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Sub. S. B. No. 242

Senators Uecker, Coley

Cosponsors: Senators LaRose, Eklund, Faber, Hackett, Lehner, Seitz

A BILL

To amend sections 4517.01, 4517.52, 4517.55, and 4517.59 and to enact section 4517.011 of the Revised Code to revise the law governing new motor vehicle franchise agreements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4517.01, 4517.52, 4517.55, and 4517.59 be amended and section 4517.011 of the Revised Code be enacted to read as follows:

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the Revised Code:

(A) "Persons" includes individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals.

(B) "Motor vehicle" means motor vehicle as defined in section 4501.01 of the Revised Code and also includes "all-purpose vehicle" and "off-highway motorcycle" as those terms are defined in section 4519.01 of the Revised Code. "Motor vehicle" does not include a snowmobile as defined in section 4519.01 of the Revised Code or manufactured and mobile homes.

(C) "New motor vehicle" means a motor vehicle, the legal title to which has never been transferred by a manufacturer, remanufacturer, distributor, or dealer to an ultimate purchaser.

(D) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer, who in good faith purchases such new motor vehicle for purposes other than resale.

(E) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(F) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(G) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.

(H) "Retail installment contract" includes any contract in the form of a note, chattel mortgage, conditional sales contract, lease, agreement, or other instrument payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

(I) "Farm machinery" means all machines and tools used in the production, harvesting, and care of farm products.

(J) "Dealer" or "motor vehicle dealer" means any new motor

vehicle dealer, any motor vehicle leasing dealer, and any used 48
motor vehicle dealer. 49

(K) "New motor vehicle dealer" means any person engaged in 50
the business of selling at retail, displaying, offering for 51
sale, or dealing in new motor vehicles pursuant to a contract or 52
agreement entered into with the manufacturer, remanufacturer, or 53
distributor of the motor vehicles. 54

(L) "Used motor vehicle dealer" means any person engaged 55
in the business of selling, displaying, offering for sale, or 56
dealing in used motor vehicles, at retail or wholesale, but does 57
not mean any new motor vehicle dealer selling, displaying, 58
offering for sale, or dealing in used motor vehicles 59
incidentally to engaging in the business of selling, displaying, 60
offering for sale, or dealing in new motor vehicles, any person 61
engaged in the business of dismantling, salvaging, or rebuilding 62
motor vehicles by means of using used parts, or any public 63
officer performing official duties. 64

(M) "Motor vehicle leasing dealer" means any person 65
engaged in the business of regularly making available, offering 66
to make available, or arranging for another person to use a 67
motor vehicle pursuant to a bailment, lease, sublease, or other 68
contractual arrangement under which a charge is made for its use 69
at a periodic rate for a term of thirty days or more, and title 70
to the motor vehicle is in and remains in the motor vehicle 71
leasing dealer who originally leases it, irrespective of whether 72
or not the motor vehicle is the subject of a later sublease, and 73
not in the user, but does not mean a manufacturer or its 74
affiliate leasing to its employees or to dealers. 75

(N) "Salesperson" means any person employed by a dealer to 76
sell, display, and offer for sale, or deal in motor vehicles for 77

a commission, compensation, or other valuable consideration, but 78
does not mean any public officer performing official duties. 79

(O) "Casual sale" means any transfer of a motor vehicle by 80
a person other than a new motor vehicle dealer, used motor 81
vehicle dealer, motor vehicle salvage dealer, as defined in 82
division (A) of section 4738.01 of the Revised Code, 83
salesperson, motor vehicle auction owner, manufacturer, or 84
distributor acting in the capacity of a dealer, salesperson, 85
auction owner, manufacturer, or distributor, to a person who 86
purchases the motor vehicle for use as a consumer. 87

(P) "Motor vehicle auction owner" means any person who is 88
engaged wholly or in part in the business of auctioning motor 89
vehicles, but does not mean a construction equipment auctioneer 90
or a construction equipment auction licensee. 91

(Q) "Manufacturer" means a person who manufactures, 92
assembles, or imports motor vehicles, including motor homes, but 93
does not mean a person who only assembles or installs a body, 94
special equipment unit, finishing trim, or accessories on a 95
motor vehicle chassis supplied by a manufacturer or distributor. 96

(R) "Tent-type fold-out camping trailer" means any vehicle 97
intended to be used, when stationary, as a temporary shelter 98
with living and sleeping facilities, and that is subject to the 99
following properties and limitations: 100

(1) A minimum of twenty-five per cent of the fold-out 101
portion of the top and sidewalls combined must be constructed of 102
canvas, vinyl, or other fabric, and form an integral part of the 103
shelter. 104

(2) When folded, the unit must not exceed: 105

(a) Fifteen feet in length, exclusive of bumper and 106

tongue;	107
(b) Sixty inches in height from the point of contact with the ground;	108 109
(c) Eight feet in width;	110
(d) One ton gross weight at time of sale.	111
(S) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.	112 113 114 115 116 117
(T) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.	118 119 120 121 122
(U) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.	123 124 125 126 127
(V) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.	128 129 130 131
(W) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.	132 133 134

(X) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Y) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(Z) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(AA) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in section 1301.201 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(BB) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(CC) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying,

offering for sale, or dealing in motor vehicles. 164

(DD) "Wholesale" or "at wholesale" means the act or 165
attempted act of selling, bartering, exchanging, or otherwise 166
disposing of a motor vehicle to a transferee for the purpose of 167
resale and not for ultimate consumption by that transferee. 168

(EE) "Motor vehicle wholesaler" means any person licensed 169
as a dealer under the laws of another state and engaged in the 170
business of selling, displaying, or offering for sale used motor 171
vehicles, at wholesale, but does not mean any motor vehicle 172
dealer as defined in this section. 173

(FF) (1) "Remanufacturer" means a person who assembles or 174
installs passenger seating, walls, a roof elevation, or a body 175
extension on a conversion van with the motor vehicle chassis 176
supplied by a manufacturer or distributor, a person who modifies 177
a truck chassis supplied by a manufacturer or distributor for 178
use as a public safety or public service vehicle, a person who 179
modifies a motor vehicle chassis supplied by a manufacturer or 180
distributor for use as a limousine or hearse, or a person who 181
modifies an incomplete motor vehicle cab and chassis supplied by 182
a new motor vehicle dealer or distributor for use as a tow 183
truck, but does not mean either of the following: 184

