

**SUBSTITUTE FOR
HOUSE BILL NO. 6233**

A bill to amend 1981 PA 118, entitled
"Motor vehicle franchise act
by amending sections 6, 14, and 17a (MCL 445.1566, 445.1574, and
445.1577a), sections 6 and 14 as amended by 2018 PA 668, and
section 17a as added by 2018 PA 668.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) "Relevant market area" means 1 of the following:
2 (a) In a county that has a population of more than 150,000,
3 the area within a radius of 9 miles of the site of the intended
4 place of business of a proposed new vehicle dealer or the intended
5 place of business of a new vehicle dealer that plans to relocate
6 its place of business. For purposes of this section, the 9-mile
7 distance is determined by measuring the distance between the

1 nearest surveyed boundary of an existing new motor vehicle dealer's
2 principal place of business and the nearest surveyed boundary line
3 of the proposed or relocated new motor vehicle dealer's principal
4 place of business.

5 (b) In a county that has a population of 150,000 or fewer, the
6 area within a radius of 15 miles of the site of the intended place
7 of business of a proposed new vehicle dealer or the intended place
8 of business of a new vehicle dealer that plans to relocate its
9 place of business. For purposes of this section, the 15-mile
10 distance is determined by measuring the distance between the
11 nearest surveyed boundary line of an existing new motor vehicle
12 dealer's principal place of business and the nearest surveyed
13 boundary line of the proposed or relocated new motor vehicle
14 dealer's principal place of business.

15 (2) **"Sell" or "selling" as it applies to a new motor vehicle**
16 **means to engage in the business of selling, trading, leasing, or**
17 **offering for sale or lease, negotiating, or otherwise attempting to**
18 **sell, trade, or lease a new motor vehicle, or any interest in, or**
19 **written instrument pertaining to, a new motor vehicle to a customer**
20 **at retail.**

21 (3) ~~+(2)~~—"Stop-sale order" means a notification issued by a
22 manufacturer to its franchised new motor vehicle dealers stating
23 that certain used vehicles in inventory shall not be driven, sold,
24 or leased, at either retail or wholesale, due to a federal safety
25 recall or manufacturer issued recall for a defect or a
26 noncompliance, or a federal emissions recall.

27 (4) ~~+(3)~~—"Successor manufacturer" means a manufacturer that
28 acquires, succeeds to, or assumes any part of the business of
29 another manufacturer as the result of any of the following:

1 (a) A change in ownership, operation, or control of a
2 predecessor manufacturer by sale or transfer of assets, corporate
3 stock, or other equity interest, assignment, merger, consolidation,
4 combination, joint venture, redemption, court-approved sale,
5 operation of law, or any other means.

6 (b) Termination, suspension, or cessation of a part or all of
7 the business operations of a predecessor manufacturer.

8 (c) Discontinuance of the sale of a product line.

9 (d) A change in distribution system by a predecessor
10 manufacturer, whether through a change in distributor or the
11 predecessor manufacturer's decision to cease conducting any
12 business through a particular distributor.

13 (5) ~~(4)~~—"Used motor vehicle" means a motor vehicle that is not
14 a new motor vehicle.

15 (6) ~~(5)~~—"Used motor vehicle dealer" means a person that is
16 engaged in the business of purchasing, selling, exchanging, or
17 dealing in used motor vehicles and that has an established place of
18 business in this state at which it conducts that business. The term
19 does not include a new motor vehicle dealer purchasing, selling,
20 exchanging, or dealing in used motor vehicles as part of its
21 business of purchasing, selling, exchanging, or dealing in new
22 motor vehicles.

23 Sec. 14. (1) **A** manufacturer shall not do any of the following:

24 (a) Adopt, change, establish, or implement a plan or system
25 for the allocation and distribution of new motor vehicles to new
26 motor vehicle dealers that is arbitrary or capricious or based on
27 unreasonable sales and service standards, or modify an existing
28 plan or system that causes the plan or system to be arbitrary or
29 capricious or based on unreasonable sales and service standards.

1 (b) If requested in writing by a new motor vehicle dealer,
2 fail or refuse to advise or disclose to the dealer the basis on
3 which new motor vehicles of the same line-make are allocated or
4 distributed to new motor vehicle dealers in this state and the
5 basis on which the current allocation or distribution is being made
6 or will be made to that new motor vehicle dealer.

