

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

D

HOUSE DRH60319-LK-178 (3/3)

Short Title: Clarify MV Dealer Franchise Laws.

(Public)

Sponsors: Representative Cole.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE MOTOR VEHICLE DEALER FRANCHISE LAWS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-297.1 reads as rewritten:

"§ 20-297.1. **Prefiling of franchise agreements and amendments.** **Franchise-related form agreements.**

~~Any franchise, as defined in G.S. 20-286(8a), offered to a motor vehicle dealer in this State shall provide that all terms and conditions in the agreement inconsistent with any of the laws or rules of this State are of no force and effect. On or before January 1, 1998, every manufacturer, factory branch, distributor, or distributor branch licensed by the Commissioner under this Article which uses an identical or substantially similar form franchise for its dealers or distributors in this State shall file with the Commissioner a copy of the franchise and all supplements. Any applicant for licensing by the Commissioner as a manufacturer, factory branch, distributor, or distributor branch licensed under this Article, which would use an identical or substantially similar form franchise, as defined in G.S. 20-286(8a), for its dealers or distributors in this State, shall, as a condition for the issuance of a license, file with the Commissioner a copy of the franchise and all supplements thereto. Not later than 60 days prior to the date a revision, modification, or addition to a franchise is offered generally to a licensee's franchisees in this State, the licensee shall notify the Commissioner of the proposed revision, modification, or addition to the franchise on file with the Commissioner and include with the notification:~~

~~(1) A copy of the form franchise which incorporates all of the proposed revisions, modifications, and additions;~~

~~(2) A separate statement which identifies all substantive revisions, modifications, and additions proposed.~~

1        ~~It shall be unlawful for a franchise or any addendum or supplement thereto to be~~  
2 ~~offered to a motor vehicle dealer in this State after January 1, 1998, until an applicant or~~  
3 ~~licensee has complied with all of the requirements of this section. The Commissioner is~~  
4 ~~authorized and directed to investigate and prevent violations of this section, including~~  
5 ~~inconsistencies of any manufacturer's franchise with the provisions of this Article.~~

6        (a) All franchise-related form agreements, as defined in this subsection, offered  
7 to a motor vehicle dealer in this State shall provide that all terms and conditions in the  
8 agreement inconsistent with any of the laws or rules of this State are of no force and  
9 effect. For purposes of this section, the term "franchise-related form agreements" means  
10 any and all identical or substantially similar form agreements relating to franchise  
11 offerings, letters of intent, franchise agreements, framework agreements, dealer  
12 agreements, sales and service agreements, performance agreements, facilities  
13 construction or improvement agreements, loan agreements, floor plan agreements, and  
14 agreements related to the financing of vehicles sold or leased by the dealer.

15        (b) Notwithstanding the terms of any franchise or agreement, it shall be unlawful  
16 for any manufacturer, factory branch, distributor, or distributor branch, or any other  
17 person, corporation, or other entity that is owned, operated, or controlled by such  
18 manufacturer, factory branch, distributor, or distributor branch, to offer to a dealer,  
19 revise, modify, or replace a franchise-related form agreement, as defined above in this  
20 section, which agreement, modification, or replacement may adversely affect or alter the  
21 rights, obligations, or liability of a motor vehicle dealer or may impair the sales, service  
22 obligations, investment, or profitability of any motor vehicle dealer located in this State,  
23 unless:

24            (1) The manufacturer, factory branch, distributor, or distributor branch  
25 provides prior written notice by registered or certified mail to each  
26 affected dealer, the Commissioner, and the North Carolina Automobile  
27 Dealers Association, Inc., of the modification or replacement in the  
28 form and within the time frame set forth within this subsection and in  
29 subsection (d) of this section; and

30            (2) If a protest is filed under this section, the Commissioner approves the  
31 modification or replacement.

32        (c) The notice required by subdivision (b)(1) of this section shall:

33            (1) Be given not later than the 60th day before the effective date of the  
34 modification or replacement;

35            (2) Contain on its first page a conspicuous statement that reads: 'NOTICE  
36 TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST  
37 WITH THE COMMISSIONER OF THE NORTH CAROLINA  
38 DIVISION OF MOTOR VEHICLES AND HAVE A HEARING IN  
39 WHICH YOU MAY PROTEST THE PROPOSED INITIAL  
40 OFFERING, MODIFICATION, OR REPLACEMENT OF CERTAIN  
41 FRANCHISE-RELATED FORM AGREEMENTS UNDER THE  
42 TERMS OF THE MOTOR VEHICLE DEALERS AND  
43 MANUFACTURERS LICENSING LAW, IF YOU OPPOSE THIS  
44 ACTION'; and

1           (3)   Contain a separate letter or statement which identifies all substantive  
2                   modifications or revisions and the reasons for each such modification  
3                   or revision.

