

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 306

Senator Brenner

A BILL

To amend sections 4517.01, 4517.10, 4517.32, 1
4517.33, 4517.34, 4517.49, 4517.52, 4517.541, 2
4517.542, 4517.55, 4517.59, and 4517.99 and to 3
enact sections 4517.70, 4517.71, 4517.72, 4
4517.73, 4517.74, 4517.741, 4517.75, 4517.76, 5
4517.77, 4517.78, and 4517.79 of the Revised 6
Code to modify the Motor Vehicle Sales Law as it 7
pertains to recreational vehicles. 8

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

Section 1. That sections 4517.01, 4517.10, 4517.32, 9
4517.33, 4517.34, 4517.49, 4517.52, 4517.541, 4517.542, 4517.55, 10
4517.59, and 4517.99 be amended and sections 4517.70, 4517.71, 11
4517.72, 4517.73, 4517.74, 4517.741, 4517.75, 4517.76, 4517.77, 12
4517.78, and 4517.79 of the Revised Code be enacted to read as 13
follows: 14

Sec. 4517.01. As used in ~~sections 4517.01 to 4517.65 of~~ 15
~~the Revised Code~~this chapter: 16

(A) "Persons" includes individuals, partnerships, 17
associations, joint stock companies, corporations, sole 18
proprietorships, limited liability companies, limited liability 19

partnerships, business trusts, and any other legally recognized 20
business entities or any combinations of individuals. 21

(B) "Motor vehicle" means motor vehicle as defined in 22
section 4501.01 of the Revised Code and also includes "all- 23
purpose vehicle" and "off-highway motorcycle" as those terms are 24
defined in section 4519.01 of the Revised Code. "Motor vehicle" 25
does not include a snowmobile as defined in section 4519.01 of 26
the Revised Code or manufactured and mobile homes. 27

(C) "New motor vehicle" means a motor vehicle, the legal 28
title to which has never been transferred by a manufacturer, 29
remanufacturer, distributor, or dealer to an ultimate purchaser. 30

(D) "Ultimate purchaser" means, with respect to any new 31
motor vehicle, the first person, other than a dealer purchasing 32
in the capacity of a dealer, who in good faith purchases such 33
new motor vehicle for purposes other than resale. 34

(E) "Business" includes any activities engaged in by any 35
person for the object of gain, benefit, or advantage either 36
direct or indirect, including activities conducted through the 37
internet or another computer network. 38

(F) "Engaging in business" means commencing, conducting, 39
or continuing in business, or liquidating a business when the 40
liquidator thereof holds self out to be conducting such 41
business; making a casual sale or otherwise making transfers in 42
the ordinary course of business when the transfers are made in 43
connection with the disposition of all or substantially all of 44
the transferor's assets is not engaging in business. 45

(G) "Retail sale" or "selling at retail" means the act or 46
attempted act of selling, bartering, exchanging, or otherwise 47
disposing of a motor vehicle, including through use of the 48

internet or another computer network, to an ultimate purchaser. 49

(H) "Retail installment contract" includes any contract in 50
the form of a note, chattel mortgage, conditional sales 51
contract, lease, agreement, or other instrument payable in one 52
or more installments over a period of time and arising out of 53
the retail sale of a motor vehicle. 54

(I) "Farm machinery" means all machines and tools used in 55
the production, harvesting, and care of farm products. 56

(J) "Dealer" or "motor vehicle dealer" means any new motor 57
vehicle dealer, any motor vehicle leasing dealer, any adaptive 58
mobility dealer, and any used motor vehicle dealer. 59

(K) "New motor vehicle dealer" means any person engaged in 60
the business of selling at retail, displaying, offering for 61
sale, or dealing in new motor vehicles pursuant to a contract or 62
agreement entered into with the manufacturer, remanufacturer, or 63
distributor of the motor vehicles. 64

(L) "Used motor vehicle dealer" means any person engaged 65
in the business of selling, displaying, offering for sale, or 66
dealing in used motor vehicles, at retail or wholesale, but does 67
not mean any new motor vehicle dealer selling, displaying, 68
offering for sale, or dealing in used motor vehicles 69
incidentally to engaging in the business of selling, displaying, 70
offering for sale, or dealing in new motor vehicles, any person 71
engaged in the business of dismantling, salvaging, or rebuilding 72
motor vehicles by means of using used parts, or any public 73
officer performing official duties. 74

(M) "Motor vehicle leasing dealer" means any person 75
engaged in the business of regularly making available, offering 76
to make available, or arranging for another person to use a 77

motor vehicle pursuant to a bailment, lease, sublease, or other 78
contractual arrangement under which a charge is made for its use 79
at a periodic rate for a term of thirty days or more, and title 80
to the motor vehicle is in and remains in the motor vehicle 81
leasing dealer who originally leases it, irrespective of whether 82
or not the motor vehicle is the subject of a later sublease, and 83
not in the user, including any financial institution acting as a 84
lessor for a lease or sublease. "Motor vehicle leasing dealer" 85
does not include a new motor vehicle dealer that is not the 86
lessor and that only assists in arranging a lease on the 87
lessor's behalf or a manufacturer or its affiliate leasing to 88
its employees or to dealers. 89

(N) "Salesperson" means any person employed by a dealer to 90
sell, display, and offer for sale, or deal in motor vehicles for 91
a commission, compensation, or other valuable consideration, but 92
does not mean any public officer performing official duties. 93

(O) "Casual sale" means any transfer of a motor vehicle by 94
a person other than a new motor vehicle dealer, used motor 95
vehicle dealer, adaptive mobility dealer, motor vehicle salvage 96
dealer, as defined in division (A) of section 4738.01 of the 97
Revised Code, salesperson, motor vehicle auction owner, 98
manufacturer, or distributor acting in the capacity of a dealer, 99
salesperson, auction owner, manufacturer, or distributor, to a 100
person who purchases the motor vehicle for use as a consumer. 101

(P) "Motor vehicle auction owner" means any person who is 102
engaged wholly or in part in the business of auctioning motor 103
vehicles, but does not mean a construction equipment auctioneer 104
or a construction equipment auction licensee. 105

(Q) "Manufacturer" means a person who manufactures, 106
assembles, or imports motor vehicles, including motor homes, but 107

does not mean a person who only assembles or installs a body, 108
special equipment unit, finishing trim, or accessories on a 109
motor vehicle chassis supplied by a manufacturer or distributor. 110

(R) "Tent-type fold-out camping trailer" means any vehicle 111
intended to be used, when stationary, as a temporary shelter 112
with living and sleeping facilities, and that is subject to the 113
following properties and limitations: 114

(1) A minimum of twenty-five per cent of the fold-out 115
portion of the top and sidewalls combined must be constructed of 116
canvas, vinyl, or other fabric, and form an integral part of the 117
shelter. 118

(2) When folded, the unit must not exceed: 119

(a) Fifteen feet in length, exclusive of bumper and 120
tongue; 121

(b) Sixty inches in height from the point of contact with 122
the ground; 123

(c) Eight feet in width; 124

(d) One ton gross weight at time of sale. 125

(S) "Distributor" means any person authorized by a motor 126
vehicle manufacturer to distribute new motor vehicles to 127
licensed new motor vehicle dealers, but does not mean a person 128
who only assembles or installs a body, special equipment unit, 129
finishing trim, or accessories on a motor vehicle chassis 130
supplied by a manufacturer or distributor. 131

(T) "Flea market" means a market place, other than a 132
dealer's location licensed under this chapter, where a space or 133
location is provided for a fee or compensation to a seller to 134
exhibit and offer for sale or trade, motor vehicles to the 135

general public.	136
(U) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.	137 138 139 140 141
<u>"Franchise" does not include a recreational vehicle franchise.</u>	142
(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. <u>"Franchisee" does not include a recreational vehicle franchisee.</u>	143 144 145 146 147
(W) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee. <u>"Franchisor" does not include a recreational vehicle franchisor.</u>	148 149 150 151
(X) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.	152 153 154
(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.	155 156 157 158 159
(Z) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.	160 161
(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	162 163 164

in section 1301.201 of the Revised Code, including, but not 165
limited to, the duty to act in a fair and equitable manner so as 166
to guarantee freedom from coercion, intimidation, or threats of 167
coercion or intimidation; provided however, that recommendation, 168
endorsement, exposition, persuasion, urging, or argument shall 169
not be considered to constitute a lack of good faith. 170

(BB) "Coerce" means to compel or attempt to compel by 171
failing to act in good faith or by threat of economic harm, 172
breach of contract, or other adverse consequences. Coerce does 173
not mean to argue, urge, recommend, or persuade. 174

(CC) "Relevant market area" means any area within a radius 175
of ten miles from the site of a potential new dealership, except 176
that for manufactured home or recreational vehicle dealerships 177
the radius shall be twenty-five miles. The ten-mile radius shall 178
be measured from the dealer's established place of business that 179
is used exclusively for the purpose of selling, displaying, 180
offering for sale, or dealing in motor vehicles. 181

(DD) "Wholesale" or "at wholesale" means the act or 182
attempted act of selling, bartering, exchanging, or otherwise 183
disposing of a motor vehicle to a transferee for the purpose of 184
resale and not for ultimate consumption by that transferee. 185

(EE) "Motor vehicle wholesaler" means any person licensed 186
as a dealer under the laws of another state and engaged in the 187
business of selling, displaying, or offering for sale used motor 188
vehicles, at wholesale, but does not mean any motor vehicle 189
dealer as defined in this section. 190

(FF) (1) "Remanufacturer" means a person who assembles or 191
installs passenger seating, walls, a roof elevation, or a body 192
extension on a conversion van with the motor vehicle chassis 193

supplied by a manufacturer or distributor, a person who modifies 194
a truck chassis supplied by a manufacturer or distributor for 195
use as a public safety or public service vehicle, a person who 196
modifies a motor vehicle chassis supplied by a manufacturer or 197
distributor for use as a limousine or hearse, or a person who 198
modifies an incomplete motor vehicle cab and chassis supplied by 199
a new motor vehicle dealer or distributor for use as a tow 200
truck, but does not mean either of the following: 201

(a) A person who assembles or installs passenger seating, 202
a roof elevation, or a body extension on a recreational vehicle 203
as defined in division (Q) and referred to in division (B) of 204
section 4501.01 of the Revised Code; 205

(b) An adaptive mobility dealer. 206

(2) For the purposes of division (FF)(1) of this section, 207
"public safety vehicle or public service vehicle" means a fire 208
truck, ambulance, school bus, street sweeper, garbage packing 209
truck, or cement mixer, or a mobile self-contained facility 210
vehicle. 211

(3) For the purposes of division (FF)(1) of this section, 212
"limousine" means a motor vehicle, designed only for the purpose 213
of carrying nine or fewer passengers, that a person modifies by 214
cutting the original chassis, lengthening the wheelbase by forty 215
inches or more, and reinforcing the chassis in such a way that 216
all modifications comply with all applicable federal motor 217
vehicle safety standards. No person shall qualify as or be 218
deemed to be a remanufacturer who produces limousines unless the 219
person has a written agreement with the manufacturer of the 220
chassis the person utilizes to produce the limousines to 221
complete properly the remanufacture of the chassis into 222
limousines. 223

(4) For the purposes of division (FF)(1) of this section, 224
"hearse" means a motor vehicle, designed only for the purpose of 225
transporting a single casket, that is equipped with a 226
compartment designed specifically to carry a single casket that 227
a person modifies by cutting the original chassis, lengthening 228
the wheelbase by ten inches or more, and reinforcing the chassis 229
in such a way that all modifications comply with all applicable 230
federal motor vehicle safety standards. No person shall qualify 231
as or be deemed to be a remanufacturer who produces hearses 232
unless the person has a written agreement with the manufacturer 233
of the chassis the person utilizes to produce the hearses to 234
complete properly the remanufacture of the chassis into hearses. 235