7 (c) Refuse to deliver to a new motor vehicle dealer in
8 reasonable quantities and within a reasonable time after receipt of
9 the dealer's order, any new motor vehicles that are covered by the
10 dealer agreement and specifically publicly advertised in this state
11 by the manufacturer as available for immediate delivery. However,
12 the failure to deliver any motor vehicle is not considered a
13 violation of this act if the failure is due to an act of God, a
14 work stoppage or delay due to a strike or labor difficulty, a
15 shortage of materials, a lack of manufacturing capacity, a freight
16 embargo, or other cause over which the manufacturer has no control.
17 If a manufacturer requires a new motor vehicle dealer to purchase
18 essential service tools with a purchase price in the aggregate of
19 more than \$7,500.00 in order to receive a specific model of
20 vehicle, the manufacturer shall on written request provide the
21 dealer with a ~~good-faith~~**good-faith** estimate in writing of the
22 number of vehicles of that specific model the dealer will be
23 allocated in the model year in which the dealer is required to
24 purchase the tool.

25 (d) Increase the price of a new motor vehicle that the new
26 motor vehicle dealer had ordered, and then eventually delivered to,
27 the same retail consumer for whom the vehicle was ordered, if the
28 order was made before the dealer's receipt of a written official
29 price increase notification. A sales contract signed by a private

1 retail consumer and binding on the dealer constitutes evidence of a
2 vehicle order. In the event of manufacturer price reductions or
3 cash rebates, the dealer shall pass on the amount of any reduction
4 or rebate received by the dealer to the private retail consumer.

5 Any price reduction in excess of \$5.00 shall apply to all vehicles
6 in the dealer's inventory that were subject to the price reduction.
7 A price difference applicable to new model or series motor vehicles
8 at the time of the introduction of the new models or the series is
9 not considered a price increase or price decrease. This subdivision
10 does not apply to price changes caused by any of the following:

11 (i) The addition to a motor vehicle of required or optional
12 equipment under state or federal law.

13 (ii) In the case of foreign made vehicles or components,
14 revaluation of the United States dollar.

15 (iii) Any increase in transportation charges due to an increase
16 in rates charged by a common carrier or transporter.

17 (e) Offer any of the following to any new motor vehicle dealer
18 of a specific line-make without making the same offer available to
19 all other new motor vehicle dealers of the same line-make:

20 (i) Any specific model or series of new motor vehicles
21 manufactured for that line-make.

22 (ii) Any incentives, rebates, bonuses, promotional items, or
23 other similar benefits payable to the new motor vehicle dealer for
24 selling new motor vehicles or purchasing new motor vehicles from
25 the manufacturer.

26 (iii) Any consumer rebates, vehicle price reductions, or
27 interest rate reductions or other changes to finance terms that
28 benefit the consumer.

29 (iv) Any program that provides marketing and sales assistance

1 to new motor vehicle dealers, including, but not limited to,
2 internet listings, sales leads, marketing programs, and dealer
3 recognition programs.

4 (f) Release to an outside party, except under subpoena or in
5 an administrative or judicial proceeding to which the new motor
6 vehicle dealer or the manufacturer are parties, any business,
7 financial, or personal information that has been provided by the
8 dealer to the manufacturer, unless the new motor vehicle dealer
9 gives written consent.

10 (g) Deny a new motor vehicle dealer the right to associate
11 with another new motor vehicle dealer for any lawful purpose.

12 (h) Directly or indirectly own, operate, or control a new
13 motor vehicle dealer, including, but not limited to, a new motor
14 vehicle dealer engaged primarily in performing warranty repair
15 services on motor vehicles under the manufacturer's warranty, or a
16 used motor vehicle dealer. This subdivision does not apply to any
17 of the following:

18 (i) The ownership, operation, or control by a manufacturer of a
19 new motor vehicle dealer for a period of not more than 24 months
20 during the transition from 1 owner or operator to another. The
21 circuit court may extend the 24-month time period for an additional
22 12 months upon receipt of an application from a manufacturer and a
23 showing of good cause.

24 (ii) The ownership, operation, or control of a new motor
25 vehicle dealer or a used motor vehicle dealer by a manufacturer
26 while it is being sold under a bona fide contract or purchase
27 option to the operator of the new motor vehicle dealer or the used
28 motor vehicle dealer.

