designated family member or qualified manager of  
14 a retiring, deceased or incapacitated owner of a new vehicle  
15 dealership under the existing franchise, the manufacturer or  
16 distributor must serve written notice on the designated family  
17 member or qualified manager and on the board of its refusal to  
18 honor the succession and intent to discontinue the existing  
19 franchise with the new vehicle dealer. Such notice shall be  
20 served no later than 60 days after the manufacturer's or  
21 distributor's receipt of:

22 (1) notice of the designated family member's or  
23 qualified manager's intent to succeed to the ownership of the  
24 new vehicle dealer; or

25 (2) any personal or financial information requested by  
26 the manufacturer or distributor.

27 (e) Notice requirements.--The notice in subsection (d) shall  
28 state the specific grounds to withhold consent to honor the  
29 succession and the manufacturer's or distributor's intent to  
30 discontinue the franchise with the new vehicle dealer no sooner

1 than 60 days after the date the notice is served. The reasons  
2 given for the disapproval or any explanation of those reasons by  
3 the manufacturer or distributor shall not subject the  
4 manufacturer or distributor to any civil liabilities unless the  
5 reasons given or explanations made are malicious and published  
6 with the sole intent to cause harm to the dealer or successor.  
7 If the notice of refusal and discontinuance is not timely and  
8 properly served, the franchise shall continue in effect, subject  
9 to termination only as otherwise provided under this [act]  
10 chapter.

11 (f) Protest requirements upon withholding of consent.--  
12 Within 30 days after receipt of such notice or within 30 days  
13 after the end of any appeal procedure provided by the  
14 manufacturer or distributor, whichever is greater, the  
15 designated family member or qualified manager may file with the  
16 board to protest the withholding the consent to honor the  
17 succession. When a protest is filed, the board shall promptly  
18 notify the manufacturer or distributor that a timely protest has  
19 been filed and that such manufacturer or distributor shall not  
20 terminate or discontinue the existing franchise until the board  
21 has held a hearing and issued a written decision within 120 days  
22 of the filing of the protest nor thereafter, unless the board  
23 determines that there is [good] just cause for not permitting  
24 the succession.

25 (g) Conflicts.--This [act] chapter shall not preclude the  
26 owner of a new vehicle dealership from designating any person as  
27 his or her successor by written instrument filed with the  
28 manufacturer or distributor. In the event of any conflict  
29 between such a written instrument which has not been revoked by  
30 written notice from the owner to the manufacturer or

1 distributor, and this section, the written instrument shall  
2 govern.

3 (h) Restriction.--This section shall not apply if the  
4 successor will not agree to comply with an existing agreement  
5 pertaining to transfer of ownership made between the  
6 manufacturer or distributor and the dealer transferor or with a  
7 new agreement containing substantially the same terms.

8 (i) Exception.--This section shall not apply to recreational  
9 vehicle manufacturers, distributors or dealers.

10 Section [16] 315. Manufacturer right of first refusal.

11 (A) GENERAL RULE.--A manufacturer or distributor shall be <--  
12 permitted to enact a right of first refusal to acquire the new  
13 vehicle dealer's assets or ownership in the event of a proposed  
14 change of all or substantially all ownership or transfer of all  
15 or substantially all dealership assets if all of the following  
16 requirements are met:

17 (1) To exercise its right of first refusal, the  
18 manufacturer or distributor must notify the dealer in writing  
19 within the 60-day or 75-day time limitations established  
20 under section [12(b)(5)] 310(b)(5).

21 (2) The exercise of the right of first refusal will  
22 result in the dealer and dealer's owners receiving the same  
23 or greater consideration as they have contracted to receive  
24 in connection with the proposed change of all or  
25 substantially all ownership or transfer of all or  
26 substantially all dealership assets. In that regard, the  
27 following shall apply:

28 (i) The manufacturer or distributor shall have the  
29 right to and shall assume the dealer's lease for, or  
30 acquire the real property on which the franchise is

1 conducted, on the same terms as those on which the real  
2 property or lease was to be sold or transferred to the  
3 proposed new owner in connection with the sale of the  
4 franchise, unless otherwise agreed to by the dealer and  
5 manufacturer or distributor. The manufacturer or  
6 distributor shall have the right to assign the lease or  
7 to convey the real property.

8 (ii) The manufacturer or distributor shall assume  
9 all of the duties, obligations and liabilities contained  
10 in the agreements that were to be assumed by the proposed  
11 new owner and with respect to which the manufacturer or  
12 distributor exercised the right of first refusal,  
13 including the duty to honor all time deadlines in the  
14 underlying agreements, provided that the manufacturer or  
15 distributor has knowledge of such obligations at the time  
16 of the exercise of the right of first refusal. Failure by  
17 an assignee of the manufacturer or distributor to  
18 discharge such obligations shall be deemed a failure by  
19 the manufacturer or distributor under this subsection.

20 (3) The proposed change of all or substantially all  
21 ownership or transfer of all or substantially all dealership  
22 assets does not involve the transfer of assets or the  
23 transfer or issuance of stock by the dealer or one or more  
24 dealer owners to a designated family member or members, the  
25 spouse, child or grandchild, spouse of a child or grandchild,  
26 brother, sister or parent of the dealer owner, of one or more  
27 dealer owners or to a qualified manager or to a partnership  
28 or corporation controlled by such persons.

29 (4) The manufacturer or distributor agrees to pay the  
30 reasonable expenses, including reasonable attorney fees which



1 do not exceed the usual, customary and reasonable fees  
2 charged for similar work done for other clients, incurred by  
3 the proposed new owner and transferee prior to the  
4 manufacturer's or distributor's exercise of its right of  
5 first refusal in negotiating and implementing the contract  
6 for the proposed change of all or substantially all ownership  
7 or transfer of all or substantially all dealership assets.  
8 Notwithstanding the foregoing, no payment of such expenses  
9 and attorney fees shall be required if the dealer has not  
10 submitted or caused to be submitted an accounting of those  
11 expenses within 20 days of the dealer's receipt of the  
12 manufacturer's or distributor's written request for such an  
13 accounting. Such an accounting may be requested by a  
14 manufacturer or distributor before exercising its right of  
15 first refusal.

16 (B) EXCEPTION.--THIS SECTION SHALL NOT APPLY TO RECREATIONAL <--  
17 VEHICLE MANUFACTURERS, DISTRIBUTORS OR DEALERS.

18 Section [17] 316. Manufacturer or distributor repurchase of  
19 inventory and equipment.

20 (a) Return of property for repurchase.--A new vehicle dealer  
21 shall return property, including, but not limited to, vehicle  
22 inventory, parts, equipment, tools and signs, as permitted under  
23 this section or as set forth in the franchise agreement, to the  
24 manufacturer or distributor within 90 days of the effective date  
25 of any termination or nonrenewal of a franchise or upon a  
26 termination or cessation of a part of a manufacturer's or  
27 distributor's business operations throughout the United States  
28 which is not part of any change in ownership, operation or  
29 control of all or any part of the manufacturer's or  
30 distributor's business under section [14] 313. The manufacturer

1 or distributor shall supply the new vehicle dealer with  
2 instructions on the method by which the new vehicle dealer must  
3 return the property to the manufacturer or distributor. Within  
4 60 days of tender of the property to the manufacturer or  
5 distributor, the manufacturer or distributor, including medium  
6 and heavy-duty truck component and engine manufacturers or  
7 distributors who provide integral parts of vehicles or provide  
8 major components by selling directly to dealers, shall  
9 repurchase from the new vehicle dealer and remit payment to the  
10 new vehicle dealer in accordance with their respective interest  
11 in:

12 (1) Any new, undamaged and unsold vehicle inventory,  
13 whether acquired from the manufacturer or distributor or from  
14 another dealer of the same line-make in the ordinary course  
15 of business within 18 months of the termination date,  
16 provided the vehicle has less than 750 miles registered on  
17 the odometer, not including mileage incurred in delivery from  
18 the manufacturer or in transporting the vehicle between  
19 dealers for sale, at the dealer's net acquisition cost, plus  
20 any cost to the dealer for returning the vehicle inventory to  
21 the manufacturer or distributor. A dealer shall be entitled  
22 to the payment under this paragraph for new and undamaged  
23 motor vehicles having a gross vehicle weight rating of at  
24 least 10,001 pounds of current and two prior model years as  
25 determined on a model-by-model basis within the line-make.

26 (2) All new, unused, undamaged parts listed in the  
27 current price catalog acquired from a manufacturer or  
28 distributor or a source approved or recommended by the  
29 manufacturer or distributor at the dealer price listed in the  
30 current parts catalog, less applicable allowances, plus 5% of

1 the catalog price of the part for the cost of packing and  
2 returning the parts to the manufacturer or distributor.  
3 Reconditioned or core parts shall be valued at their core  
4 value, the price listed in the current parts catalog or the  
5 amount paid for expedited return of core parts, whichever is  
6 higher.

7 (3) Any special tools or equipment offered for sale  
8 during the three years preceding termination or nonrenewal  
9 and each trademark or trade name bearing signs which was  
10 recommended or required by the manufacturer or distributor at  
11 fair market value at the time the notice of termination or  
12 nonrenewal is given.

13 In the event the inventory is subject to a security interest,  
14 the manufacturer may make payment jointly to the dealer and the  
15 holder of the security interest.

16 (b) Failure to pay sums due.--A manufacturer or distributor  
17 who fails to pay those sums due the dealer within the prescribed  
18 time or at such time as the dealer proffers good title prior to  
19 the prescribed time for payment is liable to the new vehicle  
20 dealer for:

21 (1) the greater of dealer net acquisition cost, fair  
22 market value or current price of inventory;

23 (2) interest on the amount due, calculated at the rate  
24 applicable to a judgment of court; and

25 (3) reasonable attorney fees and costs.

26 (c) Limited applicability.--This section shall not apply to  
27 manufacturers, distributors or dealers of recreational vehicles  
28 or manufactured housing, nor shall it apply to motorcycle  
29 manufacturers, distributors or dealers except when the  
30 unilateral termination or failure to renew is by the

1 manufacturer or distributor.