4           (d)   A franchised dealer may file a protest with the Commissioner of the offering,  
5 modification, or replacement pursuant to this section not later than the latter of:

6                   (1)   The 60th day after the date of the receipt of the notice; or

7                   (2)   The time specified in the notice.

8           (e)   After a protest is filed, the Commissioner shall determine whether the  
9 manufacturer, factory branch, distributor, or distributor branch has established by a  
10 preponderance of the evidence that there is good cause for the proposed offering,  
11 modification, or replacement. The prior franchise-related form agreement, if any,  
12 continues in effect until the Commissioner resolves the protest.

13          (f)   The Commissioner is authorized and directed to investigate and prevent  
14 violations of this section, including inconsistencies of any franchise-related form  
15 agreement with the provisions of this Article.

16          (g)   Nothing contained in this section shall in any way limit a dealer's rights under  
17 any other provision of this Article or other applicable law."

18           **SECTION 2.** G.S. 20-305(5) reads as rewritten:

19   "**§ 20-305. Coercing dealer to accept commodities not ordered; threatening to**  
20 **cancel franchise; preventing transfer of ownership; granting additional**  
21 **franchises; terminating franchises without good cause; preventing family**  
22 **succession.**

23           It shall be unlawful for any manufacturer, factory branch, distributor, or distributor  
24 branch, or any field representative, officer, agent, or any representative whatsoever of  
25 any of them:

26           ...

27          (5)   To enter into a franchise establishing an additional new motor vehicle  
28 dealer or relocating an existing new motor vehicle dealer into a  
29 relevant market area where the same line make is then represented  
30 without first notifying in writing the Commissioner and each new  
31 motor vehicle dealer in that line make in the relevant market area of  
32 the intention to establish an additional dealer or to relocate an existing  
33 dealer within or into that market area. Within 30 days of receiving  
34 such notice or within 30 days after the end of any appeal procedure  
35 provided by the manufacturer, any new motor vehicle dealer may file  
36 with the Commissioner a protest to the establishing or relocating of the  
37 new motor vehicle dealer. When a protest is filed, the Commissioner  
38 shall promptly inform the manufacturer that a timely protest has been  
39 filed, and that the manufacturer shall not establish or relocate the  
40 proposed new motor vehicle dealer until the Commissioner has held a  
41 hearing and has determined that there is good cause for permitting the  
42 addition or relocation of such new motor vehicle dealer.

43           a.   This section does not apply:

- 1                   1.     To the relocation of an existing new motor vehicle dealer  
2                   within that dealer's relevant market area, provided that  
3                   the relocation not be at a site within 10 miles of a  
4                   licensed new motor vehicle dealer for the same line  
5                   make of motor vehicle. If this sub-subdivision is  
6                   applicable, only dealers trading in the same line-make of  
7                   vehicle that are located within the 10-mile radius shall be  
8                   entitled to notice from the manufacturer and have the  
9                   protest rights afforded under this section; or
- 10                  2.     If the proposed additional new motor vehicle dealer is to  
11                  be established at or within two miles of a location at  
12                  which a former licensed new motor vehicle dealer for the  
13                  same line make of new motor vehicle had ceased  
14                  operating within the previous two years;
- 15                  3.     To the relocation of an existing new motor vehicle dealer  
16                  within two miles of the existing site of the new motor  
17                  vehicle dealership if the franchise has been operating on  
18                  a regular basis from the existing site for a minimum of  
19                  three years immediately preceding the relocation;
- 20                  4.     To the relocation of an existing new motor vehicle dealer  
21                  if the proposed site of the relocated new motor vehicle  
22                  dealership is further away from all other new motor  
23                  vehicle dealers of the same line make in that relevant  
24                  market ~~area~~.area; or
- 25                  5.     To the relocation of an existing new motor vehicle dealer  
26                  to a location within 4.5 miles of the existing site of the  
27                  new motor vehicle dealership if the line make has been  
28                  operating on a regular basis from the existing site for a  
29                  minimum of 50 years immediately preceding the  
30                  relocation, provided that the relocation site not be  
31                  located within four miles of another licensed new motor  
32                  vehicle dealer for the same line make of motor vehicle."