29 (iii) The direct or indirect ownership by a manufacturer of an

1 entity that owns, operates, or controls a new motor vehicle dealer
2 of the same line-make franchised by the manufacturer, if all of the
3 following conditions are met:

4 (A) As of May 1, 2000, the manufacturer for a period of not
5 less than 12 months has continuously owned, directly or indirectly,
6 1 or more new motor vehicle dealers in this state.

7 (B) All of the new motor vehicle dealers selling the
8 manufacturer's motor vehicles in this state trade exclusively in
9 the manufacturer's line-make.

10 (C) As of January 1, 2000, not fewer than 1/2 of the new motor
11 vehicle dealers of the line-make within this state own and operate
12 2 or more new motor vehicle dealer facilities in the geographic
13 territory or area covered by the franchise agreement with the
14 manufacturer.

15 (D) For a manufacturer or any entity in which the manufacturer
16 has more than a 45% ownership interest, the manufacturer or entity
17 has not acquired, operated, or controlled a new motor vehicle
18 dealer that the manufacturer did not directly or indirectly own as
19 of May 1, 2000.

20 (iv) The acquisition by a manufacturer of a used motor vehicle
21 dealer's license for the purpose of selling motor vehicles to
22 nonretail buyers.

23 (i) Sell any new motor vehicle directly to a retail customer
24 other than through franchised dealers, unless the retail customer
25 is a nonprofit organization or a federal, state, or local
26 government or agency. This subdivision does not prohibit a
27 manufacturer from providing information to a consumer for the
28 purpose of marketing or facilitating the sale of new motor vehicles
29 or from establishing a program to sell or offer to sell new motor

1 vehicles through franchised new motor vehicle dealers that sell and
2 service new motor vehicles produced by the manufacturer.

3 (j) Prevent or attempt to prevent by contract or otherwise any
4 new motor vehicle dealer from changing the executive management of
5 a new motor vehicle dealer unless the manufacturer, having the
6 burden of proof, can show that the change of executive management
7 will result in executive management by a person or persons who are
8 not of good moral character or who do not meet reasonable,
9 preexisting, and equitably applied standards of the manufacturer.

10 If a manufacturer rejects a proposed change in the executive
11 management, the manufacturer shall give written notice of its
12 reasons to the dealer within 75 days after receiving written notice
13 from the dealer of the proposed change and all related information
14 reasonably requested by the manufacturer, or the change in
15 executive management is considered approved.

16 (k) Unreasonably withhold consent to the sale, transfer, or
17 exchange of a new motor vehicle dealership to a qualified buyer
18 that meets the manufacturer's uniformly applied requirements and
19 criteria to be a new motor vehicle dealer and that is capable of
20 being licensed as a new motor vehicle dealer in this state.

21 (l) Fail to respond to a written request from a new motor
22 vehicle dealer that has submitted an agreement for the sale,
23 transfer, or exchange of a new motor vehicle dealership. The
24 manufacturer shall provide the dealer with all forms generally
25 utilized and requested by the manufacturer for the approval of a
26 sale, transfer, or exchange of a new motor vehicle dealership not
27 later than 30 days after receiving a written request from the
28 dealer for the forms. A manufacturer shall have 75 days after the
29 date the manufacturer receives all the properly completed forms and

1 information generally utilized and requested by the manufacturer to
2 approve or disapprove the sale, transfer, or exchange of the new
3 motor vehicle dealership. The failure of the manufacturer to
4 approve or disapprove the sale, transfer, or exchange within the
5 75-day time period is considered approval.

6 (m) Unfairly prevent a new motor vehicle dealer that sells,
7 transfers, or exchanges a new motor vehicle dealership from
8 receiving reasonable compensation for the value of the new motor
9 vehicle dealership.

10 (n) Subject to section 13(1)(i) and (2), unless the
11 manufacturer enters into a written agreement with the new motor
12 vehicle dealer that clearly states the amount of the incentive
13 payments and the period of time during which the incentive payments
14 are paid, offer incentive payments to a new motor vehicle dealer in
15 consideration for a new motor vehicle dealer's promise to do any of
16 the following:

17 (i) Make material alterations to any facilities at the dealer's
18 place of business.

19 (ii) Construct new facilities for the conduct of the business
20 of the dealership.

21 (o) Require unreasonable improvements to a facility as a
22 condition to entering into or renewing a dealer agreement.