(a) A person who assembles or installs passenger seating, 185
a roof elevation, or a body extension on a recreational vehicle 186
as defined in division (Q) and referred to in division (B) of 187
section 4501.01 of the Revised Code; 188

(b) A person who assembles or installs special equipment 189
or accessories for handicapped persons, as defined in section 190
4503.44 of the Revised Code, upon a motor vehicle chassis 191
supplied by a manufacturer or distributor. 192

(2) For the purposes of division (FF) (1) of this section, 193
"public safety vehicle or public service vehicle" means a fire 194
truck, ambulance, school bus, street sweeper, garbage packing 195
truck, or cement mixer, or a mobile self-contained facility 196
vehicle. 197

(3) For the purposes of division (FF) (1) of this section, 198
"limousine" means a motor vehicle, designed only for the purpose 199
of carrying nine or fewer passengers, that a person modifies by 200
cutting the original chassis, lengthening the wheelbase by forty 201
inches or more, and reinforcing the chassis in such a way that 202
all modifications comply with all applicable federal motor 203
vehicle safety standards. No person shall qualify as or be 204
deemed to be a remanufacturer who produces limousines unless the 205
person has a written agreement with the manufacturer of the 206
chassis the person utilizes to produce the limousines to 207
complete properly the remanufacture of the chassis into 208
limousines. 209

(4) For the purposes of division (FF) (1) of this section, 210
"hearse" means a motor vehicle, designed only for the purpose of 211
transporting a single casket, that is equipped with a 212
compartment designed specifically to carry a single casket that 213
a person modifies by cutting the original chassis, lengthening 214
the wheelbase by ten inches or more, and reinforcing the chassis 215
in such a way that all modifications comply with all applicable 216
federal motor vehicle safety standards. No person shall qualify 217
as or be deemed to be a remanufacturer who produces hearses 218
unless the person has a written agreement with the manufacturer 219
of the chassis the person utilizes to produce the hearses to 220
complete properly the remanufacture of the chassis into hearses. 221

(5) For the purposes of division (FF) (1) of this section, 222

"mobile self-contained facility vehicle" means a mobile 223
classroom vehicle, mobile laboratory vehicle, bookmobile, 224
bloodmobile, testing laboratory, and mobile display vehicle, 225
each of which is designed for purposes other than for passenger 226
transportation and other than the transportation or displacement 227
of cargo, freight, materials, or merchandise. A vehicle is 228
remanufactured into a mobile self-contained facility vehicle in 229
part by the addition of insulation to the body shell, and 230
installation of all of the following: a generator, electrical 231
wiring, plumbing, holding tanks, doors, windows, cabinets, 232
shelving, and heating, ventilating, and air conditioning 233
systems. 234

(6) For the purposes of division (FF)(1) of this section, 235
"tow truck" means both of the following: 236

(a) An incomplete cab and chassis that are purchased by a 237
remanufacturer from a new motor vehicle dealer or distributor of 238
the cab and chassis and on which the remanufacturer then 239
installs in a permanent manner a wrecker body it purchases from 240
a manufacturer or distributor of wrecker bodies, installs an 241
emergency flashing light pylon and emergency lights upon the 242
mast of the wrecker body or rooftop, and installs such other 243
related accessories and equipment, including push bumpers, front 244
grille guards with pads and other custom-ordered items such as 245
painting, special lettering, and safety striping so as to create 246
a complete motor vehicle capable of lifting and towing another 247
motor vehicle. 248

(b) An incomplete cab and chassis that are purchased by a 249
remanufacturer from a new motor vehicle dealer or distributor of 250
the cab and chassis and on which the remanufacturer then 251
installs in a permanent manner a car carrier body it purchases 252

from a manufacturer or distributor of car carrier bodies, 253
installs an emergency flashing light pylon and emergency lights 254
upon the rooftop, and installs such other related accessories 255
and equipment, including push bumpers, front grille guards with 256
pads and other custom-ordered items such as painting, special 257
lettering, and safety striping. 258

As used in division (FF) (6) (b) of this section, "car 259
carrier body" means a mechanical or hydraulic apparatus capable 260
of lifting and holding a motor vehicle on a flat level surface 261
so that one or more motor vehicles can be transported, once the 262
car carrier is permanently installed upon an incomplete cab and 263
chassis. 264

(GG) "Operating as a new motor vehicle dealership" means 265
engaging in activities such as displaying, offering for sale, 266
and selling new motor vehicles at retail, operating a service 267
facility to perform repairs and maintenance on motor vehicles, 268
offering for sale and selling motor vehicle parts at retail, and 269
conducting all other acts that are usual and customary to the 270
operation of a new motor vehicle dealership. For the purposes of 271
this chapter only, possession of either a valid new motor 272
vehicle dealer franchise agreement or a new motor vehicle 273
dealers license, or both of these items, is not evidence that a 274
person is operating as a new motor vehicle dealership. 275

(HH) "Outdoor power equipment" means garden and small 276
utility tractors, walk-behind and riding mowers, chainsaws, and 277
tillers. 278

