

## C.R.S. 44-20-101

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-101. Legislative declaration.**

---

(1) The general assembly hereby declares that:

(a) The sale and distribution of motor vehicles affects the public interest, and a significant factor of inducement in making a sale of a motor vehicle is the trust and confidence of the purchaser in the retail dealer from whom the purchase is made and the expectancy that the dealer will remain in business to provide service for the motor vehicle purchased;

(b) Proper motor vehicle service is important to highway safety and the manufacturers and distributors of motor vehicles have an obligation to the public not to terminate or refuse to continue their franchise agreements with retail dealers unless the manufacturer or distributor has first established good cause for termination or noncontinuance of the agreement, to the end that there shall be no diminution of locally available service;

(c) The licensing and supervision of motor vehicle dealers by the motor vehicle dealer board are necessary for the protection of consumers, and therefore, the sale of motor vehicles by unlicensed dealers or salespersons, or by licensed dealers or salespersons who have demonstrated unfitness, should be prevented;

(d) Consumer education concerning the rules of the motor vehicle industry, the considerations when purchasing a motor vehicle, and the role, functions, and actions of the motor vehicle dealer board are necessary for the protection of the public and for maintaining the trust and confidence of the public in the motor vehicle dealer board; and

(e) Subject to the United States constitution and the Colorado constitution, this article 20 applies to each sales, service, and parts agreement in effect, regardless of when the agreement was adopted.

### **History**

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 41, § 2, effective October 1.

Annotations

### **Research References & Practice Aids**

---

**Hierarchy Notes:**

C.R.S. Title 44

## State Notes

---

### Notes

---

#### Editor's note:

This section is similar to former § 12-6-101 as it existed prior to 2018.

## ANNOTATION

---

#### Annotator's note.

Since § 44-20-101 is similar to repealed § 13-11-1, CRS 53, CSA, C. 16, § 420, and § 12-6-101, relevant cases construing those provisions have been included in the annotations to this section.

#### **It was held that there was no constitutional inhibition against the licensing and bonding requirements of this article.**

GMC v. Blevins, 144 F. Supp. 381 (D. Colo. 1956).

#### **It was also held that any misconduct of a plaintiff corporation by violating the Sherman or Clayton acts, did not deprive it of the right to attack the constitutionality**

of some sections in this article. GMC v. Blevins, 144 F. Supp. 381 (D. Colo. 1956).

#### **Earlier provision held unconstitutional.**

Jesse M. Chase Casper Co. v. Fugate, 128 F. Supp. 244 (D. Colo. 1955).

#### **Such provision held incomplete.**

GMC v. Blevins, 144 F. Supp. 381 (D. Colo. 1956).

#### **The title of this act clearly indicates that it deals with persons,**

because "providing penalties for the violation thereof" could scarcely be construed to relate to penalties imposed upon the vehicles. Corder v. Pond, 117 Colo. 463, 190 P.2d 582 (1948).

#### **Multiple licensing permitted.**

The automobile dealer licensing statute, this section, does not expressly permit or disallow a salesman to be licensed to more than one dealer. However, § 12-6-118(5)(g) indicates a legislative intent that multiple licensing be permitted. United Buying Serv., Inc. v. State Dept. of Rev., 37 Colo. App. 465, 548 P.2d 1286 (1976).

---

End of Document

## C.R.S. 44-20-102

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

**Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)**

### 44-20-102. Definitions.

---

As used in this part 1, and in part 4 of this article 20, unless the context or section 44-20-402 otherwise requires:

- (1) “Advertise” or “advertisement” means any commercial message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television, or a public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, on a computer display, or in any point-of-transaction literature or price tag that is delivered or made available to a customer or prospective customer in any manner; except that the term does not include materials required to be displayed by federal or state law.
- (2) “Board” means the motor vehicle dealer board.
- (3) “Business incidental thereto” means a business owned by the motor vehicle dealer or used motor vehicle dealer related to the sale of motor vehicles, including motor vehicle part sales, motor vehicle repair, motor vehicle recycling, motor vehicle security interest assignment, and motor vehicle towing.
- (4)
  - (a) “Buyer agent” means any person required to be licensed pursuant to this part 1 who is retained or hired by a consumer for a fee or other thing of value to assist, represent, or act on behalf of the consumer in connection with the purchase or lease of a motor vehicle.
  - (b)
    - (I) “Buyer agent” does not include a person whose business includes the purchase of motor vehicles primarily for resale or lease; except that nothing in this subsection (4) prohibits a buyer agent from assisting a consumer regarding the disposal of a trade-in motor vehicle that is incident to the purchase or lease of a vehicle if the buyer agent does not advertise the sale of, or sell, the vehicle to the general public, directs interested dealers and wholesalers to communicate their offers directly to the consumer or to the consumer via the buyer agent, does not handle or transfer titles or funds between the consumer and the purchaser, receives no compensation from a dealer or wholesaler purchasing a consumer’s vehicle, and identifies himself or herself as a buyer agent to dealers and wholesalers interested in the consumer’s vehicle.
    - (II) A “buyer agent” licensed under this part 1 shall not be employed by or receive a fee from a person whose business includes the purchase of motor vehicles primarily for resale or lease, a motor vehicle manufacturer, a motor vehicle dealer, or a used motor vehicle dealer.
- (5) “Coerce” means to compel or attempt to compel by threatening, retaliating, or exerting economic force or by not performing or complying with any terms or provisions of the franchise or agreement; except that recommendation, exposition, persuasion, urging, or argument do not constitute coercion.

**(6)** “Consumer” means a purchaser or lessee of a motor vehicle used for business, personal, family, or household purposes. “Consumer” does not include a purchaser of motor vehicles primarily for resale.

**(7)**

**(a)** “Custom trailer” means any motor vehicle that is not driven or propelled by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and that is uniquely designed and manufactured for a specific purpose or customer.

**(b)** “Custom trailer” does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

**(8)** “Director” means the director of the auto industry division created in section 44-20-105.

**(9)** “Distributor” means a person, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives.

**(10)** “Fire truck” means a vehicle intended for use in the extermination of fires, with features that may include a fire pump, a water tank, an aerial ladder, an elevated platform, or any combination thereof.

**(11)** “Franchise” means the authority to sell or service and repair motor vehicles of a designated line-make granted through a sales, service, and parts agreement with a manufacturer, distributor, or manufacturer representative.

**(12)** “Good faith” means the duty of each party to any franchise and all officers, employees, or agents thereof to act in a fair and equitable manner toward each other so as to guarantee the one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party. Recommendation, endorsement, exposition, persuasion, urging, or argument shall not be deemed to constitute a lack of good faith.

**(13)** “Line-make” means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer’s trademark, trade name, or logo.

**(14)** “Manufacturer” means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motor vehicles; except that “manufacturer” does not include:

**(a)** A person who only manufactures utility trailers that weigh less than two thousand pounds and does not manufacture any other type of motor vehicle; and

**(b)** A person, other than a manufacturer operating a motor vehicle dealer in accordance with section 44-20-126, who is a licensed dealer selling motor vehicles that the person has manufactured.

**(15)** “Manufacturer representative” means a representative employed by a person who manufactures or assembles motor vehicles for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers or prospective dealers.

**(16)** “Motor vehicle” means every vehicle intended primarily for use on the public highways that is self-propelled and every vehicle intended primarily for operation on the public highways that is not self-propelled but is designed to be attached to, become a part of, or be drawn by a self-propelled vehicle, not including farm tractors and other machines and tools used in the production, harvesting, and care of farm products. “Motor vehicle” includes a low-power scooter or autocycle as either is defined in section 42-1-102.

**(17)** “Motor vehicle auctioneer” means any person, not otherwise required to be licensed pursuant to this part 1, who is engaged in the business of offering to sell, or selling, used motor vehicles owned by persons other than the auctioneer at public auction only. Any auctioning of motor vehicles by an auctioneer must be incidental to the primary business of auctioning goods.

**(18)** “Motor vehicle dealer” means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, leases, exchanges, rents with option to purchase, offers, or

attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles or who is engaged wholly or in part in the business of selling or leasing new or new and used motor vehicles, whether or not the motor vehicles are owned by the person. The sale or lease of three or more new or new and used motor vehicles or the offering for sale or lease of more than three new or new and used motor vehicles at the same address or telephone number in any one calendar year is prima facie evidence that a person is engaged in the business of selling or leasing new or new and used motor vehicles. "Motor vehicle dealer" includes an owner of real property who allows more than three new or new and used motor vehicles to be offered for sale or lease on the property during one calendar year unless the property is leased to a licensed motor vehicle dealer. "Motor vehicle dealer" does not include:

- (a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;
- (b) Public officers while performing their official duties;
- (c) Employees of a motor vehicle dealer when engaged in the specific performance of their duties as employees;
- (d) A wholesaler or anyone selling motor vehicles solely to wholesalers;
- (e) Any person engaged in the selling of a fire truck; or
- (f) A motor vehicle auctioneer.

**(19)** "Motor vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a motor vehicle dealer or used motor vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of motor vehicles.

