AN ACT

AMENDING SECTIONS 28-4451 AND 28-4460, ARIZONA REVISED STATUTES; RELATING TO
MOTOR VEHICLE DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-4451, Arizona Revised Statutes, is amended to read:

28-4451. Product liability; warranty obligations; audits; vehicle exports; definition

A. Each manufacturer shall file with the director a copy of the delivery and preparation obligations required to be performed by a NEW MOTOR VEHICLE dealer before delivery of new motor vehicles to buyers. These delivery and preparation obligations constitute the NEW MOTOR VEHICLE dealer's only responsibility for the product liability as between the NEW MOTOR VEHICLE dealers and the manufacturer. THE NEW MOTOR VEHICLE DEALER SHALL FURNISH THE BUYER OF A NEW MOTOR VEHICLE WITH A SIGNED COPY OF THE MANUFACTURER'S OR DISTRIBUTOR'S DELIVERY AND PREPARATION REQUIREMENTS INDICATING THAT ALL OF THE REQUIREMENTS HAVE IN FACT BEEN PERFORMED.

B. Any mechanical, body or parts defects arising from any express or implied warranties of the manufacturer constitute the manufacturer's product or warranty liability.

C. The manufacturer OR DISTRIBUTOR shall reasonably compensate an authorized NEW MOTOR VEHICLE dealer who performs work to rectify the manufacturer's OR DISTRIBUTOR'S product DEFECT or warranty defects obligations, including any recall obligations or delivery and preparation obligations.

D. The dealer shall furnish the purchaser of a new vehicle with a signed copy of the manufacturer's delivery and preparation requirements indicating that all of the requirements have in fact been performed.

E. The manufacturer shall pay the cost of the manufacturer's delivery, warranty and preparation requirements.

D. THE COMPENSATION THAT THE MANUFACTURER OR DISTRIBUTOR PAYS TO A NEW MOTOR VEHICLE DEALER FOR DIAGNOSTIC WORK, REPAIR SERVICE AND LABOR SHALL BE FAIR AND REASONABLE AS DETERMINED PURSUANT TO SUBSECTION E OF THIS SECTION. TIME ALLOWANCES FOR THE DIAGNOSIS AND PERFORMANCE OF WARRANTY WORK AND SERVICE SHALL BE REASONABLE AND ADEQUATE FOR THE WORK OR SERVICES TO BE PERFORMED. THE COMPENSATION THAT THE MANUFACTURER OR DISTRIBUTOR PAYS TO THE NEW MOTOR VEHICLE DEALER FOR PARTS USED IN WARRANTY OR RECALL RELATED SERVICE SHALL BE FAIR AND REASONABLE AS DETERMINED PURSUANT TO SUBSECTION F OF THIS SECTION.

E. THE NEW MOTOR VEHICLE DEALER SHALL ESTABLISH THE RETAIL RATE THAT IT CUSTOMARILY CHARGES FOR LABOR BY SUBMITTING TO THE MANUFACTURER OR DISTRIBUTOR ALL NONWARRANTY CUSTOMER PAID SERVICE REPAIR ORDERS COVERING REPAIRS MADE DURING THE MONTH BEFORE THE SUBMISSION AND DIVIDING THE AMOUNT OF THE DEALER'S TOTAL LABOR SALES BY THE NUMBER OF TOTAL LABOR HOURS THAT GENERATED THOSE SALES. THE RESULTING AVERAGE LABOR RATE IS PRESUMED TO BE FAIR AND REASONABLE EXCEPT THAT A MANUFACTURER OR DISTRIBUTOR, WITHIN THIRTY DAYS AFTER SUBMISSION, MAY REBUT THE PRESUMPTION BY REASONABLY SUBSTANTIATING THAT THE RATE IS UNFAIR AND UNREASONABLE COMPARED TO THE PRACTICES OF ALL
OTHER FRANCHISED NEW MOTOR VEHICLE DEALERS IN THE VICINITY THAT OFFER THE
SAME LINE-MAKE VEHICLES. THE AVERAGE LABOR RATE SHALL GO INTO EFFECT THIRTY
DAYS FOLLOWING THE DECLARATION, SUBJECT TO THE RIGHT OF THE MANUFACTURER OR
DISTRIBUTOR TO REBUT THE DECLARED RATE. IF THE DECLARED RATE IS REBUTTED,
THE MANUFACTURER OR DISTRIBUTOR SHALL PROPOSE AN ADJUSTMENT OF THE AVERAGE
LABOR RATE BASED ON THE REBUTTAL WITHIN THIRTY DAYS AFTER SUBMISSION. IF THE
NEW MOTOR VEHICLE DEALER DOES NOT AGREE WITH THE PROPOSED AVERAGE LABOR RATE,
THE DEALER MAY FILE A PROTEST WITH THE DIRECTOR WITHIN THIRTY DAYS AFTER
RECEIPT OF THE MANUFACTURER’S OR DISTRIBUTOR’S PROPOSAL. IF A PROTEST IS
TIMELY FILED, THE DIRECTOR SHALL INFORM THE MANUFACTURER OR DISTRIBUTOR THAT
A TIMELY PROTEST HAS BEEN FILED AND THAT A HEARING WILL BE HELD ON THE
PROTEST. IN A HEARING HELD PURSUANT TO THIS SUBSECTION, THE MANUFACTURER OR
DISTRIBUTOR HAS THE BURDEN OF PROVING THAT THE RATE DECLARED BY THE DEALER
WAS UNFAIR AND UNREASONABLE AND THAT THE PROPOSED ADJUSTMENT OF THE AVERAGE
LABOR RATE IS FAIR AND REASONABLE.