23 (p) Authorize a motor vehicle service and repair facility to
24 perform motor vehicle warranty repairs and recall work, unless the
25 work meets any of the following:

26 (i) Is required for emergency service of a vehicle.

27 (ii) Is work performed at a service center owned or operated by
28 a manufacturer on a manufacturer-owned vehicle.

29 (iii) Is work performed by **the vehicle manufacturer or** employees

1 of a fleet operator on ~~its~~ **the fleet operator's** own vehicles.

2 (q) ~~Own~~ **Directly or indirectly own** a motor vehicle service and
3 repair facility, except that a manufacturer may own a service and
4 repair facility for the repair of manufacturer-owned vehicles **and,**
5 **at the request of a fleet operator, for the repair of a fleet**
6 **operator's vehicles as permitted under subdivision (p) (iii) .**

7 (r) Engage in conduct that meets all of the following:

8 (i) Materially affects a new motor vehicle dealer.

9 (ii) Is capricious, is not in good faith, or is unconscionable.

10 (iii) Causes material damage to a new motor vehicle dealer.

11 (s) Require, attempt to require, coerce, or attempt to coerce
12 a new motor vehicle dealer to adhere to unreasonable performance
13 standards that are not applied uniformly to other similarly
14 situated new motor vehicle dealers.

15 (t) Use or consider the performance of a new motor vehicle
16 dealer in selling the manufacturer's vehicles or the new motor
17 vehicle dealer's ability to satisfy any minimum sales or market
18 share quota or responsibility relating to the sale of the new motor
19 vehicles in determining any of the following:

20 (i) The new motor vehicle dealer's eligibility to purchase
21 program, certified, or other used motor vehicles from the
22 manufacturer.

23 (ii) The volume, type, or model of program, certified, or other
24 used motor vehicles that a new motor vehicle dealer is eligible to
25 purchase from the manufacturer.

26 (iii) The price of any program, certified, or other used motor
27 vehicle that the new motor vehicle dealer purchases from the
28 manufacturer.

29 (iv) The availability or amount of any discount, credit,

1 rebate, or sales incentive that the new motor vehicle dealer is
2 eligible to receive from the manufacturer in connection with any
3 program, certified, or other used motor vehicle offered for sale by
4 the manufacturer.

5 (u) Require that a new motor vehicle dealer provide its
6 customer lists or service files to the manufacturer, unless
7 necessary for the sale and delivery of a new motor vehicle to a
8 consumer, to validate and pay consumer or dealer incentives, or in
9 connection with the submission of a claim to the manufacturer for
10 services supplied by the new motor vehicle dealer for any claim for
11 warranty repairs. This section does not limit a manufacturer's
12 authority to require or use customer information to satisfy any
13 safety or recall obligation.

14 (v) Establish a performance standard or program for measuring
15 new motor vehicle dealer performance that may have a material and
16 adverse impact on a new motor vehicle dealer that is not fair,
17 reasonable, and equitable. For purposes of this subdivision, all of
18 the following apply if a manufacturer does not provide a complete
19 program description explaining the performance standard or program
20 details to a new motor vehicle dealer on or before the beginning of
21 the program:

22 (i) Within 10 days after receiving a request from the new motor
23 vehicle dealer, the manufacturer shall provide the new motor
24 vehicle dealer with a written description of how a performance
25 standard or program is designed.

26 (ii) Within 30 days after receiving a written request from the
27 new motor vehicle dealer, the manufacturer shall provide all of the
28 following to the dealer:

29 (A) The specific information relied on by the manufacturer

1 relating to how the performance standard or program was applied to
2 the new motor vehicle dealer. The manufacturer is not required to
3 disclose any proprietary or confidential information for purposes
4 of this sub-subparagraph. However, the result of the application of
5 a performance standard or program to a particular new motor vehicle
6 dealer is not considered proprietary or confidential as between the
7 manufacturer and that particular new motor vehicle dealer.

8 (B) An explanation as to how the manufacturer applies a
9 performance standard or program to a new motor vehicle dealer's
10 performance.

11 (iii) On written request, a manufacturer or a new motor vehicle
12 dealer shall meet with the other party, in person or
13 telephonically, under reasonable circumstances and as agreed to by
14 both parties, to present, explain, or discuss information the
15 manufacturer is required to provide under subparagraph (ii) (A) and
16 (B).