2 Section [18] 317. Reimbursement of rental costs for dealer  
3 facility.

4 (a) Reimbursement of rental costs.--In the event of a  
5 termination or nonrenewal under this [act] chapter, except for  
6 termination or nonrenewal under section [14] 313, the  
7 manufacturer or distributor shall, at the request and option of  
8 the new vehicle dealer, also pay to the new vehicle dealer:

9 (1) a sum equivalent to rent for the unexpired term of  
10 the lease or one year, whichever is less, or such longer term  
11 as provided in the franchise, if the new vehicle dealer is  
12 leasing the new vehicle dealership facilities from a lessor  
13 other than the manufacturer or distributor; or

14 (2) a sum equivalent to the reasonable rental value of  
15 the new vehicle dealership facilities for one year or until  
16 the facilities are leased or sold, whichever is less, if the  
17 new vehicle dealer owns the new vehicle dealership  
18 facilities.

19 (b) Extent of requirement.--The rental payment required  
20 under subsection (a) is only required to the extent that the  
21 facilities were used for activities under the franchise and only  
22 to the extent the facilities were not leased for unrelated  
23 purposes. If payment under subsection (a) is made, the  
24 manufacturer or distributor is entitled to possession and use of  
25 the new vehicle dealership facilities for the period rent is  
26 paid.

27 (c) Exemption.--This section shall not apply to motorcycle  
28 or recreational vehicle manufacturers, distributors or dealers.  
29 Section [19] 318. Grounds for disciplinary proceedings.

30 In addition to any criminal or civil penalties otherwise

1 provided in this act, the board shall have the power to formally  
2 reprimand, suspend or revoke any license or refuse to issue or  
3 renew any license of an applicant or licensee or a person  
4 required to be licensed under this act, if after due notice of  
5 and hearing, the person charged is found in violation of or  
6 fails to carry out the acts and procedures set forth in this act  
7 or is found guilty of committing or attempting to commit any of  
8 the acts set forth in section [23] 322 or any of the following  
9 acts:

10 (1) Having had a license revoked or suspended by the  
11 Commonwealth or another state based on grounds similar to  
12 those which in this Commonwealth allow disciplinary  
13 proceedings, in which case the record of such revocation or  
14 suspension shall be conclusive evidence.

15 (2) Make any substantial misrepresentation of material  
16 facts.

17 (3) Make any false promise of a character likely to  
18 influence, persuade or induce the sale of a vehicle.

19 (4) Being a vehicle dealer or salesperson, having within  
20 five years prior to the application for or issuance of a  
21 license or while his current license is in force pleaded  
22 guilty, entered a plea of nolo contendere or been found  
23 guilty in a court of competent jurisdiction in this or any  
24 other state or Federal jurisdiction of forgery, embezzlement,  
25 obtaining money under false pretenses, extortion, conspiracy  
26 to defraud, bribery, odometer tampering or any other crime  
27 involving moral turpitude.

28 (5) Having failed or refused to account for moneys or  
29 other valuables belonging to others which have come into his  
30 possession arising out of the sale of vehicles.

1           (6) Having engaged in false, deceptive or misleading  
2 advertising of vehicles.

3           (7) Having committed any act or engaged in conduct in  
4 connection with the sale of vehicles which clearly  
5 demonstrates unprofessional conduct or incompetency to  
6 operate as a licensee under this act.

7           (8) Having made a material misstatement in application  
8 for licensure.

9           (9) Having set up, promoted or aided in promotion of a  
10 plan by which vehicles are sold to a person for consideration  
11 and upon the further consideration that the purchaser agrees  
12 to secure one or more persons to participate in the plan by  
13 respectively making a similar purchase and in turn agreeing  
14 to secure one or more persons likewise to join in said plan,  
15 each purchaser being given the right to secure money,  
16 credits, goods or something of value, depending upon the  
17 number of persons joining in the plan.

18           (10) Having engaged in the buying, selling, exchanging,  
19 trading or otherwise dealing in vehicles on Sunday in  
20 violation of 18 Pa.C.S. § 7365 (relating to trading in motor  
21 vehicles and trailers).

22           (i) Manufactured housing is permitted to be sold on  
23 Sundays by licensed manufactured housing dealers without  
24 being subject to prosecution under this paragraph.

25           (ii) Licensed motorcycle dealers are permitted to  
26 buy, sell, exchange, trade or otherwise deal in  
27 motorcycles on Sunday without being subject to  
28 prosecution under this paragraph.

29           (11) Being a dealer or broker who advertises or  
30 otherwise holds out to the public that he is selling new

1 vehicles for which he does not hold a franchise agreement in  
2 writing with a manufacturer or distributor giving the dealer  
3 authority to sell the particular line-make of new vehicles.

4 (12) Being a dealer or broker who sells new vehicles for  
5 which he does not hold a franchise agreement in writing with  
6 a manufacturer or distributor giving the dealer authority to  
7 sell the particular line-make of new vehicles.

8 (13) Failing to take immediate remedial action when the  
9 dealer knows that someone in his direct employ or someone who  
10 renders vehicle-related services to the dealer for  
11 consideration, has unlawfully tampered with the odometer of a  
12 vehicle in his care, custody or control or which has been  
13 sold or exchanged by the dealer. For the purpose of this  
14 paragraph, remedial action shall be defined as at least  
15 reporting the incident in writing to the Pennsylvania State  
16 Police or the board.

17 (14) Engaging in the business for which such licensee is  
18 licensed without at all times maintaining an established  
19 place of business as required.

20 (15) Employing any person as a salesperson who has not  
21 been licensed as required.

22 (16) Having had his vehicle business registration plates  
23 (dealer identification number) suspended or revoked by the  
24 Department of Transportation pursuant to 75 Pa.C.S. § 1374(a)  
25 (relating to suspension or revocation of vehicle business  
26 registration plates). A certified copy of the decision and  
27 order of the Department of Transportation will constitute  
28 conclusive evidence.

29 (17) Being a new car dealer whose franchise agreement  
30 with a manufacturer or distributor, which gives the subject

1 dealer selling rights for that line-make, has been finally  
2 terminated, but who continues to sell new vehicles. A  
3 recreational vehicle or manufactured housing dealer, whose  
4 franchise was terminated or failed to be renewed by either  
5 the manufacturer or the dealer, who owned new vehicles prior  
6 to the termination or nonrenewal and sold them subsequent to  
7 the termination or nonrenewal is exempt from prosecution  
8 under this paragraph. Such dealers shall be authorized to  
9 sell as new all new vehicles that remain on their lot after a  
10 franchise is terminated or failed to be renewed.

11 (18) Willfully failing to display a license.

12 (19) Failing to obey any order of the board entered  
13 pursuant to the act.

14 (20) Permitting or allowing another individual or  
15 organization not licensed by the board to use that  
16 individual's license for the purpose of operating in this  
17 Commonwealth in a capacity for which the individual or  
18 organization should have held a license.

19 (21) Willfully having made any false statement as to a  
20 material matter in any oath or affidavit which is required by  
21 this act.

22 (22) Failing to collect a tax or fee due the  
23 Commonwealth upon a sale of a vehicle as defined in 75  
24 Pa.C.S. § 102 (relating to definitions).

25 (23) Collecting a tax or fee and failing to issue a true  
26 copy of the tax report to the purchaser as required by law.

27 (24) Issuing a false or fraudulent tax report or copy  
28 thereof.

29 (25) Failing to pay over taxes or fees collected for the  
30 Commonwealth at the time and in the manner required by law.



1 (26) Violating any provision of this act.

2 (27) Being an unlicensed salesperson, dealer, vehicle  
3 auction, branch lot, manufacturer or any other person or  
4 business where a license is required under this act.

5 (28) Any violation of the regulations promulgated by the  
6 board.

7 (29) Being a wholesale vehicle auction who permits  
8 dealers who are not currently licensed in this Commonwealth  
9 or any other state or jurisdiction or a vehicle business  
10 registered with the Department of Transportation and issued a  
11 Department of Transportation identification number or  
12 licensed or registered by any other state or jurisdiction for  
13 a similar activity who during the time their licenses or  
14 registrations are suspended or revoked by the Commonwealth or  
15 any other state to sell, represent or purchase vehicles at an  
16 auction.

17 (29.1) Being a wholesale vehicle auction who permits a  
18 vehicle business as described under paragraph (29), which is  
19 restricted to certain vehicle buys, sales or exchanges as set  
20 forth in section [5(f)(2)] 303(f)(2), to buy, sell or  
21 exchange vehicles of a type which the vehicle business is not  
22 authorized to engage in.

23 (30) Being a dealer which permits salespersons who are  
24 not currently licensed in this Commonwealth or any other  
25 state or who during the time their licenses are suspended or  
26 revoked by the Commonwealth or any other state to sell,  
27 represent or purchase vehicles at an auction.

28 (31) Being a public or retail vehicle auction who  
29 knowingly and willfully permits any buyer or seller to buy or  
30 sell vehicles which results in engaging in the business as

1 dealer without a license or permitting any other person to  
2 engage in any activity which would require licensure under  
3 this act.

4 (32) Being a dealer which willfully permits an  
5 individual or salesperson to buy, sell or exchange a vehicle  
6 for his own benefit or profit under the dealer's license.

7 (33) Being a dealer which willfully permits any person  
8 who is not a licensed salesperson or owner of the dealership  
9 to use the dealer's dealer identification number issued by  
10 the Department of Transportation, vehicle dealer's license  
11 number or dealer's vehicle registration plates for the  
12 purpose of buying, selling or exchanging vehicles.

13 (34) Being a dealer which conducts its business under  
14 any name other than the name in which it is registered or at  
15 any other location than that authorized by its license.

16 (35) Being a dealer, agent of a dealer or a salesperson  
17 who buys, sells or exchanges vehicles with a person who is  
18 required to be licensed under this act if the dealer, agent  
19 or salesperson knew or should have known that the person is  
20 not licensed.

21 (36) Accepting an order of purchase or a contract from a  
22 buyer, which offer of purchase or contract is subject to  
23 subsequent acceptance by the seller, if such arrangement  
24 results in the practice of bushing.

25 (37) Failing to produce business records when an  
26 authorized agent of the board reasonably requests the  
27 licensee to produce business records.

28 (38) Being a person whose license under this act or  
29 authority to engage as a dealer or salesperson in any other  
30 state or jurisdiction was suspended or revoked and, while the

1 license or authority was suspended or revoked, was physically  
2 present at a wholesale vehicle auction or public or retail  
3 vehicle auction during the auctioning of vehicles. A vehicle  
4 auction shall not be subject to prosecution for a violation  
5 of a person being physically present under this paragraph.