(5) For the purposes of division (FF)(1) of this section, 236
"mobile self-contained facility vehicle" means a mobile 237
classroom vehicle, mobile laboratory vehicle, bookmobile, 238
bloodmobile, testing laboratory, and mobile display vehicle, 239
each of which is designed for purposes other than for passenger 240
transportation and other than the transportation or displacement 241
of cargo, freight, materials, or merchandise. A vehicle is 242
remanufactured into a mobile self-contained facility vehicle in 243
part by the addition of insulation to the body shell, and 244
installation of all of the following: a generator, electrical 245
wiring, plumbing, holding tanks, doors, windows, cabinets, 246
shelving, and heating, ventilating, and air conditioning 247
systems. 248

(6) For the purposes of division (FF)(1) of this section, 249
"tow truck" means both of the following: 250

(a) An incomplete cab and chassis that are purchased by a 251
remanufacturer from a new motor vehicle dealer or distributor of 252
the cab and chassis and on which the remanufacturer then 253

installs in a permanent manner a wrecker body it purchases from 254
a manufacturer or distributor of wrecker bodies, installs an 255
emergency flashing light pylon and emergency lights upon the 256
mast of the wrecker body or rooftop, and installs such other 257
related accessories and equipment, including push bumpers, front 258
grille guards with pads and other custom-ordered items such as 259
painting, special lettering, and safety striping so as to create 260
a complete motor vehicle capable of lifting and towing another 261
motor vehicle. 262

(b) An incomplete cab and chassis that are purchased by a 263
remanufacturer from a new motor vehicle dealer or distributor of 264
the cab and chassis and on which the remanufacturer then 265
installs in a permanent manner a car carrier body it purchases 266
from a manufacturer or distributor of car carrier bodies, 267
installs an emergency flashing light pylon and emergency lights 268
upon the rooftop, and installs such other related accessories 269
and equipment, including push bumpers, front grille guards with 270
pads and other custom-ordered items such as painting, special 271
lettering, and safety striping. 272

As used in division (FF) (6) (b) of this section, "car 273
carrier body" means a mechanical or hydraulic apparatus capable 274
of lifting and holding a motor vehicle on a flat level surface 275
so that one or more motor vehicles can be transported, once the 276
car carrier is permanently installed upon an incomplete cab and 277
chassis. 278

(GG) "Operate as a new motor vehicle dealership" means 279
engaging in activities such as displaying, offering for sale, 280
and selling new motor vehicles at retail, operating a service 281
facility to perform repairs and maintenance on motor vehicles, 282
offering for sale and selling motor vehicle parts at retail, and 283

conducting all other acts that are usual and customary to the 284
operation of a new motor vehicle dealership. For the purposes of 285
this chapter only, possession of either a valid new motor 286
vehicle dealer franchise agreement or a new motor vehicle 287
dealers license, or both of these items, is not evidence that a 288
person is operating as a new motor vehicle dealership. 289

(HH) "Outdoor power equipment" means garden and small 290
utility tractors, walk-behind and riding mowers, chainsaws, and 291
tillers. 292

(II) "Remote service facility" means premises that are 293
separate from a licensed new motor vehicle dealer's sales 294
facility by not more than one mile and that are used by the 295
dealer to perform repairs, warranty work, recall work, and 296
maintenance on motor vehicles pursuant to a franchise agreement 297
entered into with a manufacturer of motor vehicles. A remote 298
service facility shall be deemed to be part of the franchise 299
agreement and is subject to all the rights, duties, obligations, 300
and requirements of Chapter 4517. of the Revised Code that 301
relate to the performance of motor vehicle repairs, warranty 302
work, recall work, and maintenance work by new motor vehicle 303
dealers. 304

(JJ) "Recreational vehicle" has the same meaning as in 305
section 4501.01 of the Revised Code. 306

(KK) "Construction equipment auctioneer" means a person 307
who holds both a valid auction firm license issued under Chapter 308
4707. of the Revised Code and a valid construction equipment 309
auction license issued under this chapter. 310

(LL) "Large construction or transportation equipment" 311
means vehicles having a gross vehicle weight rating of more than 312

ten thousand pounds and includes road rollers, traction engines, 313
power shovels, power cranes, commercial cars and trucks, or farm 314
trucks, and other similar vehicles obtained primarily from the 315
construction, mining, transportation or farming industries. 316

(MM) "Local market conditions" includes, but is not 317
limited to: 318

(1) Demographics in the franchisee's area; 319

(2) Geographical and market characteristics in the 320
franchisee's area; 321

(3) Local economic circumstances; 322

(4) The proximity of other motor vehicle dealers of the 323
same line-make; 324

(5) The proximity of motor vehicle manufacturing 325
facilities; 326

(6) The buying patterns of motor vehicle purchasers; 327

(7) Customer drive time and drive distance. 328

(NN) "Established place of business" means a permanent, 329
enclosed building or structure that meets all of the following 330
requirements: 331

(1) It is either owned, leased, or rented by the motor 332
vehicle dealer. 333

(2) It meets local zoning or municipal requirements. 334

(3) It is regularly occupied by at least one person. 335

(4) It is easily accessible to the public. 336

(5) The records and files necessary to conduct the 337
business are generally kept and maintained at the location or 338

are readily accessible and available for reasonable inspection 339
from the location. 340

"Established place of business" does not mean a residence, 341
tent, temporary stand, storage shed, lot, or any temporary 342
quarters, unless authorized by the registrar of motor vehicles. 343

(OO) "Adaptive mobility dealer" means any person engaged 344
in the business of all of the following: 345

(1) Selling at retail, displaying, offering for sale, 346
delivering, and dealing in adaptive mobility vehicles; 347

(2) Selling and installing adaptive mobility equipment, 348
related accessories, and other goods and services to meet the 349
automotive adaptive mobility needs of drivers and passengers 350
with disabilities; 351

(3) Providing maintenance and repair services for adaptive 352
mobility vehicles and adaptive mobility equipment. 353

(PP) "Adaptive mobility equipment" means the mechanical or 354
electronic devices or parts that are designed to facilitate the 355
use of a motor vehicle by a person who is aging or a person with 356
disabilities, in accordance with 49 C.F.R. part 571, and that 357
are permanently attached to or incorporated into the motor 358
vehicle. 359

(QQ) "Recreational vehicle dealer" means a motor vehicle 360
dealer licensed under this chapter that deals exclusively in 361
recreational vehicles. 362

(RR) "Recreational vehicle distributor" means a 363
distributor licensed under this chapter that purchases new 364
recreational vehicles for resale to recreational vehicle 365
dealers. 366

(SS) "Recreational vehicle manufacturer" means a 367
manufacturer licensed under this chapter that engages in the 368
manufacturing of recreational vehicles. 369

(TT) "Recreational vehicle franchise" means any written 370
agreement, contract, or understanding between any recreational 371
vehicle manufacturer or recreational vehicle distributor engaged 372
in commerce and any recreational vehicle dealer that purports to 373
fix the legal rights and liabilities of the parties to such 374
agreement, contract, or understanding. 375

(UU) "Recreational vehicle franchisee" means a person who 376
receives new recreational vehicles from the recreational vehicle 377
franchisor under a recreational vehicle franchise and who 378
offers, sells, and provides service for such new recreational 379
vehicles to the general public. 380

(VV) "Recreational vehicle franchisor" means a new 381
recreational vehicle manufacturer or recreational vehicle 382
distributor who supplies new recreational vehicles under a 383
recreational vehicle franchise to a recreational vehicle 384
franchisee. 385

Sec. 4517.10. At the time the registrar of motor vehicles 386
grants the application of any person for a license as motor 387
vehicle dealer, motor vehicle leasing dealer, distributor, motor 388
vehicle auction owner, or motor vehicle salesperson, the 389
registrar shall issue to the person a license. The registrar 390
shall prescribe different forms for the licenses of motor 391
vehicle dealers, motor vehicle leasing dealers, distributors, 392
motor vehicle auction owners, and motor vehicle salespersons, 393
and all licenses shall include the name and post-office address 394
of the person licensed. 395

The fee for a motor vehicle dealer's license and a motor
vehicle leasing dealer's license shall be fifty dollars. In
addition to the license fee, the registrar shall collect from
each applicant for an initial motor vehicle dealer's license and
motor vehicle leasing dealer's license a separate fee in an
amount equal to the last assessment required by section 4505.181
of the Revised Code for all motor vehicle dealers and motor
vehicle leasing dealers. The registrar shall deposit the
separate fee into the state treasury to the credit of the title
defect recision fund created in section 1345.52 of the Revised
Code. The fee for a salesperson's license shall be ten dollars.
The fee for a motor vehicle auction owner's license shall be one
hundred dollars for each location. The fee for a distributor's
license shall be one hundred dollars for each distributorship.
In all cases, the fee shall accompany the application for
license.

The registrar may require each applicant for a license
issued under this chapter to pay an additional fee, which shall
be used by the registrar to pay the costs of obtaining a record
of any arrests and convictions of the applicant from the Ohio
bureau of identification and investigation. The amount of the
fee shall be equal to that paid by the registrar to obtain such
record.

If a motor vehicle dealer or a motor vehicle leasing
dealer has more than one place of business in the county, the
dealer shall make application, in such form as the registrar
prescribes, for a certified copy of the license issued to the
dealer for each place of business operated. In the event of the
loss, mutilation, or destruction of a license issued under
~~sections 4517.01 to 4517.65 of the Revised Code~~this chapter, any
licensee may make application to the registrar, in such form as

the registrar prescribes, for a duplicate copy thereof. The fee 427
for a certified or duplicate copy of a motor vehicle dealer's, 428
motor vehicle leasing dealer's, distributor's, or auction 429
owner's license, is two dollars, and the fee for a duplicate 430
copy of a salesperson's license is one dollar. All fees for such 431
copies shall accompany the applications. 432

Beginning on September 16, 2004, all motor vehicle 433
dealers' licenses, motor vehicle leasing dealers' licenses, 434
distributors' licenses, auction owners' licenses, and all 435
salespersons' licenses issued or renewed shall expire biennially 436
on a day within the two-year cycle that is prescribed by the 437
registrar, unless sooner suspended or revoked. Before the first 438
day after the day prescribed by the registrar in the year that 439
the license expires, each licensed motor vehicle dealer, motor 440
vehicle leasing dealer, distributor, and auction owner and each 441
licensed salesperson, in the year in which the license will 442
expire, shall file an application, in such form as the registrar 443
prescribes, for the renewal of such license. The fee for 444
renewing a motor vehicle dealer's license and a motor vehicle 445
leasing dealer's license shall be fifty dollars. The fee for 446
renewing a salesperson's license shall be ten dollars. The fee 447
for renewing a motor vehicle auction owner's license shall be 448
one hundred dollars for each location. The fee for renewing a 449
distributor's license shall be one hundred dollars for each 450
distributorship. In all cases the license renewal fee shall 451
accompany the renewal application. 452

Any salesperson's license shall be suspended upon the 453
termination, suspension, or revocation of the license of the 454
motor vehicle dealer for whom the salesperson is acting, or upon 455
the salesperson leaving the service of the motor vehicle dealer; 456
provided that upon the termination, suspension, or revocation of 457

the license of the motor vehicle dealer for whom the salesperson 458
is acting, or upon the salesperson leaving the service of a 459
licensed motor vehicle dealer, the licensed salesperson, upon 460
entering the service of any other licensed motor vehicle dealer, 461
shall make application to the registrar, in such form as the 462
registrar prescribes, to have the salesperson's license 463
reinstated, transferred, and registered as a salesperson for the 464
other dealer. If the information contained in the application is 465
satisfactory to the registrar, the registrar shall have the 466
salesperson's license reinstated, transferred, and registered as 467
a salesperson for the other dealer. The fee for the 468
reinstatement and transfer of license shall be two dollars. No 469
license issued to a motor vehicle dealer, motor vehicle leasing 470
dealer, auction owner, or salesperson, under ~~sections 4517.01 to~~ 471
~~4517.65 of the Revised Code~~ this chapter shall be transferable 472
to any other person. 473