33                   **SECTION 3.** G.S. 20-305(30) reads as rewritten:

34                   "**§ 20-305. Coercing dealer to accept commodities not ordered; threatening to**  
35                   **cancel franchise; preventing transfer of ownership; granting additional**  
36                   **franchises; terminating franchises without good cause; preventing family**  
37                   **succession.**

38                   It shall be unlawful for any manufacturer, factory branch, distributor, or distributor  
39                   branch, or any field representative, officer, agent, or any representative whatsoever of  
40                   any of them:

- 41                   ...
- 42                   (30) To vary the price charged to any of its franchised new motor vehicle  
43                   dealers located in this State for new motor vehicles based on the  
44                   dealer's purchase of new facilities, supplies, tools, equipment, or other

1 merchandise from the manufacturer, the dealer's relocation,  
2 remodeling, repair, or renovation of existing dealerships or  
3 construction of a new facility, the dealer's participation in training  
4 programs sponsored, endorsed, or recommended by the manufacturer,  
5 whether or not the dealer is dualed with one or more other line makes  
6 of new motor vehicles, or the dealer's sales penetration. Except as  
7 provided in this subdivision, it shall be unlawful for any manufacturer,  
8 factory branch, distributor, or distributor branch, or any field  
9 representative, officer, agent, or any representative whatsoever of any  
10 of them to vary the price charged to any of its franchised new motor  
11 vehicle dealers located in this State for new motor vehicles based on  
12 the dealer's sales volume, the dealer's level of sales or customer service  
13 satisfaction, the dealer's purchase of advertising materials, signage,  
14 nondiagnostic computer hardware or software, communications  
15 devices, or furnishings, or the dealer's participation in used motor  
16 vehicle inspection or certification programs sponsored or endorsed by  
17 the manufacturer.

18 The price of the vehicle, for purposes of this subdivision shall  
19 include the manufacturer's use of rebates, credits, or other  
20 consideration which has the effect of causing a variance in the price of  
21 new motor vehicles offered to its franchised dealers located in the  
22 State.

23 Notwithstanding the foregoing, nothing in this subdivision shall be  
24 deemed to preclude a manufacturer from establishing sales contests or  
25 promotions which provide or award dealers or consumers rebates or  
26 incentives; provided, however, that the manufacturer complies with all  
27 of the following conditions:

- 28 a. With respect to manufacturer to consumer rebates and  
29 incentives, the manufacturer's criteria for determining eligibility  
30 shall:
- 31 1. Permit all of the manufacturer's franchised new motor  
32 vehicle dealers in this State to offer the rebate or  
33 incentive; and
  - 34 2. Be uniformly applied and administered to all eligible  
35 consumers.
- 36 b. With respect to manufacturer to dealer rebates and incentives,  
37 the rebate or incentive program shall:
- 38 1. Be based solely on the dealer's actual or reasonably  
39 anticipated sales volume or on a uniform per vehicle sold  
40 or leased basis;
  - 41 2. Be uniformly available, applied, and administered to all  
42 of the manufacturer's franchised new motor vehicle  
43 dealers in this State; and

- 1                   3.     Provide that any of the manufacturer's franchised new  
2                   motor vehicle dealers in this State may, upon written  
3                   request, obtain the method or formula used by the  
4                   manufacturer in establishing the sales volumes for  
5                   receiving the rebates or incentives and the specific  
6                   calculations for determining the required sales volumes  
7                   of the inquiring dealer and any of the manufacturer's  
8                   other franchised new motor vehicle dealers located  
9                   within 75 miles of the inquiring dealer.

10                   Nothing contained in this subdivision shall prohibit a manufacturer  
11                   from providing assistance or encouragement to a franchised dealer to  
12                   remodel, renovate, recondition, or relocate the dealer's existing  
13                   facilities, provided that this assistance, encouragement, or rewards are  
14                   not determined on a per vehicle basis.

15                   It is unlawful for any manufacturer to charge or include the cost of  
16                   any program or policy prohibited under this subdivision in the price of  
17                   new motor vehicles that the manufacturer sells to its franchised dealers  
18                   or purchasers located in this State.