17 (w) If a new motor vehicle dealer sold or leased a new motor
18 vehicle to a customer that exported the motor vehicle to a foreign
19 country or resold the motor vehicle, and at the time of delivery to
20 the customer the vehicle was titled and registered in this state or
21 another state of the United States by the dealer, refuse to
22 allocate, sell, or deliver new motor vehicles to the dealer; charge
23 back or withhold payments or other things of value for which the
24 dealer is otherwise eligible under a sales promotion, program, or
25 contest; prevent a new motor vehicle dealer from participating in
26 any sales promotion, program, or contest; or take or threaten to
27 take any other adverse action against a new motor vehicle dealer,
28 including, but not limited to, reducing vehicle allocations or
29 terminating or threatening to terminate a dealer agreement, unless

1 the manufacturer proves that the new motor vehicle dealer knew or
2 reasonably should have known that the customer intended to export
3 or resell the motor vehicle. In an action by a new motor vehicle
4 dealer for a violation of this subdivision, there is a rebuttable
5 presumption that a new motor vehicle dealer did not know or should
6 not reasonably have known of its customer's intent to export or
7 resell a motor vehicle if the vehicle was titled and registered in
8 the United States, and the manufacturer bears the burden of
9 rebutting that presumption.

10 (x) If a new motor vehicle dealer is a party to a dealer
11 agreement on August 4, 2010, and the dealer agreement provides for
12 sale of a competing line-make of new motor vehicles at the same
13 place of business where the manufacturer's line-make is sold,
14 require or otherwise coerce the new motor vehicle dealer to remove
15 the sale or servicing of new motor vehicles of that competing line-
16 make from that place of business.

17 (y) Prevent, attempt to prevent, prohibit, coerce, or attempt
18 to coerce a new motor vehicle dealer from charging a consumer any
19 documentary preparation fee allowed to be charged by the dealer
20 under the laws of this state or require the disclosure of the
21 documentary preparation fee in a written format that is not
22 otherwise required by law.

23 (z) Prohibit, prevent, or attempt to prevent a new motor
24 vehicle dealer from transferring a dealership to or naming a
25 spouse, child, or executive manager as dealership successor to own
26 and operate the dealership unless the manufacturer, having the
27 burden of proof, can show that at the time the successor is named
28 or the dealership is transferred, the successor spouse, child, or
29 executive manager of the dealer is not of good moral character, has

1 a felony conviction, does not meet the manufacturer's uniformly
2 applied requirements and criteria to be a dealer, or is otherwise
3 disqualified from holding a license as a new motor vehicle dealer
4 under any applicable statute of this state. All of the following
5 apply for purposes of this subdivision:

6 (i) The manufacturer is required to provide the new motor
7 vehicle dealer, in writing, with its current uniformly applied
8 requirements and criteria to be a dealer within 30 days of
9 receiving the new motor vehicle dealer's written request for the
10 uniformly applied requirements and criteria to be a dealer.

11 (ii) Within 75 days after receiving the manufacturer's current
12 uniformly applied written requirements and criteria to be a dealer
13 from the manufacturer, the new motor vehicle dealer may submit a
14 written request to the manufacturer for a meeting, in person or
15 telephonically, with the manufacturer, under reasonable
16 circumstances as agreed to by both parties, to address the
17 requirements and criteria. The parties shall meet, in person or
18 telephonically, within 45 days after the new motor vehicle dealer's
19 request for a meeting, unless otherwise agreed. During the meeting,
20 the manufacturer shall provide the dealer an opportunity to
21 present, in writing, facts, data, and evidence that establish that
22 there are factors beyond the reasonable control or influence of the
23 new motor vehicle dealer that materially and adversely impact the
24 proposed transferee's ability to meet the manufacturer's current
25 uniformly applied written requirements to be a dealer. If the
26 manufacturer does not provide the new motor vehicle dealer an
27 opportunity to present, in writing, facts, data, and evidence, or
28 does not in good faith evaluate the effect of the facts, data, and
29 evidence presented by the dealer, then the manufacturer may not

1 prohibit or prevent the new motor vehicle dealer from transferring
2 the dealership to a spouse, child, or executive manager, or naming
3 a spouse, child, or executive manager as the dealership successor
4 to own and operate the dealership.