**(20)** "New motor vehicle" means a motor vehicle that has been transferred on a manufacturer's statement of origin and that has sufficiently low mileage to be considered new, as determined by the board.

**(21)** "Person" means any natural person, estate, trust, limited liability company, partnership, association, corporation, or other legal entity, including a registered limited liability partnership.

**(22)** "Principal place of business" means a site or location devoted exclusively to the business for which the motor vehicle dealer or used motor vehicle dealer is licensed, and businesses incidental thereto, sufficiently designated to admit of definite description, with adequate contiguous space to permit the display of one or more new or used motor vehicles, with a permanent enclosed building or structure large enough to accommodate the office of the dealer and to provide a safe place to keep the books and other records of the business of the dealer, at which site or location the principal portion of the dealer's business shall be conducted and the books and records thereof kept and maintained; except that a dealer may keep its books and records at an off-site location in Colorado after notifying the board in writing of the location at least thirty days in advance.

**(23)** "Recreational vehicle" means a camping trailer, fifth wheel trailer, motor home, recreational park trailer, travel trailer, or truck camper, all as defined in section 24-32-902, or multipurpose trailer, as defined in section 42-1-102.

**(24)** "Sales, service, and parts agreement" means an agreement between a manufacturer, distributor, or manufacturer representative and a motor vehicle or powersports dealer authorizing the dealer to sell and service a line-make of motor or powersports vehicles or imposing any duty on the dealer in consideration for the right to have or competitively operate a franchise, including any amendments or additional related agreements thereto. Each amendment, modification, or addendum that materially affects the rights, responsibilities, or obligations of the contracting parties creates a new sales, service, and parts agreement.

**(25)** “Site control provision” means an agreement that applies to real property owned or leased by a franchisee and that gives a motor vehicle or powersports vehicle manufacturer, distributor, or manufacturer representative the right to:

- (a)** Control the use and development of the real property;
- (b)** Require the franchisee to establish or maintain an exclusive dealership facility at the real property; or
- (c)** Restrict the franchisee from transferring, selling, leasing, developing, or changing the use of the real property.

**(26)** “Used motor vehicle dealer” means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used motor vehicles, or attempts to negotiate a sale, exchange, or lease of used motor vehicles, or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not the motor vehicles are owned by the person. The sale of three or more used motor vehicles or the offering for sale of more than three used motor vehicles at the same address or telephone number in any one calendar year is prima facie evidence that a person is engaged in the business of selling used motor vehicles. “Used motor vehicle dealer” includes an owner of real property who allows more than three used motor vehicles to be offered for sale on the property during one calendar year unless the property is leased to a licensed used motor vehicle dealer. “Used motor vehicle dealer” does not include:

- (a)** Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;
- (b)** Public officers while performing their official duties;
- (c)** Employees of a used motor vehicle dealer when engaged in the specific performance of their duties as employees;
- (d)** A wholesaler or anyone selling motor vehicles solely to wholesalers;
- (e)** Mortgagees or secured parties as to sales in any one year of not more than twelve motor vehicles constituting collateral on a mortgage or security agreement, if the mortgagees or secured parties do not realize for their own account any money in excess of the outstanding balance secured by the mortgage or security agreement, plus costs of collection;
- (f)** A person who only sells or exchanges no more than four motor vehicles that are collector’s items under part 3 or 4 of article 12 of title 42;
- (g)** A motor vehicle auctioneer; or
- (h)** An operator, as defined in section 42-4-2102 (5), who sells a motor vehicle pursuant to section 42-4-2104.

**(27)** “Wholesale motor vehicle auction dealer” means a person or firm that provides auction services in wholesale transactions in which the purchasers are motor vehicle dealers licensed by this state or any other jurisdiction or in consumer transactions of government vehicles at a time and place that does not conflict with a wholesale motor vehicle auction conducted by that licensee.

**(28)** “Wholesaler” means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles solely to motor vehicle dealers or used motor vehicle dealers.

## History

---

Annotations

## Research References & Practice Aids

---

### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor's note:

This section is similar to former § 12-6-102 as it existed prior to 2018.

## ANNOTATION

---

### Annotator's note.

The following annotations include cases decided under former provisions similar to this section.

### Earlier provisions held invalid and unenforceable.

GMC v. Blevins, 144 F. Supp. 381 (D. Colo. 1956) (case decided under repealed § 13-11-2, CRS 53).

### This section requires all who sell trailers to be licensed as automobile dealers.

State ex rel. Dept. of Rev. v. Modern Trailer Sales, Inc., 175 Colo. 296, 486 P.2d 1064 (1971).

### This section defines trailers as motor vehicles.

State ex rel. Dept. of Rev. v. Modern Trailer Sales, Inc., 175 Colo. 296, 486 P.2d 1064 (1971).

### Mobile home not motor vehicle.

Mobile homes fall within the statutory definition of "movable structure". This definition recognizes the general or common use of the product as being for residential purposes. A motor vehicle, on the other hand, is designed primarily for travel on the public highways. Shaw v. Aurora Mobile Homes & Real Estate, Inc., 36 Colo. App. 321, 539 P.2d 1366 (1975).

### Movable structures cannot be considered to be "motor vehicles".

Shaw v. Aurora Mobile Homes & Real Estate, Inc., 36 Colo. App. 321, 539 P.2d 1366 (1975).

**Mobile home dealers are not subject to article.**

Since the definition of a motor vehicle dealer specifies motor vehicles as the exclusive subject matter bringing a person within the coverage of § 12-6-111, that bond does not cover activities in the sale of mobile homes, i.e., “movable structures”. *Shaw v. Aurora Mobile Homes & Real Estate, Inc.*, 36 Colo. App. 321, 539 P.2d 1366 (1975).

**“Employed” in subsection (14).**

The general assembly intended that the term “employed”, as used in subsection (14), not be restricted to technical employer-employee relationships. Instead, by including indirect and occasional employment, the general assembly intended to embrace all persons whose services are utilized in the furtherance of the business of the dealer. *United Buying Serv., Inc. v. State Dept. of Rev.*, 37 Colo. App. 465, 548 P.2d 1286 (1976).

## C.R.S. 44-20-124

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

**Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)**

### Notice

---

 This section has more than one version with varying effective dates.

### 44-20-124. Unlawful acts. (Effective until January 1, 2023)

---

(1) It is unlawful and a violation of this part 1 for any manufacturer, distributor, or manufacturer representative:

(a) To willfully fail to perform or cause to be performed any written warranties made with respect to any motor vehicle or parts thereof;

(b) To coerce or attempt to coerce any motor vehicle dealer to perform or allow to be performed any act that could be financially detrimental to the dealer or that would impair the dealer's goodwill or to enter into any agreement with a manufacturer or distributor that would be financially detrimental to the dealer or impair the dealer's goodwill, by threatening to cancel or not renew any franchise between a manufacturer or distributor and the dealer;

(c) To coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefor, or any commodities or services that have not been ordered by the dealer;

(d)

(I) To cancel or cause to be canceled, directly or indirectly, without just cause, the franchise of any motor vehicle dealer, and the nonrenewal of a franchise or selling agreement without just cause is a violation of this subsection (1)(d) and shall constitute an unfair cancellation.

(II) As used in this subsection (1)(d), "just cause" shall be determined in the context of all circumstances surrounding the cancellation or nonrenewal, including but not limited to:

(A) The amount of business transacted by the motor vehicle dealer;

(B) The investments necessarily made and obligations incurred by the motor vehicle dealer, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of the investments and obligations;

(C) The potential for harm to consumers as a result of disruption of the business of the motor vehicle dealer;

(D) The motor vehicle dealer's failure to provide adequate service of facilities, equipment, parts, and qualified service personnel;

(E) The motor vehicle dealer's failure to perform warranty work on behalf of the manufacturer, subject to reimbursement by the manufacturer; and

## C.R.S. 44-20-124

**(F)** The motor vehicle dealer's failure to substantially comply, in good faith, with requirements of the franchise that are determined to be reasonable and material.