(II) "Remote service facility" means premises that are 279
separate from a licensed new motor vehicle dealer's sales 280
facility by not more than one mile and that are used by the 281
dealer to perform repairs, warranty work, recall work, and 282

maintenance on motor vehicles pursuant to a franchise agreement	283
entered into with a manufacturer of motor vehicles. A remote	284
service facility shall be deemed to be part of the franchise	285
agreement and is subject to all the rights, duties, obligations,	286
and requirements of Chapter 4517. of the Revised Code that	287
relate to the performance of motor vehicle repairs, warranty	288
work, recall work, and maintenance work by new motor vehicle	289
dealers.	290
(JJ) "Recreational vehicle" has the same meaning as in	291
section 4501.01 of the Revised Code.	292
(KK) "Construction equipment auctioneer" means a person	293
who holds both a valid auction firm license issued under Chapter	294
4707. of the Revised Code and a valid construction equipment	295
auction license issued under this chapter.	296
(LL) "Large construction or transportation equipment"	297
means vehicles having a gross vehicle weight rating of more than	298
ten thousand pounds and includes road rollers, traction engines,	299
power shovels, power cranes, commercial cars and trucks, or farm	300
trucks, and other similar vehicles obtained primarily from the	301
construction, mining, transportation or farming industries.	302
(MM) <u>"Local market conditions" includes, but is not</u>	303
<u>limited to:</u>	304
<u>(1) Demographics in the franchisee's area;</u>	305
<u>(2) Geographical and market characteristics in the</u>	306
<u>franchisee's area;</u>	307
<u>(3) Local economic circumstances;</u>	308
<u>(4) The proximity of other motor vehicle dealers of the</u>	309
<u>same line-make;</u>	310

<u>(5) The proximity of motor vehicle manufacturing facilities;</u>	311 312
<u>(6) The buying patterns of motor vehicle purchasers;</u>	313
<u>(7) Customer drive time and drive distance.</u>	314
<u>Sec. 4517.011.</u> (A) <u>The distribution and sale of motor vehicles in this state vitally affects commerce, the economy, and the public interest, welfare, and safety. In order to promote the interests of this state, Chapter 4517. of the Revised Code shall be liberally construed in order to ensure a sound system for distributing and selling motor vehicles through all of the following:</u>	315 316 317 318 319 320 321
<u>(1) Enforcing the comprehensive and uniform framework for licensing and regulating manufacturers, distributors, wholesalers, and dealers of motor vehicles;</u>	322 323 324
<u>(2) Promoting the right of the public to post-sale mechanical and operational services between the buyer and seller that are necessary to ensure the safe operating condition of a motor vehicle and are expected and implied at the time of sale;</u>	325 326 327 328
<u>(3) Enforcing Chapter 4517. of the Revised Code as to other persons to provide for compliance with the manufacturer's warranties and to prevent fraud, unfair practices, discrimination, or other abuses;</u>	329 330 331 332
<u>(4) Maintaining full and fair competition among intra-brand and inter-brand dealers;</u>	333 334
<u>(5) Maintaining strong and sound dealerships in order to provide continuing and necessary reliable services to the citizens of this state and to provide stable employment to the citizens of this state.</u>	335 336 337 338

(B) The distribution and sale of motor vehicles is a 339
matter of general statewide interest that requires uniform 340
statewide regulation and the provisions of the Revised Code 341
governing such distribution and sale constitute a comprehensive 342
plan with regard to such issues. 343

Sec. 4517.52. (A) Each franchisor shall fulfill warranty 344
and recall obligations of repairing and servicing motor 345
vehicles, including all parts and components manufactured for 346
installation in any motor vehicle. 347

(B) Each franchisor shall compensate each of its 348
franchisees for labor and parts used to fulfill warranty and 349
recall obligations of repair and servicing at rates not less 350
than the rates charged by the franchisee to its retail customers 351
for ~~like service-warranty-like~~ labor and parts for nonwarranty 352
work. A franchisee, other than a franchisee that deals in 353
recreational vehicles, may establish rates of compensation for 354
labor performed and parts used by the franchisee for purposes of 355
this section if all of the following apply: 356

(1) The franchisee submits to the franchisor either of the 357
following: 358

(a) One hundred sequential nonwarranty service repair 359
orders for warranty-like repairs that have been paid by a 360
customer and closed by the time of submission; 361

(b) All service repair orders for warranty-like repairs, 362
that have been paid by a customer and closed by the time of 363
submission, for a period of ninety consecutive days. 364

A franchisee either may submit a set of repair orders for 365
purposes of calculating both its retail labor rate and its 366
retail parts markup percentage, or may submit separate sets of 367

repair orders for purposes of calculating its retail labor rate 368
and its retail parts markup percentage separately. The repair 369
orders submitted under division (B) (1) (a) or (b) of this section 370
must be from a period occurring not more than one hundred eighty 371
days before the submission. 372

Subject to division (C) (3) of this section, if a 373
franchisor determines from any set of repair orders submitted 374
under this section that the retail labor rate or parts markup 375
percentage calculated under division (B) (2) or (3) of this 376
section is substantially higher or lower than the rate currently 377
on record with the franchisor for labor or parts, the franchisor 378
may request additional documentation for a period of either 379
ninety days prior to or ninety days subsequent to the time 380
period for which the repair orders were submitted for purposes 381
of an alteration. 382

(2) The franchisee calculates its retail labor rate by 383
determining the franchisee's total labor sales from the service 384
repair orders submitted under division (B) (1) of this section 385
and dividing that amount by the total number of labor hours that 386
generated those sales. 387

(3) The franchisee calculates its retail parts markup 388
percentage by determining the franchisee's total parts sales 389
from the service repair orders submitted under division (B) (1) 390
of this section and dividing that amount by the franchisee's 391
total cost for the purchase of those parts, subtracting one from 392
that amount, and then multiplying the amount by one hundred. 393

(4) In calculating the retail labor rate in division (B) 394
(2) of this section and the retail parts markup percentage in 395
division (B) (3) of this section, the franchisee omits charges 396
for any of the following from the calculation: 397