Each motor vehicle dealer, motor vehicle leasing dealer, 474
distributor, and auction owner shall keep the dealer's or 475
auction owner's license or a certified copy thereof posted in a 476
conspicuous place in each place of business. A dealer shall keep 477
a current list of the dealer's licensed salespersons, showing 478
the names, addresses, and serial numbers of their licenses and 479
shall make the list available upon request. Each salesperson 480
shall keep the salesperson's license or a certified copy thereof 481
at the salesperson's place of business and shall provide such 482
license or copy upon demand to any inspector of the bureau of 483
motor vehicles, state highway patrol trooper, police officer, or 484
person with whom the salesperson seeks to transact business as a 485
motor vehicle salesperson. 486

The notice of refusal to grant a license shall disclose 487
the reason for refusal. 488

Sec. 4517.32. Subject to sections 119.01 to 119.12 and 489
section 4517.35 of the Revised Code, the motor vehicle dealers 490
board may make such reasonable rules as are necessary to carry 491
out and effect its duties under this chapter, including such 492
rules as are necessary relating to the time, place, and manner 493
of conducting hearings on the issuance, suspension, or 494
revocation of licenses, and on protests filed under sections 495
4517.50, 4517.52, 4517.53, 4517.54, ~~and~~ 4517.56, 4517.72, and 496
4517.73 of the Revised Code. The board may hear testimony in 497
matters relating to the duties imposed upon it and the president 498
and the secretary of the board may administer oaths. The board 499
may require any proof it considers advisable and may require the 500
attendance of such witnesses and the production of such books, 501
records, and papers as it desires at any hearing before it or 502
relating to any matter that it has authority to investigate. The 503
board may, through its secretary, issue a subpoena for any 504
witness, or a subpoena duces tecum for the production of any 505
books, records, and papers, directed to the sheriff of the 506
county where such witness resides or is found, which subpoena 507
shall be served and returned in the same manner as a subpoena in 508
a criminal case. 509

The fees of the sheriff shall be the same as that allowed 510
in the court of common pleas in criminal cases. Witnesses shall 511
be paid the fees and mileage provided for under section 119.094 512
of the Revised Code. The fees and mileage shall be paid in the 513
same manner as other expenses of the board. 514

Depositions of witnesses residing within or without the 515
state may be taken by the board in the manner prescribed for 516
like depositions in civil actions in the court of common pleas. 517
In any case of disobedience to or neglect of any subpoena served 518
on any person, or the refusal of any witness to testify to any 519

matter regarding which the witness may lawfully be interrogated, 520
the court of common pleas of any county where such disobedience, 521
neglect, or refusal occurs, or any judge thereof on application 522
of the secretary of the board, shall compel obedience by 523
attachment proceedings for contempt as in the case of 524
disobedience of a subpoena issued from such court or a refusal 525
to testify therein. 526

Sec. 4517.33. The motor vehicle dealers board shall hear 527
appeals which may be taken from an order of the registrar of 528
motor vehicles, refusing to issue a license. All appeals from 529
any order of the registrar refusing to issue any license upon 530
proper application must be taken within thirty days from the 531
date of the order, or the order is final and conclusive. All 532
appeals from orders of the registrar must be by petition in 533
writing and verified under oath by the applicant whose 534
application for license has been denied, and must set forth the 535
reason for the appeal and the reason why, in the petitioner's 536
opinion, the order of the registrar is not correct. In such 537
appeals the board may make investigation to determine the 538
correctness and legality of the order of the registrar. 539

The board may make rules governing its actions relative to 540
the suspension and revocation of dealers', motor vehicle leasing 541
dealers', distributors', auction owners', salespersons', and 542
construction equipment auction licenses, and may, upon its own 543
motion, and shall, upon the verified complaint in writing of any 544
person, investigate the conduct of any licensee under sections 545
4517.01 to ~~4517.65~~4517.79 of the Revised Code. The board shall 546
suspend or revoke or notify the registrar to refuse to renew any 547
dealer's, motor vehicle leasing dealer's, distributor's, auction 548
owner's, salesperson's, or construction equipment auction 549
license, if any ground existed upon which the license might have 550

been refused, or if a ground exists that would be cause for 551
refusal to issue a license. 552

The board may suspend or revoke any license if the 553
licensee has in any manner violated the rules issued pursuant to 554
sections 4517.01 to ~~4517.65~~4517.79 of the Revised Code, or has 555
violated section 4501.02 of the Revised Code, or has been 556
convicted of committing a felony or violating any law that in 557
any way relates to the selling, taxing, licensing, or regulation 558
of sales of motor vehicles. 559

Within ten days after receipt of an abstract from a county 560
court judge, mayor of a mayor's court, or clerk of a court of 561
record indicating a violation of division (D) of section 562
4513.241 of the Revised Code, the board shall determine whether 563
the person named in the abstract is licensed under this chapter 564
and, if the person is so licensed, shall further determine 565
whether the person previously has been convicted of or pleaded 566
guilty to a violation of that section. If the person previously 567
has been convicted of or pleaded guilty to a violation of that 568
section, the board, in accordance with Chapter 119. of the 569
Revised Code but without a prior hearing, shall suspend the 570
person's license for a period of not more than one hundred 571
eighty days. 572

Sec. 4517.34. The attorney general and the prosecuting 573
attorneys of the several counties shall assist the registrar of 574
motor vehicles upon ~~his~~the registrar's request, and shall 575
assist the motor vehicle dealers board, upon its request, in 576
enforcing sections 4517.01 to ~~4517.65~~4517.79 of the Revised 577
Code, and in prosecuting and defending ~~proceedings~~proceedings 578
under such sections. 579

Sec. 4517.49. Nothing in sections 4517.50 to 4517.65 of 580

the Revised Code shall be construed to apply to manufacturers or 581
dealers of ~~manufactured~~ either of the following: 582

(A) Manufactured homes as defined in and manufactured 583
pursuant to the "National Manufactured Housing Construction and 584
Safety Standards Act of 1974," 94 Stat. 1641, 42 U.S.C.A. 5401, 585
as amended; 586

(B) Recreational vehicles. 587

Sec. 4517.52. (A) Each franchisor shall fulfill warranty 588
and recall obligations of repairing and servicing motor 589
vehicles, including all parts and components manufactured for 590
installation in any motor vehicle. 591

(B) Each franchisor shall compensate each of its 592
franchisees for labor and parts used to fulfill warranty and 593
recall obligations of repair and servicing at rates not less 594
than the rates charged by the franchisee to its retail customers 595
for warranty-like labor and parts for nonwarranty work. A 596
franchisee, other than a franchisee that deals in recreational 597
vehicles, may establish rates of compensation for labor 598
performed and parts used by the franchisee for purposes of this 599
section if all of the following apply: 600

(1) The franchisee submits to the franchisor either of the 601
following: 602

(a) One hundred sequential nonwarranty service repair 603
orders for warranty-like repairs that have been paid by a 604
customer and closed by the time of submission; 605

(b) All service repair orders for warranty-like repairs, 606
that have been paid by a customer and closed by the time of 607
submission, for a period of ninety consecutive days. 608

A franchisee either may submit a set of repair orders for purposes of calculating both its retail labor rate and its retail parts markup percentage, or may submit separate sets of repair orders for purposes of calculating its retail labor rate and its retail parts markup percentage separately. The repair orders submitted under division (B) (1) (a) or (b) of this section must be from a period occurring not more than one hundred eighty days before the submission.

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

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

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

(4) In calculating the retail labor rate in division (B)

(2) of this section and the retail parts markup percentage in	639
division (B) (3) of this section, the franchisee omits charges	640
for any of the following from the calculation:	641
(a) Manufacturer or distributor special events, specials,	642
or promotional discounts for retail customer repairs;	643
(b) Parts sold, or repairs performed, at wholesale;	644
(c) Routine maintenance that is not covered under a retail	645
customer warranty, including the replacement of fluids, filters,	646
and belts that are not provided in the course of other repairs;	647
(d) Items that do not have individual part numbers, such	648
as nuts, bolts, and fasteners;	649
(e) Vehicle reconditioning;	650
(f) Accessories;	651
(g) Repairs of damage caused by a collision, a road	652
hazard, the force of the elements, vandalism, theft, or operator	653
negligence;	654
(h) Parts sold or repairs performed for insurance	655
carriers;	656
(i) Vehicle emission or safety inspections required by	657
law;	658
(j) Goodwill or policy repairs or replacements;	659
(k) Repairs for which volume discounts have been	660
negotiated with government agencies or insurance carriers;	661
(l) Repairs performed on vehicles from a different line-	662
make;	663
(m) Replacement of tires or related elements.	664

(5) The franchisee provides notice of its retail labor rate and retail parts markup percentage calculated in accordance with this section to the franchisor.

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

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

(3) If the franchisor contests a rate or markup percentage

established by the franchisee under division (B) of this 695
section, the franchisor and franchisee shall resolve the 696
disagreement through the franchisor's internal dispute 697
resolution process. However, the franchisee may appeal a 698
determination made as part of the dispute resolution process to 699
a court of competent jurisdiction. Any rate or markup percentage 700
established either through an internal dispute resolution 701
process or by a court as part of an appeal under this section 702
shall be applied retroactively to govern reimbursement for labor 703
or parts, as applicable, beginning thirty days after the date 704
the franchisee submitted the disputed rate or markup percentage 705
under division (B) of this section. 706

(4) A franchisee shall not establish or modify a retail 707
labor rate or retail parts markup percentage more frequently 708
than once per calendar year. 709

(D) When calculating the compensation that must be 710
provided to a franchisee for labor and parts used to fulfill 711
warranty and recall obligations under this section, all of the 712
following apply: 713

(1) The franchisor shall use time allowances for the 714
diagnosis and performance of the warranty and recall work and 715
service that are reasonable and adequate for the work or 716
services to be performed by a qualified technician. 717

(2) The franchisor shall use any retail labor rate and any 718
retail parts markup percentage established in accordance with 719
this section in calculating the compensation. 720

(3) If the franchisor provided a part or component to the 721
franchisee at no cost to use in performing repairs under a 722
recall, campaign service action, or warranty repair, the 723

franchisor shall provide to the franchisee an amount equal to 724
the retail parts markup for that part or component, which shall 725
be calculated by multiplying the dealer cost for the part or 726
component as listed in the franchisor's price schedule by the 727
retail parts markup percentage. 728

(4) A franchisor shall not assess penalties, surcharges, 729
or similar costs to a franchisee, transfer or shift any costs to 730
a franchisee, limit allocation of vehicles or parts to a 731
franchisee, or otherwise take retaliatory action against a 732
franchisee based on any franchisee's exercise of its rights 733
under this section. It is the burden of the franchisee to prove 734
any claims under division (D)(4) of this section by a 735
preponderance of the evidence. Nothing in this section prohibits 736
a franchisor from increasing the price of a vehicle or part in 737
the normal course of business. 738

(E) A franchisor shall not require a franchisee to 739
establish a retail labor rate or retail parts markup percentage 740
using any method that is unduly burdensome or time consuming, or 741
require the use of information that is unduly burdensome or time 742
consuming to obtain, including part-by-part or transaction-by- 743
transaction calculations or utilization of the franchisee's 744
financial statement. Further, no franchisor shall unilaterally 745
calculate a retail labor rate or retail parts markup percentage 746
for a franchisee. 747

~~Divisions (A), (C), (D), and (E) of this section do not 748
apply to franchisors or franchisees who deal in recreational 749
vehicles. 750~~

Sec. 4517.541. (A) Each franchisor proposing to terminate, 751
cancel, discontinue, or not renew a franchise based upon any of 752
the following shall send written notice by certified mail of the 753

proposed action to the franchisee at such time as may be 754
necessary to ensure that the notice is received not later than 755
twelve months before the effective date of the proposed action, 756
unless prohibited by law or regulation: 757

(1) As a result of any change in ownership, operation, or 758
control of all or any part of the business of the manufacturer, 759
factory branch, distributor, or distributor branch, whether by 760
sale or transfer of assets, corporate stock or other equity 761
interest, or by assignment, merger, consolidation, combination, 762
joint venture, redemption, operation of law, or otherwise; 763

(2) The termination, suspension, or cessation of a part or 764
all of the business operations of the manufacturer, factory 765
branch, distributor, or distributor branch; 766

(3) Discontinuance of the sale of a line-make, series, 767
brand or class of vehicles or a change in distribution system by 768
the manufacturer, whether through a change in distributors or 769
the manufacturer's decision to cease conducting business through 770
a distributor altogether. 771