19                   In the event that as of October 1, 1999, a manufacturer was  
20                   operating a program that varied the price charged to its franchised  
21                   dealers in this State in a manner that would violate this subdivision, or  
22                   had in effect a documented policy that had been conveyed to its  
23                   franchised dealers in this State and that varied the price charged to its  
24                   franchised dealers in this State in a manner that would violate this  
25                   subdivision, it shall be lawful for that program or policy, including  
26                   amendments to that program or policy that are consistent with the  
27                   purpose and provisions of the existing program or policy, or a program  
28                   or policy similar thereto implemented after October 1, 1999, to  
29                   continue in effect as to the manufacturer's franchised dealers located in  
30                   this State until June 30, ~~2006~~2010.

31                   In the event that as of June 30, 2001, a manufacturer was operating  
32                   a program that varied the price charged to its franchised dealers in this  
33                   State in a manner that would violate this subdivision, or had in effect a  
34                   documented policy that had been conveyed to its franchised dealers in  
35                   this State and that varied the price charged to its franchised dealers in  
36                   this State in a manner that would violate this subdivision, and the  
37                   program or policy was implemented in this State subsequent to  
38                   October 1, 1999, and prior to June 30, 2001, and provided that the  
39                   program or policy is in compliance with this subdivision as it existed  
40                   as of June 30, 2001, it shall be lawful for that program or policy,  
41                   including amendments to that program or policy that comply with this  
42                   subdivision as it existed as of June 30, 2001, to continue in effect as to  
43                   the manufacturer's franchised dealers located in this State until June  
44                   30, ~~2006~~2010.

1 Any manufacturer shall be required to pay or otherwise compensate  
2 any franchise dealer who has earned the right to receive payment or  
3 other compensation under a program in accordance with the  
4 manufacturer's program or policy.

5 The provisions of this subdivision shall not be applicable to  
6 multiple or repeated sales of new motor vehicles made by a new motor  
7 vehicle dealer to a single purchaser under a bona fide fleet sales policy  
8 of a manufacturer, factory branch, distributor, or distributor branch."

9 **SECTION 4.** G.S. 20-305 is amended by adding a new subdivision to read:

10 **"§ 20-305. Coercing dealer to accept commodities not ordered; threatening to**  
11 **cancel franchise; preventing transfer of ownership; granting additional**  
12 **franchises; terminating franchises without good cause; preventing family**  
13 **succession.**

14 It shall be unlawful for any manufacturer, factory branch, distributor, or distributor  
15 branch, or any field representative, officer, agent, or any representative whatsoever of  
16 any of them:

17 ...

18 (41) Notwithstanding the terms, provisions, or conditions of any agreement  
19 or franchise, to require any of its franchised dealers located in this  
20 State to agree to any terms, conditions, or requirements that are  
21 unreasonable or onerous in order for any such dealer to floor plan any  
22 of the dealer's inventory, finance the sale or lease of any motor  
23 vehicles purchased or leased by any of the dealer's customers, finance  
24 the acquisition, construction, or renovation of any of the dealer's  
25 property or facilities, or to be able to participate in, or otherwise,  
26 directly or indirectly, obtain the benefits of any incentive program  
27 offered by or through any financial source that is, directly or indirectly,  
28 owned, operated, or controlled by such manufacturer, factory branch,  
29 distributor, or distributor branch ("captive finance source"). Such  
30 unreasonable or onerous terms, conditions, or requirements include,  
31 but are not limited to, those which provide that:

32 a. The dealer grant such captive finance source a power of  
33 attorney to do anything on behalf of the dealer other than sign  
34 the dealer's name on any check, draft, or other instrument  
35 received in payment or proceeds under any contract for the sale  
36 or lease of a motor vehicle that is made payable to the dealer  
37 but which is properly payable to the captive finance source;

38 b. The dealer warrant or guaranty the veracity, accuracy, or  
39 sufficiency of any representation made or information provided  
40 by a customer of the dealer in the course of applying for credit,  
41 including, but not limited to, any representations made about  
42 the actual identity of the person or persons seeking credit;

43 c. The dealer indemnify or hold harmless the captive finance  
44 source for settlements, judgments, damages, litigation expenses,

1 or other costs or expenses incurred by such captive finance  
2 source other than those settlements, judgments, damages,  
3 litigation expenses, or other costs or expenses incurred which  
4 have either:

5 1. Been agreed to by the dealer in writing subsequent to the  
6 making of a demand, filing of a claim, or  
7 commencement of an administrative or judicial  
8 proceeding by or on behalf of one or more purchasers or  
9 lessees of a motor vehicle; or

10 2. Arisen from a claim, demand, or commencement of an  
11 administrative or judicial proceeding by or on behalf of  
12 one or more purchasers or lessees of a motor vehicle  
13 against the captive finance source that: (i) is directly  
14 based upon or is alleged to be directly based upon the  
15 conduct of the dealer; and (ii) in which the conduct of  
16 the dealer forming the basis of said claim, demand, or  
17 administrative or judicial proceeding violates the specific  
18 terms of the agreement between the dealer and the  
19 captive finance source.