<u>(a) Manufacturer or distributor special events, specials,</u>	398
<u>or promotional discounts for retail customer repairs;</u>	399
<u>(b) Parts sold, or repairs performed, at wholesale;</u>	400
<u>(c) Routine maintenance that is not covered under a retail</u>	401
<u>customer warranty, including the replacement of fluids, filters,</u>	402
<u>and belts that are not provided in the course of other repairs;</u>	403
<u>(d) Items that do not have individual part numbers, such</u>	404
<u>as nuts, bolts, and fasteners;</u>	405
<u>(e) Vehicle reconditioning;</u>	406
<u>(f) Accessories;</u>	407
<u>(g) Repairs of damage caused by a collision, a road</u>	408
<u>hazard, the force of the elements, vandalism, theft, or operator</u>	409
<u>negligence;</u>	410
<u>(h) Parts sold or repairs performed for insurance</u>	411
<u>carriers;</u>	412
<u>(i) Vehicle emission or safety inspections required by</u>	413
<u>law;</u>	414
<u>(j) Goodwill or policy repairs or replacements;</u>	415
<u>(k) Repairs for which volume discounts have been</u>	416
<u>negotiated with government agencies or insurance carriers;</u>	417
<u>(l) Repairs performed on vehicles from a different line-</u>	418
<u>make;</u>	419
<u>(m) Replacement of tires or related elements.</u>	420
<u>(5) The franchisee provides notice of its retail labor</u>	421
<u>rate and retail parts markup percentage calculated in accordance</u>	422
<u>with this section to the franchisor.</u>	423

(C) (1) A franchisor may contest the retail labor rate or 424
retail parts markup percentage that was calculated by the 425
franchisee under division (B) of this section within thirty days 426
after receiving notice from the franchisee. If the franchisor 427
seeks to contest the retail labor rate or retail parts markup 428
percentage, the franchisor shall notify the franchisee that the 429
franchisor believes the rate or markup percentage is materially 430
inaccurate or substantially different than that of other 431
similarly situated, same line-make new motor vehicle dealers in 432
the vicinity, provide a full explanation of the reasons the 433
franchisor disagrees with the rate or markup percentage, provide 434
evidence substantiating the franchisor's position, and propose 435
an adjustment of the contested rate or markup percentage. The 436
franchisor shall not modify its notice to the franchisee or its 437
grounds for contesting the rate or markup percentage after 438
submitting a notice to the franchisee under division (C) (1) of 439
this section. 440

(2) If the franchisor does not contest the rate or markup 441
percentage that was calculated by the franchisee under division 442
(B) of this section within thirty days after receiving notice of 443
the rate or markup percentage from the franchisee, the 444
uncontested rate or markup percentage takes effect. The 445
franchisor then shall use the rate and markup percentage to 446
determine compensation for any warranty and recall work and 447
service performed by the franchisee until the rate or markup 448
percentage is modified. 449

(3) If the franchisor contests a rate or markup percentage 450
established by the franchisee under division (B) of this 451
section, the franchisor and franchisee shall resolve the 452
disagreement through the franchisor's internal dispute 453
resolution process. However, the franchisee may appeal a 454

determination made as part of the dispute resolution process to 455
a court of competent jurisdiction. Any rate or markup percentage 456
established either through an internal dispute resolution 457
process or by a court as part of an appeal under this section 458
shall be applied retroactively to govern reimbursement for labor 459
or parts, as applicable, beginning thirty days after the date 460
the franchisee submitted the disputed rate or markup percentage 461
under division (B) of this section. 462

(4) A franchisee shall not establish or modify a retail 463
labor rate or retail parts markup percentage more frequently 464
than once per calendar year. 465

(D) When calculating the compensation that must be 466
provided to a franchisee for labor and parts used to fulfill 467
warranty and recall obligations under this section, all of the 468
following apply: 469

(1) The franchisor shall use time allowances for the 470
diagnosis and performance of the warranty and recall work and 471
service that are reasonable and adequate for the work or 472
services to be performed by a qualified technician. 473

(2) The franchisor shall use any retail labor rate and any 474
retail parts markup percentage established in accordance with 475
this section in calculating the compensation. 476

(3) If the franchisor provided a part or component to the 477
franchisee at no cost to use in performing repairs under a 478
recall, campaign service action, or warranty repair, the 479
franchisor shall provide to the franchisee an amount equal to 480
the retail parts markup for that part or component, which shall 481
be calculated by multiplying the dealer cost for the part or 482
component as listed in the franchisor's price schedule by the 483

retail parts markup percentage. 484

(4) A franchisor shall not assess penalties, surcharges, 485
or similar costs to a franchisee, transfer or shift any costs to 486
a franchisee, limit allocation of vehicles or parts to a 487
franchisee, or otherwise take retaliatory action against a 488
franchisee based on any franchisee's exercise of its rights 489
under this section. It is the burden of the franchisee to prove 490
any claims under division (D) (4) of this section by a 491
preponderance of the evidence. Nothing in this section prohibits 492
a franchisor from increasing the price of a vehicle or part in 493
the normal course of business. 494

(E) A franchisor shall not require a franchisee to 495
establish a retail labor rate or retail parts markup percentage 496
using any method that is unduly burdensome or time consuming, or 497
require the use of information that is unduly burdensome or time 498
consuming to obtain, including part-by-part or transaction-by- 499
transaction calculations or utilization of the franchisee's 500
financial statement. Further, no franchisor shall unilaterally 501
calculate a retail labor rate or retail parts markup percentage 502
for a franchisee. 503

~~Division~~ Divisions (A), (C), (D), and (E) of this section 504
shall do not apply to franchisors or franchisees who deal in 505
recreational vehicles. 506

Sec. 4517.55. (A) In determining whether good cause has 507
been established by the franchisor for terminating, cancelling, 508
or failing to continue or renew a franchise, the motor vehicle 509
dealers board shall take into consideration the existing 510
circumstances, including, but not limited to: 511