(B) Each notice described in division (A) of this section 772
shall set forth the specific grounds for the proposed 773
termination, cancellation, or refusal to continue or renew a 774
franchise. 775

~~(C) This section shall not apply to franchisors or 776
franchisees who deal in recreational vehicles. 777~~

Sec. 4517.542. (A) Except as provided in division (A) (6) 778
(c) of this section, upon the termination, cancellation, 779
discontinuance, or nonrenewal of any franchise by the franchisor 780
pursuant to section 4517.541 of the Revised Code, the 781
manufacturer shall pay fair and reasonable compensation to the 782

new motor vehicle dealer for at least the following: 783

(1) (a) The franchisee's net acquisition cost for any new, 784
undamaged, unaltered, and unsold vehicle in the franchisee's 785
inventory of the current model year or the model year preceding 786
the current model year, purchased from the franchisor or another 787
franchisee of the same line-make in the ordinary course of 788
business prior to receipt of a notice of termination, 789
cancellation, discontinuance, or nonrenewal, provided the 790
vehicle has less than five hundred miles registered on the 791
odometer, including mileage incurred in delivery from the 792
franchisor or in transporting the vehicle between new motor 793
vehicle dealers for sale; 794

(b) Notwithstanding division (A) (1) (a) of this section, a 795
vehicle damaged prior to delivery to the franchisee by the 796
manufacturer or its agent shall be eligible for repurchase in 797
accordance with this section; 798

(c) The franchisor shall pay the fair and reasonable 799
compensation for the items described in division (A) (1) of this 800
section, including the franchisee's costs of handling, packing, 801
loading, and transporting an item for return to the franchisor, 802
within thirty days after the effective date of the termination, 803
cancellation, discontinuance, or nonrenewal so long as the 804
franchisee can provide evidence of good and clear title upon 805
return of the items to the franchisor. If there is a lien on the 806
property, the franchisor may make payment jointly to the 807
franchisee and any party having a security interest or ownership 808
interest in the property. 809

(2) The franchisee's net acquisition cost of each new, 810
unused, undamaged, and unsold part or accessory purchased from 811
the manufacturer or a source recommended or approved by the 812

franchisor if the part or accessory is in the current parts 813
catalog. In the case of sheet metal, a comparable substitute for 814
the original package may be used. If the part or accessory was 815
purchased by the franchisee from an outgoing authorized 816
franchisee, the franchisor shall purchase the part or accessory 817
at the depreciated value price or the price in the current parts 818
catalog, whichever is less. 819

(3) The franchisee's net acquisition cost of each 820
undamaged sign if the sign bears a common name, trade name, or 821
trademark of the manufacturer, the manufacturer required the new 822
motor vehicle dealer to acquire the sign, and the sign was 823
acquired by the new motor vehicle dealer from the manufacturer 824
or a source approved by the manufacturer. A manufacturer shall 825
purchase from the new motor vehicle dealer at fair market price 826
poles or other hardware used to erect a sign if the manufacturer 827
required the sign to be free standing and not include a 828
trademark or trade name other than that of the manufacturer. For 829
purposes of division (A) (3) of this section, fair market price 830
is equal to the new motor vehicle dealer's original cost, 831
reduced by one-tenth of the original cost for each year of 832
ownership. 833

(4) The franchisee's net acquisition cost of all 834
equipment, special tools, automotive service equipment, and 835
other items bearing the manufacturer's trademark that were 836
required by the manufacturer or distributor, and purchased from 837
the manufacturer or a source recommended or approved by the 838
manufacturer. The net acquisition cost shall be reduced over a 839
period of five years at a rate of twenty per cent per year. 840

(5) The franchisor shall pay the fair and reasonable 841
compensation for the items described in divisions (A) (2), (3), 842

and (4) of this section, including the cost of handling, 843
packing, loading, and transporting an item for return to the 844
franchisor, within sixty days after the effective date of 845
termination, cancellation, discontinuance, or nonrenewal, so 846
long as the franchisee is able to provide evidence of good and 847
clear title upon return of the items to the franchisor. The 848
franchisor may make payment jointly to the franchisee and any 849
party having a security interest or ownership interest in the 850
property. 851

(6) (a) Subject to division (A) (6) (b) of this section, fair 852
market value of the franchise that is at least equivalent to the 853
fair market value of the franchise on the day before the 854
manufacturer announces the action that results in termination, 855
cancellation, discontinuance, or nonrenewal. 856

(b) If the termination, cancellation, discontinuance, or 857
nonrenewal is due to a manufacturer's change in distributors, 858
the manufacturer may avoid paying fair market value to the new 859
motor vehicle dealer if the new distributor or the manufacturer 860
offers the new motor vehicle dealer a franchise agreement with 861
terms substantially similar to terms offered to other same line- 862
make new motor vehicle dealers. 863

(c) The manufacturer is only required to pay fair market 864
value of the franchise if the termination, cancellation, 865
discontinuance, or nonrenewal of the franchise agreement is the 866
result of an action described in division (A) of section 867
4517.541 of the Revised Code. 868

(B) In the event the franchisor does not pay the 869
franchisee the amounts specified within the time required by 870
this section for an involuntary termination, the manufacturer 871
shall pay or reimburse the new motor vehicle dealer for any 872

costs of storing, insuring, and floor planning any of the 873
property described in this section from the effective date of 874
termination, cancellation, discontinuance, or nonrenewal until 875
the date the franchisee is paid and the property is transported, 876
in addition to transportation charges associated with the 877
manufacturer's repurchase obligations. The manufacturer shall 878
not charge the new motor vehicle dealer any handling, 879
restocking, or other similar costs or fees associated with items 880
repurchased by the manufacturer under division (A) of this 881
section. 882

(C) Dealership facilities assistance shall be paid as 883
follows: 884

(1) If the new motor vehicle dealer is leasing the 885
dealership facilities from the manufacturer or a subsidiary of 886
the manufacturer, the manufacturer or subsidiary shall forgive 887
any future lease obligations. 888

(2) Subject to division (C) (4) of this section, if the new 889
motor vehicle dealer is leasing the dealership facilities from a 890
lessor other than the manufacturer, the manufacturer shall pay 891
the new motor vehicle dealer a sum equivalent to the rent for 892
the unexpired term of the lease or twelve months' rent, 893
whichever is less. 894

(3) Subject to division (C) (4) of this section, if the new 895
motor vehicle dealer owns the dealership facilities, the 896
manufacturer shall pay the new motor vehicle dealer a sum 897
equivalent to the reasonable rental value of the dealership 898
facilities for twelve months. 899

(4) In order to be entitled to facilities assistance from 900
the manufacturer as provided in divisions (C) (2) and (3) of this 901

section, the new motor vehicle dealer shall mitigate damages by 902
listing the dealership facilities for lease or sublease with a 903
licensed real estate agent or retail industry broker within 904
thirty days after the effective date of the termination, 905
cancellation, discontinuance, or nonrenewal of the franchise and 906
thereafter by reasonably cooperating with the real estate agent 907
or retail industry broker in the performance of the agent's or 908
broker's duties. If the new motor vehicle dealer is able to 909
lease or sublease the dealership facilities, the new motor 910
vehicle dealer shall pay the manufacturer the net revenue 911
received from the mitigation up to the total amount of 912
facilities assistance that the new motor vehicle dealer has 913
received from the manufacturer pursuant to division (C) (2) or 914
(3) of this section. 915

(5) If the termination, cancellation, discontinuance, or 916
nonrenewal relates to fewer than all of the franchises operated 917
by the new motor vehicle dealer at a single location, the amount 918
of facilities assistance that the manufacturer is required to 919
pay the new motor vehicle dealer under division (C) of this 920
section shall be based on the percentage of total square footage 921
attributed to the line-make being terminated, canceled, 922
discontinued, or not renewed. 923

(6) The manufacturer shall pay the dealership facilities 924
assistance under division (C) of this section within sixty days 925
after the effective date of termination, cancellation, 926
discontinuance, or nonrenewal. The franchisor may make payment 927
jointly to the franchisee and any party having a security 928
interest or ownership interest in the property. 929

(7) The manufacturer is not required to pay dealership 930
facilities assistance if the termination, cancellation, 931

discontinuance, or nonrenewal of the franchise agreement is the 932
result of insolvency of the franchisee or the filing of any 933
petition by or against the franchisee under any bankruptcy or 934
receivership law, is the result of any unlawful business 935
practice after written warning thereof, is the result of the 936
franchisee ceasing business operations, or is the result of the 937
voluntary act of the new motor vehicle dealer. 938

(D) This section and section 4517.541 of the Revised Code 939
shall not apply to a termination, cancellation, discontinuance, 940
or nonrenewal of a franchise that results from the sale of the 941
assets or stock of the motor vehicle dealership from a 942
franchisee to a franchisee or prospective franchisee. 943

(E) This section shall not apply to any noncoerced 944
voluntary termination. A franchisee that voluntarily terminates 945
the franchise agreement remains eligible for any termination 946
assistance provided for voluntary terminations in the 947
franchisee's franchise agreement with the franchisor. 948

(F) A franchise shall continue in full force and operation 949
notwithstanding a change, in whole or in part, of an established 950
plan of distribution or system of distribution of the motor 951
vehicles offered for sale under the franchise. The appointment 952
of a new manufacturer, factory branch, distributor, or 953
distributor branch for motor vehicles offered for sale under the 954
franchise agreement shall be considered to be a change of an 955
established plan of distribution or system of distribution. 956

(G) Disputes arising between a manufacturer or distributor 957
and a new motor vehicle dealer under this section and section 958
4517.541 of the Revised Code shall be resolved by submitting the 959
dispute to the manufacturer's internal dispute resolution 960
process if one is available. If no such process exists, the 961

dispute shall be submitted to a court of competent jurisdiction. 962
Either party may appeal the decision of the manufacturer's 963
internal dispute resolution process to a court of competent 964
jurisdiction. 965

(H) Nothing in this section or section 4517.541 of the 966
Revised Code shall be construed as prohibiting a manufacturer or 967
distributor from changing, adding or deleting models, 968
specifications, model names, numbers or identifying marks, or 969
similar characteristics of the new vehicles it markets, provided 970
that the change, addition, or deletion does not result in the 971
termination or discontinuance of a line-make, series, brand, or 972
class of new vehicle. 973

~~(I) This section shall not apply to franchisors or 974
franchisees who deal in recreational vehicles. 975~~

~~(J) As used in this section: 976~~

(1) "Net acquisition cost" means the franchised dealer 977
cost for a new and unsold motor vehicle in a dealer's inventory 978
plus any charges by the manufacturer or distributor for 979
destination, distribution, or delivery, and taxes, less all 980
allowances paid or credited to the franchised dealer by the 981
manufacturer or distributor. 982