**(III)** The following conduct by a motor vehicle dealer shall constitute just cause for termination without consideration of other factors:

**(A)** Conviction of, or a plea of guilty or nolo contendere to, a felony;

**(B)** A continuing pattern of fraudulent conduct against the manufacturer or consumers; or

**(C)** Continuing failure to operate for ten days or longer.

**(e)** To withhold, reduce, or delay unreasonably or without just cause delivery of motor vehicles, motor vehicle parts and accessories, commodities, or money due motor vehicle dealers for warranty work done by any motor vehicle dealer;

**(f)** To withhold, reduce, or delay unreasonably or without just cause services contracted for by motor vehicle dealers;

**(g)** To coerce any motor vehicle dealer to provide installment financing with a specified financial institution;

**(h)** To violate any duty imposed by, or fail to comply with, any provision of section 44-20-125, 44-20-126, or 44-20-127;

**(i)**

**(I)** To fail to provide to the motor vehicle dealer, within twenty days after receipt of a notice of intent from a motor vehicle dealer, the list of documents and information necessary to approve the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or the change in executive management of the dealership;

**(II)** To fail to confirm within twenty days after receipt of all documents and information listed in subsection (1)(i)(I) of this section that the documentation and information has been received;

**(III)** To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer within sixty days after the manufacturer has received all documents and information necessary to approve the sale or transfer of ownership, or to refuse to approve, unreasonably, the change in executive management of the dealership within sixty days after the manufacturer has received all information necessary to approve the change in management; except that nothing in this part 1 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the manufacturer or distributor unless the manufacturer or distributor fails to send notice of the disapproval within sixty days after receiving all documents and information necessary to approve the sale or transfer of ownership; or

**(IV)** To condition the sale, transfer, relocation, or renewal of a franchise agreement, or to condition sales, services, parts, or finance incentives, upon site control or an agreement to renovate or make improvements to a facility; except that voluntary acceptance of the conditions by the dealer shall not constitute a violation;

**(j)**

**(I)**

**(A)** To fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make except as a result of a strike or labor difficulty, lack of manufacturing capacity, shortage of materials, freight embargo, or other cause over which the manufacturer has no control; or

**(B)** To require a dealer to pay an unreasonable fee, purchase unreasonable advertising displays or other materials, or comply with unreasonable training or facilities requirements as a

prerequisite to receiving any particular model of that same line-make. For purposes of this subsection (1)(j)(l)(B), reasonableness shall be judged based on the circumstances of the individual dealer and the conditions of the market served by the dealer.

**(II)** This subsection (1)(j) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.

**(k)** To require, coerce, or attempt to coerce any motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other line-make of new motor vehicles or related products; except that this subsection (1)(k) shall not apply unless the motor vehicle dealer:

**(I)** Maintains a reasonable line of credit for each make or line of new motor vehicles;

**(II)** Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the manufacturer; except that "reasonable facilities requirements" shall not include a requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space; and

**(III)** Provides written notice to the manufacturer, distributor, or manufacturer's representative, no less than ninety days prior to the dealer's intent to participate in the management of, investment in, or acquisition of another line-make of new motor vehicles or related products;

**(l)**

**(I)** To fail to pay to a motor vehicle dealer, within ninety days after the termination, cancellation, or nonrenewal of a franchise, all of the following:

**(A)** The dealer cost, plus any charges made by the manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, of unused, undamaged, and unsold motor vehicles in the motor vehicle dealer's inventory that were acquired from the manufacturer or from another motor vehicle dealer of the same line-make in the ordinary course of business within the previous twelve months;

**(B)** The dealer cost, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging and listed in the manufacturer's current parts catalog;

**(C)** The fair market value of each undamaged sign owned by the motor vehicle dealer and bearing a common name, trade name, or trademark of the manufacturer if acquisition of the sign was required by the manufacturer;

**(D)** The fair market value of all special tools and equipment that were acquired from the manufacturer or from sources approved and required by the manufacturer and that are in good and usable condition, excluding normal wear and tear; and

**(E)** The cost of transporting, handling, packing, and loading the motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings described in this subsection (1)(l).

**(II)** This subsection (1)(l) shall only apply to manufacturers of recreational vehicles in cases where the manufacturer terminates, cancels, or fails to renew the recreational vehicle dealer franchise; and this subsection (1)(l) shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

**(m)** To require, coerce, or attempt to coerce any motor vehicle dealer to close or change the location of the motor vehicle dealer, or to make any substantial alterations to the dealer premises or facilities when doing so would be unreasonable or without written assurance of a sufficient supply of motor vehicles so as to justify the changes, in light of the current market and economic conditions;

**(n)**

**(I)** To authorize or permit a person to perform warranty service repairs on motor vehicles unless the person is:

## C.R.S. 44-20-124

- (A)** A motor vehicle dealer with whom the manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's motor vehicles; or
  - (B)** A person or government entity that has purchased new motor vehicles pursuant to a manufacturer's fleet discount program and is performing the warranty service repairs only on vehicles owned by the person or entity.
- (II)** This subsection (1)(n) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.
- (o)** To require, coerce, or attempt to coerce any motor vehicle dealer to prospectively agree to a release, assignment, novation, waiver, or estoppel that would relieve any person of a duty or liability imposed under this article 20 except in settlement of a bona fide dispute;
  - (p)** To discriminate between or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make based upon unreasonable sales and service standards;
  - (q)** To fail to make practically available any incentive, rebate, bonus, or other similar benefit to a motor vehicle dealer that is offered to another motor vehicle dealer of the same line-make within this state;
  - (r)** To fail to pay to a motor vehicle dealer:
    - (I)** Within ninety days after the termination, cancellation, or nonrenewal of a franchise for the failure of a dealer to meet performance sales and service obligations or after the termination, elimination, or cessation of a line-make, the cost of the lease for the facilities used for the franchise or line-make for the unexpired term of the lease, not to exceed one year; except that:
      - (A)** If the motor vehicle dealer owns the facilities, the value of renting the facilities for one year, prorated for each line-make based upon total sales volume for the previous twelve months before the involuntary termination;
      - (B)** If the dealer sells recreational vehicles and a subsequent manufacturer or distributor that manufactures or distributes recreational vehicles replaces any portion of the vacated facilities, the lease or rental value shall be prorated on a monthly basis unless the dealer sells motor vehicles that are not recreational vehicles;
      - (C)** Nothing in this subsection (1)(r)(I) shall be construed to limit the application of subsection (1)(d) of this section;
    - (II)** Within ninety days after the termination, elimination, or cessation of a line-make or the termination of a franchise due to the insolvency of the manufacturer or distributor, the fair market value of the motor vehicle dealer's goodwill for the line-make as of the date the manufacturer or distributor announces the action that results in the termination, elimination, or cessation, not including any amounts paid under subsections (1)(I)(I)(A) to (1)(I)(I)(E) of this section;
  - (s)** To condition a franchise agreement on improvements to a facility unless reasonably required by the technology of a motor vehicle being sold at the facility;
  - (t)** To sell or offer for sale a low-speed electric vehicle, as defined by section 42-1-102, for use on a roadway unless the vehicle complies with part 2 of article 4 of title 42;
  - (u)** To charge back, deny motor vehicle allocation, withhold payments, or take other actions against a motor vehicle dealer if a motor vehicle sold by the motor vehicle dealer is exported from Colorado unless the manufacturer, distributor, or manufacturer representative proves that the motor vehicle dealer knew or reasonably should have known a motor vehicle was intended to be exported, which shall operate as a rebuttable presumption that the motor vehicle dealer did not have the knowledge;
  - (v)** Within ninety days after the termination, elimination, or cessation of a line-make or the termination, cancellation, or nonrenewal of a franchise by the manufacturer, distributor, or manufacturer representative, for any reason other than that the motor vehicle dealer commits fraud, makes a misrepresentation, or commits any other crime within the scope of the franchise agreement or in the

operation of the dealership, to fail to reimburse a motor vehicle dealer for the cost depreciated by five percent per year of any upgrades or alterations to the motor vehicle dealer's facilities required by the manufacturer, distributor, or manufacturer representative within the previous five years;

**(w)** To fail to notify a motor vehicle dealer at least ninety days before the following and to provide the specific reasons for the following:

**(I)** Directly or indirectly terminating, canceling, or not renewing a franchise agreement; or

**(II)** Modifying, replacing, or attempting to modify or replace the franchise or selling agreement of a motor vehicle dealer, including a change in the dealer's geographic area upon which sales or service performance is measured, if the modification would substantially and adversely alter the rights or obligations of the dealer under the current franchise or selling agreement or would substantially impair the sales or service obligations or the dealer's investment;

**(x)** To require, coerce, or attempt to coerce a motor vehicle dealer to substantially alter a facility or premises if:

**(I)** The facility or premises has been altered within the last ten years at a cost of more than two hundred fifty thousand dollars and the alteration was required and approved by the manufacturer, distributor, or manufacturer representative unless subsection (1)(x)(II) of this section applies to the dealer; except that this subsection (1)(x) does not apply to improvements made to comply with health or safety laws, to improvements made to accommodate the technology requirements necessary to sell or service a line-make, to technological improvements related to electric, automated, compressed natural gas, and fuel-cell motor vehicles, or to improvements made to install or upgrade electric vehicle charging equipment; or

**(II)** The motor vehicle dealer sells only motorcycles or motorcycles and powersports vehicles, the facility or premises has been altered within the last ten years at a cost of more than twenty-five thousand dollars, and the alteration was required and approved by the manufacturer, distributor, or manufacturer representative; except that this subsection (1)(x) does not apply to improvements made to comply with health or safety laws, to improvements made to accommodate the technology requirements necessary to sell or service a line-make, to technological improvements related to electric, automated, compressed natural gas, and fuel-cell motorcycles and powersports vehicles, or to improvements made to install or upgrade electric vehicle charging equipment;

**(y)**

**(I)** To sell or offer to sell new motor vehicles to a franchised motor vehicle dealer with whom the manufacturer has a franchise agreement at a lower actual price than the actual price offered to any other motor vehicle dealer with whom the manufacturer has a franchise agreement for the same motor vehicle similarly equipped; except that this subsection (1)(y) does not apply to:

**(A)** Resale to any government;

**(B)** Donation or use by the dealer in a driver education program; or

**(C)** A price change made in the ordinary course of business if made available to all motor vehicle dealers when the price changes.