(1) The amount of retail sales transacted by the 512

franchisee during a five-year period immediately preceding such	513
notice as compared to the business available to the franchisee;	514
(2) The investment necessarily made and obligations	515
incurred by the franchisee to perform its part of the franchise;	516
(3) The permanency of the franchisee's investment;	517
(4) Whether it is injurious or beneficial to the public	518
interest for the franchise to be modified or replaced, or the	519
business of the franchisee disrupted;	520
(5) Whether the franchisee has adequate motor vehicle	521
sales and service facilities, equipment, vehicle parts, and	522
qualified service personnel to reasonably provide for the needs	523
of the consumers for the motor vehicles handled by the	524
franchisee, and is rendering adequate service to the public;	525
(6) Whether the franchisee fails to fulfill the warranty	526
obligations of the franchisor required to be performed by the	527
franchisee;	528
(7) The extent and materiality of the franchisee's failure	529
to comply with the terms of the franchise and the reasonableness	530
and fairness of the franchise terms;	531
(8) Whether the owners of the new motor vehicle dealer had	532
actual knowledge of the facts and circumstances upon which	533
termination, cancellation, discontinuance, or nonrenewal is	534
based;	535
(9) Whether the proposed termination, cancellation,	536
discontinuance, or nonrenewal constitutes discriminatory	537
enforcement of the franchise agreement.	538
(B) Notwithstanding the terms, conditions, or provisions	539
of any franchise or waiver, the following do not constitute	540

sufficient good cause for terminating, cancelling, or failing to	541
continue or renew a franchise:	542
(1) Refusal by the franchisee to purchase or accept	543
delivery of any new motor vehicle, parts, accessories, or any	544
other commodity or service not ordered by the franchisee;	545
(2) The fact that the franchisee or the owner of any	546
interest therein, owns, has an investment in, participates in	547
the management of, or holds a license for the sale of the same	548
or any other line-make of new motor vehicle;	549
(3) The sale, transfer, or issuance of any equity or	550
debenture issue, or the transfer or issuance of any security or	551
shares of stock in a new motor vehicle dealer to any person,	552
whenever the sale, issuance, or transfer does not result in a	553
change in the controlling ownership of the dealership;	554
(4) A change by the franchisee in the administrative or	555
executive management of the dealership;	556
(5) Failure of the franchisee to achieve any unreasonable	557
or discriminatory performance criteria;	558
(6) A loss of trust by the franchisor absent circumstances	559
or facts that would be a material breach of the franchise	560
agreement and that material breach is known and ratified by the	561
owners of the new motor vehicle dealer;	562
(7) The failure of a franchisee to maintain a motor	563
vehicle floor plan line of credit, unless the franchisee fails	564
to maintain a floor plan line of credit for one hundred twenty	565
days or longer;	566
(8) The export of new motor vehicles to a foreign country,	567
absent evidence that the new motor vehicle dealer knew or should	568

~~have known that the vehicle was purchased for export unless~~ 569
~~division (A) (20) (b) of section 4517.59 of the Revised Code~~ 570
~~applies. There shall be a rebuttable presumption that a new-~~ 571
~~motor vehicle dealer did not know, or should not have known,~~ 572
~~that a vehicle was purchased for export if the vehicle is titled-~~ 573
~~in the United States.~~ 574

(C) Prior to a final determination by a franchisor that a 575
franchisee has failed to achieve any performance criteria for 576
purposes of any action under this section, the franchisor shall 577
give the franchisee a reasonable opportunity to present evidence 578
demonstrating the effect of local market conditions that 579
materially and adversely affected the franchisee's performance. 580
If a franchisor makes a final decision related to performance 581
criteria without allowing the franchisee the reasonable 582
opportunity to present evidence, or does not consider the effect 583
of the local market conditions on the franchisee's performance, 584
the performance criteria is deemed unreasonable under division 585
(B) (5) of this section. 586

(D) Divisions (B) (6) to (8) and (C) of this section shall 587
not apply to franchisors or franchisees who deal in recreational 588
vehicles. 589

Sec. 4517.59. (A) Notwithstanding the terms, provisions, 590
or conditions of any agreement, franchise, or waiver, no 591
franchisor shall: 592

(1) In acting or purporting to act under the terms, 593
provisions, or conditions of a franchise or in terminating, 594
canceling, or failing to renew a franchise, fail to act in good 595
faith; 596

(2) Prevent a franchisee from changing administrative or 597

executive management, provided such personnel satisfy reasonable 598
and objective standards formulated and objectively applied by 599
the franchisor; 600

(3) Restrict the sale of any equity or debenture issue or 601
the transfer of any securities in a dealership, or in any way 602
prevent or attempt to prevent the transfer, sale, or issuance of 603
shares of stock or debentures to any person, if the basic 604
financial requirements of the franchisor have been equalled at 605
the time of the execution of the franchise agreement and 606
continued in effect, and if the sale, transfer, or issuance does 607
not have the effect of accomplishing a sale of a controlling 608
interest in the dealership; 609

(4) Coerce or threaten any franchisee by refusing or 610
failing to renew or extend a lease of premises where the fee or 611
right of possession is in the absolute control of the franchisor 612
and the franchisee upon request or demand of the franchisor 613
fails to expand its facilities, increase sales personnel, 614
purchase more parts or accept programs for sales and operation 615
of the franchisee's business, when such demand is not 616
reasonable, fair, and equitable under all circumstances, or 617
tends to depreciate the franchisee's equity; 618

(5) Sell, lease, or rent goods or motor vehicles, or 619
render any service normally performed and required of 620
franchisees under the franchise agreement with the franchisor, 621
in unfair competition with the franchisee, except that this 622
division does not apply to a sale, lease, or rental to, or 623
service performed for, an agency of federal, state, or local 624
government; 625

(6) Do any of the following: 626

(a) Coerce, or attempt to coerce, any franchisee to accept 627
delivery of any motor vehicle, parts, accessories, or any other 628
commodities connected therewith which are not ordered by said 629
franchisee; ~~nor withhold~~ 630

(b) Withhold or delay delivery of motor vehicles out of 631
the ordinary course of business; ~~nor discriminate~~ 632

(c) Discriminate against any franchisee in the allocation 633
or through the withholding from delivery of certain models of 634
motor vehicles ordered by a franchisee out of the ordinary 635
course of business; ~~nor unfairly~~ 636

(d) Unfairly change or amend unilaterally a franchisee's 637
allotment of motor vehicles or quota, sales expectancy, ~~or~~ sales 638
penetration, or geographic area of responsibility without 639
reasonable cause; ~~nor coerce~~. Prior to changing or amending a 640
franchisee's geographic area of responsibility, the franchisor 641
shall give the franchisee, other than a franchisee who deals in 642
recreational vehicles, a reasonable opportunity to present 643
relevant evidence demonstrating the effect of local market 644
conditions that may materially and adversely affect the 645
franchisee's proposed new geographic area of responsibility. Any 646
final decision made by the franchisor without considering such 647
local market conditions shall be considered unreasonable. 648

