

**As Passed by the House**

**131st General Assembly**

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**Sub. S. B. No. 242**

**Senators Uecker, Coley**

**Cosponsors: Senators LaRose, Eklund, Faber, Hackett, Lehner, Seitz  
Representatives Brown, Blessing, Clyde, Buchy, Green, McColley, Smith, R.,  
Amstutz, Barnes, Brenner, Burkley, Fedor, Hambley, Leland, O'Brien, M., Rogers,  
Ryan, Schaffer, Sears, Slaby, Smith, K., Sprague, Sweeney**

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**A BILL**

To amend sections 4517.01, 4517.52, 4517.55, and 1  
4517.59 and to enact section 4517.011 of the 2  
Revised Code to revise the law governing new 3  
motor vehicle franchise agreements. 4

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

**Section 1.** That sections 4517.01, 4517.52, 4517.55, and 5  
4517.59 be amended and section 4517.011 of the Revised Code be 6  
enacted to read as follows: 7

**Sec. 4517.01.** As used in sections 4517.01 to 4517.65 of 8  
the Revised Code: 9

(A) "Persons" includes individuals, firms, partnerships, 10  
associations, joint stock companies, corporations, and any 11  
combinations of individuals. 12

(B) "Motor vehicle" means motor vehicle as defined in 13  
section 4501.01 of the Revised Code and also includes "all- 14  
purpose vehicle" and "off-highway motorcycle" as those terms are 15

defined in section 4519.01 of the Revised Code. "Motor vehicle" 16  
does not include a snowmobile as defined in section 4519.01 of 17  
the Revised Code or manufactured and mobile homes. 18

(C) "New motor vehicle" means a motor vehicle, the legal 19  
title to which has never been transferred by a manufacturer, 20  
remanufacturer, distributor, or dealer to an ultimate purchaser. 21

(D) "Ultimate purchaser" means, with respect to any new 22  
motor vehicle, the first person, other than a dealer purchasing 23  
in the capacity of a dealer, who in good faith purchases such 24  
new motor vehicle for purposes other than resale. 25

(E) "Business" includes any activities engaged in by any 26  
person for the object of gain, benefit, or advantage either 27  
direct or indirect. 28

(F) "Engaging in business" means commencing, conducting, 29  
or continuing in business, or liquidating a business when the 30  
liquidator thereof holds self out to be conducting such 31  
business; making a casual sale or otherwise making transfers in 32  
the ordinary course of business when the transfers are made in 33  
connection with the disposition of all or substantially all of 34  
the transferor's assets is not engaging in business. 35

(G) "Retail sale" or "sale at retail" means the act or 36  
attempted act of selling, bartering, exchanging, or otherwise 37  
disposing of a motor vehicle to an ultimate purchaser for use as 38  
a consumer. 39

(H) "Retail installment contract" includes any contract in 40  
the form of a note, chattel mortgage, conditional sales 41  
contract, lease, agreement, or other instrument payable in one 42  
or more installments over a period of time and arising out of 43  
the retail sale of a motor vehicle. 44

(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 motor vehicle dealer.

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

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

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

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 tongue;	106 107
(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, 132  
remanufacturer, or distributor who supplies new motor vehicles 133  
under a franchise agreement to a franchisee. 134

(X) "Dealer organization" means a state or local trade 135  
association the membership of which is comprised predominantly 136  
of new motor vehicle dealers. 137

(Y) "Factory representative" means a representative 138  
employed by a manufacturer, remanufacturer, or by a factory 139  
branch primarily for the purpose of promoting the sale of its 140  
motor vehicles, parts, or accessories to dealers or for 141  
supervising or contacting its dealers or prospective dealers. 142

(Z) "Administrative or executive management" means those 143  
individuals who are not subject to federal wage and hour laws. 144

(AA) "Good faith" means honesty in the conduct or 145  
transaction concerned and the observance of reasonable 146  
commercial standards of fair dealing in the trade as is defined 147  
in section 1301.201 of the Revised Code, including, but not 148  
limited to, the duty to act in a fair and equitable manner so as 149  
to guarantee freedom from coercion, intimidation, or threats of 150  
coercion or intimidation; provided however, that recommendation, 151  
endorsement, exposition, persuasion, urging, or argument shall 152  
not be considered to constitute a lack of good faith. 153

(BB) "Coerce" means to compel or attempt to compel by 154  
failing to act in good faith or by threat of economic harm, 155  
breach of contract, or other adverse consequences. Coerce does 156  
not mean to argue, urge, recommend, or persuade. 157

(CC) "Relevant market area" means any area within a radius 158  
of ten miles from the site of a potential new dealership, except 159  
that for manufactured home or recreational vehicle dealerships 160

the radius shall be twenty-five miles. The ten-mile radius shall 161  
be measured from the dealer's established place of business that 162  
is used exclusively for the purpose of selling, displaying, 163  
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) "Local market conditions" includes, but is not 303  
limited to: 304

(1) Demographics in the franchisee's area; 305

(2) Geographical and market characteristics in the 306  
franchisee's area; 307

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

citizens of this state and to provide stable employment to the 337  
citizens of this state. 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

<u>division (B) (3) of this section, the franchisee omits charges</u>	396
<u>for any of the following from the calculation:</u>	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

rate and retail parts markup percentage calculated in accordance 422  
with this section to the franchisor. 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 franchisee during a five-year period immediately preceding such notice as compared to the business available to the franchisee;	512 513 514
(2) The investment necessarily made and obligations incurred by the franchisee to perform its part of the franchise;	515 516
(3) The permanency of the franchisee's investment;	517
(4) Whether it is injurious or beneficial to the public interest for the franchise to be modified or replaced, or the business of the franchisee disrupted;	518 519 520
(5) Whether the franchisee has adequate motor vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumers for the motor vehicles handled by the franchisee, and is rendering adequate service to the public;	521 522 523 524 525
(6) Whether the franchisee fails to fulfill the warranty obligations of the franchisor required to be performed by the franchisee;	526 527 528
(7) The extent and materiality of the franchisee's failure to comply with the terms of the franchise and the reasonableness and fairness of the franchise terms;	529 530 531
(8) Whether the owners of the new motor vehicle dealer had actual knowledge of the facts and circumstances upon which termination, cancellation, discontinuance, or nonrenewal is based;	532 533 534 535
(9) Whether the proposed termination, cancellation, discontinuance, or nonrenewal constitutes discriminatory enforcement of the franchise agreement.	536 537 538

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

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

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

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

(6) Do any of the following:

(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 alterations<sup>7</sup> in light of 862  
the current market and economic conditions<sup>7</sup>. 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