F. THE NEW MOTOR VEHICLE DEALER SHALL ESTABLISH THE RETAIL RATE THAT
IT CUSTOMARILY CHARGES FOR WARRANTY PARTS BY SUBMITTING TO THE MANUFACTURER
OR DISTRIBUTOR ONE HUNDRED SEQUENTIAL NONWARRANTY CUSTOMER PAID SERVICE
REPAIR ORDERS THAT CONTAIN WARRANTY-LIKE PARTS OR SIXTY CONSECUTIVE DAYS OF
NONWARRANTY CUSTOMER-PAID SERVICE REPAIR ORDERS THAT CONTAIN WARRANTY-LIKE
PARTS, WHICHEVER IS LESS, COVERING REPAIRS MADE WITHIN ONE HUNDRED EIGHTY
DAYS BEFORE THE SUBMISSION AND SETTING FORTH THE AVERAGE PERCENTAGE MARKUP.
THE AVERAGE OF THE MARKUP RATES IS PRESUMED TO BE FAIR AND REASONABLE, EXCEPT
THAT A MANUFACTURER OR DISTRIBUTOR, WITHIN THIRTY DAYS AFTER SUBMISSION, MAY
REBUT THAT PRESUMPTION BY REASONABLY SUBSTANTIATING THAT THE RATE IS UNFAIR
AND UNREASONABLE COMPARED TO THE PRACTICES OF ALL OTHER FRANCHISED MOTOR
VEHICLE DEALERS IN THE VICINITY OFFERING THE SAME LINE-MAKE VEHICLES. THE
RETAIL RATE SHALL GO INTO EFFECT THIRTY DAYS AFTER THE DECLARATION, SUBJECT
TO THE RIGHT OF THE MANUFACTURER OR DISTRIBUTOR TO REBUT THE DECLARED RATE.
IF THE DECLARED RATE IS REBUTTED, THE MANUFACTURER OR DISTRIBUTOR SHALL
PROPOSE AN ADJUSTMENT OF THE AVERAGE PERCENTAGE MARKUP BASED ON THAT REBUTTAL
WITHIN THIRTY DAYS AFTER SUBMISSION. IF THE DEALER DOES NOT AGREE WITH THE
PROPOSED AVERAGE PERCENTAGE MARKUP, THE DEALER MAY FILE A PROTEST WITH THE
DIRECTOR WITHIN THIRTY DAYS AFTER RECEIPT OF THE MANUFACTURER’S OR
DISTRIBUTOR’S PROPOSAL. IF A PROTEST IS TIMELY FILED, THE DIRECTOR SHALL
INFORM THE MANUFACTURER OR DISTRIBUTOR THAT A TIMELY PROTEST HAS BEEN FILED
AND THAT A HEARING WILL BE HELD ON THE PROTEST. IN A HEARING HELD PURSUANT
TO THIS SUBSECTION, THE MANUFACTURER OR DISTRIBUTOR HAS THE BURDEN OF PROVING
THAT THE RATE DECLARED BY THE DEALER WAS UNFAIR AND UNREASONABLE AND THAT THE
PROPOSED ADJUSTMENT OF THE AVERAGE PERCENTAGE MARKUP IS FAIR AND REASONABLE.

G. IN CALCULATING THE RETAIL RATE THAT A DEALER CUSTOMARILY CHARGES
FOR PARTS AND LABOR, THE FOLLOWING WORK MAY NOT BE INCLUDED IN THE
CALCULATION:

1. REPAIRS FOR MANUFACTURER OR DISTRIBUTOR SPECIAL EVENTS, SPECIALS OR
PROMOTIONAL DISCOUNTS FOR RETAIL CUSTOMER REPAIRS.
2. PARTS SOLD AT WHOLESALE.