(e) Coerce a franchisee by any means to participate or 649
contribute to any local or national advertising fund; ~~nor employ~~ 650

(f) Employ any coercive techniques for any other purposes 651
such as obtaining franchisee participation in contests, 652
"giveaways," or ~~other~~ sales devices. 653

Division (A) (6) of this section does not authorize a 654
franchisee that is located outside of the relevant market area, 655

as defined in section 4517.01 of the Revised Code, to challenge 656
the establishment or relocation of a franchise location. 657

(7) Coerce, or attempt to coerce, a franchisee by 658
threatening to award an additional franchise or agreement to 659
another person for the sale of its same product in the same area 660
of influence for the purposes of compelling such franchisee to 661
yield to demands of the franchisor for increased sales of the 662
franchisor's products, parts, expansion of facilities and 663
improvement of operations inconsistent with good business 664
practices of the franchisee; 665

(8) Fail or refuse to make equally available to its same 666
line-make franchisees all motor vehicles, motor vehicle parts, 667
or other products manufactured for that line-make at the same 668
actual price, or to utilize any device including, but not 669
limited to, sales promotion plans or programs that result in 670
such lesser actual price. Division (A) (8) of this section shall 671
not apply to sales to a franchisee for resale to any unit of 672
government or donation or use by a franchisee in a driver 673
education program. Division (A) (8) of this section shall not 674
prohibit the offering of incentive programs or other discounts 675
so long as such incentives or discounts are reasonably available 676
to all franchisees in this state on a proportionately equal 677
basis and are based on the sale of individual vehicles and not 678
increased for meeting a performance standard unless the standard 679
is reasonable considering all existing circumstances. 680

A franchisor has not made a motor vehicle, motor vehicle 681
part, or other product available to all line-make franchisees if 682
the franchisor does any of the following: 683

(a) Requires a franchisee to remodel, renovate, or 684
recondition the new motor vehicle dealer's existing dealership 685

facilities as a prerequisite to receiving the model, part, or 686
product, unless reasonably necessary to accommodate the adequate 687
sale and service of a vehicle based on the technology of that 688
vehicle. As used in division (A) (8) of this section, "remodel, 689
renovate, and recondition" includes the requirement that a 690
franchisee purchase or lease unreasonably expensive advertising 691
or promotional displays or other similar materials. 692

(b) Requires a franchisee to pay an additional fee to 693
receive any model, part, or product within a franchisor's line- 694
make; 695

(c) Requires a franchisee to accept additional inventory 696
to receive any model, part, or product within a franchisor's 697
line-make. 698

(9) Fail to either return a part to the franchisee, at the 699
franchisor's expense, or reimburse the franchisee for the 700
franchisee's cost of the part where a franchisor does not 701
approve a franchisee's claim for a defective part; 702

(10) Fail to approve or disapprove any warranty or recall 703
claim submitted by a franchisee within forty-five days after 704
receipt from the franchisee. If a claim is not approved, the 705
franchisor shall immediately so notify in writing the franchisee 706
who submitted the claim and shall include in the notice the 707
specific grounds upon which the disapproval is based. 708

(11) Fail to pay a franchisee within thirty days after 709
approval by the franchisor of any claim by a franchisee for 710
labor and parts made under division (B) of section 4517.52 and 711
section 4517.53 of the Revised Code. Any failure of a franchisor 712
to act on or pay a claim within the time limits specified by 713
this section that results from causes beyond the franchisor's 714

reasonable control does not constitute a violation of this 715
section. 716

(12) Disclaim an otherwise valid warranty or recall claim 717
because the franchisee fails to submit or resubmit the claim 718
within a period of less than six months from the date on which 719
the service was rendered or parts supplied; 720

(13) Unless otherwise authorized or required by the 721
"National Traffic and Motor Vehicle Safety Act," 49 U.S.C. 722
30101, et seq. or any regulation adopted thereunder, the 723
"Transportation Recall, Enhancement, Accountability, and 724
Documentation Act," 49 U.S.C. 30123, et seq. or any regulation 725
adopted thereunder, or any other federal law or regulation, 726
provide reimbursement to any individual or entity that is not a 727
franchisee for labor and parts used to fulfill warranty and 728
recall work, unless the work is required for emergency service, 729
or is performed by a service center owned by the manufacturer on 730
employee- or company-owned vehicles only, or the work is 731
warranty service by employees of a fleet operator on its own 732
vehicles. Nothing in division (A) (13) of this section shall 733
prohibit a manufacturer from reimbursing a franchisee of another 734
line-make of the same manufacturer for labor and parts used to 735
fulfill warranty and recall work. 736

(14) Refuse to disclose to any new motor vehicle dealer 737
who handles the same line-make, the manner and mode of 738
distribution of that line-make within the same county, or if a 739
line-make is allocated among new motor vehicle dealers, refuse 740
to disclose to any new motor vehicle dealer that handles the 741
same line-make the system of allocation, including, but not 742
limited to, a complete breakdown by model, color, equipment, 743
other items or terms, and a concise listing of dealerships with 744

an explanation of the derivation of the allocation system 745
including its mathematical formula in a clear and comprehensible 746
form; 747

(15) Engage in any predatory practice or discriminate 748
against any new motor vehicle dealer including discriminating 749
against a franchisee, as compared to a same line-make 750
franchisee, with regard to motor vehicle allocation, motor 751
vehicle sales expectations, motor vehicle market penetration, 752
motor vehicle planning volume requirements, customer service 753
satisfaction requirements, dealership facility requirements, or 754
dealer capitalization requirements; 755

(16) Prohibit a franchisee from acquiring a line-make of 756
new motor vehicles solely because it owns or operates a 757
franchise of the same line-make in a contiguous market; 758

(17) Use any financial services company or leasing company 759
owned in whole or part or controlled by the manufacturer or 760
distributor to accomplish what would otherwise be illegal 761
conduct on the part of the manufacturer or distributor pursuant 762
to this section. This section does not limit the right of the 763
financial services or leasing company to otherwise engage in 764
regular financial services or leasing business practices. 765