(2) "Line-make" means a collection of models, series, or 983
groups of motor vehicles manufactured by or for a particular 984
manufacturer, distributor, or importer that are offered for 985
sale, lease, or distribution pursuant to a common brand name or 986
mark. Multiple brand names or marks may constitute a single 987
line-make, but only when included in a common dealer agreement 988
and when the manufacturer, distributor, or importer offers such 989
vehicles bearing the multiple names or marks together, and not 990

separately, to its authorized dealers.	991
Sec. 4517.55. (A) In determining whether good cause has	992
been established by the franchisor for terminating, cancelling,	993
or failing to continue or renew a franchise, the motor vehicle	994
dealers board shall take into consideration the existing	995
circumstances, including, but not limited to:	996
(1) The amount of retail sales transacted by the	997
franchisee during a five-year period immediately preceding such	998
notice as compared to the business available to the franchisee;	999
(2) The investment necessarily made and obligations	1000
incurred by the franchisee to perform its part of the franchise;	1001
(3) The permanency of the franchisee's investment;	1002
(4) Whether it is injurious or beneficial to the public	1003
interest for the franchise to be modified or replaced, or the	1004
business of the franchisee disrupted;	1005
(5) Whether the franchisee has adequate motor vehicle	1006
sales and service facilities, equipment, vehicle parts, and	1007
qualified service personnel to reasonably provide for the needs	1008
of the consumers for the motor vehicles handled by the	1009
franchisee, and is rendering adequate service to the public;	1010
(6) Whether the franchisee fails to fulfill the warranty	1011
obligations of the franchisor required to be performed by the	1012
franchisee;	1013
(7) The extent and materiality of the franchisee's failure	1014
to comply with the terms of the franchise and the reasonableness	1015
and fairness of the franchise terms;	1016
(8) Whether the owners of the new motor vehicle dealer had	1017
actual knowledge of the facts and circumstances upon which	1018

termination, cancellation, discontinuance, or nonrenewal is based;	1019 1020
(9) Whether the proposed termination, cancellation, discontinuance, or nonrenewal constitutes discriminatory enforcement of the franchise agreement.	1021 1022 1023
(B) Notwithstanding the terms, conditions, or provisions of any franchise or waiver, the following do not constitute sufficient good cause for terminating, cancelling, or failing to continue or renew a franchise:	1024 1025 1026 1027
(1) Refusal by the franchisee to purchase or accept delivery of any new motor vehicle, parts, accessories, or any other commodity or service not ordered by the franchisee;	1028 1029 1030
(2) The fact that the franchisee or the owner of any interest therein, owns, has an investment in, participates in the management of, or holds a license for the sale of the same or any other line-make of new motor vehicle;	1031 1032 1033 1034
(3) The sale, transfer, or issuance of any equity or debenture issue, or the transfer or issuance of any security or shares of stock in a new motor vehicle dealer to any person, whenever the sale, issuance, or transfer does not result in a change in the controlling ownership of the dealership;	1035 1036 1037 1038 1039
(4) A change by the franchisee in the administrative or executive management of the dealership;	1040 1041
(5) Failure of the franchisee to achieve any unreasonable or discriminatory performance criteria;	1042 1043
(6) A loss of trust by the franchisor absent circumstances or facts that would be a material breach of the franchise agreement and that material breach is known and ratified by the	1044 1045 1046

owners of the new motor vehicle dealer; 1047

(7) The failure of a franchisee to maintain a motor 1048
vehicle floor plan line of credit, unless the franchisee fails 1049
to maintain a floor plan line of credit for one hundred twenty 1050
days or longer; 1051

(8) The export of new motor vehicles to a foreign country, 1052
unless division (A) (20) (b) of section 4517.59 of the Revised 1053
Code applies. 1054

(C) Prior to a final determination by a franchisor that a 1055
franchisee has failed to achieve any performance criteria for 1056
purposes of any action under this section, the franchisor shall 1057
give the franchisee a reasonable opportunity to present evidence 1058
demonstrating the effect of local market conditions that 1059
materially and adversely affected the franchisee's performance. 1060
If a franchisor makes a final decision related to performance 1061
criteria without allowing the franchisee the reasonable 1062
opportunity to present evidence, or does not consider the effect 1063
of the local market conditions on the franchisee's performance, 1064
the performance criteria is deemed unreasonable under division 1065
(B) (5) of this section. 1066

~~(D) Divisions (B) (6) to (8) and (C) of this section shall 1067
not apply to franchisors or franchisees who deal in recreational 1068
vehicles. 1069~~

Sec. 4517.59. (A) Notwithstanding the terms, provisions, 1070
or conditions of any agreement, franchise, or waiver, no 1071
franchisor shall: 1072

(1) In acting or purporting to act under the terms, 1073
provisions, or conditions of a franchise or in terminating, 1074
canceling, or failing to renew a franchise, fail to act in good 1075

faith; 1076

(2) Prevent a franchisee from changing administrative or 1077
executive management, provided such personnel satisfy reasonable 1078
and objective standards formulated and objectively applied by 1079
the franchisor; 1080

(3) Restrict the sale of any equity or debenture issue or 1081
the transfer of any securities in a dealership, or in any way 1082
prevent or attempt to prevent the transfer, sale, or issuance of 1083
shares of stock or debentures to any person, if the basic 1084
financial requirements of the franchisor have been equalled at 1085
the time of the execution of the franchise agreement and 1086
continued in effect, and if the sale, transfer, or issuance does 1087
not have the effect of accomplishing a sale of a controlling 1088
interest in the dealership; 1089

(4) Coerce or threaten any franchisee by refusing or 1090
failing to renew or extend a lease of premises where the fee or 1091
right of possession is in the absolute control of the franchisor 1092
and the franchisee upon request or demand of the franchisor 1093
fails to expand its facilities, increase sales personnel, 1094
purchase more parts or accept programs for sales and operation 1095
of the franchisee's business, when such demand is not 1096
reasonable, fair, and equitable under all circumstances, or 1097
tends to depreciate the franchisee's equity; 1098

(5) Sell, lease, or rent goods or motor vehicles, or 1099
render any service normally performed and required of 1100
franchisees under the franchise agreement with the franchisor, 1101
in unfair competition with the franchisee, except that this 1102
division does not apply to a sale, lease, or rental to, or 1103
service performed for, an agency of federal, state, or local 1104
government; 1105

(6) Do any of the following:	1106
(a) Coerce, or attempt to coerce, any franchisee to accept delivery of any motor vehicle, parts, accessories, or any other commodities connected therewith which are not ordered by said franchisee;	1107 1108 1109 1110
(b) Withhold or delay delivery of motor vehicles out of the ordinary course of business;	1111 1112
(c) Discriminate against any franchisee in the allocation or through the withholding from delivery of certain models of motor vehicles ordered by a franchisee out of the ordinary course of business;	1113 1114 1115 1116
(d) Unfairly change or amend unilaterally a franchisee's allotment of motor vehicles or quota, sales expectancy, sales penetration, or geographic area of responsibility without reasonable cause. Prior to changing or amending a franchisee's geographic area of responsibility, the franchisor shall give the franchisee, other than a franchisee who deals in recreational vehicles, a reasonable opportunity to present relevant evidence demonstrating the effect of local market conditions that may materially and adversely affect the franchisee's proposed new geographic area of responsibility. Any final decision made by the franchisor without considering such local market conditions shall be considered unreasonable.	1117 1118 1119 1120 1121 1122 1123 1124 1125 1126 1127 1128
(e) Coerce a franchisee by any means to participate or contribute to any local or national advertising fund;	1129 1130
(f) Employ any coercive techniques for any other purposes such as obtaining franchisee participation in contests, "giveaways," or sales devices.	1131 1132 1133
Division (A) (6) of this section does not authorize a	1134

franchisee that is located outside of the relevant market area, 1135
as defined in section 4517.01 of the Revised Code, to challenge 1136
the establishment or relocation of a franchise location. 1137

(7) Coerce, or attempt to coerce, a franchisee by 1138
threatening to award an additional franchise or agreement to 1139
another person for the sale of its same product in the same area 1140
of influence for the purposes of compelling such franchisee to 1141
yield to demands of the franchisor for increased sales of the 1142
franchisor's products, parts, expansion of facilities and 1143
improvement of operations inconsistent with good business 1144
practices of the franchisee; 1145

(8) Fail or refuse to make equally available to its same 1146
line-make franchisees all motor vehicles, motor vehicle parts, 1147
or other products manufactured for that line-make at the same 1148
actual price, or to utilize any device including, but not 1149
limited to, sales promotion plans or programs that result in 1150
such lesser actual price. Division (A) (8) of this section shall 1151
not apply to sales to a franchisee for resale to any unit of 1152
government or donation or use by a franchisee in a driver 1153
education program. Division (A) (8) of this section shall not 1154
prohibit the offering of incentive programs or other discounts 1155
so long as such incentives or discounts are reasonably available 1156
to all franchisees in this state on a proportionately equal 1157
basis and are based on the sale of individual vehicles and not 1158
increased for meeting a performance standard unless the standard 1159
is reasonable considering all existing circumstances. 1160

A franchisor has not made a motor vehicle, motor vehicle 1161
part, or other product available to all line-make franchisees if 1162
the franchisor does any of the following: 1163

(a) Requires a franchisee to remodel, renovate, or 1164

recondition the new motor vehicle dealer's existing dealership 1165
facilities as a prerequisite to receiving the model, part, or 1166
product, unless reasonably necessary to accommodate the adequate 1167
sale and service of a vehicle based on the technology of that 1168
vehicle. As used in division (A) (8) of this section, "remodel, 1169
renovate, and recondition" includes the requirement that a 1170
franchisee purchase or lease unreasonably expensive advertising 1171
or promotional displays or other similar materials. 1172

(b) Requires a franchisee to pay an additional fee to 1173
receive any model, part, or product within a franchisor's line- 1174
make; 1175

(c) Requires a franchisee to accept additional inventory 1176
to receive any model, part, or product within a franchisor's 1177
line-make. 1178

(9) Fail to either return a part to the franchisee, at the 1179
franchisor's expense, or reimburse the franchisee for the 1180
franchisee's cost of the part where a franchisor does not 1181
approve a franchisee's claim for a defective part; 1182

(10) Fail to approve or disapprove any warranty or recall 1183
claim submitted by a franchisee within forty-five days after 1184
receipt from the franchisee. If a claim is not approved, the 1185
franchisor shall immediately so notify in writing the franchisee 1186
who submitted the claim and shall include in the notice the 1187
specific grounds upon which the disapproval is based. 1188

(11) Fail to pay a franchisee within thirty days after 1189
approval by the franchisor of any claim by a franchisee for 1190
labor and parts made under division (B) of section 4517.52 and 1191
section 4517.53 of the Revised Code. Any failure of a franchisor 1192
to act on or pay a claim within the time limits specified by 1193

this section that results from causes beyond the franchisor's 1194
reasonable control does not constitute a violation of this 1195
section. 1196

(12) Disclaim an otherwise valid warranty or recall claim 1197
because the franchisee fails to submit or resubmit the claim 1198
within a period of less than six months from the date on which 1199
the service was rendered or parts supplied; 1200

(13) Unless otherwise authorized or required by the 1201
"National Traffic and Motor Vehicle Safety Act," 49 U.S.C. 1202
30101, et seq. or any regulation adopted thereunder, the 1203
"Transportation Recall, Enhancement, Accountability, and 1204
Documentation Act," 49 U.S.C. 30123, et seq. or any regulation 1205
adopted thereunder, or any other federal law or regulation, 1206
provide reimbursement to any individual or entity that is not a 1207
franchisee for labor and parts used to fulfill warranty and 1208
recall work, unless the work is required for emergency service, 1209
or is performed by a service center owned by the manufacturer on 1210
employee- or company-owned vehicles only, or the work is 1211
warranty service by employees of a fleet operator on its own 1212
vehicles. Nothing in division (A) (13) of this section shall 1213
prohibit a manufacturer from reimbursing a franchisee of another 1214
line-make of the same manufacturer for labor and parts used to 1215
fulfill warranty and recall work. 1216

(14) Refuse to disclose to any new motor vehicle dealer 1217
who handles the same line-make, the manner and mode of 1218
distribution of that line-make within the same county, or if a 1219
line-make is allocated among new motor vehicle dealers, refuse 1220
to disclose to any new motor vehicle dealer that handles the 1221
same line-make the system of allocation, including, but not 1222
limited to, a complete breakdown by model, color, equipment, 1223

other items or terms, and a concise listing of dealerships with 1224
an explanation of the derivation of the allocation system 1225
including its mathematical formula in a clear and comprehensible 1226
form; 1227

(15) Engage in any predatory practice or discriminate 1228
against any new motor vehicle dealer including discriminating 1229
against a franchisee, as compared to a same line-make 1230
franchisee, with regard to motor vehicle allocation, motor 1231
vehicle sales expectations, motor vehicle market penetration, 1232
motor vehicle planning volume requirements, customer service 1233
satisfaction requirements, dealership facility requirements, or 1234
dealer capitalization requirements; 1235

(16) Prohibit a franchisee from acquiring a line-make of 1236
new motor vehicles solely because it owns or operates a 1237
franchise of the same line-make in a contiguous market; 1238