3. ENGINE ASSEMBLIES AND TRANSMISSION ASSEMBLIES.

4. ROUTINE MAINTENANCE NOT COVERED UNDER ANY RETAIL CUSTOMER WARRANTY.
   SUCH AS FLUIDS, FILTERS AND BELTS NOT PROVIDED IN THE COURSE OF REPAIRS.

5. NUTS, BOLTS, FASTENERS AND SIMILAR ITEMS THAT DO NOT HAVE
   INDIVIDUAL PART NUMBERS.

6. TIRES.

7. VEHICLE RECONDITIONING.

F. H. The manufacturer, factory branch, distributor or distributor
   branch may reasonably and periodically audit a new motor vehicle dealer to
   determine the validity of paid claims for dealer compensation or any
   charge-backs for warranty parts or service compensation. Audits shall only
   be for the six month period immediately following the date of the
   payment. This limitation does not apply if the manufacturer reasonably
   suspects fraud OR DISTRIBUTOR HAS REASONABLE CAUSE TO BELIEVE THAT A CLAIM
   THAT IS SUBMITTED BY A NEW MOTOR VEHICLE DEALER IS INTENTIONALLY FALSE OR
   FRAUDULENT. AS A RESULT OF AN AUDIT THAT IS AUTHORIZED BY THIS SUBSECTION,
   THE MANUFACTURER OR DISTRIBUTOR HAS THE RIGHT TO CHARGE BACK TO THE NEW MOTOR
   VEHICLE DEALER THE AMOUNT OF ANY PREVIOUSLY PAID CLAIM AFTER THE NEW MOTOR
   VEHICLE DEALER HAS HAD NOTICE AND AN OPPORTUNITY TO PARTICIPATE IN ALL
   FRANCHISOR INTERNAL APPELLATE PROCESSES AND ALL LEGAL PROCESSES.

G. I. The manufacturer, factory branch, distributor or distributor
   branch shall reserve the right to reasonable periodic audits to determine the
   validity of paid claims for dealer compensation or any charge-backs for
   consumer or dealer incentives. Audits shall only be for a one year period
   immediately following the date of the payment. This limitation does not
   apply if the manufacturer reasonably suspects fraud. MANUFACTURER OR
   DISTRIBUTOR HAS REASONABLE CAUSE TO BELIEVE THAT A CLAIM SUBMITTED BY A NEW
   MOTOR VEHICLE DEALER IS INTENTIONALLY FALSE OR FRAUDULENT. AS A RESULT OF AN
   AUDIT AUTHORIZED BY THIS SUBSECTION, THE MANUFACTURER OR DISTRIBUTOR HAS THE
   RIGHT TO CHARGE BACK TO THE NEW MOTOR VEHICLE DEALER THE AMOUNT OF ANY
   PREVIOUSLY PAID CLAIM AFTER THE NEW MOTOR VEHICLE DEALER HAS HAD NOTICE AND
   AN OPPORTUNITY TO PARTICIPATE IN ALL FRANCHISOR INTERNAL APPELLATE PROCESSES
   AND ALL LEGAL PROCESSES.

J. ALL CLAIMS BY DEALERS UNDER THIS SECTION FOR LABOR AND PARTS AND
   ALL CLAIMS FOR COMPENSATION RELATIVE TO ANY SALES INCENTIVE PROGRAMS SHALL BE
   PAID WITHIN THIRTY DAYS AFTER APPROVAL BY THE MANUFACTURER OR DISTRIBUTOR
   SUBJECT TO THE MANUFACTURER'S OR DISTRIBUTOR'S RIGHT TO AUDIT THE CLAIMS
   PROVIDED IN SUBSECTION H OR I OF THIS SECTION. ALL CLAIMS SHALL BE EITHER
   APPROVED OR DISAPPROVED WITHIN THIRTY DAYS AFTER RECEIPT ON FORMS AND IN THE
   MANNER SPECIFIED BY THE MANUFACTURER OR DISTRIBUTOR. ANY CLAIM NOT
   DISAPPROVED IN WRITING OR BY MEANS OF ELECTRONIC TRANSMISSION WITHIN THIRTY
   DAYS AFTER RECEIPT ARE DEEMED APPROVED AND PAYMENT MUST BE MADE WITHIN THIRTY
   DAYS AFTER APPROVAL.
K. IF A MANUFACTURER OR DISTRIBUTOR FURNISHES A PART OR COMPONENT TO A
NEW MOTOR VEHICLE DEALER, AT NO COST, TO USE IN PERFORMING REPAIRS UNDER A
RECALL, CAMPAIGN SERVICE ACTION OR WARRANTY REPAIR, THE MANUFACTURER OR
DISTRIBUTOR SHALL COMPENSATE THE DEALER FOR THE PART OR COMPONENT IN THE SAME
MANNER AS WARRANTY PARTS COMPENSATION UNDER THIS SECTION BY COMPENSATING THE
DEALER THE AVERAGE MARKUP ON THE COST FOR THE PART OR COMPONENT AS LISTED IN
THE MANUFACTURER'S OR DISTRIBUTOR'S PRICE SCHEDULE LESS THE COST FOR THE PART OR COMPONENT.