**(II)** This subsection (1)(y) does not prohibit a manufacturer, distributor, or manufacturer representative from offering incentive programs, sales-promotion plans, or other discounts if the incentives or discounts are reasonably available to all motor vehicle dealers with whom the manufacturer has a franchise agreement.

**(z)** To require a motor vehicle dealer to grant a manufacturer, distributor, or manufacturer representative the following or to enforce the following if the exercise of the contractual right would stop the transfer of the motor vehicle dealer ownership from an owner to an immediate family member of the owner:

**(I)** A right of first refusal to purchase the motor vehicle dealer; or

- (II) An option to purchase the motor vehicle dealer; and
  - (aa)
    - (I) To use an unreasonable, arbitrary, or unfair performance standard in determining a motor vehicle dealer's compliance with a franchise agreement;
    - (II) To fail to communicate, upon the request of the dealer, any performance standard in a clear and concise writing to a motor vehicle dealer before applying the standard to the motor vehicle dealer.
- (2) It is unlawful for any person to act as a motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, business disposer, or motor vehicle salesperson unless the person has been duly licensed under this part 1, except for:
  - (a) Persons exempt from licensure as a manufacturer under section 44-20-102 (14); however, manufacturers exempt from licensing shall comply with all other applicable requirements for manufacturers, including those pertaining to vehicle identification numbers and manufacturers' statements of origin; and
  - (b) Business owners selling a vehicle if the vehicle has been owned for more than one year, the vehicle has been used exclusively for business purposes, the vehicle is titled in the name of the business, all applicable taxes related to the vehicle have been paid, and the total number of vehicles sold by a business owner over a two-year period does not exceed twenty vehicles.
- (3) It is unlawful and a violation of this part 1 for a buyer's agent to engage in the following:
  - (a) To make a material misstatement in an application for a license;
  - (b) To willfully fail to perform or cause to be performed any written agreement with respect to any motor vehicle or parts thereof;
  - (c) To defraud any buyer, seller, motor vehicle salesperson, or financial institution;
  - (d) To intentionally enter into a financial agreement with a seller of a motor vehicle for the buyer agent's own benefit;
  - (e) To coerce any motor vehicle dealer into providing installment financing with a specified financial institution.

## History

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 72, § 2, effective October 1.  
 L. 2019:IP(2) amended,(SB 19-249), ch. 309, p. 2806, § 9, effective August 2.

Annotations

## Research References & Practice Aids

---

### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor's note:

This section is similar to former § 12-6-120 as it existed prior to 2018.

---

## ANNOTATION

---

### Annotator's note.

The following annotations include cases decided under former provisions similar to this section.

### **Subsection (1)(h) is unconstitutionally vague**

because persons of common intelligence must guess at the meaning of the term prohibiting the addition of a franchise if it "would be inequitable to the existing dealer". *Mike Naughton Ford, Inc. v. Ford Motor Co.*, 862 F. Supp. 264 (D. Colo. 1994).

### **Former provisions violated the commerce clause of the United States constitution.**

*GMC v. Blevins*, 144 F. Supp. 381 (D. Colo. 1956).

### **While it may be conceded that, under its police power, a state may protect its people against coercion,**

inducement is another thing. *GMC v. Blevins*, 144 F. Supp. 381 (D. Colo. 1956).

### **There is nothing evil or wrong about inducing; it is simply the process of salesmanship.**

*GMC v. Blevins*, 144 F. Supp. 381 (D. Colo. 1956).

### **According to Webster's New International Dictionary, "induce" means**

"to lead on, to influence, to prevail on to move by persuasion or influence". *GMC v. Blevins*, 144 F. Supp. 381 (D. Colo. 1956).

### **"Induce" is to persuade by legitimate argument or demonstration, and is distinguished from "coerce",**

which is to compel by threat or other wrongful action. *GMC v. Blevins*, 144 F. Supp. 381 (D. Colo. 1956).

### **Salesmanship is part of the American way of life, and the selling of new products requires inducement.**

*GMC v. Blevins*, 144 F. Supp. 381 (D. Colo. 1956).

### **For failure to provide an ascertainable standard of guilt,**

see *GMC v. Blevins*, 144 F. Supp. 381 (D. Colo. 1956).

**The appointment of a replacement dealership for a previously established distribution point does not fall within the definition of “additional franchise” under subsection (1)(h).**

The appointment would simply maintain the same number of dealerships authorized in the area prior to the dispute. Mike Naughton Ford, Inc. v. Ford Motor Co., 862 F. Supp. 264 (D. Colo. 1994).

**Use of the phrase “including, but not limited to” in subsection (1)(d)(II) is not restrictive.**

Where dealer contract, by its terms, could be renewed only “upon joint agreement” of the dealer and manufacturer, manufacturer had “just cause” and did not violate subsection (1)(d) when it failed to renew dealer contract. Maehal Enters. v. Thunder Mtn. Custom, 313 P.3d 584 (Colo. App. 2011).

**For purposes of the manufacturer’s obligation to repurchase unsold motor vehicles as required in subsection (1)(I)(I)(A), “acquired” means the point at which the dealer takes possession of the motor vehicles,**

regardless of when the dealer obtains the certificates of title for the motor vehicles. Maehal Enters. v. Thunder Mtn. Custom, 313 P.3d 584 (Colo. App. 2011).

**This section applies to warranties between a manufacturer and a motor vehicle dealer, but not to**

warranties to a consumer who purchases a vehicle. Molina v. Ford Motor Co., 441 F. Supp. 3d 1176 (D. Colo. 2020).

**Applied**

in Gage v. General Motors Corp., 796 F.2d 345 (10th Cir. 1986).

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

## **C.R.S. 44-20-125**

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-125. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules.**

---

(1) No manufacturer shall establish an additional motor vehicle dealer, reopen a previously existing motor vehicle dealer, or authorize an existing motor vehicle dealer to relocate without first providing at least sixty days' notice to all of its franchised dealers within whose relevant market area the new, reopened, or relocated dealer would be located. The notice must state:

- (a) The specific location at which the additional, reopened, or relocated motor vehicle dealer will be established;
- (b) The date on or after which the manufacturer intends to be engaged in business with the additional, reopened, or relocated motor vehicle dealer at the proposed location; and
- (c) The identity of all motor vehicle dealers who are franchised to sell the same line-make of vehicles with licensed locations in the relevant market area where the additional, reopened, or relocated motor vehicle dealer is proposed to be located.

(2) A manufacturer shall approve or disapprove of a motor vehicle dealer facility's initial site location, relocation, or reopening request within sixty days after the request or after sending the notice required by subsection (1) of this section to all of its franchised dealers, whichever is later.

(3) Subsection (1) of this section shall not apply to:

- (a) The relocation of an existing dealer within two miles of its current location; or
- (b) The establishment of a replacement dealer, within two years, either at the former location or within two miles of the former location.

(4) As used in this section:

- (a) "Manufacturer" means a motor vehicle manufacturer, distributor, or manufacturer representative.
- (b) "Relevant market area" means the greater of the following:
  - (I) The geographic area of responsibility defined in the franchise agreement of an existing dealer; or
  - (II) The geographic area within a radius of ten miles of any existing dealer of the same line-make of vehicle as the proposed additional motor vehicle dealer.

(5)

- (a) An existing motor vehicle dealer adversely affected by a reopening or relocation of an existing same line-make motor vehicle dealer or the addition of a same line-make motor vehicle dealer may, within ninety days after receipt of the notice required in subsection (1) of this section, file a legal action in a district court of competent jurisdiction or file an administrative complaint with the executive director

## C.R.S. 44-20-125

to prevent or enjoin the relocation, reopening, or addition of the proposed motor vehicle dealer. An existing motor vehicle dealer is adversely impacted if:

- (I) The dealer is located within the relevant market area of the proposed relocated, reopened, or additional dealership described in the notice required in subsection (1) of this section; or
  - (II) The existing dealer or dealers of the same line-make show that, during any twelve-month period of the thirty-six months preceding the receipt of the notice required in subsection (1) of this section, the dealer or dealers, or a dealer's predecessor, made at least twenty-five percent of the dealer's retail sales of new motor vehicles to persons whose addresses are located within ten miles of the location of the proposed relocated, reopened, or additional dealership.
- (b) The executive director shall refer a complaint filed under this section to an administrative law judge with the office of administrative courts for final agency action.
- (c) In any court or administrative action, the manufacturer has the burden of proof on each of the following issues:
- (I) The change in population;
  - (II) The relevant vehicle buyer profiles;
  - (III) The relevant historical new motor vehicle registrations for the line-make of vehicles versus the manufacturer's actual competitors in the relevant market area;
  - (IV) Whether the opening of the proposed additional, reopened, or relocated motor vehicle dealer is materially beneficial to the public interest or the consumers in the relevant market area;
  - (V) Whether the motor vehicle dealers of the same line-make in the relevant market area are providing adequate representation and convenient customer care, including the adequacy of sales and service facilities, equipment, parts, and qualified service personnel, for motor vehicles of the same line-make in the relevant market area;
  - (VI) The reasonably expected market penetration of the line-make, given the factors affecting penetration; and
  - (VII) Whether the additional, reopened, or relocated dealership is reasonable and justifiable based on expected economic and market conditions within the relevant market area.
- (d) In any court or administrative action, the motor vehicle dealer has the burden of proof on each of the following issues:
- (I) Whether the manufacturer has engaged in any action or omission that, directly or indirectly, denied the existing motor vehicle dealer of the same line-make the opportunity for reasonable growth or market expansion;
  - (II) Whether the manufacturer has coerced or attempted to coerce any existing motor vehicle dealer or dealers into consenting to additional or relocated franchises of the same line-make in the community or territory or relevant market area; and
  - (III) The size and permanency of the investment of and obligations incurred by the existing motor vehicle dealers of the same line-make located in the relevant market area.
- (e)
- (I) In a legal or administrative action challenging the relocating, reopening, or addition of a motor vehicle dealer, the district court or administrative law judge shall make a determination of whether the relocation, reopening, or addition of a motor vehicle dealer is, based on the factors identified in subsections (5)(c) and (5)(d) of this section:
    - (A) In the public interest; and
    - (B) Fair and equitable to the existing motor vehicle dealers.