(17) Use any financial services company or leasing company 1239
owned in whole or part or controlled by the manufacturer or 1240
distributor to accomplish what would otherwise be illegal 1241
conduct on the part of the manufacturer or distributor pursuant 1242
to this section. This section does not limit the right of the 1243
financial services or leasing company to otherwise engage in 1244
regular financial services or leasing business practices. 1245

(18) Initiate a charge back without an audit or perform an 1246
audit to confirm a warranty or recall repair, sales incentive, 1247
service incentive, other form of incentive compensation, or 1248
rebate more than twelve months after the date of submission by 1249
the franchisee, provided that these limitations shall not be 1250
effective in the case of a fraudulent claim. Division (A) (18) of 1251
this section does not preclude a charge back for any fraudulent 1252
claim that was previously paid. 1253

(19) Refuse to pay a franchisee for sales incentives, 1254
service incentives, rebates, or other forms of incentive 1255
compensation within thirty days after their approval by the 1256
manufacturer. The franchisor shall either approve or disapprove 1257
each claim by the franchisee within thirty days after receipt of 1258
the claim in a proper form generally used by the franchisor. Any 1259
claims not specifically disapproved in writing within thirty 1260
days after receipt shall be considered to be approved. 1261

(20) Reduce the amount to be paid to a new motor vehicle 1262
dealer, assess any penalty, impose a charge back, or take any 1263
other adverse action against a new motor vehicle dealer 1264
subsequent to and in relation to the payment of any claim 1265
related to a warranty repair or recall reimbursement, sales 1266
incentive or rebate, service incentive, or other form of 1267
incentive compensation unless either of the following applies: 1268

(a) The manufacturer shows that the claim lacks material 1269
documentation or is false, fraudulent, or a misrepresentation. A 1270
franchisor may not deny a claim based solely on a new motor 1271
vehicle dealer's incidental failure to comply with a specific 1272
claim processing requirement, such as a clerical error, that 1273
does not put into question the legitimacy of the claim. 1274

(b) The new motor vehicle dealer knew or should have known 1275
a new motor vehicle was sold for export to a foreign country. 1276
There shall exist a rebuttable presumption that a new motor 1277
vehicle dealer did not know, or should not have known, that a 1278
vehicle was sold for export to a foreign country if the motor 1279
vehicle is titled in the United States. Unless the manufacturer 1280
establishes that the new motor vehicle dealer knew or should 1281
have known of information that should have caused the new motor 1282
vehicle dealer to know that the new motor vehicle was purchased 1283

for export, the new motor vehicle dealer is presumed not to have 1284
known that the new motor vehicle was purchased for export if all 1285
of the following apply: 1286

(i) The new motor vehicle was titled in the United States. 1287

(ii) The new motor vehicle was exported not sooner than 1288
twelve months after the date of purchase of the motor vehicle. 1289

(iii) The purchaser's information was not on a 1290
franchisor's written list of known or suspected exporters 1291
received by the new motor vehicle dealer at least five days 1292
prior to the date of the sale of the motor vehicle. 1293

No refusal to pay warranty repair or recall 1294
reimbursements, sales incentives, service incentives, rebates, 1295
or other forms of incentive compensation, no reduction in the 1296
amount to be paid to the new motor vehicle dealer, and no charge 1297
back subsequent to the payment of a claim may be made until the 1298
new motor vehicle dealer has had notice and an opportunity to 1299
participate in all franchisor internal appeal processes as well 1300
as all available legal processes. If a charge back is the 1301
subject of adjudication, internal appeal, mediation, or 1302
arbitration, no charge back shall be made until, in the case of 1303
an adjudication or legal action, a final appealable order has 1304
been issued. 1305

At the time submitted, the claim shall act as an immediate 1306
automatic credit against future billings. Any ambiguity or 1307
inconsistency in submission guidelines shall be construed 1308
against the drafter. Any failure by a new motor vehicle dealer 1309
to exercise its rights to reimbursement under this section does 1310
not create a waiver of these rights. Any unreasonable denial, 1311
delay, or restriction of a valid reimbursement claim shall 1312

subject the manufacturer to interest in accordance with division 1313
(A) of section 1343.03 of the Revised Code until paid. 1314

(21) Prevent, attempt to prevent, prohibit, coerce, or 1315
attempt to coerce, any new motor vehicle dealer from charging 1316
any consumer any fee allowed to be charged by the dealer under 1317
Ohio law; 1318

(22) Require, coerce, or attempt to coerce any new motor 1319
vehicle dealer in this state to change the capital structure of 1320
the new motor vehicle dealer or the means by or through which 1321
the new motor vehicle dealer finances the operation of the 1322
dealership provided that: 1323

(a) The new motor vehicle dealer at all times shall meet 1324
any reasonable capital standards determined by the manufacturer 1325
in accordance with uniformly applied criteria. 1326

(b) No change in the capital structure shall cause a 1327
change in the principal management or have the effect of a sale 1328
of the franchise without the consent of the manufacturer or 1329
distributor, and further provided that the manufacturer or 1330
distributor shall not unreasonably withhold consent. 1331

(23) (a) Require, coerce, or attempt to coerce any new 1332
motor vehicle dealer in this state to change the location of the 1333
dealership, or to make any substantial alterations to the 1334
dealership premises or facilities, if any of the following 1335
apply: 1336

(i) The proposed change or alteration would be 1337
unreasonable in light of the current market and economic 1338
conditions. 1339

(ii) The change or alteration is proposed without a 1340
written estimation of a sufficient supply of new motor vehicles 1341

so as to justify the location change or alterations in light of 1342
the current market and economic conditions. 1343

(iii) The change or alteration is proposed within seven 1344
years after the dealership premises was constructed or altered, 1345
as approved by the franchisor unless the change or alteration is 1346
necessary to comply with a health or safety law, or a technology 1347
requirement that is essential to the sale or service of a motor 1348
vehicle that the new motor vehicle dealer is authorized by the 1349
franchisor to sell or service. 1350

(b) The seven-year time period set forth under division 1351
(A) (23) (a) (iii) of this section continues with regard to the 1352
successor to the new motor vehicle dealer if the successor was 1353
approved by the franchisor in the franchise agreement. 1354

(c) As used in division (A) (23) (a) of this section, 1355
"substantial alteration" means an alteration that has a major 1356
impact on the architectural features, characteristics, or 1357
integrity of a structure or lot. "Substantial alteration" does 1358
not include routine maintenance, such as interior painting, that 1359
is reasonably necessary to keep the dealership facility in an 1360
attractive condition. 1361

(d) Division (A) (23) of this section does not prohibit a 1362
franchisor from taking any of the following actions: 1363

(i) Continuing, renewing, or modifying a facility 1364
improvement program that involves more than one new motor 1365
vehicle dealer in this state and that was in effect prior to ~~the~~ 1366
~~effective date of this amendment~~ September 14, 2016; 1367

(ii) Providing payments to assist a new motor vehicle 1368
dealer in making any facility improvement, including 1369
construction, remodeling, or installing signage or franchisor 1370

image elements;	1371
(iii) Providing reimbursement to a new motor vehicle	1372
dealer for a portion of the costs that the new motor vehicle	1373
dealer incurs in making any facility improvement.	1374
(24) Establish any performance standard or program for	1375
measuring franchisee performance that may have a material impact	1376
on a franchisee that is not fair, reasonable, and equitable, or	1377
apply any such standard or program to a franchisee in a manner	1378
that is not fair, reasonable, and equitable;	1379
(25) Use the failure of a franchisee to meet a performance	1380
standard as the basis to prevent or deny the franchisee the	1381
opportunity to name a successor or otherwise engage in	1382
succession planning, provided, however, that any designated	1383
successor shall meet the manufacturer's written and uniformly	1384
applied requirements to be a franchisee at the time of	1385
succession;	1386
(26) Use the inability of a franchisee to meet a	1387
performance standard as a justification to exclude the	1388
franchisee from programs offered by the franchisor if the	1389
failure to meet the performance standard was based on whether	1390
the franchisee is selling an adequate number of vehicles and the	1391
franchisee can demonstrate that it was unable to purchase enough	1392
vehicles from the franchisor due to the actions of the	1393
franchisor;	1394
(27) Unreasonably require a franchisee to establish or	1395
maintain exclusive sales facilities, sales display space,	1396
personnel, service, parts, or administrative facilities for a	1397
line-make, unless such exclusivity is reasonable and otherwise	1398
justified by reasonable business considerations. In making that	1399

determination, the franchisor shall take into consideration the 1400
franchisee's satisfaction of facility requirements as required 1401
by the franchise agreement. The franchisor shall have the burden 1402
of proving that reasonable business considerations justify 1403
exclusivity. 1404

(28) Unreasonably require or coerce a franchisee to lease 1405
or purchase a good or service from a specified vendor for 1406
purposes of expanding, constructing, or significantly modifying 1407
a facility without allowing the franchisee to choose a vendor 1408
that provides a good or service of a substantially similar 1409
quality and general appearance and that is approved by the 1410
franchisor. No franchisor shall unreasonably withhold approval 1411
of a vendor under division (A) (28) of this section. 1412

Division (A) (28) of this section does not do either of the 1413
following: 1414

(a) Allow a franchisee or vendor to eliminate or impair 1415
the franchisor's intellectual property rights, including with 1416
regard to a trademark; 1417

(b) Permit a franchisee to erect or maintain signs that do 1418
not conform to the intellectual property usage guidelines of the 1419
franchisor. 1420

(29) Require a franchisee to conduct research on 1421
prospective vehicle purchasers. 1422

(30) Require or request a franchisee to waive any 1423
requirements of this section. 1424

(B) (1) No franchisor shall discriminate among the 1425
franchisor's dealers in any program that provides assistance to 1426
the franchisor's dealers, including internet listings, sales 1427
leads, warranty policy adjustments, marketing programs, and 1428

dealer recognition programs. 1429

(2) The franchisor shall not require or coerce a 1430
franchisee to provide its customer lists, service files, or 1431
other nonpublic personal information concerning any consumer or 1432
concerning any customer of the franchisee to the franchisor, 1433
unless necessary for the sale and delivery of a motor vehicle to 1434
a consumer, to validate and pay consumer or dealer incentives, 1435
or for the submission to the franchisor for any services 1436
supplied by the franchisee for any claim for warranty parts or 1437
repairs. Nothing in this division shall limit the franchisor's 1438
ability to require or use customer information to satisfy any 1439
safety or recall notice obligation. 1440

(3) No franchisor shall fail to comply with the 1441
requirements of any state or federal law that pertains to the 1442
use or disclosure of information, including the "Gramm-Leach- 1443
Bliley Act," 113 Stat. 1338 (1999), 15 U.S.C. 6801 et seq. 1444

(4) No franchisor shall fail, upon demand, to indemnify 1445
any existing or former franchisee and the successors and assigns 1446
of the franchisee from all damages that result from or relate to 1447
any claim made by a third party against the franchisee or 1448
successor if the claim results directly from the improper use or 1449
disclosure of nonpublic personal information by the 1450
manufacturer, distributor, or any third party to whom 1451
information was provided by the manufacturer or distributor. The 1452
franchisor shall pay attorney's fees and other expenses 1453
reasonably incurred by the franchisee or successor in relation 1454
to such a claim. 1455

(C) No franchise agreement shall require the franchisee to 1456
pay the attorney's fees of a franchisor, waive any remedy or 1457
defense available to the franchisee, require a motor vehicle 1458

dealer to submit to arbitration or mediation to resolve a 1459
controversy before the controversy arises, or waive any other 1460
provisions of this chapter. Nothing in this division shall 1461
preclude the parties from entering into a voluntary agreement to 1462
arbitrate or mediate a controversy after it arises unless 1463
otherwise precluded by law. Such an agreement shall require that 1464
the dispute be heard in this state and that the arbitrator or 1465
mediator apply the law of this state in resolving the 1466
controversy. Either party may appeal a decision of an arbitrator 1467
in the court of common pleas of Franklin county on the grounds 1468
that the arbitrator failed to apply the law of this state. 1469

(D) This section applies to any franchise whether entered 1470
into prior to or after October 22, 1987. ~~Divisions (A) (8), (13),~~ 1471
~~(16) to (27), (29), (B), and (C) of this section shall not apply~~ 1472
~~to franchisors or franchisees who deal in recreational vehicles.~~ 1473