L. A MANUFACTURER OR DISTRIBUTOR MAY NOT REQUIRE A NEW MOTOR VEHICLE
DEALER TO ESTABLISH THE RETAIL RATE CUSTOMARILY CHARGED BY THE DEALER FOR
PARTS AND LABOR BY AN UNDULY BURDENSOME OR TIME CONSUMING METHOD OR BY
REQUIRING INFORMATION THAT IS UNDULY BURDENSOME OR TIME CONSUMING TO PROVIDE
CALCULATIONS, INCLUDING PART-BY-PART OR TRANSACTION-BY-TRANSACTION
CALCULATIONS. A DEALER MAY NOT DECLARE AN AVERAGE PERCENTAGE MARKUP OR AN
AVERAGE LABOR RATE MORE THAN TWICE IN ONE CALENDAR YEAR.

M. A MANUFACTURER OR DISTRIBUTOR MAY NOT DENY A CLAIM BY A NEW MOTOR
VEHICLE DEALER FOR REIMBURSEMENT OF ANY WARRANTY PARTS OR SERVICE
COMPENSATION OR ANY CONSUMER OR DEALER INCENTIVE COMPENSATION BASED SOLELY ON
A NEW MOTOR VEHICLE DEALER'S INCIDENTAL FAILURE TO COMPLY WITH A SPECIFIC
CLAIM PROCESSING REQUIREMENT, SUCH AS A CLERICAL ERROR OR MISSING SIGNATURES,
THAT DOES NOT PUT INTO QUESTION THE LEGITIMACY OF THE CLAIM. IF A CLAIM IS
REJECTED FOR A CLERICAL ERROR OR MISSING SIGNATURES, THE NEW MOTOR VEHICLE
DEALER MAY RESUBMIT A CORRECTED CLAIM IN A TIMELY MANNER. A NEW MOTOR
VEHICLE DEALER MAY CORRECT OR COMPLETE AND RESUBMIT A PREVIOUSLY SUBMITTED
WARRANTY OR INCENTIVE CLAIM AT ANY TIME, INCLUDING AFTER THE MANUFACTURER'S
OR DISTRIBUTOR'S COMMENCEMENT OF AN AUDIT AUTHORIZED BY SUBSECTION H OR I OF
THIS SECTION OR THE MANUFACTURER'S OR DISTRIBUTOR'S REJECTION OF THE CLAIM.

N. If a NEW MOTOR VEHICLE dealer sells or leases a vehicle to a
customer who exports the vehicle to a foreign country, unless the
manufacturer, DISTRIBUTOR OR IMPORTER proves that the NEW MOTOR VEHICLE
dealer knew or reasonably should have known that the vehicle would be
exported, a manufacturer shall not do any of the following:
1. Refuse to sell, allocate or deliver new motor vehicles to the NEW
MOTOR VEHICLE dealer.
2. Charge back to or withhold payments or other things of value from
the NEW MOTOR VEHICLE dealer that the NEW MOTOR VEHICLE dealer otherwise
would be eligible for under an incentive program or contest.
3. Prevent a NEW MOTOR VEHICLE dealer from participating in any sales
promotion or program.
4. Take an adverse action against a NEW MOTOR VEHICLE dealer,
including reducing vehicle allocations or terminating or threatening to
terminate a dealer.

O. There is a rebuttable presumption that the NEW MOTOR VEHICLE
dealer described in subsection N OF THIS SECTION did not know or should
not have reasonably known that the vehicle described in subsection N OF
THIS SECTION would be exported. The presumption may be rebutted by a
preponderance of the evidence that the NEW MOTOR VEHICLE dealer knew or
should have reasonably known that the vehicle was to be exported.