(18) Initiate a charge back without an audit or perform an 766
audit to confirm a warranty or recall repair, sales incentive, 767
service incentive, other form of incentive compensation, or 768
rebate more than twelve months after the date of submission by 769
the franchisee, provided that these limitations shall not be 770
effective in the case of a fraudulent claim. Division (A) (18) of 771
this section does not preclude a charge back for any fraudulent 772
claim that was previously paid. 773

(19) Refuse to pay a franchisee for sales incentives, 774
service incentives, rebates, or other forms of incentive 775
compensation within thirty days after their approval by the 776
manufacturer. The franchisor shall either approve or disapprove 777
each claim by the franchisee within thirty days after receipt of 778
the claim in a proper form generally used by the franchisor. Any 779
claims not specifically disapproved in writing within thirty 780
days after receipt shall be considered to be approved. 781

(20) Reduce the amount to be paid to ~~the a~~ new motor 782
vehicle dealer ~~or~~, assess any penalty, impose a charge back, or 783
take any other adverse action against a new motor vehicle dealer 784
~~back~~ subsequent to and in relation to the payment of ~~the any~~ 785
claim related to a warranty repair or recall reimbursement, 786
sales incentive or rebate, service incentive, or other form of 787
incentive compensation unless either of the following applies: 788

(a) The manufacturer shows that the claim lacks material 789
documentation or is false, fraudulent, or a misrepresentation. A 790
franchisor may not deny a claim based solely on a new motor 791
vehicle dealer's incidental failure to comply with a specific 792
claim processing requirement, such as a clerical error, that 793
does not put into question the legitimacy of the claim. 794

(b) The new motor vehicle dealer knew or should have known 795
a new motor vehicle was sold for export to a foreign country. 796
There shall exist a rebuttable presumption that a new motor 797
vehicle dealer did not know, or should not have known, that a 798
vehicle was sold for export to a foreign country if the motor 799
vehicle is titled in the United States. Unless the manufacturer 800
establishes that the new motor vehicle dealer knew or should 801
have known of information that should have caused the new motor 802
vehicle dealer to know that the new motor vehicle was purchased 803

for export, the new motor vehicle dealer is presumed not to have 804
known that the new motor vehicle was purchased for export if all 805
of the following apply: 806

(i) The new motor vehicle was titled in the United States. 807

(ii) The new motor vehicle was exported not sooner than 808
twelve months after the date of purchase of the motor vehicle. 809

(iii) The purchaser's information was not on a 810
franchisor's written list of known or suspected exporters 811
received by the new motor vehicle dealer at least five days 812
prior to the date of the sale of the motor vehicle. 813

No refusal to pay warranty repair or recall 814
reimbursements, sales incentives, service incentives, rebates, 815
or other forms of incentive compensation, no reduction in the 816
amount to be paid to the new motor vehicle dealer, and no charge 817
back subsequent to the payment of a claim may be made until the 818
new motor vehicle dealer has had notice and an opportunity to 819
participate in all franchisor internal appeal processes as well 820
as all available legal processes. If a charge back is the 821
subject of adjudication, internal appeal, mediation, or 822
arbitration, no charge back shall be made until, in the case of 823
an adjudication or legal action, a final appealable order has 824
been issued. 825

At the time submitted, the claim shall act as an immediate 826
automatic credit against future billings. Any ambiguity or 827
inconsistency in submission guidelines shall be construed 828
against the drafter. Any failure by a new motor vehicle dealer 829
to exercise its rights to reimbursement under this section does 830
not create a waiver of these rights. Any unreasonable denial, 831
delay, or restriction of a valid reimbursement claim shall 832

subject the manufacturer to interest in accordance with division 833
(A) of section 1343.03 of the Revised Code until paid. 834

(21) Prevent, attempt to prevent, prohibit, coerce, or 835
attempt to coerce, any new motor vehicle dealer from charging 836
any consumer any fee allowed to be charged by the dealer under 837
Ohio law; 838

(22) Require, coerce, or attempt to coerce any new motor 839
vehicle dealer in this state to change the capital structure of 840
the new motor vehicle dealer or the means by or through which 841
the new motor vehicle dealer finances the operation of the 842
dealership provided that: 843

(a) The new motor vehicle dealer at all times shall meet 844
any reasonable capital standards determined by the manufacturer 845
in accordance with uniformly applied criteria. 846

(b) No change in the capital structure shall cause a 847
change in the principal management or have the effect of a sale 848
of the franchise without the consent of the manufacturer or 849
distributor, and further provided that the manufacturer or 850
distributor shall not unreasonably withhold consent. 851

(23) (a) Require, coerce, or attempt to coerce any new 852
motor vehicle dealer in this state to change the location of the 853
dealership, or to make any substantial alterations to the 854
dealership premises or facilities, ~~when to do so if any of the~~ 855
following apply: 856

(i) The proposed change or alteration would be 857
unreasonable, or in light of the current market and economic 858
conditions. 859

(ii) The change or alteration is proposed without a 860
written estimation of a sufficient supply of new motor vehicles 861

so as to justify the location change or alterations⁷ in light of 862
the current market and economic conditions⁷. 863

(iii) The change or alteration is proposed within seven 864
years after the dealership premises was constructed or altered, 865
as approved by the franchisor unless the change or alteration is 866
necessary to comply with a health or safety law, or a technology 867
requirement that is essential to the sale or service of a motor 868
vehicle that the new motor vehicle dealer is authorized by the 869
franchisor to sell or service. 870

(b) The seven-year time period set forth under division 871
(A) (23) (a) (iii) of this section continues with regard to the 872
successor to the new motor vehicle dealer if the successor was 873
approved by the franchisor in the franchise agreement. 874

(c) As used in division (A) (23) (a) of this section, 875
"substantial alteration" means an alteration that has a major 876
impact on the architectural features, characteristics, or 877
integrity of a structure or lot. "Substantial alteration" does 878
not include routine maintenance, such as interior painting, that 879
is reasonably necessary to keep the dealership facility in an 880
attractive condition. 881