6 (39) Being an out-of-State recreational vehicle dealer  
7 who, while buying, selling, titling, registering, financing  
8 or exchanging recreational vehicles in this Commonwealth,  
9 violates a Pennsylvania law or regulation or a law or  
10 regulation of the state or jurisdiction of licensure or the  
11 state or jurisdiction of domicile regarding the buying,  
12 selling, titling, registering, financing or exchanging of  
13 recreational vehicles.

14 (40) Being an out-of-State recreational vehicle dealer  
15 who fails to demonstrate, upon direction of or investigation  
16 by the board or its agents, that the out-of-State  
17 recreational vehicle dealer satisfies the provisions of  
18 section 32.1(c) regarding participation in this Commonwealth  
19 in a recreational vehicle show, recreational vehicle off-  
20 premise sale, recreational vehicle exhibition or recreational  
21 vehicle rally.

22 Section [20] 319. Administrative liability of employer,  
23 copartnership, association or corporation.

24 In the event of the revocation of the license issued to any  
25 member of a partnership or to any officer of an association or  
26 corporation, the license issued to a partnership, association or  
27 corporation shall be revoked by the board unless, within a time  
28 fixed by the board, in the case of a partnership, the connection  
29 of the member whose license has been revoked shall be severed  
30 and his interest in the partnership and his share in its

1 activities brought to an end, or in the case of an association  
2 or corporation, the offending officer shall be discharged and  
3 shall have no further participation in its activities.

4 Section [21] 320. Reinstatement.

5 (a) Suspension.--Upon application in writing and after a  
6 hearing pursuant to notice, the board may reissue or modify the  
7 suspension of any license which has been suspended.

8 (b) Revocation.--Unless ordered to do so by a court, the  
9 board shall not reinstate the license of a person that has been  
10 revoked and such person shall be required to apply for a license  
11 after a period of five years in accordance with section [22] 321  
12 if he desires to resume operating as a licensee at any time  
13 after such revocation.

14 Section [22] 321. Application for license.

15 (a) Dealer's or vehicle auction's license.--Application for  
16 license as a dealer or vehicle auction shall be made in writing  
17 to the board, signed by the applicant, setting forth the  
18 following:

19 (1) Name of applicant and location of principal place of  
20 business to which the license will be issued.

21 (2) Name or style under which business is to be  
22 conducted and, if a corporation, the state of incorporation.

23 (3) Name and address of each owner or partner and, if a  
24 corporation, the names of principal officers and directors.

25 (4) Locations in which the business is to be conducted  
26 if the dealer has more than one place of business.

27 (5) If new vehicles are to be sold, the line-make or  
28 line-makes to be handled.

29 (6) A statement of the previous history, record and  
30 association of the applicant and of each owner, partner,

1 officer and director, which statement shall be sufficient to  
2 establish to the satisfaction of the board the reputation in  
3 business of the applicant.

4 (7) A statement showing whether the applicant has  
5 previously applied for a license and the result of such  
6 application and whether the applicant has ever been the  
7 holder of either a dealer, vehicle auction or salesperson  
8 license which was revoked or suspended.

9 (8) If the applicant is a corporation or partnership, a  
10 statement showing whether any of the partners, employees,  
11 officers or directors have been refused a dealer's, vehicle  
12 auction's or salesperson's license or have been the holder of  
13 such a license which was revoked or suspended.

14 (9) A statement by the applicant that he has met all  
15 facility requirements as noted herein and as required by  
16 regulation.

17 (b) Salesperson's license.--Application for license as a  
18 salesperson shall be made in writing to the board, signed by the  
19 applicant, setting forth the following:

20 (1) The applicant's name and address.

21 (2) The period of time, if any, during which he has been  
22 engaged in the occupation of salesperson.

23 (3) The name and address of his last employer.

24 (4) The name and address of the dealer then employing  
25 him or into whose employ he is about to enter. If the  
26 applicant is to be licensed for a dealer who is licensed in  
27 more than one category or at more than one location and the  
28 applicant desires to sell for each of the dealer's licensed  
29 entities, the name and address of the primary location and of  
30 each other entity shall be supplied.

1           (5) The recommendation of his employer or prospective  
2 employer certifying that the applicant is honest, trustworthy  
3 and of good repute and recommending that a license be  
4 granted. In the case of an applicant who is himself a dealer,  
5 an officer of a corporation which is a dealer or a member of  
6 a partnership which is a dealer, the foregoing recommendation  
7 shall be made by another dealer, bank or sales finance  
8 company which has personal knowledge concerning the  
9 reputation and fitness of the applicant.

10           (6) A statement showing whether the applicant has  
11 previously applied for a license and the result of such  
12 application and whether the applicant has ever been the  
13 holder of a salesperson's license which was revoked or  
14 suspended or the subject of disciplinary action by this board  
15 or that of any other jurisdiction.

16           (7) The application shall be made upon a form prepared  
17 by the board containing such other reasonable information as  
18 the board shall require.

19           (c) Application for license other than as a dealer, vehicle  
20 auction or salesperson.--Application for license other than as a  
21 dealer, vehicle auction or salesperson shall be made in writing  
22 to the board accompanied by the required fee. The board may  
23 require, in such application or otherwise, information relating  
24 to the applicant's background and his financial standing, all of  
25 which may be considered by the board in determining the fitness  
26 of said applicant to engage in the business for which he desires  
27 to be licensed.

28           (d) Manufacturer's or distributor's license.--Application  
29 for license as a manufacturer or distributor shall be made in  
30 writing to the board, signed by the applicant, setting forth or

1 attaching the following:

2 (1) Name of applicant and location of principal place of  
3 business for the license which is the subject of the  
4 application and the location of any other place of business  
5 within this Commonwealth.

6 (2) Name or style under which business is to be  
7 conducted and, if a corporation, the state of incorporation.

8 (3) The line-make or line-makes of new vehicles which  
9 are to be manufactured or distributed.

10 (4) A statement showing whether the applicant has  
11 previously applied for a license and the result of such  
12 application.

13 (e) Change of ownership.--A dealer or vehicle auction shall  
14 supply the board with information regarding any change in named  
15 owners. The information shall include a statement of the  
16 previous history, record and reputation in the business of the  
17 new owner. Where the same business name and address is to be  
18 retained, any change in owners shall only require the licensee  
19 to inform the board of the change in owners but shall not  
20 require the licensee to submit to the entire license application  
21 process as set forth by this act or corresponding regulations.

22 Section [23] 322. Refusal of license.

23 The board may refuse to issue a license if the applicant has  
24 committed any of the acts set forth as grounds for the  
25 suspension or revocation of a license or the board finds that  
26 the applicant continued to engage in an activity in violation of  
27 this act during the suspension or revocation period. The board  
28 may also refuse to issue a license when it determines:

29 (1) That the applicant was previously the holder of a  
30 license issued under this act, which license was revoked for

1 cause or which license was suspended for cause and the terms  
2 of the suspension have not been fulfilled.

3 (2) That the applicant was previously a limited or  
4 general partner, stockholder, director or officer of a  
5 partnership or corporation whose license issued under the  
6 authority of this act was revoked for cause and never  
7 reissued or was suspended for cause and the terms of  
8 suspension have not been fulfilled.

9 (3) If the applicant is a partnership or corporation,  
10 that one or more of the limited or general partners,  
11 stockholders, directors or officers of the partnership or  
12 corporation was previously the holder of a license issued  
13 under the authority of this act which was revoked for cause  
14 or was suspended for cause and the terms of the suspension  
15 have not been fulfilled, or that by reason of the facts and  
16 circumstances touching the organization, control and  
17 management of the partnership or corporation business, the  
18 policy of such business will be directed, controlled or  
19 managed by individuals who, by reason of their conviction of  
20 violations of the provisions of this act, would be ineligible  
21 for a license and that by licensing such corporation or  
22 partnership, the purposes of this act would likely be  
23 defeated.

24 (4) That the applicant is a vehicle dealer, vehicle  
25 auction or salesperson who, having within five years prior to  
26 the application for or issuance of a license or while a  
27 current license is in force, pleaded guilty, entered a plea  
28 of nolo contendere or has been found guilty in a court of  
29 competent jurisdiction in Federal or in this or any other  
30 state jurisdiction of forgery, embezzlement, obtaining money



1 under false pretenses, extortion, conspiracy to defraud,  
2 bribery, odometer tampering or any other crime involving  
3 moral turpitude.

4 Section [24] 323. Change of salesperson's license to indicate  
5 new employer.

6 Whenever a licensed salesperson desires to change his  
7 employment from one licensed dealer to another, he shall notify  
8 the board in writing using the appropriate form, which is  
9 completed in its entirety and is accurate, no later than ten  
10 days after the date of change, pay the required fee and return  
11 the current license if not previously returned. The board shall  
12 issue a new license upon receipt of a complete and accurate  
13 salesperson's transfer application. In the interim at such time  
14 as the change in affiliation of the salesperson occurs, he shall  
15 maintain a copy of the notification sent to the board as his  
16 temporary license pending receipt of his new current license.  
17 This temporary transfer license shall expire at the end of 45  
18 days from the date on the transfer application. It shall be the  
19 duty of the applicant to notify the board if a new license or  
20 other pertinent communication is not received from the board  
21 within 30 days of the submission of the transfer application.  
22 The new license shall be issued for the remainder of the period  
23 covered by the previous license. The fee for the issuance of  
24 such changed license shall be determined by regulation.

25 Section [25] 324. Termination of employment or business.

26 (a) Salesperson's license to be surrendered after  
27 termination of employment.--Within ten days after termination of  
28 employment, the dealer shall surrender that salesperson's  
29 license to the board. If the license is not in the dealer's  
30 possession, then it will be the responsibility of the

1 salesperson to return the license to the board.

2 (b) Dealer's, branch lot or vehicle auction license to be  
3 surrendered after termination of business.--Within ten days  
4 after termination of business activities, the dealer, branch lot  
5 or vehicle auction shall surrender to the board all of its  
6 licenses and its salespersons' licenses issued by the board.  
7 Section [26] 325. Exemption from licensure and registration.

8 This act shall not be construed to require licensure and  
9 registration in the following cases:

10 (1) Public officers in the conduct of sales of vehicles  
11 in the performance of their official duties.

12 (2) Sales finance companies and banks licensed under the  
13 provisions of the act of June 28, 1947 (P.L.1110, No.476),  
14 known as the Motor Vehicle Sales Finance Act, in the conduct  
15 of sales of vehicles which have been repossessed by them.