Sec. 4517.70. As used in sections 4517.70 to 4517.79 of 1474
the Revised Code: 1475

"Warrantor" means any person that gives a warranty in 1476
connection with a new recreational vehicle or its parts, 1477
accessories, or components. "Warrantor" does not include service 1478
contracts, mechanical insurance, or extended warranties sold 1479
separately by a recreational vehicle dealer or a person that is 1480
not an agent of a recreational vehicle manufacturer. 1481

Sec. 4517.71. (A) A recreational vehicle franchisor shall 1482
not sell a new recreational vehicle to or through a recreational 1483
vehicle franchisee unless the franchisor has entered into a 1484
recreational vehicle franchise with the franchisee that has been 1485
signed by all of the relevant parties to the agreement. 1486

(B) A recreational vehicle franchisee shall not sell a new 1487

recreational vehicle unless the dealer has entered into a 1488
recreational vehicle franchise with a recreational vehicle 1489
franchisor. A recreational vehicle franchisee shall not sell a 1490
recreational vehicle outside of that franchisee's relevant 1491
market area, unless a larger area is specified in the 1492
recreational vehicle franchise. 1493

(C) A recreational vehicle franchisor shall not authorize 1494
a recreational vehicle franchisee to sell the same line-make or 1495
model recreational vehicle as another recreational vehicle 1496
franchisee in the same relevant market area or area that was 1497
agreed to in a recreational vehicle franchise. 1498

(D) A recreational vehicle franchisor or a recreational 1499
vehicle franchisee shall not do either of the following: 1500

(1) Alter the duration or terms of a recreational vehicle 1501
franchise without the mutual consent of all of the parties to 1502
the agreement; 1503

(2) Issue a policy or procedure that directly or 1504
indirectly results in a violation or alteration of a provision 1505
of the recreational vehicle franchise. 1506

Sec. 4517.72. (A) (1) A recreational vehicle franchisor 1507
shall not terminate, cancel, or fail to continue or renew a 1508
recreational vehicle franchise or a particular model or line- 1509
make of recreational vehicle except for good cause. 1510

(2) A recreational vehicle franchisee may terminate, 1511
cancel, or fail to continue or renew a recreational vehicle 1512
franchise with or without good cause. 1513

(3) Upon renewal of a recreational vehicle franchise, a 1514
recreational vehicle franchisor shall not require a recreational 1515
vehicle franchisee to meet additional inventory stocking or 1516

retail sales targets that are in excess of the market growth in 1517
the franchisee's sales area. 1518

(B)(1) Except as provided in division (B)(2) of this 1519
section, a recreational vehicle franchisor shall send written 1520
notice by certified mail to a recreational vehicle franchisee 1521
not less than one hundred twenty days prior to the effective 1522
date of terminating, canceling, or refusing to continue or renew 1523
a recreational vehicle franchise or particular model or line- 1524
make of recreational vehicle. 1525

(2) A recreational vehicle franchisor shall send written 1526
notice by certified mail to a recreational vehicle franchisee 1527
not less than thirty days prior to the effective date of the 1528
proposed action if the termination, cancellation, or refusal to 1529
continue or renew are based upon any of the following: 1530

(a) The recreational vehicle franchisee is convicted of or 1531
pleads guilty to a felony offense. 1532

(b) The recreational vehicle franchisee abandons or closes 1533
its business operations, unless the closing is for reasons over 1534
which the franchisee has no control. 1535

(c) The recreational vehicle franchisee is insolvent or 1536
files a petition under any bankruptcy or receivership law. 1537

(d) The recreational vehicle franchisee makes a 1538
significant misrepresentation that materially affects the 1539
business relationship between the franchisee and the franchisor. 1540

(e) The registrar of motor vehicles suspends, revokes, or 1541
refuses to renew the recreational vehicle franchisee's license. 1542

(3) A recreational vehicle franchisee shall send written 1543
notice by certified mail to a recreational vehicle franchisor 1544

not less than thirty days prior to the effective date of 1545
terminating, canceling, or refusing to continue or renew a 1546
recreational vehicle franchise. 1547

(4) Any notice shall set forth the specific grounds for 1548
the proposed termination, cancellation, or refusal to continue 1549
or renew. 1550

(C) Prior to the effective date of the proposed action, 1551
the person receiving written notice under this section may file 1552
a protest with the motor vehicle dealers board against the 1553
proposed action. When such a protest has been filed, the board 1554
shall inform the person that sent the notice that a timely 1555
protest has been filed and that a hearing is required pursuant 1556
to section 4517.32 of the Revised Code. 1557

(D) A person shall not take the proposed action before the 1558
holding of a hearing on any protest filed under this section. A 1559
recreational vehicle franchisor shall not take the proposed 1560
action after the hearing if the board determines that good cause 1561
does not exist to take that proposed action. 1562

Sec. 4517.73. (A) In determining whether good cause has 1563
been established by a recreational vehicle franchisor for 1564
terminating, canceling, or failing to continue or renew a 1565
recreational vehicle franchise or a particular model or line- 1566
make of recreational vehicle, the motor vehicle dealers board 1567
shall take into consideration the existing circumstances, 1568
including: 1569

(1) The extent of the recreational vehicle franchisee's 1570
impact in the relevant market area for the relevant model or 1571
line-make; 1572

(2) The nature and extent of the recreational vehicle 1573

<u>franchisee's investment in its business;</u>	1574
<u>(3) The adequacy of the recreational vehicle franchisee's</u>	1575
<u>service facilities, equipment, parts, supplies, and personnel;</u>	1576
<u>(4) The effects of the proposed action on the community;</u>	1577
<u>(5) The extent and quality of the recreational vehicle</u>	1578
<u>franchisee's service under recreational vehicle warranties;</u>	1579
<u>(6) Any failure on the part of the recreational vehicle</u>	1580
<u>franchisee to follow agreed-upon and reasonable procedures or</u>	1581
<u>standards related to the operation of the franchisee consistent</u>	1582
<u>with the law and the recreational vehicle franchise;</u>	1583
<u>(7) The recreational vehicle franchisee's performance</u>	1584
<u>under the terms of the recreational vehicle franchise.</u>	1585
<u>(B) In determining whether good cause has been established</u>	1586
<u>by a recreational vehicle franchisee for terminating, canceling,</u>	1587
<u>or failing to continue or renew a recreational vehicle</u>	1588
<u>franchise, the board shall take into consideration the existing</u>	1589
<u>circumstances, including if any of the following apply:</u>	1590
<u>(1) The recreational vehicle franchisor has been convicted</u>	1591
<u>of or pleaded guilty to a felony.</u>	1592
<u>(2) The recreational vehicle franchisor has abandoned or</u>	1593
<u>closed its business operations, unless the closing is for</u>	1594
<u>reasons over which the franchisor has no control.</u>	1595
<u>(3) The recreational vehicle franchisor is insolvent or</u>	1596
<u>has filed a petition under any bankruptcy or receivership law.</u>	1597
<u>(4) The recreational vehicle franchisor has made a</u>	1598
<u>significant misrepresentation that materially affects the</u>	1599
<u>business relationship between the franchisee with the</u>	1600

franchisor. 1601

(5) The registrar of motor vehicles has suspended, 1602
revoked, or refused to renew the recreational vehicle 1603
franchisor's license. 1604

(6) The recreational vehicle franchisor has violated the 1605
requirements of sections 4517.70 to 4517.79 of the Revised Code 1606
and does not cure the violation within thirty days after notice 1607
sent by the recreational vehicle franchisee regarding the 1608
violation. 1609

(7) The recreational vehicle franchisor violates the 1610
recreational vehicle franchise and does not cure the violation 1611
within one hundred twenty days after notice sent by the 1612
recreational vehicle franchisee regarding the violation. 1613

(8) The recreational vehicle franchisor violates section 1614
4517.75 of the Revised Code. 1615

Sec. 4517.74. (A) If a recreational vehicle franchise is 1616
terminated, canceled, or not continued or renewed by either a 1617
recreational vehicle franchisee for good cause or by a 1618
recreational vehicle franchisor without good cause, within 1619
forty-five calendar days after the effective date of that 1620
action, the recreational vehicle franchisor shall repurchase all 1621
of the following: 1622

(1) All new recreational vehicles that were acquired from 1623
the recreational vehicle franchisor within the eighteen months 1624
prior to the date of the notice of termination, cancellation, or 1625
nonrenewal, that have not been sold, altered, damaged, or used, 1626
except for demonstration purposes. Repurchase shall be at one 1627
hundred per cent of the net invoice cost, including any 1628
transportation cost, less any applicable rebates or discounts 1629

that were made to the franchisee. If any recreational vehicle is 1630
damaged, unless the damage occurred prior to the date of 1631
delivery to the franchisee, the franchisor may reduce the amount 1632
due to the franchisee by the amount of the cost to repair that 1633
recreational vehicle. 1634

(2) All undamaged accessories and parts manufactured by 1635
either the recreational vehicle franchisor or a warrantor to be 1636
sold exclusively for the recreational vehicle franchisor and 1637
that were sold to the recreational vehicle franchisee for resale 1638
within the twelve months prior to the date of the notice of 1639
termination, cancellation, or nonrenewal, if accompanied by the 1640
original invoice. Repurchase shall be at one hundred per cent of 1641
the original net price paid, plus any handling, packing, and 1642
shipping costs. 1643

(3) Any properly functioning diagnostic equipment, special 1644
tools, current signage, or other similar equipment and machinery 1645
purchased by the recreational vehicle franchisee at the request 1646
of the recreational vehicle franchisor within the five years 1647
prior to the date of the notice of termination, cancellation, or 1648
nonrenewal. Repurchase shall be at one hundred per cent of the 1649
original net price paid, plus any handling, packing, and 1650
shipping costs. 1651

(B) Notwithstanding section 4517.71 of the Revised Code, a 1652
recreational vehicle franchisee may sell any inventory that 1653
remains with the franchisee after the recreational vehicle 1654
franchisor repurchases everything required to be repurchased 1655
under division (A) of this section. 1656

Sec. 4517.741. (A) A recreational vehicle franchisee 1657
transferring ownership of the franchisee's business assets, 1658
dealership, or otherwise shall provide written notice to the 1659

recreational vehicle franchisor not less than ten business days 1660
before the transfer. The notice shall include all supporting 1661
documents reasonably required by the recreational vehicle 1662
franchisor to determine whether the transfer is reasonable. 1663

(B) A recreational vehicle franchisor shall not object to 1664
a proposed transfer under division (A) of this section unless 1665
one of the following applies: 1666

(1) The recreational vehicle franchisee has breached the 1667
recreational vehicle franchise with the proposed transfer. 1668

(2) A recreational vehicle franchise with the new 1669
prospective owner was previously terminated by the recreational 1670
vehicle franchisor for cause. 1671

(3) The new prospective owner has been convicted of a 1672
disqualifying offense as determined in accordance with section 1673
9.79 of the Revised Code. 1674

(4) The new prospective owner lacks the license required 1675
under this chapter. 1676

(5) The new prospective owner does not have an active line 1677
of credit sufficient to purchase the recreational vehicle 1678
franchisor's products. 1679

(6) The new prospective owner has undergone a bankruptcy, 1680
insolvency, a general assignment for the benefit of creditors, 1681
or the appointment of a receiver, trustee, or conservator to 1682
take possession of that owner's property within the past ten 1683
years. 1684

(C) A recreational vehicle franchisor that objects to a 1685
proposed transfer under division (A) of this section shall 1686
provide written notice to the recreational vehicle franchisee 1687

within seven business days after receipt of the franchisee's 1688
notification and supporting documentation. The recreational 1689
vehicle franchisor has the burden of proof with regard to its 1690
objection. 1691

Sec. 4517.75. (A) A recreational vehicle franchisor shall 1692
not coerce or attempt to coerce a recreational vehicle 1693
franchisee to do any of the following: 1694

(1) Purchase a product that the recreational vehicle 1695
franchisee did not order; 1696