5 (iii) The manufacturer must make any decision to decline the new
6 motor vehicle dealer's request to transfer a new motor vehicle
7 dealership to a spouse, child, or executive manager, or name a
8 spouse, child, or executive manager as dealership successor, in
9 good faith, including the opportunity for a meeting, in person or
10 telephonically as provided in subparagraph (ii). If requested by the
11 new motor vehicle dealer in writing, the manufacturer must provide
12 the new motor vehicle dealer with the information that it relied on
13 when concluding that the spouse, child, or executive manager did
14 not satisfy the uniformly required requirements and criteria to be
15 a new motor vehicle dealer. However, the manufacturer is not
16 required to disclose proprietary or confidential information and is
17 not required to disclose any information if disclosure is
18 prohibited by law.

19 (aa) Make any material change in a dealer agreement without
20 giving the new motor vehicle dealer written notice of the change at
21 least 30 days before the effective date of the change. In any
22 dispute under this subdivision, the new motor vehicle dealer has
23 the burden of proving the modification is sufficiently significant
24 and material to require notice under this subdivision.

25 (bb) Unless otherwise agreed, require a new motor vehicle
26 dealer to sell or offer to sell an extended service contract or
27 extended maintenance plan offered, sold, backed by, or sponsored by
28 the manufacturer.

29 (2) A manufacturer, either directly or through any subsidiary,

1 shall not terminate, cancel, fail to renew, or discontinue any
2 lease of a new motor vehicle dealer's established place of business
3 except for a material breach of the lease.

4 (3) Within 30 days after receiving a written request from the
5 dealer, a manufacturer shall provide a new motor vehicle dealer
6 that is seeking to sell, transfer, or exchange a new motor vehicle
7 dealership with all forms generally utilized and requested by the
8 manufacturer in connection with the sale, transfer, or exchange of
9 a new motor vehicle dealership.

10 (4) A failure by a manufacturer or distributor to approve or
11 disapprove a dealer's request to sell, transfer, or exchange its
12 new motor vehicle dealership within the 75-day period after it
13 receives a completed application, including all required
14 documentation and information requested by the manufacturer or
15 distributor, is considered approval by the manufacturer of the
16 sale, transfer, or exchange of the dealership.

17 (5) This section applies to a manufacturer that sells,
18 services, displays, or advertises its new motor vehicles in this
19 state.

20 ~~Sec. 17a. (1) The principal factors in determining what~~
21 ~~constitutes reasonable compensation for parts reimbursement and~~
22 ~~labor rates for purposes of section 17(1) are as follows:~~

23 ~~(a) The retail price charged for parts by other similarly~~
24 ~~situated new motor vehicle dealers in a comparable geographic area~~
25 ~~in this state that offer the same line-make of vehicles.~~

26 ~~(b) The retail labor rates of other similarly situated new~~
27 ~~motor vehicle dealers in a comparable geographic area in this state~~
28 ~~that offer the same line-make of vehicles.~~

29 ~~(2) All of the following apply for purposes of subsection (1):~~

~~(a) A new motor vehicle dealer that is demanding warranty compensation from a manufacturer at a rate that exceeds the agreed-upon rates shall establish the retail rate it customarily charges for parts by submitting to the manufacturer 100 consecutive and sequential nonwarranty customer-paid service repair orders that contain repairs for like services or all nonwarranty customer-paid service repair orders covering a period of 90 consecutive days, whichever is less. A dealer shall not submit a service repair order under this subsection that covers repairs made more than 180 days before the date of the submission.~~

~~(b) If a manufacturer determines from any set of repair orders submitted under subdivision (a) that the calculated retail markup rate for parts or the retail labor rate is substantially higher or lower than the rate currently on record with the manufacturer, the manufacturer may request additional documentation for a period of either 60 days before or 60 days after the time period for which the repair orders were submitted for purposes of an adjustment.~~

~~(c) A new motor vehicle dealer's retail rate percentage for parts is calculated by determining the dealer's total parts sales in the submitted repair orders and dividing that amount by the dealer's total cost for the purchase of those parts, subtracting 1 from that amount, and then multiplying by 100. The manufacturer must approve or disapprove the declared retail rate within 45 days after the date of submission by the dealer. The declared retail rate is effective beginning 30 days after approval by the manufacturer, unless the manufacturer disapproves and timely contests the dealer's declared rate. If a manufacturer fails to disapprove within 45 days following submission by the dealer, the declared retail rate is considered approved. A new motor vehicle~~