16 (3) The sale, exchange or purchase by a person in one  
17 calendar year of fewer than five vehicles, except  
18 manufactured housing or mobile homes, on which sales tax has  
19 been paid at the purchase of the vehicle by that person.  
20 Where such a vehicle is authorized under Article II of the  
21 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
22 Code of 1971, to be transferred from the person who paid the  
23 sales tax to another without being subject to sales tax, such  
24 as, but not limited to, wife and husband transfers or  
25 disbursements from an estate to a beneficiary, the recipient  
26 of the vehicle shall be permitted to sell such vehicle  
27 without paying sales tax prior to his sale of the vehicle.

28 (4) The sale, exchange or purchase of fewer than five  
29 manufactured housing or mobile homes by a person in one  
30 calendar year.

1 Section [27] 326. Limitations on establishing or relocating  
2 dealers.

3 (a) Additional or relocation of new vehicle dealers.--

4 (1) In the event that a manufacturer seeks to enter into  
5 a franchise establishing an additional new vehicle dealer or  
6 relocating an existing new vehicle dealer within or into a  
7 relevant market area where the same line-make is then  
8 represented, the manufacturer shall in writing first notify  
9 the board and each new vehicle dealer in such line-make in  
10 the relevant market area of the intention to establish an  
11 additional dealer or to relocate an existing dealer within or  
12 into that market area. Within 20 days after the end of any  
13 appeal procedure provided by the manufacturer, any such new  
14 vehicle dealer may file with the board a protest to the  
15 establishing or relocating of the new vehicle dealer. When  
16 such a protest is filed, the board shall inform the  
17 manufacturer that a timely protest has been filed, and that  
18 the manufacturer shall not establish the proposed new vehicle  
19 dealer or relocate the new vehicle dealer until the board has  
20 held a hearing, nor thereafter, if the board has determined  
21 that there is [good] just cause for not permitting the  
22 addition or relocation of such new vehicle dealer.

23 (2) The notice required by this subsection shall include  
24 the following information:

25 (i) The location of the proposed additional or  
26 relocating new vehicle dealer.

27 (ii) An explanation of the appeal procedure provided  
28 by the manufacturer or distributor, if any, to the  
29 establishment of the proposed additional new vehicle  
30 dealer or relocation of the new vehicle dealer.

1 (iii) An explanation of the existing new vehicle  
2 dealer's rights to file a protest with the board to the  
3 establishment of the proposed new vehicle dealer or the  
4 relocation of the new vehicle dealer.

5 (3) Under this subsection, relocating an existing new  
6 vehicle dealer shall include any instance where an existing  
7 dealer sells or otherwise transfers all or substantially all  
8 of its business to a new owner and the new owner, who has  
9 been approved by the manufacturer or distributor to enter  
10 into a franchise agreement, seeks to relocate the ongoing,  
11 operating dealership franchise from its current licensed  
12 address to a site within the relevant market area of the  
13 existing dealer which is not within five miles of another  
14 licensed new vehicle dealer for the same line-make of vehicle  
15 as set forth in subsection (b) (1).

16 (4) (i) Where an automobile, motorcycle or truck  
17 manufacturer or distributor seeks to enter into an  
18 agreement or franchise establishing an additional vehicle  
19 warranty service facility or seeks to relocate an  
20 existing vehicle warranty service facility within or into  
21 a radius of five miles surrounding where an existing new  
22 vehicle dealer vehicle warranty service facility of the  
23 same line-make is then represented, except in cases  
24 involving a franchised new medium or heavy-duty truck  
25 dealer, in which case the affected radius shall be the  
26 relevant market area or the area of responsibility as  
27 defined in the dealer's franchise, whichever is greater,  
28 the automobile, motorcycle or truck manufacturer shall in  
29 writing first notify the board and each affected new  
30 vehicle dealer vehicle warranty service facility of such

1 line-make of the intention to establish an additional  
2 vehicle warranty service facility or to relocate an  
3 existing vehicle warranty service facility within or into  
4 the affected market areas.

5 (ii) The notice required by subparagraph (i) shall  
6 include the following information:

7 (A) The location of the proposed additional or  
8 relocating vehicle warranty service facility.

9 (B) An explanation of the appeal procedure  
10 provided by the automobile, motorcycle or truck  
11 manufacturer or distributor, if any, to the  
12 establishment of the proposed additional vehicle  
13 warranty service facility or relocation of the  
14 vehicle warranty service facility.

15 (C) An explanation of the existing new vehicle  
16 dealer's or vehicle warranty service facility's  
17 rights to file a protest with the board to the  
18 establishment of the proposed vehicle warranty  
19 service facility or the relocation of the vehicle  
20 warranty service facility.

21 (iii) Within 20 days after the end of any appeal  
22 procedure provided by the automobile, motorcycle or truck  
23 manufacturer, any such new vehicle warranty dealer  
24 vehicle service facility may file with the board a  
25 protest to the establishment or relocation of the vehicle  
26 warranty service facility.

27 (iv) When such a protest is filed, the board shall  
28 inform the automobile, motorcycle or truck manufacturer  
29 that a timely protest has been filed and that the  
30 automobile, motorcycle or truck manufacturer shall not

1 establish the proposed vehicle warranty service facility  
2 or relocate the vehicle warranty service facility until  
3 the board has held a hearing nor thereafter if the board  
4 has determined that there is [good] just cause for not  
5 permitting the addition or relocation of such vehicle  
6 warranty service facility.

7 (v) In determining whether [good] just cause exists  
8 to allow for the establishment or relocation of a vehicle  
9 warranty service facility, the board shall consider the  
10 same type of circumstances as established in subsection  
11 (c).

12 (b) Nonapplicability of section.--This section does not  
13 apply:

14 (1) To the relocation of an existing dealer within that  
15 dealer's relevant market area, provided that the relocation  
16 not be at a site within five miles of a licensed new vehicle  
17 dealer for the same line-make of vehicles.

18 (2) If the proposed new vehicle dealer is to be  
19 established at or within two miles of a location at which a  
20 former licensed new vehicle dealer for the same line-make of  
21 new vehicle had ceased operating within the previous two  
22 years. For purposes of this section, a former vehicle dealer  
23 shall have ceased operations on the date on which the  
24 franchise or agreement shall have been finally terminated.

25 (3) To the relocation of an existing dealer to a site  
26 that is further away from the nearest dealer of the same  
27 line-make.

28 (4) To manufactured housing or recreational vehicle  
29 dealers.

30 (c) Board to consider existing circumstances.--In

1 determining whether [good] just cause has been established for  
2 not entering into or relocating an additional new vehicle dealer  
3 for the same line-make, the board shall take into consideration  
4 the existing circumstances, including, but not limited to:

5 (1) Permanency of the investment of both the existing  
6 and proposed new vehicle dealers.

7 (2) Growth or decline in population and new vehicle  
8 registrations in the relevant market area.

9 (3) Effect on the consuming public in the relevant  
10 market area.

11 (4) Whether it is injurious or beneficial to the public  
12 welfare for an additional new vehicle dealer to be  
13 established.

14 (5) Whether the new vehicle dealers of the same line-  
15 make in that relevant market area are providing adequate  
16 competition and convenient customer care for the vehicles of  
17 the line-make in the market area which shall include the  
18 adequacy of vehicle sales and service facilities, equipment,  
19 supply of vehicle parts and qualified service personnel.

20 (6) Whether the establishment of an additional new  
21 vehicle dealer would increase competition and whether such  
22 increased competition would be in the public interest.

23 (7) The effect the denial of relocation will have on a  
24 relocating dealer.

25 Section [27.1] 327. Licensing cost.

26 (a) Licensing cost.--Subject to the limitations established  
27 under subsection (c), a licensed dealer who has a contract with  
28 the Department of Transportation pursuant to 75 Pa.C.S. § 7501  
29 (relating to authorization of messenger and agent services) may  
30 charge the purchaser of a vehicle a licensing cost permissible

1 under 75 Pa.C.S. Ch. 19 (relating to fees) and the act of  
2 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade  
3 Practices and Consumer Protection Law, and regulations  
4 promulgated thereunder, to include any of the following:

5 (1) The actual cost incurred by the dealer for fees  
6 associated with titling and registering the vehicle,  
7 including messenger fees, notary fees and electronic  
8 transaction fees.

9 (2) A documentary preparation charge for:

10 (i) Preparation and completion of documents required  
11 to register and license the vehicle under 75 Pa.C.S.  
12 (relating to vehicles).

13 (ii) Collection and submission of taxes payable by  
14 the purchaser.

15 (iii) Preparation of any other information  
16 associated with titling and registration of a vehicle.

17 (b) Out-of-State title.--The provisions of subsection (a)  
18 shall apply whether or not the purchaser intends to title and  
19 register the vehicle outside this Commonwealth.

20 (c) Limitations.--The following limitations shall apply:

21 (1) A dealer which provides electronic transaction  
22 services for documents under subsection (a)(2) may impose a  
23 maximum charge of \$100 for calendar year 2008 and a maximum  
24 charge of \$120 for calendar year 2009.

25 (2) A dealer which does not provide electronic  
26 transaction services for document preparation under  
27 subsection (a)(2) may impose a maximum charge of \$80 for  
28 calendar year 2008 and a maximum charge of \$100 for calendar  
29 year 2009.

30 (d) Adjustment.--Beginning in January 2010, and annually



1 thereafter, the licensing cost for documentary preparation shall  
2 be adjusted in accordance with the Federal Consumer Price Index  
3 for All Urban Consumers (CPI-U) for all items as published by  
4 the United States Department of Labor, Bureau of Labor  
5 Statistics, for the previous 12-month period on a cumulative  
6 basis. Any adjustment which is less than 50¢ shall be rounded  
7 down to the next lowest dollar amount and any adjustment which  
8 is 50¢ or greater shall be rounded up to the next highest dollar  
9 amount.

10 (e) Fees.--Licensing costs under this section shall not be  
11 considered fees for purposes of section [30 or 31] 330 or 331.  
12 Section [28] 328. Penalties.

13 (a) Criminal penalties for violation of this act.--Whoever  
14 shall give any false or forged evidence of any kind to the board  
15 or to any member in order to obtain a license, or shall refuse  
16 upon request to furnish business records, documents and files  
17 relating to practice under this act, or shall otherwise violate  
18 the provisions of this act shall be guilty of a summary offense  
19 and, upon conviction, shall be ordered to pay a fine of \$1,000.  
20 A licensee shall be subject to criminal prosecution under this  
21 subsection for violation of any provision of this act.