20 d. The dealer repurchase, pay off, or guaranty any contract for the  
21 sale or lease of a motor vehicle unless such repurchase or  
22 guaranty by the dealer has either been:

23 1. Agreed to by the dealer in writing subsequent to the  
24 making of a demand, filing of a claim, or  
25 commencement of an administrative or judicial  
26 proceeding by or on behalf of one or more purchasers or  
27 lessees of a motor vehicle; or

28 2. Judicially or administratively determined (i) to arise  
29 from a successful claim against the captive finance  
30 source, (ii) that arose as a direct result of the conduct of  
31 the dealer, and (iii) that such conduct violates the  
32 specific terms of the agreement between the dealer and  
33 the captive finance source, or gives rise to the dealer's  
34 indemnification obligations under its agreement with the  
35 captive finance source.

36 e. The dealer waive any defenses that may be available to it under  
37 its agreements with the captive finance source or under any  
38 applicable laws;

39 f. The dealer settle or contribute any of its own funds or financial  
40 resources toward the settlement of any multiparty or class  
41 action litigation without obtaining the dealer's voluntary and  
42 written consent subsequent to the filing of such litigation;

43 g. The dealer contribute to any reserve or contingency account  
44 established or maintained by the captive finance source in any



1 amount or on any basis other than the reasonable expected cost  
2 of future finance reserve chargebacks to the dealer's account; or  
3 h. The dealer be required to repossess or otherwise gain  
4 possession of a motor vehicle at the request of or on behalf of  
5 the captive finance source.

6 Any clause or provision in any franchise or agreement between a  
7 dealer and a manufacturer, factory branch, distributor, or distributor  
8 branch, or between a dealer and any captive finance source, that is in  
9 violation of or that is inconsistent with any of the provisions of this  
10 subdivision shall be voidable at anytime at the election of the dealer."

11 **SECTION 5.** Chapter 20 of the General Statutes is amended by adding a  
12 new section to read:

13 **"§ 20-305.7. Unlawful equipment leases, contracts for computer services, and**  
14 **access to dealership information.**

15 (a) It shall be unlawful for any person, corporation, or other entity to enter into a  
16 contract or agreement with a motor vehicle dealer located in this State that provides for  
17 or relates to the lease of computer-related equipment or computer-related services which  
18 contains any terms or conditions that are unreasonable or onerous to the dealer. For  
19 purposes of this subdivision, the term "computer-related equipment" is defined as  
20 computers, servers, network and digital communications equipment, routers, switches,  
21 terminal servers, printers, software, or other computer-related programs, equipment,  
22 forms, or supplies. For purposes of this section, the term "computer-related services" is  
23 defined as repair, maintenance, or update services performed on computer-related  
24 equipment. Such unreasonable or onerous terms or conditions include, but are not  
25 limited to, the following:

26 (1) Terms or conditions that prohibit a dealer from terminating the  
27 contract or agreement within five years from the initial commencement  
28 date of the agreement or that require the dealer to pay an unreasonable  
29 amount of consideration in order to terminate the agreement within  
30 five years from the initial commencement date of the agreement.

31 (2) Terms or conditions that extend the term of the contract or agreement  
32 in excess of three years beyond the initial term of the agreement, or  
33 that require the dealer to pay an unreasonable amount of consideration  
34 in order to terminate the agreement within three years beyond the  
35 initial term of the agreement.

36 (3) Terms or conditions that allow a manufacturer, factory branch,  
37 distributor, or distributor branch, or any third party acting on their  
38 behalf to access or obtain data from, or write data to, a dealer's  
39 computer system or network that does not enable the dealer to:

40 a. Maintain the security, integrity, and confidentiality of the  
41 customer and dealership information collected or generated by  
42 the dealer;

43 b. Monitor the specific data accessed from or written to the  
44 dealer's computer system or network by the manufacturer,

1 factory branch, distributor, or distributor branch, or any third  
2 party acting on their behalf; and

3 c. Comply with any applicable State and federal laws and any  
4 rules or regulations promulgated thereunder.