~~dealer's retail rate for labor is calculated by determining the dealer's total labor sales from the submitted repair orders and dividing that amount by the total number of hours that generated those sales. The manufacturer must approve or disapprove the declared retail rate within 45 days after the date the dealer submits the repair orders. The declared retail labor rate is effective beginning 30 days after approval by the manufacturer, unless the manufacturer disapproves and timely contests the dealer's declared rate.~~

~~(d) A manufacturer may contest a new motor vehicle dealer's declared retail markup rate for parts or retail labor rate not later than 45 days after submission and declaration of the retail markup rate for parts or retail labor rate by the dealer by reasonably substantiating that the rate is inaccurate, incomplete, or unreasonable in light of the factors described in subsection (1). In contesting a new motor vehicle dealer's declared rate, a manufacturer shall provide a written explanation of the reasons for disagreement with the declared rate. If the declared retail markup rate for parts or retail labor rate is contested, then the manufacturer shall propose an adjustment of the rate. If the manufacturer contests the dealer's declared parts or labor rate, the parties shall attempt to resolve the dispute through an internal dispute resolution procedure of the manufacturer, if available, provided that the dispute resolution procedure occurs within a reasonable amount of time that does not exceed 45 days after notification of disagreement with the dealer's declared rate.~~

~~(e) If an internal dispute resolution procedure described in subdivision (d) is unsuccessful or does not occur in a timely manner, a new motor vehicle dealer may file a complaint in the~~

~~circuit court for the county in which the new motor vehicle dealer is located, within 60 days after it receives the adjustment proposed by the manufacturer or within 30 days after conclusion of the internal dispute resolution procedure, whichever is later. In an action under this subdivision, the manufacturer has the burden of proof to demonstrate that the retail markup rate for parts or retail labor rate declared by the dealer is inaccurate, incomplete, or unreasonable.~~

~~(3) The following work shall not be considered in calculating the retail rate customarily charged by a new motor vehicle dealer for parts and labor under this section:~~

~~(a) Repairs for manufacturer special events, specials, or promotional discounts for retail customer repairs.~~

~~(b) Parts sold at wholesale.~~

~~(c) Routine maintenance not covered under any retail customer warranty, such as oil changes, fluids, filters, or belts not provided in the course of repairs.~~

~~(d) Nuts, bolts, or fasteners or similar items that do not have an individual part number.~~

~~(e) Tires, tire repair, tire rotation, or other tire services.~~

~~(f) Vehicle reconditioning.~~

~~(g) Installation or repair of accessories.~~

~~(h) Repairs of vehicle body damage caused by a collision, a road hazard, the force of the elements, vandalism, or theft.~~

~~(i) Vehicle emission or safety inspections required by law.~~

~~(j) Manufacturer approved and reimbursed goodwill or policy repairs or replacements.~~

~~(k) Repairs for which volume discounts have been negotiated with government agencies.~~

1 ~~(4) If a manufacturer furnishes a part or component to a new~~
2 ~~motor vehicle dealer to use in performing repairs under a recall,~~
3 ~~campaign service action, or warranty repair at no cost to the~~
4 ~~dealer, the manufacturer shall compensate the dealer for the~~
5 ~~authorized repair part or component in the same manner as warranty~~
6 ~~parts compensation under section 17 by paying the dealer the retail~~
7 ~~rate markup on the cost for the part or component as listed in the~~
8 ~~price schedule of the manufacturer less the cost for the part or~~
9 ~~component.~~

10 ~~(5) A manufacturer shall not require a new motor vehicle~~
11 ~~dealer to establish the retail rate customarily charged by the~~
12 ~~dealer for parts and labor by an unduly burdensome or time-~~
13 ~~consuming method or by requiring information that is unduly~~
14 ~~burdensome or time consuming to provide, including, but not limited~~
15 ~~to, part by part or transaction by transaction calculations. A~~
16 ~~dealer shall not declare a retail rate for parts or labor or both~~
17 ~~more than once in a calendar year.~~

18 ~~(6) A manufacturer shall not limit access to sales or service~~
19 ~~promotion events, incentives, programs, or activities sponsored by~~
20 ~~the manufacturer or limit allocation of vehicles or parts to a new~~
21 ~~motor vehicle dealer based solely on the new motor vehicle dealer's~~
22 ~~exercise of its rights under this section. This subsection does not~~
23 ~~prohibit a manufacturer from increasing the price of a motor~~
24 ~~vehicle or part in the normal course of business.~~