22 (b) Criminal penalties for unlicensed activity.--Whoever  
23 engages in the business of vehicle dealer, manufacturer, factory  
24 branch, distributor, distributor branch, auction or broker or  
25 engages in the occupation of vehicle salesperson or factory or  
26 distributor representative without being licensed and registered  
27 as required or exempted from licensure as provided, or shall  
28 present or attempt to use as his own the license of another,  
29 shall be guilty of a summary offense and, upon conviction, shall  
30 be sentenced to pay a fine of \$1,000 or any higher amount equal

1 to double the pecuniary gain derived from the offense. For the  
2 purpose of this act the sale of each vehicle in violation of  
3 this act constitutes a separate offense.

4 (c) Additional remedy.--In addition to any other civil  
5 remedy or criminal penalty provided for in this act, the board  
6 by a vote of the majority of the authorized membership of the  
7 board as provided by law, or by a vote of the majority of the  
8 duly qualified and confirmed membership, may levy a civil  
9 penalty of up to \$1,000 on any current licensee who violates any  
10 provision of this act or on any person who engages in an  
11 activity required to be licensed by this act. The board shall  
12 levy this penalty only after affording the accused party the  
13 opportunity for a hearing as provided in 2 Pa.C.S. (relating to  
14 administrative law and procedure).

15 Section [29] 329. Civil actions for violations.

16 Notwithstanding the terms, provisions or conditions of any  
17 agreement or franchise or other terms or provisions of any  
18 novation, waiver or other written instrument, any person who is  
19 or may be injured by a violation of a provision of this act of  
20 any party to a franchise who is so injured in his business or  
21 property by a violation of a provision of this act relating to  
22 that franchise, or any person so injured because he refuses to  
23 accede to a proposal for an arrangement which, if consummated,  
24 would be in violation of this act, may bring an action for  
25 damages and equitable relief, including injunctive relief, in  
26 any court of competent jurisdiction.

27 Section [30] 330. Fees.

28 (a) General rule.--All fees required under the provisions of  
29 this act shall be fixed by the board by regulation and shall be  
30 subject to review in accordance with the act of June 25, 1982

1 (P.L.633, No.181), known as the Regulatory Review Act. If the  
2 revenues generated by fees, fines and civil penalties imposed in  
3 accordance with the provisions of this act are not sufficient to  
4 match expenditures over a two-year period, the board shall  
5 increase those fees by regulation, subject to review in  
6 accordance with the Regulatory Review Act, such that the  
7 projected revenues will meet or exceed projected expenditures.

8 (b) Increases by bureau.--If the Bureau of Professional and  
9 Occupational Affairs determines that the fees established by the  
10 board are inadequate to meet the minimum enforcement efforts  
11 required, then the bureau, after consultation with the board,  
12 shall increase the fees by regulation, subject to review in  
13 accordance with the Regulatory Review Act, such that adequate  
14 revenues are raised to meet the required enforcement effort.

15 (c) Existing fees.--All fees fixed pursuant to section 211  
16 of the act of July 1, 1978 (P.L.700, No.124), known as the  
17 Bureau of Professional and Occupational Affairs Fee Act, shall  
18 continue in full force and effect until changed by the board  
19 pursuant to subsection (a).

20 Section [31] 331. Disposition of fees and fines.

21 All civil fines and fees and all criminal fines shall be paid  
22 into the Special Augmentation Fund established by section 301 of  
23 the act of July 1, 1978 (P.L.700, No.124), known as the Bureau  
24 of Professional and Occupational Affairs Fee Act.

25 Section [32] 332. Vehicle shows, off-premise sales and  
26 exhibitions.

27 (a) Participation.--Any licensed dealer, distributor or  
28 manufacturer may participate in public vehicle shows, off-  
29 premise sales and exhibitions, provided that a dealer shall  
30 participate only in shows, off-premise sales and exhibitions

1 held within the dealer's relevant market area. A dealer shall be  
2 permitted to conduct a vehicle show or exhibition at its  
3 established place of business.

4 (b) Application of section.--The provisions of this section  
5 relating to "relevant market area" shall not apply to vehicle  
6 shows held as part of, and in conjunction with, the following:

7 (1) An event operated to benefit a charitable  
8 organization or group of organizations approved under section  
9 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3,  
10 26 U.S.C. § 501(c)(3)).

11 (2) A community or agricultural fair which receives  
12 funds from the Pennsylvania Fair Fund.

13 (3) An event pertaining to shows of recreational  
14 vehicles, manufactured housing or mobile homes.

15 (c) Out-of-State new vehicle dealers.--A new vehicle dealer,  
16 except a recreational vehicle dealer, licensed in another state  
17 or jurisdiction may participate with permission of its licensed  
18 manufacturer in industrywide public vehicle shows and  
19 exhibitions in which a total of 50 or more new vehicle dealers  
20 participate as exhibitors. Furthermore, the limitations relating  
21 to relevant market area contained in subsection (a) shall not be  
22 applicable to industrywide public vehicle shows and exhibitions  
23 in which, when open to the public, a total of 50 or more new  
24 vehicle dealers participate as exhibitors.

25 (e) Emergency vehicles.--Licensed manufacturers of  
26 firefighting or emergency service vehicles shall be authorized  
27 to buy, sell or exchange such vehicles to governmental agencies  
28 or emergency service providers at vehicle shows, off-premise  
29 sales and exhibitions without possessing a dealer's license.

30 (f) Applicability.--This section shall not apply to

1 recreational vehicle dealers.

2 Section [32.1] 332.1. Recreational vehicle shows, recreational  
3 vehicle off-premise sales, recreational vehicle  
4 exhibitions and recreational vehicle rallies.

5 (a) Participation.--A recreational vehicle dealer,  
6 salesperson, distributor, manufacturer or manufacturer's  
7 representative licensed under this act may participate in a  
8 recreational vehicle show, recreational vehicle off-premise  
9 sale, recreational vehicle exhibition or recreational vehicle  
10 rally. A recreational vehicle dealer shall be permitted to  
11 conduct a recreational vehicle show, recreational vehicle  
12 exhibition or recreational vehicle rally at its established  
13 place of business.

14 (b) Bond required.--Any person acting as a recreational  
15 vehicle dealer in this Commonwealth shall have posted a bond  
16 payable to the Commonwealth in the amount of \$30,000 to ensure  
17 compliance with all Commonwealth laws and regulations. The bond  
18 shall be executed by a surety company authorized to transact  
19 business in this Commonwealth. The bond shall be security for  
20 any claim filed by an agency of the Commonwealth, for moneys  
21 due, including unpaid taxes, fees, licenses, payment of a  
22 criminal penalty or fine after conviction or payment of a civil  
23 penalty or monetary amount after the entry of judgment. The bond  
24 shall remain valid until canceled in writing by the issuer. This  
25 provision shall not limit the authority of any government agency  
26 or private individual to institute civil, criminal or  
27 disciplinary action against a person for a violation of a  
28 Commonwealth law or regulation. A recreational vehicle dealer  
29 who has a current bond in the amount of at least \$30,000 on file  
30 with the Department of Transportation shall not be required to

1 post a bond under this subsection.

2 (c) Out-of-State recreational vehicle dealers.--An out-of-  
3 State recreational vehicle dealer licensed in another state or  
4 jurisdiction or domiciled in another state or jurisdiction that  
5 does not require licensure shall register with the board on a  
6 form prescribed by the board before participating in this  
7 Commonwealth in a recreational vehicle show, recreational  
8 vehicle off-premise sale, recreational vehicle exhibition or  
9 recreational vehicle rally. The following apply:

10 (1) Registration shall include all of the following:

11 (i) Notification of the out-of-State recreational  
12 vehicle dealer's intent to participate in this  
13 Commonwealth in a recreational vehicle show, recreational  
14 vehicle off-premise sale, recreational vehicle exhibition  
15 or recreational vehicle rally.

16 (ii) Agreement to comply with all Federal and State  
17 laws and regulations relating to the buying, selling,  
18 exchanging, titling, registration or financing of  
19 recreational vehicles.

20 (iii) Agreement by the out-of-State recreational  
21 vehicle dealer to submit to the jurisdiction of the  
22 Commonwealth for purposes of disciplinary action or  
23 imposition of a civil or criminal penalty or assessment  
24 under subsection (b) resulting from a violation under  
25 subparagraph (ii).

26 (iv) Evidence of the posting of a bond under  
27 subsection (b).

28 (v) Payment of a participation fee.

29 (vi) A list of all individuals engaged as sales  
30 people for the out-of-State recreational vehicle dealer

1 while operating in this Commonwealth.

2 (2) If the board has taken action within the last five  
3 years to sanction an out-of-State recreational vehicle  
4 dealer, the board may:

5 (i) refuse to accept the registration and  
6 participation fee of the out-of-State recreational  
7 vehicle dealer permanently or for a fixed period; and

8 (ii) order that the out-of-State recreational  
9 vehicle dealer be denied access to all recreational  
10 vehicle shows, recreational vehicle off-premise sales,  
11 recreational vehicle exhibitions and recreational vehicle  
12 rallies in this Commonwealth.

13 (3) An out-of-State recreational vehicle dealer licensed  
14 in another state or jurisdiction or domiciled in a state or  
15 jurisdiction that does not require licensure may participate  
16 in this Commonwealth in a recreational vehicle show,  
17 recreational vehicle off-premise sale, recreational vehicle  
18 exhibition or recreational vehicle rally under the  
19 circumstances set forth either in subparagraph (i) or (ii):

20 (i) When the show, sale, exhibition or rally has  
21 less than a total of 50 recreational vehicle dealers  
22 participating with permission of the dealer's licensed  
23 manufacturer and meets all of the following requirements:

24 (A) A minimum of ten recreational vehicle  
25 dealers at the show are licensed in this  
26 Commonwealth.

27 (B) More than 50% of the participating  
28 recreational vehicle dealers are licensed in this  
29 Commonwealth.

30 (C) The state in which the out-of-State

1 recreational vehicle dealer is licensed is contiguous  
2 to this Commonwealth and permits recreational vehicle  
3 dealers licensed in this Commonwealth to participate  
4 in recreational vehicle shows in that state under  
5 conditions substantially equivalent to the conditions  
6 imposed upon dealers from that state to participate  
7 in recreational vehicle shows in this Commonwealth.

8 (ii) When the recreational vehicle show, sale,  
9 exhibition or rally opens to the public, it has a total  
10 of at least 50 recreational vehicle dealers from this  
11 Commonwealth and from another state participating with  
12 permission of the dealer's licensed manufacturer and  
13 meets all of the following requirements:

14 (A) The show, sale, exhibition or rally is trade  
15 oriented and predominantly funded by recreational  
16 vehicle manufacturers.