P. IF A TIMELY PROTEST IS FILED UNDER SUBSECTION E OR F OF THIS
SECTION, THE DIRECTOR SHALL:

1. ENTER AN ORDER FIXING THE TIME AND PLACE OF A HEARING ON THE
PROTEST. THE HEARING SHALL BE HELD WITHIN SEVENTY-FIVE DAYS AFTER THE DATE
OF THE ORDER.

2. SEND BY CERTIFIED MAIL A COPY OF THE ORDER TO THE DEALER AND THE
MANUFACTURER.

3. APPOINT A MEMBER OF THE ARIZONA STATE BAR WHO SHALL BE DESIGNATED
AS AN ADMINISTRATIVE LAW JUDGE TO CONDUCT THE HEARING AND WHO SHALL BE
COMPENSATED UNDER A CONTRACTUAL RELATIONSHIP.

Q. PREHEARING DISCOVERY SHALL BE CONDUCTED PURSUANT TO THE ARIZONA
RULES OF CIVIL PROCEDURE.

R. EVIDENCE THAT WOULD BE ADMISSIBLE UNDER THE ISSUES IN SUCH AN
ACTION IN A STATE OR FEDERAL COURT IS ADMISSIBLE IN A HEARING HELD BY THE
ADMINISTRATIVE LAW JUDGE. THE ADMINISTRATIVE LAW JUDGE SHALL REASONABLY
APPORTION ALL COSTS BETWEEN THE PARTIES, INCLUDING COMPENSATION FOR THE
ADMINISTRATIVE LAW JUDGE'S SERVICES. THE ADMINISTRATIVE LAW JUDGE MAY:

1. ISSUE SUBPOENAS.

2. ADMINISTER OATHS.

3. COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS,
PAPERS, DOCUMENTS AND ALL OTHER EVIDENCE.

4. APPLY TO THE SUPERIOR COURT IN THE COUNTY IN WHICH THE HEARING IS
HELD FOR A COURT ORDER ENFORCING THIS SECTION.

S. A TRANSCRIPT OF THE TESTIMONY OF ALL WITNESSES TAKEN AT THE HEARING
SHALL BE MADE AND PRESERVED. WITHIN FORTY-FIVE DAYS AFTER THE HEARING THE
ADMINISTRATIVE LAW JUDGE SHALL MAKE WRITTEN FINDINGS OF FACT AND CONCLUSIONS
OF LAW AND ENTER A FINAL ORDER.

T. A PARTY TO THE HEARING BEFORE THE ADMINISTRATIVE LAW JUDGE MAY
APPEAL PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. AN APPEAL OF A DECISION OF
AN ADMINISTRATIVE LAW JUDGE HAS PREFERENCE OVER OTHER CIVIL MATTERS AND SHALL
BE HEARD AT THE EARLIEST PRACTICABLE DATE.

U. AS A CONDITION TO THE APPEAL, THE APPEALING PARTY SHALL FILE A CASH
BOND, SUPERSEDES BOND OR ITS EQUIVALENT WITH THE DIRECTOR. THE BOND SHALL BE
SUFFICIENT IN AMOUNT TO COVER THE DAMAGES INCURRED BY THE PREVAILING PARTY,
BUT THE AMOUNT OF THE BOND MAY NOT EXCEED THE LESSER OF FIFTY THOUSAND
DOLLARS OR TEN PERCENT OF THE APPEALING PARTY'S NET WORTH. THE APPEALING
PARTY MAY FILE ALTERNATIVES TO CASH SUCH AS CERTIFICATES OF DEPOSIT PURCHASED
FROM A FINANCIAL INSTITUTION LICENSED TO DO BUSINESS IN THIS STATE PURSUANT
TO TITLE 6 OR BONDS OF THE UNITED STATES GOVERNMENT.

V. FOR THE PURPOSES OF THIS SECTION, "REASONABLE CAUSE" MEANS A BONA
FIDE BELIEF BASED ON EVIDENCE THAT THE ISSUES OF FACT ARE SUCH THAT A PERSON

- 5 -
OF ORDINARY CAUTION, PRUDENCE AND JUDGMENT COULD BELIEVE THAT A CLAIM WAS
INTENTIONALLY FALSE OR FRAUDULENT.

Sec. 2. Section 28-4460, Arizona Revised Statutes, is amended to read:

28-4460. Factories; competition or unfair discrimination
prohibited; definitions

A. A factory shall not directly or indirectly compete with or unfairly
discriminate among its dealers.

B. Competing with or unfair discrimination includes any one of the
following:

1. The factory having an ownership interest or franchise interest in,
or operating or acting in the capacity of, a new motor vehicle dealer or a
used motor vehicle dealer, except that:

(a) A factory is not prohibited from owning or operating as a new
motor vehicle dealer for a temporary period if either of the following apply:

(i) The temporary period is not more than twelve months during the
transition from one dealer to another dealer if the dealership is for sale
and is being actively marketed by the factory at a bona fide reasonable price
and on reasonable terms and conditions to any independent qualified buyer.