(II) The district court or the executive director shall deny any proposed relocating, reopening, or addition of a motor vehicle dealer unless the manufacturer shows by a preponderance of the evidence that the existing motor vehicle dealer or dealers of the same line-make in the relevant market area of the proposed dealership are not providing adequate representation of the line-make motor vehicles. A determination to deny, prevent, or enjoin the relocating, reopening, or addition of a motor vehicle dealer is effective for at least eighteen months.

## History

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 79, § 2, effective October 1.

Annotations

## Research References & Practice Aids

---

### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor's note:

This section is similar to former § 12-6-120.3 as it existed prior to 2018.

## ANNOTATION

---

### Annotator's note.

Since § 44-20-125 is similar to § 12-6-120.3 as it existed prior to its 2018 relocation to this section, a relevant case construing that provision has been included in the annotations to this section.

**The 2017 amendment to the definition of “relevant market area” does not violate the contracts clause of either the federal or state constitution.**

The amendment is an evolution of the existing scheme for regulating the relationship between dealers and car manufacturers. Because the 2017 amendment is not a substantial impairment of the contractual relationships between dealers and manufacturers, it does not violate the contracts clause of either the federal or state constitution. *DC Auto., Inc. v. Kia Motors Am., Inc.*, 411 F. Supp. 3d 1137 (D. Colo. 2019) (decided under former § 12-6-120.3 as amended in 2017 and prior to its 2018 relocation to this title 44).

**Application of the 2017 amendment does not violate article II, § 11 of the state constitution.**

Car manufacturer's purported right to establish a proposed dealership at a certain location is not based on a contract between it and dealers; rather, it relies on the continued existence of the regulatory scheme that places the location of a proposed dealership outside dealers' relevant market area. Moreover, regulation of the relationship between manufacturers and dealers is within the longstanding province of the legislature. Because manufacturer's contractual expectation relied on the continued validity of the regulatory scheme in an area within traditional legislative power, manufacturer has no vested right to establish the proposed dealership. *DC Auto., Inc. v. Kia Motors Am., Inc.*, 411 F. Supp. 3d 1137 (D. Colo. 2019) (decided under § 12-6-120.3 as amended in 2017 and prior to its 2018 relocation to this title 44).

**The executive director is not required**

to hold a formal adjudicatory proceeding before issuing a final agency action. *W. Colo. Motors v. Gen. Motors, LLC*, 2016 COA 103, 411 P.3d 1068.

**A letter from the executive director**

informing a petitioner that the executive director finds no basis to proceed with an investigation, issue a cease-and-desist order, or take other action constitutes final agency action. *W. Colo. Motors v. Gen. Motors, LLC*, 2016 COA 103, 411 P.3d 1068.

**Review of a final agency action**

falls within the court of appeals' exclusive jurisdiction. *W. Colo. Motors v. Gen. Motors, LLC*, 2016 COA 103, 411 P.3d 1068.

## C.R.S. 44-20-126

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

**Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)**

### **44-20-126. Independent control of dealer - definitions.**

---

- (1) Except as otherwise provided in this section, no manufacturer shall own, operate, or control any motor vehicle dealer or used motor vehicle dealer in Colorado.
- (2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:
  - (a)
    - (I) Except as provided in subsection (2)(a)(II) of this section, operation of a dealer for a temporary period, not to exceed twelve months, during the transition from one owner or operator to another independent owner or operator; except that the executive director may extend the period, not to exceed twenty-four months, upon showing by the manufacturer or distributor of the need to operate the dealership for such time to achieve a transition from an owner or operator to another independent third-party owner or operator;
    - (II) Operation of a dealer that sells recreational vehicles for not more than eighteen months during the transition from one owner or operator to another independent owner or operator;
  - (b) Ownership or control of a dealer while the dealer is being sold under a bona fide contract or purchase option to the operator of the dealer;
  - (c) Participation in the ownership of the dealer solely for the purpose of providing financing or a capital loan that will enable the dealer to become the majority owner of the dealer in less than seven years;
  - (d) Operation of a motor vehicle dealer if the manufacturer has no other dealers of the same line-make in this state; or
  - (e) and (f) Repealed.
  - (g) Ownership, operation, or control of one or more motor vehicle dealers if the manufacturer manufactures only electric vehicles and has no franchised dealers of the same line-make in this state.
- (3) As used in this section:
  - (a) "Control" means to possess, directly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that "control" does not include the relationship between a manufacturer and a motor vehicle dealer under a franchise agreement.
  - (b) "Manufacturer" means a motor vehicle manufacturer, distributor, or manufacturer representative.
  - (c) "Operate" means to directly or indirectly manage a motor vehicle dealer.
  - (d) "Own" means to hold any beneficial ownership interest of one percent or more of any class of equity interest in a dealer, whether as a shareholder, partner, limited liability company member, or

otherwise. To “hold” an ownership interest means to have possession of, title to, or control of the ownership interest, either directly or through a fiduciary or agent.

**(4)** This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

## History

---

**Source: L. 2018:**Entire article added with relocations,(SB 18-030), ch. 7, p. 82, § 2, effective October 1.

**L. 2020:**(2)(d) amended, (2)(e) and (2)(f) repealed, and (2)(g) added,(SB 20-167), ch. 71, p. 302, § 1, effective September 14.

Annotations

## Research References & Practice Aids

---

### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor’s note:

This section is similar to former § 12-6-120.5 as it existed prior to 2018.

## ANNOTATION

---

### Annotator’s note.

Since § 44-20-126 is similar to § 12-6-120.5 as it existed prior to its 2018 relocation to this section, a relevant case construing that provision has been included in the annotations to this section.

**Subsection (1) does not prohibit a motor vehicle manufacturer from owning, operating, or controlling a used motor vehicle dealer.**

Int’l Truck & Engine Corp. v. Colo. Dept. of Rev., 155 P.3d 640 (Colo. App. 2007).

Use of the word “any” before the term motor vehicle dealer does not expand the definition of that term to include a “used motor vehicle dealer”. Int’l Truck & Engine Corp. v. Colo. Dept. of Rev., 155 P.3d 640 (Colo. App. 2007).

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

---

End of Document

## **C.R.S. 44-20-127**

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-127. Successor under existing franchise agreement - duties of manufacturer.**

---

(1) If a licensed motor vehicle dealer under franchise by a manufacturer dies or becomes incapacitated, the manufacturer shall act in good faith to allow a successor, which may include a family member, designated by the deceased or incapacitated motor vehicle dealer to succeed to ownership and operation of the dealer under the existing franchise agreement if:

(a) Within ninety days after the motor vehicle dealer's death or incapacity, the designated successor gives the manufacturer written notice of an intent to succeed to the rights of the deceased or incapacitated motor vehicle dealer in the franchise agreement;

(b) The designated successor agrees to be bound by all of the terms and conditions of the existing franchise agreement; and

(c) The designated successor meets the criteria generally applied by the manufacturer in qualifying motor vehicle dealers.

(2) A manufacturer may refuse to honor the existing franchise agreement with the designated successor only for good cause. The manufacturer may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored, and the designated successor shall supply the data promptly upon request.

(3)

(a) If a manufacturer believes that good cause exists for refusing to honor the requested succession, the manufacturer shall send the designated successor, by certified or overnight mail, notice of its refusal to approve the succession within sixty days after the later of:

(I) Receipt of the notice of the designated successor's intent to succeed the motor vehicle dealer in the ownership and operation of the dealer; or

(II) The receipt of the requested personal and financial data.

(b) Failure to serve the notice pursuant to subsection (3)(a) of this section shall be considered approval of the designated successor, and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day of the notice period specified in subsection (3)(a) of this section.

(c) If the manufacturer gives notice of refusal to approve the succession, the notice shall state the specific grounds for the refusal and shall state that the franchise agreement shall be discontinued not less than ninety days after the date the notice of refusal is served unless the proposed successor files an action in the district court to enjoin the action.