(2) Enter into an agreement with that recreational vehicle 1697
franchisor; 1698

(3) Require a recreational vehicle franchisee to submit 1699
its disputes to binding arbitration or otherwise waive any right 1700
or responsibility specified under sections 4517.70 to 4517.79 of 1701
the Revised Code; 1702

(4) Forgo exercising a right authorized by the 1703
recreational vehicle franchise or any other law governing the 1704
relationship between the recreational vehicle franchisor and the 1705
recreational vehicle franchisee. 1706

(B) The recreational vehicle franchisee bears the burden 1707
of proof in demonstrating that a recreational vehicle franchisor 1708
has violated this section. 1709

Sec. 4517.76. (A) A warrantor shall do all of the 1710
following: 1711

(1) Specify in writing a recreational vehicle dealer's 1712
obligations, if any, for preparation, delivery, and warranty 1713
service on the warrantor's products; 1714

(2) Compensate a recreational vehicle dealer for warranty 1715

service performed by the dealer that is covered by the warranty 1716
agreement provided by the warrantor; 1717

(3) Provide the recreational vehicle dealer with a 1718
schedule of compensation that will be paid and the time 1719
allowances for the performance of any service by the dealer. The 1720
schedule of compensation shall include reasonable compensation 1721
for diagnostic work and warranty labor. If a particular repair 1722
or service is not specified in the schedule of compensation, the 1723
warrantor shall reimburse the recreational vehicle dealer for 1724
the actual time expended, unless the warrantor demonstrates that 1725
the time spent was unreasonable and reimburses the dealer for a 1726
reasonable time spent. 1727

(B) The time allowances provided in accordance with 1728
division (A) (3) of this section shall be reasonable for the 1729
manner of service work to be performed. The compensation shall 1730
not be less than the lowest retail labor rate that is actually 1731
charged by the recreational vehicle dealer in the ordinary 1732
course of business for similar nonwarranty labor, provided that 1733
labor rate is reasonable. 1734

(C) (1) In addition to the labor reimbursement, the 1735
warrantor shall reimburse the recreational vehicle dealer for 1736
all of the following: 1737

(a) The actual wholesale cost of any warranty part; 1738

(b) Thirty per cent of the cost of the warranty part, as a 1739
handling charge, but not more than three hundred dollars; 1740

(c) Any shipping or freight charges required to return a 1741
part, accessory, or component to the warrantor, if the warrantor 1742
requires the return. 1743

(2) If a warranty part is sent to the recreational vehicle 1744

dealer at no charge to the dealer, the dealer shall still be 1745
reimbursed a handling charge in accordance with division (C) (1) 1746
(b) of this section. 1747

(D) A warrantor may conduct a warranty audit of a 1748
recreational vehicle dealer's records on a reasonable basis. A 1749
recreational vehicle dealer's claims for warranty compensation 1750
shall not be denied, unless the warrantor can show cause, such 1751
as any of the following: 1752

(1) The repair was a nonwarranty repair. 1753

(2) Material noncompliance with the warrantor's published 1754
policies and procedures; 1755

(3) Lack of necessary documentation; 1756

(4) Fraud; 1757

(5) Misrepresentation. 1758

(E) A recreational vehicle dealer shall notify a warrantor 1759
as soon as is reasonably possible, either verbally or in 1760
writing, if the dealer is unable or unwilling to perform a 1761
material or repetitive warranty repair. 1762

(F) (1) A recreational vehicle dealer shall submit a 1763
warranty claim to the warrantor in the manner and form required 1764
by the warrantor within forty-five days of completion of a 1765
warranty repair. 1766

(2) If the warrantor disapproves a warranty claim, the 1767
warrantor shall do so in writing within forty-five days after 1768
the recreational vehicle dealer submits the claim. Claims that 1769
are not disapproved within that time are considered approved and 1770
shall be paid within sixty days. 1771

<u>Sec. 4517.77. (A) No warrantor shall do any of the</u>	1772
<u>following:</u>	1773
<u>(1) Fail to perform any of its warranty obligations with</u>	1774
<u>respect to its warranted products;</u>	1775
<u>(2) Fail to include in its written notices about necessary</u>	1776
<u>repairs sent to recreational vehicle dealers and recreational</u>	1777
<u>vehicle owners the expected date by which any necessary parts</u>	1778
<u>and equipment will be available at the dealers' locations in</u>	1779
<u>order to perform the repairs. The warrantor may ship any</u>	1780
<u>necessary parts and equipment to the dealers to perform the</u>	1781
<u>repairs. A dealer may return any unused parts and equipment to</u>	1782
<u>the warrantor for credit after completion of the necessary</u>	1783
<u>repairs.</u>	1784
<u>(3) Fail to compensate any recreational vehicle dealer for</u>	1785
<u>authorized repairs made by the dealer to merchandise that</u>	1786
<u>becomes damaged during its manufacture and transit to the</u>	1787
<u>dealer;</u>	1788
<u>(4) Fail to compensate any recreational vehicle dealer for</u>	1789
<u>authorized warranty service performed in accordance with section</u>	1790
<u>4517.76 of the Revised Code;</u>	1791
<u>(5) Intentionally misrepresent in any way to a purchaser</u>	1792
<u>of a recreational vehicle that a warranty that relates to the</u>	1793
<u>manufacture, performance, or design of the vehicle is a warranty</u>	1794
<u>from the recreational vehicle dealer;</u>	1795
<u>(6) Require a recreational vehicle dealer to make a</u>	1796
<u>warranty to a recreational vehicle purchaser that relates to the</u>	1797
<u>manufacture of that vehicle.</u>	1798
<u>(B) No recreational vehicle dealer shall do any of the</u>	1799
<u>following:</u>	1800

- (1) Fail to perform a predelivery inspection, as specified 1801
by a warrantor, in a competent and timely manner; 1802
- (2) Fail to perform warranty service work, as authorized 1803
by the warrantor, in a reasonably competent and timely manner; 1804
- (3) Fail to track actual time spent to perform warranty 1805
work that is not governed by the time allowances in the schedule 1806
of compensation; 1807
- (4) Claim an agency relationship with a warrantor or a 1808
recreational vehicle manufacturer; 1809
- (5) Misrepresent the terms of any warranty. 1810
- (C) Notwithstanding the terms of any recreational vehicle 1811
franchise, a warrantor shall indemnify and hold harmless a 1812
recreational vehicle dealer against any losses, including court 1813
costs and attorney's fees reasonably incurred, or damages 1814
arising out of the negligence or willful misconduct of the 1815
warrantor. The recreational vehicle dealer shall provide the 1816
warrantor with a copy of any complaint, claim, or suit within 1817
ten days days after receipt of that complaint, claim, or suit. 1818
- (D) Notwithstanding the terms of any recreational vehicle 1819
franchise, a recreational vehicle dealer shall indemnify and 1820
hold harmless a warrantor against any losses, including court 1821
costs and attorney's fees reasonably incurred, or damages 1822
arising out of the negligence or willful misconduct of the 1823
dealer. The warrantor shall provide the recreational vehicle 1824
dealer a copy of any complaint, claim, or suit within ten days 1825
after receipt of that complaint, claim, or suit. 1826
- (E) Divisions (C) and (D) of this section apply regardless 1827
of who holds title to the recreational vehicle. 1828

Sec. 4517.78. (A) (1) Whenever a new recreational vehicle 1829
is damaged prior to its delivery to a recreational vehicle 1830
franchisee, if the recreational vehicle franchisor selected the 1831
means of transportation, the franchisee shall notify the 1832
franchisor of the damage. Notification shall be made in the time 1833
frame specified in the recreational vehicle franchise. 1834

(2) The recreational vehicle franchisee shall do one of 1835
the following: 1836

(a) Request that the recreational vehicle franchisor 1837
authorize the recreational vehicle franchisee to replace the 1838
damaged component, part, or accessory and otherwise correct the 1839
damage; 1840

(b) Reject the recreational vehicle in accordance with the 1841
time frame specified in the recreational vehicle franchise, but 1842
not more than two business days after the delivery of the 1843
recreational vehicle. 1844

(B) A recreational vehicle franchisee shall exercise due 1845
care with regards to a damaged recreational vehicle while the 1846
vehicle is in the franchisee's custody. The recreational vehicle 1847
franchisee has no other obligations, financial or otherwise, 1848
with respect to a damaged recreational vehicle rejected by the 1849
franchisee. 1850

(C) A recreational vehicle franchisee may reject a new 1851
motor home, delivered to the franchisee, that has an 1852
unreasonable amount of miles on its odometer, as determined by 1853
the franchisee. A recreational vehicle franchisee shall not 1854
reject a new motor home with a mileage amount that is less than 1855
the distance between the franchisee and the recreational vehicle 1856
franchisor's factory or point of distribution, plus one hundred 1857

miles. 1858

Sec. 4517.79. (A) A recreational vehicle franchisee, 1859
recreational vehicle franchisor, or warrantor that suffers 1860
damages as a result of another party's violation of sections 1861
4517.70 to 4517.78 of the Revised Code may bring a civil action 1862
to recover actual damages. The court shall award attorney's fees 1863
and costs to the prevailing party in such action. Venue for any 1864
civil action brought under this section is in the county in 1865
which the dealership that is a party to the civil action is 1866
located, or if multiple dealerships are parties to the action, 1867
in any county where one of the dealerships is located. 1868

(B) (1) Before bringing a civil action under division (A) 1869
of this section, the party intending to file the action shall 1870
serve a written demand for mediation through certified mail upon 1871
the other party at the address or addresses of record for the 1872
other party that is filed with the registrar of motor vehicles. 1873

(2) The demand for mediation shall contain a brief 1874
statement of the dispute and the relief sought by the party 1875
-serving the demand. 1876

(3) Not later than twenty days after the date a demand for 1877
mediation is served, the parties shall mutually select an 1878
independent mediator and shall meet with that mediator to 1879
attempt to resolve the dispute. The mediator may extend the date 1880
of the meeting for good cause or upon stipulation of both 1881
parties. 1882

(4) A court, in its discretion and at the request of the 1883
parties, may issue an order suspending any other complaint, 1884
petition, protest, or action filed before or after the demand 1885
for mediation that involves both of the parties to the mediation 1886

and relates to claims under sections 4517.70 to 4517.78 of the 1887
Revised Code. The court may revoke the suspension order, 1888
depending on the results of the mediation and at the discretion 1889
of the court. 1890

(5) The parties to the mediation shall bear their own 1891
costs for attorney's fees and divide equally the cost of the 1892
mediator. 1893

(C) In addition to any other remedies provided under this 1894
chapter, a recreational vehicle franchisor or recreational 1895
vehicle franchisee may apply for a temporary or permanent 1896
injunction related to a violation of any provision in sections 1897
4517.70 to 4517.78 of the Revised Code. Any injunction issued 1898
under this division shall be issued without bond. 1899

Sec. 4517.99. (A) Whoever violates any provision of 1900
sections 4517.01 to 4517.65 of the Revised Code for which no 1901
penalty otherwise is provided in the section that contains the 1902
provision violated, or any rule promulgated by the registrar of 1903
motor vehicles or the motor vehicle dealers board under sections 1904
4517.01 to 4517.45 of the Revised Code, is guilty of a 1905
misdemeanor of the fourth degree. 1906

(B) Whoever knowingly violates sections 4517.70 to 4517.79 1907
of the Revised Code shall be fined not more than one thousand 1908
dollars for each offense. 1909

Section 2. That existing sections 4517.01, 4517.10, 1910
4517.32, 4517.33, 4517.34, 4517.49, 4517.52, 4517.541, 4517.542, 1911
4517.55, 4517.59, and 4517.99 of the Revised Code are hereby 1912
repealed. 1913

Section 3. Section 4517.01 of the Revised Code is 1914
presented in this act as a composite of the section as amended 1915

by both H.B. 33 and H.B. 195 of the 135th General Assembly. The 1916
General Assembly, applying the principle stated in division (B) 1917
of section 1.52 of the Revised Code that amendments are to be 1918
harmonized if reasonably capable of simultaneous operation, 1919
finds that the composite is the resulting version of the section 1920
in effect prior to the effective date of the section as 1921
presented in this act. 1922