(ii) The factory submits evidence that disposition of its interest
will result in financial loss to the factory or dealership.

The temporary period may be extended in one year increments if either of the
requirements of this subdivision are met.

(b) A factory is not prohibited from temporarily owning a dealership
while in a bona fide relationship with a qualified person. A bona fide
relationship with a person who is qualified requires that:

(i) The total sales price of the dealership is not less than an amount
that is consistent with standard business practices.

(ii) The independent qualified person make a substantial unencumbered
bona fide initial investment in the dealership that is reasonable and
consistent with standard business practices.

(iii) The bona fide initial investment of the qualified person is
subject to potential loss. The qualified person's percentage share of any
potential dealership losses shall not be less than the person's percentage
share of ownership of the dealership at the time of the loss.

(iv) The qualified person buy substantial portions of the factory's
remaining ownership interest in substantial regular periodic payments
throughout the acquisition period.

(v) The qualified person can expect to acquire and retain full and
complete ownership of the dealership within a reasonable period of time that
is not longer than ten years and on reasonable terms and conditions that are
consistent with standard business practices. The ten year acquisition period
may be extended for good cause shown by the qualified person.

(vi) During the acquisition period if the qualified person is paid a
management fee, the management fee shall be reasonable and consistent with
standard business practices for an individual managing a franchise of similar
size and volume of sales and leases of vehicles or products.

(c) A factory is not prohibited from owning on a permanent basis a
minority interest in a dealership if all of the following conditions are
satisfied:

(i) The interest owned by the factory is not more than forty-five percent or the percentage interest actually owned by the factory on January 1, 2000, whichever is less.

(ii) Any dealership in which the factory owns the interest shall not be less than seventy-five miles from the nearest dealership of the same line-make in which the factory does not own the interest.

(iii) All dealerships in which the factory owns the interest shall not sell or lease more than one of the line-makes of new motor vehicles and parts manufactured by the factory.

(iv) All dealerships in which the factory owns the interest shall sell or lease the same line-make of new motor vehicles and parts manufactured by the factory. The dealerships may also sell or lease new motor vehicles and parts of a line-make manufactured by a factory that does not have an ownership interest in the dealership.

(v) The factory or an entity in which the factory has the interest must have been licensed in this state as a new motor vehicle dealer on January 1, 2000 selling the line-make of new motor vehicle manufactured by the factory.

(vi) The factory must have owned the interest in at least one dealership selling the line-make manufactured by the factory on January 1, 2000.

(vii) The factory or an entity in which the factory has the interest shall not sell any line-make of new motor vehicle that it was not selling in this state before January 1, 2000.

(viii) All automotive related services and financing related to the line-make or the factory owning the interest shall be sold or provided only to owners of vehicles of the line-make, regardless of where the vehicle was purchased, or to any purchasers of any new or used motor vehicles purchased from a dealership in which the factory has an interest. This item shall not preclude that dealership from selling or providing any nonwarranty repairs or maintenance on motor vehicles of any line-make or warranty repairs or maintenance of any line-make of new motor vehicles sold by the dealership and not manufactured by the factory.