(4) This section shall not be construed to prohibit a motor vehicle dealer from designating a person as the successor in advance, by written instrument filed with the manufacturer. If the motor vehicle dealer files such an instrument, that instrument governs the succession rights to the management and operation of the dealer subject to the designated successor satisfying the manufacturer's qualification requirements as described in this section.

(5) This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

## History

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 83, § 2, effective October 1.

Annotations

## Research References & Practice Aids

---

### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor's note:

This section is similar to former § 12-6-120.7 as it existed prior to 2018.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

## C.R.S. 44-20-128

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

**Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)**

### Notice

---

 This section has more than one version with varying effective dates.

### 44-20-128. Penalty.

---

(1) [*Editor's note: This version of this section is effective until March 1, 2022.*] Except as provided in subsection (2) of this section, any person who willfully violates this part 1 or who willfully commits any offense in this part 1 declared to be unlawful commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2)

(a) Any person who willfully violates section 44-20-124 (2) by acting as a manufacturer, distributor, or manufacturer representative without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars for each separate offense; except that, if the violator is a corporation, the fine shall be not less than five hundred dollars or more than two thousand five hundred dollars for each separate offense. A second conviction shall be punished by a fine of two thousand five hundred dollars.

(b) Any person who willfully violates section 44-20-124 (2) by acting as a motor vehicle dealer, wholesaler, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, business disposer, or motor vehicle salesperson without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars and a penalty of twenty-five hours of useful public service, neither of which the court may suspend, for each separate offense; except that, if the violator is a corporation, the corporation shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense. A second conviction for an individual shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense, which the court may not suspend.

### History

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 84, § 2, effective October 1. L. 2019:(2)(b) amended,(SB 19-249), ch. 309, p. 2806, § 10, effective August 2. L. 2021:Entire section amended,(SB 21-271), ch. 462, p. 3328, § 787, effective March 1, 2022.

Annotations

## Research References & Practice Aids

---

### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor's note:

- (1) This section is similar to former § 12-6-121 as it existed prior to 2018.
- (2) Section 803(2) of chapter 462 (SB 21-271), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

## C.R.S. 44-20-130

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-130. Drafts not honored for payment - penalties.**

---

(1) If a motor vehicle dealer, wholesaler, or used motor vehicle dealer issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and fails to honor the draft or check, then the license of the licensee shall be subject to suspension pursuant to section 44-20-104 (3)(e)(l). The license suspension shall be effective upon the date of any final decision against the licensee based upon the unpaid draft or check. A licensee whose license has been suspended pursuant to the provisions of this subsection (1) shall not be eligible for reinstatement of the license and shall not be eligible to apply for any other license issued under this part 1 unless it is demonstrated to the board that the unpaid draft or check has been paid in full and that any fine imposed on the licensee pursuant to subsection (2) of this section has been paid in full.

(2) Any motor vehicle dealer, wholesaler, or used motor vehicle dealer that issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and who fails to honor the draft or check, causing loss to a third party, commits a misdemeanor and shall be punished by a fine of two thousand five hundred dollars. Any fine collected for a violation of this subsection (2) shall be awarded to the law enforcement agency that investigated and issued the citation for the violation.

### **History**

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 85, § 2, effective October 1.

Annotations

### **Research References & Practice Aids**

---

#### **Hierarchy Notes:**

C.R.S. Title 44

C.R.S. Title 44, Art. 20

### **State Notes**

---

## Notes

---

### Editor's note:

This section is similar to former § 12-6-121.6 as it existed prior to 2018.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

---

End of Document

## C.R.S. 44-20-132

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-132. Contract disputes - venue - choice of law.**

---

(1) In the event of a dispute between a motor vehicle dealer and a manufacturer under a franchise agreement, notwithstanding any provision of the agreement to the contrary:

- (a) At the option of the motor vehicle dealer, venue shall be proper in the county or judicial district where the dealer resides or has its principal place of business; and
- (b) Colorado law shall govern, both substantively and procedurally.

### **History**

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 86, § 2, effective October 1.

Annotations

### **Research References & Practice Aids**

---

#### **Hierarchy Notes:**

C.R.S. Title 44

C.R.S. Title 44, Art. 20

### **State Notes**

---

### **Notes**

---

#### **Editor's note:**

This section is similar to former § 12-6-122.5 as it existed prior to 2018.

---

End of Document

## C.R.S. 44-20-135

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

*Colorado Revised Statutes Annotated* > *Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123)* > *Automobiles (Art. 20)* > *Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4)* > *Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)*

### 44-20-135. Audit reimbursement limitations - dealer claims.

---

(1)

(a) A manufacturer, distributor, or manufacturer representative shall have the right to audit warranty, sales, or incentive claims of a motor vehicle dealer for nine months after the date the claim was submitted.

(b) A manufacturer, distributor, or manufacturer representative shall not require documentation for warranty, sales, or incentive claims or audit warranty, sales, or incentive claims of a motor vehicle dealer more than fifteen months after the date the claim was submitted, nor shall the manufacturer require a charge back, reimbursement, or credit against a future transaction arising out of an audit or request for documentation arising more than nine months after the date the claim was submitted.

(2) The motor vehicle dealer shall have nine months after making a sale or providing service to submit warranty, sales, or incentive claims to the manufacturer, distributor, or manufacturer representative.

(3) Subsection (1) of this section shall not limit any action for fraud instituted in a court of competent jurisdiction.

(4) A motor vehicle dealer may request a determination from the executive director, within thirty days, that a charge back, reimbursement, or credit required violates subsection (1) of this section. If a determination is requested within the thirty-day period, then the charge back, reimbursement, or credit shall be stayed pending the decision of the executive director. If the executive director determines after a hearing that the charge back, reimbursement, or credit violates subsection (1) of this section, the charge back, reimbursement, or credit shall be void.

### History

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 87, § 2, effective October 1.

Annotations

### Research References & Practice Aids

---

#### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor's note:

This section is similar to former § 12-6-126 as it existed prior to 2018.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

---

End of Document

## C.R.S. 44-20-136

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-136. Reimbursement for right of first refusal.**

---

A manufacturer or distributor shall pay reasonable attorney fees, not to exceed the usual and customary fees charged for the transfer of a franchise, and reasonable expenses that are incurred by the proposed owner or transferee before the manufacturer or distributor exercised its right of first refusal in negotiating and implementing the contract for the proposed change of ownership or the transfer of assets. Payment of attorney fees and expenses is not required if the claimant has failed to submit an accounting of attorney fees and expenses within twenty days after the receipt of the manufacturer's or dealer's written request for an accounting. An expense accounting may be requested by the manufacturer or distributor before exercising its right of first refusal.

### **History**

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 87, § 2, effective October 1.

Annotations

### **Research References & Practice Aids**

---

#### **Hierarchy Notes:**

C.R.S. Title 44

C.R.S. Title 44, Art. 20

### **State Notes**

---

### **Notes**

---

#### **Editor's note:**

This section is similar to former § 12-6-127 as it existed prior to 2018.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

---

End of Document

## C.R.S. 44-20-137

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-137. Payout exemption to execution.**

---

A motor vehicle dealer's right to receive payments from a manufacturer or distributor required by section 44-20-124 (1)(l) and (1)(r) is not liable to attachment or execution and may not otherwise be seized, taken, appropriated, or applied in a legal or equitable process or by operation of law to pay the debts or liabilities of the manufacturer or distributor. This section shall not prohibit a secured creditor from exercising rights accrued pursuant to a security agreement if the right arose as a result of the manufacturer or distributor voluntarily creating a security interest before paying existing debts or liabilities of the manufacturer or distributor. This section shall not prohibit a manufacturer or distributor from withholding a portion of the payments necessary to cover an amount of money owed to the manufacturer or distributor as an offset to the payments if the manufacturer or distributor provides the motor vehicle dealer written notice thereof.

### **History**

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 87, § 2, effective October 1.

Annotations

### **Research References & Practice Aids**

---

#### **Hierarchy Notes:**

C.R.S. Title 44

C.R.S. Title 44, Art. 20

### **State Notes**

---

### **Notes**

---

#### **Editor's note:**

This section is similar to former § 12-6-128 as it existed prior to 2018.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

---

End of Document

## C.R.S. 44-20-138

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-138. Site control extinguishes.**

---

If a manufacturer, distributor, or manufacturer representative has terminated, eliminated, or not renewed a franchise agreement containing a site control provision, the motor vehicle dealer may void a site control provision of a franchise agreement by returning any money the dealer has accepted in exchange for site control prorated by the time remaining before the agreement expires over the time period between the agreement being signed and the agreement expiring. This section does not apply if the termination, elimination, or nonrenewal is for just cause in accordance with section 44-20-124 (1)(d).

### **History**

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 88, § 2, effective October 1.

Annotations

### **Research References & Practice Aids**

---

#### **Hierarchy Notes:**

C.R.S. Title 44

C.R.S. Title 44, Art. 20

### **State Notes**

---

### **Notes**

---

#### **Editor's note:**

This section is similar to former § 12-6-129 as it existed prior to 2018.

