

MOTOR VEHICLE FRANCHISE ACT (EXCERPT)
Act 118 of 1981

445.1573 Requiring dealer to perform certain duties prohibited; definitions.

Sec. 13. (1) A manufacturer shall not require any new motor vehicle dealer in this state to do any of the following:

(a) Order or accept delivery of any new motor vehicle, a part or accessory of a new motor vehicle, equipment, or any other commodity not required by law that is not voluntarily ordered by the new motor vehicle dealer. This section does not prevent the manufacturer from requiring that new motor vehicle dealers carry a reasonable inventory of models offered for sale by the manufacturer.

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

(c) Participate monetarily in any advertising campaign or contest, purchase any promotional materials, display devices, or display decorations or materials, or pay or assume directly in connection with the sale of a new motor vehicle any part of the cost of a refund, rebate, or discount made by or lawfully imposed by the manufacturer to or in favor of a consumer, unless voluntarily agreed to by the dealer.

(d) Enter into any agreement with the manufacturer or do any other act prejudicial to the new motor vehicle dealer by threatening to terminate a dealer agreement or any contractual agreement existing between the dealer and the manufacturer. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer agreement does not constitute a violation of this act.

(e) Change the capital structure of the new motor vehicle dealership or the means by or through which the dealer finances the operation of the dealership, if the dealership at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria.

(f) Refrain from participation in the management of, investment in, or the acquisition of, any other line of new motor vehicles or related products at or in any of the following:

(i) At a location different from the location used by the dealer for the sale or service of new motor vehicles or related products of the manufacturer, if the dealer maintains a reasonable line of credit for each make or line of vehicle, remains in compliance with reasonable facilities requirements, remains in substantial compliance with capital requirements, and makes no change in the principal management of the dealer.

(ii) In facilities at the same location as, but separated from, the facilities used by the dealer for the sale or service of new motor vehicles or related products of the manufacturer, if the dealer maintains a reasonable line of credit for each make or line of vehicle, remains in compliance with minimum space requirements and reasonable facilities requirements, remains in substantial compliance with capital requirements, and does not make a change in the principal management of the dealer.

(iii) Unless the manufacturer otherwise objects based on other reasonable business considerations, in the same facilities used by the dealer for the sale or service of new motor vehicles or related products of the manufacturer, if the dealer maintains a reasonable line of credit for each make or line of vehicle, remains in compliance with reasonable facilities requirements, remains in substantial compliance with capital requirements, and does not make a change in the principal management of the dealer. The manufacturer has the burden of proving reasonable business considerations for purposes of this subparagraph.

(g) Change the location of the new motor vehicle dealership or make any substantial alterations to the dealership premises, if changing the location or making the alterations is unreasonable.

(h) Prospectively assent to a release, assignment, novation, waiver, or estoppel that would relieve any person from liability imposed by this act; require that any dealer agreement be governed by the laws of a state other than this state; or require referral of any controversy between a new motor vehicle dealer and a manufacturer to a person other than the duly constituted courts of this state, or of the United States located in this state, if the referral would be binding on the new motor vehicle dealer. This subdivision does not apply to an agreement between the parties, made at the time of a controversy, to refer the controversy to a court of the United States located outside this state or agree at the time of an arbitration to conduct the arbitration either in or outside of this state. A provision in a dealer agreement that violates this subdivision is void and unenforceable.

(i) Construct or substantially alter a facility or premises if the same item or design component, consisting of interior or exterior elements of the sales, service, administrative, or parts components, was constructed or substantially altered within the previous 10 years and that construction or alteration was required and approved by the manufacturer or distributor.

(j) Subject to subsection (3), require a new motor vehicle dealer to purchase goods or services to make improvements to the dealer's facilities from a vendor that is selected, identified, or designated by the manufacturer or an affiliate of the manufacturer, unless the dealer is allowed to obtain the goods or services

from a vendor chosen by the dealer if all of the following are met:

(i) The goods or services offered by the vendor chosen by the dealer are of the same material, quality, and overall design.

(ii) The vendor chosen by the dealer is approved by the manufacturer. A manufacturer shall not unreasonably withhold its consent for purposes of this subparagraph.

(iii) The manufacturer is not providing substantial reimbursement or compensation to the dealer for the goods or services.

(k) Subject to subsection (3), require a new motor vehicle dealer to lease signs, except for signs that contain the manufacturer's intellectual property or free-standing signs that are not directly attached to a building, or other manufacturer image or design elements or trade dress, from a vendor selected, identified, or designated by the manufacturer, unless the dealer is allowed to purchase the signs or other image or design elements or trade dress from a vendor chosen by the dealer if all of the following are met:

(i) The signs offered by the vendor chosen by the dealer are of the same material, quality, and overall design.

(ii) The signs are approved by the manufacturer. A manufacturer shall not unreasonably withhold its consent for purposes of this subparagraph.

(l) Except as required by the manufacturer for warranty repairs, recall repairs, or other services or programs paid for by the manufacturer, or unless otherwise agreed, require a new motor vehicle dealer to purchase fluids or lubricants from a particular vendor, if fluids or lubricants of the same material and quality are available from another vendor.

(2) If, during the 10-year period described in subsection (1)(i), a manufacturer establishes a new program, standard, policy, bonus, incentive, rebate, or other benefit, a new motor vehicle dealer is eligible for the new program, standard, policy, bonus, incentive, rebate, or other benefit if the dealer fully complies with the new standards set by the manufacturer in the new program, standard, policy, bonus, incentive, or other benefit.

(3) Subsection (1)(j) and subsection (1)(k) do not allow a new motor vehicle dealer or a vendor chosen by the dealer to impair, infringe upon, or eliminate, directly or indirectly, the intellectual property rights of the manufacturer, including, but not limited to, the manufacturer's intellectual property rights in any trademarks or trade dress, or other intellectual property interests owned or controlled by the manufacturer, or to permit a new motor vehicle dealer to erect or maintain signs that do not conform to the manufacturer's intellectual property rights or trademark or trade dress usage guidelines.

(4) As used in this section:

(a) "Construction" means the construction of new sales or service facilities by a new motor vehicle dealer, or the substantial remodeling, improvement, renovation, expansion, replacement, or alteration of a dealer's existing sales or service facilities. The term does not include installation of signs or other image elements that are subject to the intellectual property rights of the manufacturer, including logos, trademarks, trade dress, patents, or other intellectual property.

(b) "Goods" does not include movable displays, brochures, and promotional materials containing material that is subject to the intellectual property rights of a manufacturer.

(c) "Substantial reimbursement" means an amount equal to or greater than the cost savings that would result if a new motor vehicle dealer utilized a vendor of the dealer's own selection instead of using the vendor selected, identified, or designated by the manufacturer or an affiliate of the manufacturer.

(d) "Substantial alteration" means an alteration that has a major impact on the architectural features, characteristics, appearance, or integrity of a structure or lot. The term does not include routine maintenance that is reasonably necessary to maintain a dealership facility in attractive condition and does not include any changes to items protected by federal intellectual property rights.

History: 1981, Act 118, Imd. Eff. July 19, 1981;—Am. 1998, Act 456, Imd. Eff. Dec. 30, 1998;—Am. 2010, Act 141, Imd. Eff. Aug. 4, 2010;—Am. 2018, Act 668, Eff. Mar. 28, 2019.