5 Any clause or provision in any contract or agreement between a dealer  
6 and any person, corporation, or other entity, that is in violation of or  
7 that is inconsistent with any of the provisions of this section shall be  
8 voidable at anytime at the election of the dealer.

9 (b) Notwithstanding the terms of any franchise or agreement, it shall be unlawful  
10 for any manufacturer, factory branch, distributor, or distributor branch to access or  
11 obtain data from or write data to a dealer's computer system or network, or require or  
12 coerce a dealer to utilize any computer-related equipment, computer-related services,  
13 network design, communication system, third-party provider, third-party vendor, or  
14 other means of accessing, exchanging, or transferring data relating to the dealer or the  
15 dealer's customers or transferring data from any manufacturer, factory branch,  
16 distributor, or distributor branch to a dealer's computer system or network, that does not  
17 enable the dealer to:

18 (1) Maintain the security, integrity, and confidentiality of the customer  
19 and dealership information collected or generated by the dealer;

20 (2) Monitor the specific data accessed from or written to the dealer's  
21 computer system or network by the manufacturer, factory branch,  
22 distributor, or distributor branch; and

23 (3) Comply with any applicable State and federal laws and any rules or  
24 regulations promulgated thereunder.

25 (c) It shall be unlawful for any vendor of computer-related equipment or  
26 computer-related services or any third party acting on behalf of any vendor of  
27 computer-related equipment, vendor of computer-related services, manufacturer, factory  
28 branch, distributor, or distributor branch to either:

29 (1) Provide access to any customer or dealership information collected,  
30 received, or generated by the dealer without first obtaining the dealer's  
31 explicit written consent in an agreement between the dealer and all  
32 entities accessing or handling this customer or dealership information.  
33 Such consent must be in written form and contain the original  
34 signature of the dealer or the dealer's authorized representative and  
35 reference by name and provide authorization for the specific vendor of  
36 computer-related equipment, vendor of computer-related services, or  
37 third party to whom such consent is given and describe the scope of  
38 the consent given. No vendor of computer-related equipment,  
39 computer-related services, or any third party acting on behalf of any  
40 vendor of computer-related equipment, vendor of computer-related  
41 services, manufacturer, factory branch, distributor, or distributor  
42 branch shall have any right to obtain, utilize, copy, view, or modify  
43 information stored in or traversing computer-related equipment owned

1                    or utilized by a dealer without first obtaining this explicit written  
2                    consent.

3                    (2) Notwithstanding the terms of any contract, agreement, or consent,  
4                    access or obtain data from or write data to a dealer's computer system  
5                    or network that does not enable the dealer to:

6                    a. Maintain the security, integrity, and confidentiality of the  
7                    customer and dealership information collected or generated by  
8                    the dealer;

9                    b. Monitor the specific data accessed from or written to the  
10                    dealer's computer system or network by the vendor of  
11                    computer-related equipment or computer-related services, or the  
12                    manufacturer, factory branch, distributor, or distributor branch;  
13                    and

14                    c. Comply with any applicable State and federal laws and any  
15                    rules or regulations promulgated thereunder."

16                    **SECTION 6.** G.S. 20-308.2 is amended by adding a new subsection to read:

17                    "(e) The provisions of this Article shall apply to all written or oral agreements  
18                    between any manufacturer, factory branch, distributor, or distributor branch and any  
19                    other person, corporation, or other entity that is owned, operated, or controlled by such  
20                    manufacturer, factory branch, distributor, or distributor branch, on the one part, and any  
21                    franchised motor vehicle dealer located in this State, on the other part, including, but not  
22                    limited to: franchise offerings, letters of intent, franchise agreements, sales and service  
23                    agreements, performance agreements, side agreements, sales of goods, services, or  
24                    advertising, leases or mortgages of real or personal property, promises to pay, security  
25                    interests, pledges, insurance contracts, advertising contracts, construction or installation  
26                    contracts, servicing contracts, and all other such agreements that contemplate or require  
27                    commercial or business activities in this State in which a manufacturer, factory branch,  
28                    distributor, or distributor branch has any direct or indirect interest."

29                    **SECTION 7.** This act is effective when it becomes law.