---

End of Document

## C.R.S. 44-20-139

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-139. Modification voidable.**

---

If a manufacturer, distributor, or manufacturer representative fails to comply with section 44-20-124 (1)(w)(II), the motor vehicle dealer may void the modification or replacement of the franchise agreement.

### **History**

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 88, § 2, effective October 1.

Annotations

### **Research References & Practice Aids**

---

#### **Hierarchy Notes:**

C.R.S. Title 44

C.R.S. Title 44, Art. 20

### **State Notes**

---

### **Notes**

---

#### **Editor's note:**

This section is similar to former § 12-6-130 as it existed prior to 2018.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

## C.R.S. 44-20-140

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### 44-20-140. Termination appeal.

---

- (1) A motor vehicle dealer who has reason to believe that a manufacturer, distributor, or manufacturer representative has violated section 44-20-124 (1)(d) or (1)(w) may appeal to the board by filing a complaint with:
- (a) The executive director; or
  - (b) A district court if neither the executive director nor the administrative law judge, appointed in accordance with this section, holds a hearing concerning the complaint within sixty days after the complaint was filed.
- (2) Upon filing of a verified complaint alleging with specific facts that a violation has occurred under this section, the termination, elimination, modification, or nonrenewal of the franchise agreement is automatically stayed, without the motor vehicle dealer posting a bond, until a final determination is made on each issue raised in the complaint; except that the executive director, administrative law judge, or court may cancel the stay upon finding that the cancellation, termination, or nonrenewal of the franchise agreement was for any of the reasons specified in section 44-20-124 (1)(d)(III). The automatic stay maintains all rights under the franchise agreement until the final determination of the issues raised in the verified complaint. The manufacturer, distributor, or manufacturer representative shall not name a replacement motor vehicle dealer for the market or location until a final order is entered.
- (3) If a verified complaint is filed with the executive director, the executive director shall refer the complaint to an administrative law judge with the office of administrative courts for final agency action.
- (4) In resolving a termination complaint, the manufacturer, distributor, or manufacturer representative has the burden of proving any claim made that the factors listed in section 44-20-124 (1)(d)(II) apply to the termination, cancellation, or nonrenewal.
- (5) The prevailing party in a claim that a termination, cancellation, or nonrenewal violates section 44-20-124 (1)(d) or (1)(w) is entitled to recover attorney fees and costs, including expert witness fees, incurred in the termination protest.

### History

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 88, § 2, effective October 1.

Annotations

### Research References & Practice Aids

---

**Hierarchy Notes:**

C.R.S. Title 44

C.R.S. Title 44, Art. 20

**State Notes**

---

**Notes**

---

**Editor's note:**

This section is similar to former § 12-6-131 as it existed prior to 2018.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

---

End of Document

## **C.R.S. 44-20-141**

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-141. Stop-sale directives - used motor vehicles - definitions.**

- (1) As used in this section, unless the context otherwise requires:
  - (a) “Average trade-in value” means the value of a used motor vehicle as established by a generally accepted, published, third-party used vehicle resource.
  - (b) “Stop-sale directive” means an unconditional directive from a manufacturer or distributor to a motor vehicle dealer to stop selling a type of motor vehicle manufactured by the manufacturer or distributed by the distributor because of a safety defect.
- (2) A manufacturer or distributor shall reimburse a motor vehicle dealer in accordance with subsection (3) of this section if:
  - (a) The manufacturer or distributor issues a stop-sale directive for a motor vehicle manufactured or distributed by the issuer of the stop-sale directive;
  - (b) The motor vehicle dealer holds an active sales, service, and parts agreement with the manufacturer or distributor for the line-make of the used motor vehicle covered by the stop-sale directive;
  - (c) The used motor vehicle covered by the stop-sale directive is held in the inventory of the motor vehicle dealer on the date the stop-sale directive is issued or taken by the dealer as a trade-in vehicle on a consumer purchase of the same line-make; and
  - (d) The manufacturer or distributor has not provided a remedy procedure or made parts available to repair the used motor vehicle for more than thirty days after the stop-sale directive is issued.
- (3) If the conditions in subsection (2) of this section are met, the manufacturer or distributor shall, upon application by the motor vehicle dealer, pay or credit the dealer one and one-half percent per month of the average trade-in value of the used motor vehicle’s model prorated from thirty days after the stop-sale directive was issued to the earlier of:
  - (a) The date when the manufacturer or distributor provides the motor vehicle dealer with a remedy procedure and any necessary parts for ordering to repair the used motor vehicle; or
  - (b) The date the motor vehicle dealer transfers the motor vehicle.
- (4) A manufacturer or distributor may determine a reasonable manner and method required for a motor vehicle dealer to demonstrate the inventory status of a used motor vehicle to determine eligibility for reimbursement.
- (5)
  - (a) This section applies only to used motor vehicles.

- (b) This section is not intended to prevent a manufacturer or distributor from requiring that a motor vehicle not be subject to an open recall or stop-sale directive for the motor vehicle to be qualified or sold as a certified preowned vehicle or substantially similar designation.
- (c) This section does not require a manufacturer or distributor to provide total compensation to a motor vehicle dealer that would exceed the total average trade-in valuation of the affected used motor vehicle.
- (d) This section does not preclude a motor vehicle dealer and a manufacturer or distributor from agreeing to reimbursement terms that differ from those specified in this section.
- (e) Compensation provided to a motor vehicle dealer under this section is exclusive and may not be combined with any other remedy under state or federal law.

## History

---

**Source:** L. 2018:Entire article added with relocations,(SB 18-030), ch. 7, p. 89, § 2, effective October 1.

Annotations

## Research References & Practice Aids

---

### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor's note:

This section is similar to former § 12-6-132 as it existed prior to 2018.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.

## **C.R.S. 44-20-141.5**

Statutes current through Chapter 290 of the 2022 Regular Session and effective on or before June 3, 2022. The inclusion of the 2022 legislation is not final. It will be final later in 2022 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

***Colorado Revised Statutes Annotated > Title 44. Revenue - Regulation of Activities (§§ 44-1-101 — 44-40-123) > Automobiles (Art. 20) > Article 20. Sale of Self-Propelled Vehicles (Pts. 1 — 4) > Part 1. Motor Vehicle Dealers (§§ 44-20-101 — 44-20-142)***

### **44-20-141.5. Fulfillment and compensation for warranty and recall obligations - definitions.**

---

(1) As used in this section:

- (a) “Manufacturer” includes a manufacturer, a distributor, and a manufacturer representative.
- (b) “Nonwarranty repair” means a diagnosis, repair, labor, or part for which payment was made by a person other than a manufacturer and that was not a warranty obligation. “Nonwarranty repair” also means customer-pay repairs, labor, or parts.
- (c) “Part” means an accessory, a part, or a component used to repair a motor vehicle. “Part” includes engine and transmission parts and all motor vehicle assemblies.
- (d) “Repair” means diagnosing, work, and labor performed by a motor vehicle dealer for which the motor vehicle dealer is making a claim for compensation.
- (e) “Retail labor rate” means the rate for labor calculated by the motor vehicle dealer in accordance with subsection (4) of this section that a manufacturer is required to pay a motor vehicle dealer in accordance with subsection (2) of this section.
- (f) “Retail parts markup percentage” means the percentage markup on parts calculated by the motor vehicle dealer in accordance with subsection (4) of this section that a manufacturer is required to pay a motor vehicle dealer in accordance with subsection (2) of this section.
- (g) “Warranty obligation” means diagnosing and repairing a motor vehicle in accordance with any warranty, recall, or certified preowned warranty, under which a manufacturer makes a repair commitment to a consumer or motor vehicle dealer.

(2) At a motor vehicle dealer’s request, a manufacturer shall timely compensate the motor vehicle dealer at the retail labor rate and the retail parts markup percentage in accordance with subsection (3) of this section for all labor performed and parts used by the motor vehicle dealer for covered repairs performed in accordance with the warranty obligation, if the retail labor rate and retail parts markup percentage are reasonably consistent with the requirements of this section that concern the retail labor rate and parts markup percentage.

(3)

(a) A motor vehicle dealer may establish the retail labor rate and the retail parts markup percentage by submitting to the manufacturer either of the following as decided by the motor vehicle dealer:

- (i) One hundred sequential repair orders containing nonwarranty repairs, which may include a nonwarranty repair that is included in a repair order with a warranty obligation repair, that have been paid by a consumer and closed by the time of submission; or

## C.R.S. 44-20-141.5

**(II)** All repair orders for nonwarranty repairs, which may include a nonwarranty repair that is included in a repair order with a warranty obligation repair, that have been paid by a consumer and closed by the time of submission for a period of ninety consecutive days.

**(b)** A manufacturer shall not disqualify a repair order under this subsection (3) because the repair order contains both warranty and nonwarranty repairs, but only nonwarranty repairs are used in the calculation of the retail labor rate and the retail parts markup percentage.