17 (B) All of the participating dealers who are not  
18 licensed in this Commonwealth are from a state  
19 contiguous to this Commonwealth which permits  
20 recreational vehicle dealers licensed in this  
21 Commonwealth to participate in recreational vehicle  
22 shows in that state under conditions substantially  
23 equivalent to the conditions imposed upon dealers  
24 from that state to participate in recreational  
25 vehicle shows in this Commonwealth.

26 (4) The board shall report a violation of Pennsylvania  
27 law or regulation to the state or jurisdiction in which the  
28 out-of-State recreational vehicle dealer is licensed or  
29 domiciled.

30 (5) Forms for out-of-State recreational vehicle dealers



1 shall be published in the Pennsylvania Bulletin and shall be  
2 maintained on the board's Internet website.

3 (6) The board may accept registration information and  
4 payment electronically.

5 (7) An out-of-State recreational vehicle dealer may not  
6 participate in a recreational vehicle show, recreational  
7 vehicle off-premise sale, recreational vehicle exhibition or  
8 recreational vehicle rally in this Commonwealth, unless the  
9 out-of-State recreational vehicle dealer satisfies at least  
10 four of the listed activities at its facility in the  
11 contiguous state in which it is licensed or domiciled that  
12 does not require licensure:

13 (i) Accepting delivery of new recreational vehicles  
14 from the recreational vehicle dealer's manufacturer for  
15 which the recreational vehicle dealer possesses an  
16 agreement with the manufacturer to sell its new  
17 recreational vehicles.

18 (ii) Maintaining inventory and offering recreational  
19 vehicles for sale to the public.

20 (iii) Consummating and finalizing recreational  
21 vehicle sales.

22 (iv) Servicing or repairing recreational vehicles.

23 (v) Delivering recreational vehicles to purchasers  
24 with recreational vehicle titling, registrations issued  
25 and taxes collected and paid to the dealer's appropriate  
26 home state agencies.

27 Section 8. (Reserved).

28 Section 9. Section 33 of the act is renumbered and amended  
29 to read:

30 Section [33] 333. Off-premise sales, shows, exhibitions or

1 rallies on Sundays.

2 (1) The following shall be permitted to be open on  
3 Sundays:

4 (i) Off-premise vehicle sales, shows and  
5 exhibitions.

6 (ii) recreational vehicle shows, recreational  
7 vehicle off-premise sales, recreational vehicle  
8 exhibitions and recreational vehicle rallies.

9 (2) Except as provided in paragraphs (3) and (4), normal  
10 vehicle business practices shall be allowed at off-premise  
11 sales, vehicle shows or exhibitions on Sunday except that no  
12 final sales contract may be consummated on a Sunday.

13 (3) Normal vehicle business practices shall be allowed  
14 at recreational vehicle shows, recreational vehicle off-  
15 premise sales, recreational vehicle exhibitions and  
16 recreational vehicle rallies. Recreational vehicle dealers  
17 are permitted to consummate final sales contracts on Sundays.

18 (4) Manufactured housing dealers are permitted to  
19 consummate final sales contracts on Sundays.

20 Section 10. The act is amended by adding a chapter to read:

21 CHAPTER 5

22 RECREATIONAL VEHICLES

23 Section 501. Legislative intent.

24 It is the intent of the General Assembly to protect the  
25 public health, safety and welfare of the residents of this  
26 Commonwealth by regulating the relationship between recreational  
27 vehicle dealers, manufacturers and suppliers, maintaining  
28 competition and providing consumer protection and fair trade.

29 Section 502. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Area of sales responsibility." The geographical area,  
4 agreed to by the dealer and the manufacturer in the  
5 manufacturer/dealer agreement, within which the dealer has the  
6 exclusive right to display and sell the manufacturer's new  
7 recreational vehicles of a particular line-make to the retail  
8 public.

9 "Dealer." A person, firm, corporation or business entity  
10 licensed or required to be licensed under Chapter 3.

11 "Distributor." A person, firm, corporation or business  
12 entity that purchases new recreational vehicles for resale to  
13 dealers.

14 "Factory campaign." An effort on the part of a warrantor to  
15 contact a recreational vehicle owner or dealer in order to  
16 address a part or equipment issue.

17 "Family member." A spouse, child, grandchild, parent,  
18 sibling, niece or nephew or the spouse of a child, grandchild,  
19 sibling, niece or nephew.

20 "Line-make." A specific series of recreational vehicles  
21 that:

22 (1) Are identified by a common series trade name or  
23 trademark.

24 (2) Are targeted to a particular market segment, as  
25 determined by the recreational vehicle's decor, features,  
26 equipment, size, weight and price range.

27 (3) Have lengths and interior floor plans that  
28 distinguish the recreational vehicles from other recreational  
29 vehicles with substantially the same decor, equipment,  
30 features, price and weight.

1           (4) Belong to a single, distinct classification of  
2 recreational vehicle product type having a substantial degree  
3 of commonality in the construction of the chassis, frame and  
4 body.

5           (5) The manufacturer/dealer agreement authorizes a  
6 dealer to sell.

7           "Manufacturer." A person, firm, corporation or business  
8 entity that engages in the manufacturing of recreational  
9 vehicles.

10          "Manufacturer/dealer agreement." A written agreement or  
11 contract entered into between a manufacturer and a dealer that  
12 fixes the rights and responsibilities of the parties and under  
13 which the dealer sells new recreational vehicles.

14          "Proprietary part." A part manufactured by or for and sold  
15 exclusively by a manufacturer.

16          "Supplier." A person, firm, corporation or business entity  
17 that engages in the manufacturing of recreational vehicle parts,  
18 accessories or components.

19          "Transient customer." A customer who is temporarily  
20 traveling through a dealer's area of sales responsibility.

21          "Warrantor." A person, firm, corporation or business entity,  
22 including a manufacturer or supplier that provides a written  
23 warranty to a consumer in connection with a new recreational  
24 vehicle or a part, accessory or component of a new recreational  
25 vehicle. The term does not include service contracts, mechanical  
26 or other insurance or extended warranties sold for separate  
27 consideration by a dealer or other person not controlled by a  
28 manufacturer.

29 Section 503. Written agreements and designated territories.

30          (a) General rule.--A manufacturer or distributor may not

1 sell a recreational vehicle in this Commonwealth to or through a  
2 dealer without having first entered into a manufacturer/dealer  
3 agreement with a dealer which has been signed by both parties.

4 (b) Area of sales responsibility.--The manufacturer shall  
5 designate the area of sales responsibility exclusively assigned  
6 to a dealer in the manufacturer/dealer agreement and may not  
7 change the area or contract with another dealer for sale of the  
8 same line-make in the designated area for the duration of the  
9 agreement.

10 (c) Review.--The area of sales responsibility may be  
11 reviewed or changed with the consent of both parties not less  
12 than 12 months after the execution of the manufacturer/dealer  
13 agreement.

14 (d) New vehicles.--A recreational vehicle dealer may not  
15 sell a new recreational vehicle in this Commonwealth without  
16 having first entered into a manufacturer/dealer agreement with a  
17 manufacturer or distributor which has been signed by both  
18 parties.

19 Section 504. Termination, cancellation, nonrenewal and  
20 alteration of dealership by manufacturer.

21 (a) General rule.--A manufacturer or distributor, directly  
22 or through an authorized officer, agent or employee, may  
23 terminate, cancel or fail to renew a manufacturer/dealer  
24 agreement with just cause. Section 506 shall not apply to this  
25 section.

26 (b) Burden of proof.--The manufacturer or distributor has  
27 the burden of showing just cause for terminating, canceling or  
28 failing to renew a manufacturer/dealer agreement with a dealer.  
29 For purposes of determining whether there is just cause for the  
30 proposed action, any of the following factors may be considered:

1           (1) The extent of the affected dealer's penetration in  
2 the area of sales responsibility compared to other similarly  
3 situated dealers and market conditions.

4           (2) The nature and extent of the dealer's investment in  
5 the dealer's business.

6           (3) The adequacy of the dealer's service facilities,  
7 equipment, parts, supplies and personnel.

8           (4) The effect of the proposed action on the community.

9           (5) The extent and quality of the dealer's service under  
10 recreational vehicle warranties.

11           (6) The dealer's failure to follow agreed-upon  
12 procedures or standards related to the overall operation of  
13 the dealership.

14           (7) The dealer's performance under the terms of its  
15 manufacturer/dealer agreement.

16           (c) Written notice required.--Except as otherwise provided  
17 in this section, a manufacturer or distributor shall provide a  
18 dealer with at least 90 days' prior written notice of  
19 termination, cancellation or nonrenewal of the  
20 manufacturer/dealer agreement in the event the dealer is being  
21 terminated for just cause. The following shall apply:

22           (1) The notice shall state all reasons for the proposed  
23 termination, cancellation or nonrenewal and shall state that,  
24 within 30 days following receipt of the notice, the dealer  
25 shall provide to the manufacturer or distributor written  
26 notice of intent to cure all claimed deficiencies. The dealer  
27 shall have 90 days following receipt of the original notice  
28 to rectify the deficiencies.

29           (2) If the deficiencies are rectified within 90 days,  
30 the manufacturer's or distributor's notice shall be voided.

1 If the dealer fails to provide the notice of intent to cure  
2 the deficiencies in the prescribed time period or fails to  
3 cure the deficiencies in the time period provided, the  
4 termination, cancellation or nonrenewal shall take effect 30  
5 days after the dealer's receipt of the original notice. If  
6 the dealer has new and untitled inventory on hand, it may be  
7 sold under section 506.

8 (d) Time period of notice.--The notice period may be reduced  
9 to 30 days if the manufacturer's or distributor's grounds for  
10 termination, cancellation or nonrenewal are due to any of the  
11 following just cause factors:

12 (1) A dealer or one of its owners has been convicted of  
13 or has entered a plea of nolo contendere to a felony.

14 (2) The abandonment or closing of the business  
15 operations of the dealer for 10 consecutive business days  
16 unless the closing is due to an act of God, strike, labor  
17 difficulty or other cause over which the dealer has no  
18 control.

19 (3) A significant misrepresentation by the dealer  
20 materially affecting the business relationship.

21 (4) A suspension or revocation of the dealer's license  
22 or refusal to renew the dealer's license by the department.