(d) Division (A) (23) of this section does not prohibit a 882
franchisor from taking any of the following actions: 883

(i) Continuing, renewing, or modifying a facility 884
improvement program that involves more than one new motor 885
vehicle dealer in this state and that was in effect prior to the 886
effective date of this amendment; 887

(ii) Providing payments to assist a new motor vehicle 888
dealer in making any facility improvement, including 889
construction, remodeling, or installing signage or franchisor 890

<u>image elements;</u>	891
<u>(iii) Providing reimbursement to a new motor vehicle</u>	892
<u>dealer for a portion of the costs that the new motor vehicle</u>	893
<u>dealer incurs in making any facility improvement.</u>	894
(24) Establish any performance standard or program for	895
measuring franchisee performance that may have a material impact	896
on a franchisee that is not fair, reasonable, and equitable, or	897
apply any such standard or program to a franchisee in a manner	898
that is not fair, reasonable, and equitable;	899
(25) <u>Use the failure of a franchisee to meet a performance</u>	900
<u>standard as the basis to prevent or deny the franchisee the</u>	901
<u>opportunity to name a successor or otherwise engage in</u>	902
<u>succession planning, provided, however, that any designated</u>	903
<u>successor shall meet the manufacturer's written and uniformly</u>	904
<u>applied requirements to be a franchisee at the time of</u>	905
<u>succession;</u>	906
(26) <u>Use the inability of a franchisee to meet a</u>	907
<u>performance standard as a justification to exclude the</u>	908
<u>franchisee from programs offered by the franchisor if the</u>	909
<u>failure to meet the performance standard was based on whether</u>	910
<u>the franchisee is selling an adequate number of vehicles and the</u>	911
<u>franchisee can demonstrate that it was unable to purchase enough</u>	912
<u>vehicles from the franchisor due to the actions of the</u>	913
<u>franchisor;</u>	914
(27) Unreasonably require a franchisee to establish or	915
maintain exclusive sales facilities, sales display space,	916
personnel, service, parts, or administrative facilities for a	917
line-make, unless such exclusivity is reasonable and otherwise	918
justified by reasonable business considerations. In making that	919

determination, the franchisor shall take into consideration the 920
franchisee's satisfaction of facility requirements as required 921
by the franchise agreement. The franchisor shall have the burden 922
of proving that reasonable business considerations justify 923
exclusivity. 924

~~(26)~~(28) Unreasonably require or coerce a franchisee to 925
lease or purchase a good or service from a specified vendor for 926
purposes of expanding, constructing, or significantly modifying 927
a facility without allowing the franchisee to choose a vendor 928
that provides a good or service of a substantially similar 929
quality and general appearance and that is approved by the 930
franchisor. No franchisor shall unreasonably withhold approval 931
of a vendor under division (A) (28) of this section. 932

Division (A) (28) of this section does not do either of the 933
following: 934

(a) Allow a franchisee or vendor to eliminate or impair 935
the franchisor's intellectual property rights, including with 936
regard to a trademark; 937

(b) Permit a franchisee to erect or maintain signs that do 938
not conform to the intellectual property usage guidelines of the 939
franchisor. 940

(29) Require a franchisee to conduct research on 941
prospective vehicle purchasers. 942

(30) Require or request a franchisee to waive any 943
requirements of this section. 944

(B) (1) No franchisor shall discriminate among the 945
franchisor's dealers in any program that provides assistance to 946
the franchisor's dealers, including internet listings, sales 947
leads, warranty policy adjustments, marketing programs, and 948

dealer recognition programs. 949

(2) The franchisor shall not require or coerce a 950
franchisee to provide its customer lists~~or~~, service files, or 951
other nonpublic personal information concerning any consumer or 952
concerning any customer of the franchisee to the franchisor, 953
unless necessary for the sale and delivery of a ~~new~~ motor 954
vehicle to a consumer, to validate and pay consumer or dealer 955
incentives, or for the submission to the franchisor for any 956
services supplied by the franchisee for any claim for warranty 957
parts or repairs. Nothing in this division shall limit the 958
franchisor's ability to require or use customer information to 959
satisfy any safety or recall notice obligation. 960

(3) No franchisor shall fail to comply with the 961
requirements of any state or federal law that pertains to the 962
use or disclosure of information, including the "Gramm-Leach- 963
Bliley Act," 113 Stat. 1338 (1999), 15 U.S.C. 6801 et seq. 964

(4) No franchisor shall fail, upon demand, to indemnify 965
any existing or former franchisee and the successors and assigns 966
of the franchisee from all damages that result from or relate to 967
any claim made by a third party against the franchisee or 968
successor if the claim results directly from the improper use or 969
disclosure of nonpublic personal information by the 970
manufacturer, distributor, or any third party to whom 971
information was provided by the manufacturer or distributor. The 972
franchisor shall pay attorney's fees and other expenses 973
reasonably incurred by the franchisee or successor in relation 974
to such a claim. 975

(C) No franchise agreement shall require the franchisee to 976
pay the attorney's fees of a franchisor, waive any remedy or 977
defense available to the franchisee, require a motor vehicle 978

dealer to submit to arbitration or mediation to resolve a 979
controversy before the controversy arises, or waive any other 980
provisions of this chapter. Nothing in this division shall 981
preclude the parties from entering into a voluntary agreement to 982
arbitrate or mediate a controversy after it arises unless 983
otherwise precluded by law. Such an agreement shall require that 984
the dispute be heard in this state and that the arbitrator or 985
mediator apply the law of this state in resolving the 986
controversy. Either party may appeal a decision of an arbitrator 987
in the court of common pleas of Franklin county on the grounds 988
that the arbitrator failed to apply the law of this state. 989

(D) This section applies to any franchise whether entered 990
into prior to or after ~~the effective date of this amendment~~ 991
October 22, 1987. Divisions (A) (8), (13), (16) to ~~(25)-(27)~~, 992
(29), (B), and (C) of this section shall not apply to 993
franchisors or franchisees who deal in recreational vehicles. 994

Section 2. That existing sections 4517.01, 4517.52, 995
4517.55, and 4517.59 of the Revised Code are hereby repealed. 996