**(c)** A motor vehicle dealer may submit one set of repair orders for the purpose of calculating both its retail labor rate and the retail parts markup percentage or may submit separate sets of repair orders for purposes of calculating only its retail labor rate or for purposes of calculating only its retail parts markup percentage. If the rates from the calculation are ten percent higher or lower than the current rates, the manufacturer may request additional repair orders for the ninety days before or after the submitted repair orders for purposes of alteration.

**(d)** Except with regard to a request for additional repair orders as provided in subsection (3)(c) of this section, the repair orders submitted under this subsection (3) to determine the retail labor rate must contain only repair orders from the last ninety days before the date the submission is sent to the manufacturer.

**(e)** Except with regard to a request for additional repair orders as provided in subsection (3)(c) of this section, the repair orders submitted under this subsection (3) to determine the retail parts markup percentage must contain only repair orders from the last ninety days before the date the submission is sent to the manufacturer.

**(4)**

**(a)** Except as provided in subsection (4)(c) of this section, to calculate the retail labor rate, the motor vehicle dealer must divide the motor vehicle dealer's total nonwarranty labor sales generated from the nonwarranty repairs submitted under subsection (3) of this section by the total number of labor hours that generated those total labor sales.

**(b)** Except as provided in subsection (4)(c) of this section, to calculate the retail parts markup percentage, the motor vehicle dealer must divide the motor vehicle dealer's total parts sales generated from nonwarranty repairs submitted under subsection (3) of this section by the amount of the motor vehicle dealer's total cost for those parts, subtracting one from this amount, and then multiplying the amount by one hundred.

**(c)** The calculation of the retail labor rate in subsection (4)(a) of this section and of the retail parts markup percentage in subsection (4)(b) of this section do not include parts used or labor performed:

**(I)** For manufacturer or motor vehicle dealer special events, one-time specials, express service, and quoted-price promotional discounts, but this exclusion from the calculation does not include broadly applicable discounts offered by the dealer, such as percentage-off coupons, that apply to repairs and parts;

**(II)** For parts sold at wholesale;

**(III)** For routine maintenance, including replacement fluids, filters, batteries, bulbs, nuts, bolts, fasteners, tires, and belts;

**(IV)** That do not have individual part numbers;

**(V)** For the repairs of a motor vehicle owned by the motor vehicle dealer, an affiliate of the motor vehicle dealer, or an employee of either the motor vehicle dealer or the affiliate;

**(VI)** For motor vehicle dealer reconditioning;

**(VII)** For window tint, protective film, masking products, or window replacement labor;

**(VIII)** For manufacturer-approved and -reimbursed goodwill repairs or replacements;

## C.R.S. 44-20-141.5

**(IX)** For emission inspections required by law;

**(X)** For safety inspections required by law;

**(XI)** For which a volume discount was negotiated with a third-party payer, including government agencies, insurance carriers, and fleet operators, but not including third-party warranty companies or service contract companies.

**(5)**

**(a)** Notwithstanding any manufacturer requirement, policy, procedure, guideline, or standard, a motor vehicle dealer may submit to the manufacturer the retail labor rate or retail parts markup percentage as each is calculated in accordance with subsection (4) of this section.

**(b)** A motor vehicle dealer may request in writing, not more often than once annually, an increase in compensation for labor at the retail labor rate for warranty obligations.

**(c)** A motor vehicle dealer may request in writing, not more often than once annually, an increase in compensation for parts at the retail parts markup percentage for warranty obligations.

**(d)**

**(I)** A manufacturer may conduct a periodic review of a motor vehicle dealer's service records to verify the continuing accuracy of the retail labor rate or retail parts markup percentage proposed by or in effect for the dealer.

**(II)** A manufacturer shall not conduct a periodic review more than once per calendar year. This periodic review is not an audit in accordance with section 44-20-135.

**(6)**

**(a)**

**(I)** If the submitted calculation of the retail labor rate or retail parts markup percentage is materially inaccurate or is substantially different than the rate of or percentage of other similarly situated same line-make dealers within the state, a manufacturer may contest the motor vehicle dealer's submitted calculations of the retail labor rate or retail parts markup percentage by delivering a notice to the motor vehicle dealer within forty-five days after receiving the submission in accordance with subsection (3) of this section from the motor vehicle dealer. To comply with this subsection (6), the notice must:

**(A)** Include an explanation of the reasons that the manufacturer believes the calculation is subject to contest;

**(B)** Provide evidence substantiating the manufacturer's position; and

**(C)** Propose an adjustment of the contested retail labor rate or retail parts markup percentage.

**(II)** Upon the discovery of new relevant information by the manufacturer, the manufacturer may modify the grounds for contesting the retail labor rate or retail parts markup percentage after delivering the notice to the motor vehicle dealer under this subsection (6), but the modification does not change the timing requirements in this section.

**(b)** If the manufacturer does not timely contest the motor vehicle dealer's calculation of the retail labor rate or retail parts markup percentage in accordance with this subsection (6), the uncontested retail labor rate or retail parts markup percentage becomes effective forty-five days after the manufacturer has received the submission from the motor vehicle dealer, and thereafter, the manufacturer shall use the motor vehicle dealer's increased retail labor rate and retail parts markup percentage in calculating compensation for warranty obligations until a subsequent calculation of the motor vehicle dealer's retail labor rate or retail parts markup percentage is established in accordance with this section.

**(c)**

## C.R.S. 44-20-141.5

- (I)** If the manufacturer timely contests the motor vehicle dealer's calculation of the retail labor rate or retail parts markup percentage and the manufacturer and motor vehicle dealer are unable to resolve the disagreement, the motor vehicle dealer may seek a determination by filing a complaint with a court of competent jurisdiction or the executive director no later than sixty days after the new motor vehicle dealer receives the manufacturer's challenge to the determined retail labor rate or retail parts markup percentage.
- (II)** In a court proceeding, the court shall determine, in accordance with this section, the proper retail labor rate or retail parts markup percentage.
- (III)** Any retail labor rate or retail parts markup percentage established through the proceeding applies retroactively to calculate reimbursement for any labor and part beginning thirty days after the manufacturer received the submission required by subsection (3) of this section.
- (IV)** If the manufacturer contests the motor vehicle dealer's calculation of the retail labor rate or retail parts markup percentage, the manufacturer shall continue to reimburse the motor vehicle dealer for warranty obligation repairs at the retail labor rate and retail parts markup percentage as both existed before the motor vehicle dealer submitted a request for an increase under subsection (5) of this section. When the manufacturer and motor vehicle dealer agree on the retail labor rate or retail parts markup percentage, the manufacturer shall pay any difference between the amount the manufacturer compensated the dealer and the amount agreed to by the motor vehicle dealer and manufacturer as of thirty days after the manufacturer received the submission required by subsection (3) of this section.
- (d)** In the court proceeding, the court shall award the prevailing party reasonable attorney fees and costs. If the motor vehicle dealer prevails, the court shall award as damages the full amount of reimbursement that should have been paid to the motor vehicle dealer.
- (7)** When calculating the retail labor rate and the retail parts markup percentage, the manufacturer:
- (a)** Shall not establish an unreasonable flat-rate time, nor establish unreasonable flat-rate labor times for new line-makes that are inconsistent with the existing rates;
  - (b)** Shall, if the manufacturer furnishes a part to a motor vehicle dealer at no cost for use in performing a repair under a warranty obligation, compensate the motor vehicle dealer for the authorized repair part by paying the dealer an amount equal to the retail parts markup percentage multiplied by the cost the dealer would have paid for the authorized part as listed in the manufacturer's price schedule;
  - (c)** Shall not establish a different part number for repairs made in accordance with a warranty obligation than the part number established for nonwarranty repairs solely to provide a lower compensation to a motor vehicle dealer;
  - (d)** Shall not recover or attempt to recover, directly or indirectly, in whole or in part, any of its costs from the motor vehicle dealer for compensating the motor vehicle dealer under this section;
  - (e)** Shall not, directly or indirectly, in whole or in part, assess penalties or surcharges to the motor vehicle dealer, limit allocation of motor vehicles or parts to the motor vehicle dealer, or take any adverse action based on the motor vehicle dealer's exercise of the dealer's rights under this section;
  - (f)** Shall not require from a motor vehicle dealer any information that is unduly burdensome or time consuming to obtain, including any part-by-part or transaction-by-transaction calculations.
- (8)** Nothing in this section prohibits a manufacturer from increasing the price of a motor vehicle or motor vehicle part in the normal course of business.
- (9)** This section does not apply to any of the following that are involved in the manufacturing of or selling of recreational vehicles:
- (a)** A motor vehicle dealer;
  - (b)** A manufacturer or component manufacturer;

- (c) A distributor; or
- (d) A manufacturer representative.

## History

---

**Source:** L. 2018:Entire section added,(SB 18-219), ch. 330, p. 1974, § 2, effective October 1.

Annotations

## Research References & Practice Aids

---

### Hierarchy Notes:

C.R.S. Title 44

C.R.S. Title 44, Art. 20

## State Notes

---

## Notes

---

### Editor's note:

This section was numbered as § 12-6-132.5 in SB 18-219. That section was harmonized with SB 18-030 and relocated to this section.

Colorado Revised Statutes Annotated  
Copyright © 2022 COLORADO REVISED STATUTES All rights reserved.