23 (5) A material violation of this chapter which is not  
24 resolved within 30 days after the written notice by the  
25 manufacturer.

26 (e) Nonapplicability of notice.--The notice provisions of  
27 subsection (c) do not apply if the reason for termination,  
28 cancellation or nonrenewal is the dealer's insolvency, the  
29 occurrence of an assignment for the benefit of creditors or  
30 bankruptcy.

1 Section 505. Termination, cancellation, nonrenewal and  
2 alteration of dealership by dealer.

3 (a) General rule.--A dealer may terminate or cancel its  
4 manufacturer/dealer agreement with a manufacturer or distributor  
5 with or without just cause by giving 30 days' written notice.

6 (1) If the termination or cancellation is for just  
7 cause, the notice shall state all reasons for the proposed  
8 termination or cancellation and shall state that if, within  
9 30 days following receipt of the notice, the manufacturer or  
10 distributor provides to the dealer a written notice of intent  
11 to cure all claimed deficiencies, the manufacturer or  
12 distributor will then have 90 days following receipt of the  
13 original notice to rectify the deficiencies.

14 (2) If the deficiencies are rectified within 90 days,  
15 the dealer's notice shall be voided. If the manufacturer or  
16 distributor fails to provide the notice of intent to cure the  
17 deficiencies or fails to cure the deficiencies in the time  
18 period prescribed in the original notice, the termination or  
19 cancellation shall take effect as provided in the original  
20 notice.

21 (b) Just cause shown.--If the dealer terminates, cancels or  
22 fails to renew the manufacturer/dealer agreement without just  
23 cause, the provisions of section 506 shall not apply. If the  
24 dealer terminates, cancels or fails to renew the  
25 manufacturer/dealer agreement with just cause, the provisions of  
26 section 506 shall apply. The dealer has the burden of showing  
27 just cause for the proposed termination, cancellation or  
28 nonrenewal action by a dealer due to any of the following just  
29 cause factors:

30 (1) A manufacturer being convicted of or entering a plea



1 of nolo contendere to a felony.

2 (2) The business operations of the manufacturer have  
3 been abandoned or closed for 10 consecutive business days,  
4 unless the closing is due to an act of God, strike, labor  
5 difficulty or other cause over which the manufacturer has no  
6 control.

7 (3) A significant misrepresentation by the manufacturer  
8 materially affecting the business relationship.

9 (4) A material violation of this chapter which is not  
10 cured within 30 days after written notice by the dealer.

11 (5) A declaration by the manufacturer of bankruptcy,  
12 insolvency or the occurrence of an assignment for the benefit  
13 of creditors or bankruptcy.

14 Section 506. Repurchase of inventory.

15 (a) General rule.--If the manufacturer/dealer agreement is  
16 terminated, canceled or not renewed by the dealer for just cause  
17 as described in section 505(b) and the manufacturer fails to  
18 provide notice or cure the claimed deficiencies as provided in  
19 section 505(a), the manufacturer shall, at the dealer's option  
20 and within 45 days after termination, cancellation or  
21 nonrenewal, repurchase:

22 (1) All new, untitled recreational vehicles that were  
23 acquired from the manufacturer or distributor within 12  
24 months before the effective date of the notice of  
25 termination, cancellation or nonrenewal that have not been  
26 used, except for demonstration purposes, and that have not  
27 been altered or damaged, at 100% of the net invoice cost,  
28 including transportation, less applicable rebates and  
29 discounts to the dealer.

30 (2) In the event any of the vehicles repurchased under

1 this section are damaged, but do not trigger a consumer  
2 disclosure requirement, the amount due the dealer shall be  
3 reduced by the cost to repair the vehicle. Damage prior to  
4 delivery to the dealer that is disclosed at the time of  
5 delivery will not disqualify repurchase under this  
6 subsection.

7 (3) All undamaged accessories and proprietary parts sold  
8 to the dealer for resale within the 12 months prior to  
9 termination, cancellation or nonrenewal, if accompanied by  
10 the original invoice, at 105% of the original net price paid  
11 to the manufacturer or distributor to compensate the dealer  
12 for handling, packing and shipping the parts.

13 (4) Properly functioning diagnostic equipment, special  
14 tools, current signage or other equipment and machinery which  
15 was purchased by the dealer upon the manufacturer's or  
16 distributor's request within five years prior to the  
17 termination, cancellation or nonrenewal and which can no  
18 longer be used in the normal course of the dealer's ongoing  
19 business at 100% of the dealer's net cost plus freight.

20 (b) Sale of remaining inventory after termination.--

21 (1) A dealer is not prohibited from selling the  
22 remaining in-stock inventory of a particular line-make after  
23 a manufacturer/dealer agreement has been terminated or not  
24 renewed under section 504.

25 (2) If recreational vehicles of a line-make subject to  
26 the terminated agreement are not repurchased or required to  
27 be repurchased by the manufacturer or distributor, the dealer  
28 may continue to sell the recreational vehicles that are  
29 subject to the terminated manufacturer/dealer agreement and  
30 are currently in stock until those recreational vehicles are

1 no longer in the dealer's inventory.

2 Section 507. Transfer of dealership and family succession.

3 (a) General rule.--

4 (1) If a dealer desires to make a change in ownership by  
5 the sale of the business assets, stock transfer or otherwise,  
6 the dealer shall give the manufacturer or distributor written  
7 notice at least 30 business days before the closing,  
8 including all supporting documentation as may be reasonably  
9 required by the manufacturer or distributor to determine if  
10 an objection to the sale may be made. In the absence of a  
11 breach by the selling dealer of its manufacturer/dealer  
12 agreement or this chapter, the manufacturer or distributor  
13 shall not object to the proposed change in ownership unless  
14 the prospective transferee:

15 (i) has previously been terminated by the  
16 manufacturer for breach of its dealer agreement;

17 (ii) has been convicted of a felony or a crime of  
18 fraud, deceit or moral turpitude;

19 (iii) lacks a license required by law;

20 (iv) does not have an active line of credit  
21 sufficient to purchase a manufacturer's product; or

22 (v) has undergone in the last 10 years bankruptcy,  
23 insolvency, a general assignment for the benefit of  
24 creditors or the appointment of a receiver, trustee or  
25 conservator to take possession of the transferee's  
26 business or property.

27 (2) If the manufacturer or distributor objects to a  
28 proposed change of ownership, the manufacturer or distributor  
29 shall give written notice of its reasons to the dealer within  
30 10 business days after receipt of the dealer's notification

1 and complete documentation. The manufacturer or distributor  
2 has the burden of proof with regard to its objection. If the  
3 manufacturer or distributor does not give timely notice of  
4 its objection, the change or sale shall be deemed approved.

5 (3) It is unlawful for a manufacturer or distributor to  
6 fail to provide a dealer an opportunity to designate, in  
7 writing, a family member as a successor to the dealership in <--  
8 the event of the death, incapacity or retirement of the  
9 dealer. It is unlawful to prevent or refuse to honor the  
10 succession to a dealership by a family member of the  
11 deceased, incapacitated or retired dealer unless the <--  
12 manufacturer or distributor has provided to the dealer  
13 written notice of its objections within 10 days after receipt  
14 of the dealer's modification of the dealer's succession plan.  
15 In the absence of a breach of the dealer agreement, the  
16 manufacturer may object to the succession for the following  
17 reasons only:

18 (i) conviction of the successor of a felony or a  
19 crime of fraud, deceit or moral turpitude;

20 (ii) bankruptcy or insolvency of the successor  
21 during the past 10 years;

22 (iii) prior termination by the manufacturer of the  
23 successor for breach of a dealer agreement;

24 (iv) the successor does not have an active line of  
25 credit sufficient to purchase the manufacturer's product;

26 or

27 (v) the successor lacks a license required by law.

28 (b) Burden of proof.--The manufacturer or distributor has  
29 the burden of proof regarding the manufacturer's or  
30 distributor's objection. A family member may not succeed to a

1 dealership if the succession involves, without the  
2 manufacturer's or distributor's consent, a relocation of the  
3 business or an alteration of the terms and conditions of the  
4 manufacturer/dealer agreement.

5 Section 508. Warranty obligations.

6 (a) General rule.--Each warrantor shall:

7 (1) Specify in writing to each of its dealer  
8 obligations, if any, for preparation, delivery and warranty  
9 service on its products.

10 (2) Compensate the dealer for warranty service required  
11 of the dealer by the warrantor.

12 (3) Provide to the dealer the schedule of compensation  
13 to be paid and the time allowances for the performance of  
14 work and service. The schedule of compensation must include  
15 reasonable compensation for diagnostic work, as well as  
16 warranty labor.

17 (b) Time allowances and compensation.--Time allowances for  
18 the diagnosis and performance of warranty labor must be  
19 reasonable for the work to be performed. In the determination of  
20 what constitutes reasonable compensation under this section, the  
21 principal factors to be given consideration shall be the actual  
22 wage rates being paid by the dealer and the actual retail labor  
23 rate being charged by the dealers in the community in which the  
24 dealer is doing business. The compensation of a dealer for  
25 warranty labor may not be less than the posted labor rates  
26 actually charged by the dealer for similar nonwarranty labor as  
27 long as the rates are reasonable.

28 (c) Reimbursement.--The warrantor shall reimburse the dealer  
29 for warranty parts at actual wholesale cost plus a minimum 30%  
30 handling charge and the cost, if any, of freight to return

1 warranty parts to the warrantor.

2 (d) Audits.--Warranty audits of dealer records may be  
3 conducted by the warrantor on a reasonable basis, and dealer  
4 claims for warranty compensation may not be denied except for  
5 cause, such as performance of nonwarranty repairs, material  
6 noncompliance with the warrantor's published policies and  
7 procedures, lack of material documentation, fraud or  
8 misrepresentation.

9 (e) Warranty claims.--The dealer shall submit warranty  
10 claims within 45 days after completing work.

11 (f) Warrantor notification.--If a dealer receives a written  
12 or verbal complaint from a consumer relative to a warranty  
13 repair, the dealer must notify the warrantor about the complaint  
14 in writing within 10 days of receiving the complaint if the  
15 dealer cannot satisfy the consumer's complaint.

16 (g) Disapproval of warranty claims.--The warrantor shall  
17 disapprove warranty claims in writing within 45 days after the  
18 date of submission by the dealer in the manner and form  
19 prescribed by the warrantor. Claims not specifically disapproved  
20 in writing within 45 days shall be construed to be approved and  
21 must be paid within 60 days of submission.