(ix) All used motor vehicles of a line-make manufactured by the factory, other than the line-make that the dealership sells or leases new, acquired by the dealership, directly or indirectly from the factory, shall be acquired only at wholesale auction open to dealers of all line-makes manufactured by the factory.
2. The factory selling, leasing or providing, or offering to sell, lease or provide, a vehicle or product, service or financing to any retail consumer or lead. This paragraph does not:
   (a) Prohibit a factory from advertising to sell, lease or provide a vehicle or product, service or financing through its dealers.
   (b) Prohibit a factory from selling, leasing or providing or offering to sell, lease or provide a vehicle or product, service or financing through its dealers.
   (c) Prohibit a factory from providing a vehicle or product or service for occasional promotional or charitable uses.
   (d) Prohibit a factory from selling, leasing or providing a vehicle or product, service or financing to an agency of the federal government.
   (e) Prohibit a factory from selling or leasing a vehicle or product, service or financing through its dealers to retail consumers who qualify for any reasonable factory sponsored factory employee, factory retiree or factory vendor new vehicle purchase program or any other reasonable similar factory related new vehicle purchase program.
   (f) Prohibit a factory from providing financing to retail consumers through any used motor vehicle dealer or new motor vehicle dealer of any line-make.
   (g) Prohibit a factory from providing a loan directly to a person or entity if the loan is for a purpose unrelated to the ownership or leasing of a new motor vehicle or a used motor vehicle not for resale.
   (h) Prohibit a factory from providing loans directly to used motor vehicle dealers or new motor vehicle dealers of any line-make for any purpose, including working capital, real estate, construction or motor vehicle or parts inventories.
   (i) Prohibit a factory from arranging or providing emergency roadside service.
   (j) Prohibit a factory from offering factory sponsored extended service contracts to purchasers of new motor vehicles, provided that:
       (i) Such offers shall not take place less than ninety days after the date the retail consumer takes delivery of the new motor vehicle.
       (ii) Such offers are made to retail consumers only at the manufacturer's suggested retail price.
   (k) Prohibit a factory from selling a lease vehicle to the original lessee pursuant to a purchase option set forth in the lease. Such sale may be a credit sale with the factory as the credit seller and may include the direct sale of extended service contracts at the manufacturer's suggested retail price.
   (l) Prohibit a factory, at the request of a motor vehicle lessee, from extending a lease of a motor vehicle.
   (m) Prohibit a factory from offering and approving a retail consumer credit application for the financing or leasing of a motor vehicle provided that both of the following apply:
(i) The final transaction takes place through a licensed motor vehicle dealer.
(ii) The factory does not establish or quote any interest rate, finance rate or lease rate in association with a credit application.
(n) Prohibit a factory from renewing or charging any subscription or connection fees for any in-vehicle electronic wireless communication, information or entertainment services.

3. The factory controlling any aspect of the final amount charged, the final sales price or the final lease price for any vehicle or product, trade-in or service offered to retail consumers in a dealer's area of responsibility without the written consent of the dealer. The dealer's consent may be withdrawn on forty-five days' notice without retribution or the threat of retribution from the factory. This paragraph does not prohibit a factory from:
   (a) Changing dealer cost or establishing any of the following:
       (i) Manufacturer's suggested retail price pursuant to 15 United States Code section 1232.
       (ii) Factory's suggested retail price for parts.
       (iii) Factory's suggested retail price for service.
   (b) Establishing from time to time reasonable sales, lease or financing promotions of reasonable and limited duration, provided that programs up to a year are presumed to be of reasonable and limited duration.
   (c) Establishing reasonable standard feature option packages or vehicle option content in any way.
   (d) Establishing the terms of any vehicle warranty.
   (e) Establishing reasonable sales, lease or financing terms through its dealers to retail consumers who qualify for any reasonable factory sponsored factory employee, factory retiree or factory vendor new vehicle purchase program or any other reasonable similar factory related new vehicle purchase program.
   (f) Linking the factory's internet site to internet sites maintained by its dealers or third parties, or to internet sites maintained jointly by the factory and its dealers and made available to all of the factory's dealers of the same line-make, provided that the factory shall not dictate, limit, establish, set or endorse as a basis for a retail transaction any price other than the manufacturer's suggested retail price.
   (g) Establishing the price at which the lessee of a motor vehicle may purchase or re-lease that motor vehicle on expiration or termination of that lessee's lease.
   (h) Operating or facilitating a program or system through which individual dealers may provide quotes or offers to individual consumers.

4. The factory refusing to unconditionally offer and provide to its same line-make dealers all models, series and editions of new motor vehicles that are publicly advertised for that line-make in Arizona. The failure to deliver any new motor vehicles shall not be considered a violation of this
paragraph if the failure is caused by a lack of manufacturing capacity, labor
strike, shortage of materials or trade embargo or any other condition over
which the factory has no control. A factory may require a dealer to purchase
reasonable quantities of advertising materials, purchase reasonable
quantities of special tools required to properly service a motor vehicle and
undertake reasonable salesperson or service person training related to the
motor vehicle as a condition of receiving a motor vehicle. This paragraph
does not:
(a) Apply to recreational vehicle manufacturers.
(b) Prohibit a factory from providing monetary, financial or optional
equipment incentives to fleet purchasers for new motor vehicles not for
resale.
5. The factory denying to any dealer any price reduction, rebate,
incentive payment or similar pricing device relating to the sale or offer to
sell a new motor vehicle to a dealer, pursuant to a program that
discriminates among dealers of the same line-make in Arizona, when the dealer
cannot qualify or receive the benefits of the program for reasons other than
the dealer's failure to use reasonable effort to qualify and the terms of the
program are such that a failure to qualify or receive its benefits would
constitute the constructive termination of the dealer.
6. The factory failing to provide or direct a lead relating to a
particular line-make either:
(a) To the dealer with whom the lead has a preexisting relationship.
(b) To the dealer of the same line-make that is located closest to
where the lead resides, or to the local business address if the lead is a
business.
(c) To the dealer of the same line-make in whose assigned area of
responsibility the lead resides, or the local business address if the lead is
a business.
(d) According to the lead's voluntary preference.
C. Under subsection B, paragraph 6:
1. The factory need not provide or direct a lead to a dealer who does
not sell the vehicle or product, service or financing in which the lead
expresses an interest.
2. The factory is responsible only for providing to the dealer
information that it possesses concerning the lead.
3. The factory is not precluded from providing or directing leads to
any other dealer of the same line-make.
4. All leads shall be provided or directed in a fair,
nondiscriminatory, equitable and timely manner to dealers and, except as
provided in subsection D, without charging a fee for those leads.
D. Subsection B, paragraph 6 does not apply to any factory sponsored
internet-based program specifically designed to provide retail consumers with
internet access to dealer quotations on vehicles, products, financing or
services, provided that:
1. Fees for the program are reasonable and consistent with industry standards.