22 (h) Violation.--It is a violation of this chapter for a  
23 warrantor to:

24 (1) Fail to perform any of its warranty obligations with  
25 respect to its warranted products.

26 (2) Fail to include, in written notices of factory  
27 campaigns to recreational vehicle owners and dealers, the  
28 expected date by which necessary parts and equipment,  
29 including tires and chassis or chassis parts, will be  
30 available to dealers to perform the campaign work. The

1 warrantor may ship parts to the dealer to effect the campaign  
2 work, and, if the parts are in excess of the dealer's  
3 requirements, the dealer may return unused parts to the  
4 warrantor for credit after completion of the campaign.

5 (3) Fail to compensate its dealers for authorized  
6 repairs effected by the dealer on merchandise damaged in  
7 manufacture or transit to the dealer, if the carrier is  
8 designated by the warrantor, factory branch, distributor or  
9 distributor branch.

10 (4) Fail to compensate its dealers in accordance with  
11 the schedule of compensation provided to the dealer under  
12 this section if repairs are performed in a timely and  
13 competent manner.

14 (5) Intentionally misrepresent in any way to purchasers  
15 of recreational vehicles that warranties with respect to the  
16 manufacture, performance or design of the vehicle are made by  
17 the dealer as warrantor or cowarrantor.

18 (6) Require the dealer to make warranties to customers  
19 in any manner related to the manufacture of the recreational  
20 vehicle.

21 (i) Violations.--It is a violation of this chapter for a  
22 dealer to:

23 (1) Fail to perform predelivery inspection functions, as  
24 specified by the warrantor, in a competent and timely manner.

25 (2) Fail to perform warranty service work authorized by  
26 the warrantor in a competent and reasonably timely manner on  
27 a transient customer's recreational vehicle of a line make  
28 sold or serviced by that dealer.

29 (3) Fail to accurately document the time spent  
30 completing each repair, the total number of repair attempts

1 conducted on a single unit and the number of repair attempts  
2 for the same repair conducted on a single vehicle.

3 (4) Fail to notify the warrantor within 10 days of a  
4 second repair attempt which impairs the use, value or safety  
5 of the vehicle.

6 (5) Fail to maintain written records, including a  
7 consumer's signature, regarding the amount of time a unit is  
8 stored for the consumer's convenience during a repair.

9 (6) Make fraudulent warranty claims or misrepresent the  
10 terms of a warranty.

11 Section 509. Indemnification.

12 (a) General rule.--Notwithstanding the terms of a  
13 manufacturer/dealer agreement, it is a violation of this chapter  
14 for:

15 (1) A warrantor to fail to indemnify and hold harmless  
16 its new recreational vehicle dealer against losses or damages  
17 to the extent that the losses or damages are caused by the  
18 negligence or willful misconduct of the warrantor.

19 (2) A new recreational vehicle dealer to be denied  
20 indemnification for failing to discover, disclose or remedy a  
21 defect in the design or manufacturing of a new recreational  
22 vehicle or new recreational trailer.

23 (3) A new recreational vehicle dealer to fail to  
24 indemnify and hold harmless its warrantor against losses or  
25 damages to the extent that the losses or damages are caused  
26 by the negligence or willful misconduct of the new  
27 recreational vehicle dealer.

28 (b) Denial of indemnification.--A new recreational vehicle  
29 dealer may be denied indemnification if the new recreational  
30 vehicle dealer fails to remedy a known and announced defect in



1 accordance with the written instructions of a warrantor for whom  
2 the new recreational vehicle dealer is obligated to perform  
3 warranty service.

4 (c) Pending lawsuits.--

5 (1) A new recreational vehicle dealer shall provide to a  
6 warrantor a copy of any pending lawsuit in which allegations  
7 are made that are covered by the provisions of this section  
8 within 10 days after receiving the suit. This subsection  
9 shall continue to apply even after the new recreational  
10 vehicle is titled.

11 (2) A warrantor shall provide to a new recreational  
12 vehicle dealer a copy of any pending law suit or similar  
13 proceeding in which allegations are made that come within the  
14 provisions of this subsection within 10 days after receiving  
15 the suit. This paragraph shall continue to apply even after  
16 the new recreational vehicle is titled.

17 Section 510. Inspection and rejection by dealer.

18 (a) General rule.--Whenever a new recreational vehicle is  
19 damaged prior to transit to the dealer or is damaged in transit  
20 to the dealer when the carrier or means of transportation has  
21 been selected by the manufacturer or distributor, the dealer  
22 shall notify the manufacturer or distributor of the damage  
23 within the time frame specified in the manufacturer/dealer  
24 agreement and:

25 (1) request from the manufacturer or distributor  
26 authorization to replace the components, parts and  
27 accessories damaged or otherwise correct the damage; or

28 (2) reject the vehicle within the time frame set forth  
29 in subsection (d).

30 (b) Refusal or failure to repair.--If the manufacturer or

1 distributor refuses or fails to authorize repair of the damage  
2 within 10 days after receipt of notification or if the dealer  
3 rejects the recreational vehicle because of damage, ownership of  
4 the new recreational vehicle shall revert to the manufacturer or  
5 distributor.

6 (c) Obligations.--The dealer shall exercise due care in  
7 custody of the damaged recreational vehicle, but the dealer  
8 shall have no other obligations, financial or otherwise, with  
9 respect to that recreational vehicle.

10 (d) Time frame.--The time frame for inspection and rejection  
11 by the dealer must be part of the manufacturer/dealer agreement  
12 and may not be less than two business days after the physical  
13 delivery of the recreational vehicle.

14 (e) Unreasonable mileage.--A recreational vehicle that has,  
15 at the time of delivery to the dealer, an unreasonable amount of  
16 miles on its odometer, as determined by the dealer, may be  
17 subject to rejection by the dealer and reversion of the vehicle  
18 to the manufacturer or distributor. In no instance shall a  
19 dealer deem an amount less than the distance between the dealer  
20 and the manufacturer's factory or a distributor's point of  
21 distribution, plus 100 miles, as unreasonable.

22 (f) Notice to dealer.--Each manufacturer or distributor of  
23 new recreational vehicles sold or transferred to a new  
24 recreational vehicle dealer shall notify the new recreational  
25 vehicle dealer in writing prior to delivery of the recreational  
26 vehicle of any material damage to the recreational vehicle which  
27 is known to the manufacturer or distributor which was sustained  
28 or incurred by the vehicle at any time after the manufacturing  
29 process is complete but prior to delivery of the recreational  
30 vehicle to the dealer. A dealer may reject the delivery of a

1 nonconforming recreational vehicle under the provisions of 13  
2 Pa.C.S. (relating to commercial code) and the following shall  
3 apply:

4 (1) When selling a new recreational vehicle, each new  
5 recreational vehicle dealer shall notify the purchaser in  
6 writing at the time of sale of any material damage sustained  
7 or incurred by the recreational vehicle at any time after the  
8 manufacturing process is complete which is disclosed by the  
9 manufacturer to the new recreational vehicle dealer.

10 (2) Nothing in this section shall be construed to  
11 diminish any obligation to provide notice to the purchaser of  
12 a new recreational vehicle which obligation is imposed by any  
13 other provision of law or by any judicial decision,  
14 including, but not limited to, the act of December 17, 1968  
15 (P.L.1224, No.387), known as the Unfair Trade Practices and  
16 Consumer Protection Law.

17 Section 511. Coercion of dealer prohibited.

18 (a) General rule.--A manufacturer or distributor may not  
19 coerce or attempt to coerce a dealer to:

20 (1) purchase a product that the dealer did not order;  
21 (2) enter into an agreement with the manufacturer or  
22 distributor; or

23 (3) enter into an agreement that requires the dealer to  
24 submit its disputes to binding arbitration or otherwise waive  
25 rights or responsibilities provided under this chapter.

26 (b) Definition.--As used in this section, the term "coerce"  
27 includes, but is not limited to, threatening to terminate,  
28 cancel or not renew a manufacturer/dealer agreement without just  
29 cause or threatening to withhold product lines the dealer is  
30 entitled to purchase under the manufacturer/dealer agreement or

1 delay product delivery as an inducement to amending the  
2 manufacturer/dealer agreement.

3 Section 512. Applicability.

4 To the extent the provisions of this chapter are inconsistent  
5 with any other provisions of this act as applied to a  
6 recreational vehicle dealer, manufacturer, distributor or  
7 supplier this chapter controls. Unless inconsistent with the  
8 provisions in this chapter or expressly excluded, the provisions  
9 of this act apply to recreational vehicle dealers,  
10 manufacturers, distributors and suppliers.

11 Section 513. Severability.

12 The provisions of this chapter are severable. If any  
13 provision of this chapter or its application to any person or  
14 circumstance is held invalid, the invalidity shall not affect  
15 other provisions or applications of this chapter which can be  
16 given effect without the invalid provision or application.

17 Section 11. The act is amended by adding a chapter heading  
18 to read:

19 CHAPTER 7

20 MISCELLANEOUS PROVISIONS

21 Section 12. Sections 34, 35, 36 and 37 of the act are  
22 renumbered to read:

23 Section [34] 701. Savings provision.

24 This act shall not be deemed to repeal, suspend, modify or  
25 revoke any of the provisions of 75 Pa.C.S. (relating to  
26 vehicles) or of the act of June 28, 1947 (P.L.1110, No.476),  
27 known as the Motor Vehicle Sales Finance Act.

28 Section [35] 702. Repeals.

29 (a) Specific repeal.--The act of September 9, 1965 (P.L.499,  
30 No.254), known as the Motor Vehicle Manufacturer's, Dealer's and

1 Salesmen's License Act, is repealed.

2 (b) General repeal.--All acts and parts of acts are repealed  
3 insofar as they are inconsistent with this act.

4 Section [36] 703. Expiration of terms of board members.

5 Persons who are members of the State Board of Motor Vehicle  
6 Manufacturers, Dealers and Salespersons on the effective date of  
7 this act shall serve on the board created under this act until  
8 their current three-year terms expire or until their successors  
9 are duly appointed and qualified, but no longer than six months  
10 after the expiration of their terms.

11 Section [37] 704. Existing rules and regulations.

12 Each rule and regulation of the board not inconsistent with  
13 this act shall remain in effect after such date until repealed  
14 or amended by the board.

15 Section 13. The addition of Chapter 5 of the act shall apply  
16 to recreational vehicle manufacturer/dealer agreements entered  
17 into or renewed on or after the effective date of this act.

18 Section 14. This act shall take effect in 365 days.