2. Dealer participation is not conditioned on participation in any other program or on ratings derived from customer surveys.

E. A MANUFACTURER OR DISTRIBUTOR MAY NOT RECOVER ALL OR ANY PORTION OF ITS COSTS FOR COMPENSATING A DEALER FOR WARRANTY PARTS AND SERVICE, INCLUDING PARTS AND SERVICE ASSOCIATED WITH VEHICLE RECalls, EITHER BY REDUCTION IN THE AMOUNT DUE THE DEALER OR BY SEPARATE CHARGE, SURCHARGE, ADMINISTRATIVE FEE OR OTHER IMPOSITION.

E. F. For the purposes of this section:

1. "Controlling" means dictating, limiting, establishing, setting or endorsing as a basis for a retail transaction any price other than the manufacturer's suggested retail price.

2. "Dealer" or "dealership" means a new motor vehicle dealer or franchisee.

3. "Factory":
   (a) Means a manufacturer, importer or distributor or any legal entity in which a manufacturer, importer or distributor owns a majority interest or has direct or indirect power to direct or cause the direction of the management whether through voting securities, contract or otherwise.
   (b) Excludes any new motor vehicle dealer, used motor vehicle dealer or trailer manufacturer.
   (c) Excludes any agent, affiliate, representative or subsidiary that is primarily engaged in the business of rental of passenger and commercial motor vehicles and industrial and construction equipment and activities incidental to that business if all of the following conditions are satisfied:
      (i) Passenger and commercial motor vehicles sold by the agent, affiliate, representative or subsidiary are limited to used passenger and commercial motor vehicles that have been previously used exclusively and regularly by the agent, affiliate, representative or subsidiary in the conduct of business and used passenger and commercial motor vehicles traded in on motor vehicles sold by the agent, affiliate, representative or subsidiary.
      (ii) Warranty repairs performed by the agent, affiliate, representative or subsidiary on passenger and commercial motor vehicles are limited to those passenger and commercial motor vehicles that it owns, previously owned or takes in trade.
      (iii) Motor vehicle financing provided by the agent, affiliate, representative or subsidiary to retail consumers for passenger and commercial motor vehicles is limited to vehicles sold by the agent, affiliate, representative or subsidiary in the conduct of business.

4. "Financing":
   (a) Means the financial service of providing retail consumers the ability to pay for a purchase or lease of a new or used motor vehicle, parts or services over an extended period of time.
(b) Does not include the furnishing of credit cards capable of general use in retail transactions or the provision of any loans secured by real estate.

5. "Parts":
   (a) Means all items that are designed to be incorporated within or attached to or used to operate, maintain or service a motor vehicle.
   (b) Does not include any of the following:
      (i) Parts purchased or provided for use by professional racing enterprises.
      (ii) Parts no longer included in the current factory price schedule.
      (iii) Specialized parts for research vehicles or other similar uses of limited application.
      (iv) Owners' manuals or repair manuals.
      (v) Parts that are provided by an automotive recycler in the normal course of business for an automotive recycler.
      (vi) Motor vehicle keys.

6. "Service" means either of the following:
   (a) Motor vehicle warranty and nonwarranty repairs or maintenance, including both parts and labor.
   (b) Extended warranties, vehicle mechanical maintenance insurance and similar vehicle repair service contracts.

7. "Vehicle or product" means a new motor vehicle, a used motor vehicle or parts.