

Md. Transportation Code Ann. § 15-201

Statutes current with legislation effective through June 29, 2022, from the 2022 Regular Session of the General Assembly. Some statute sections may be more current.

Michie's™ Annotated Code of Maryland > Transportation (Titles 1 — 27) > Title 15. Vehicle Laws — Licensing of Businesses and Occupations. (Subts. 1 — 8) > Subtitle 2. Manufacturers, Distributors, and Factory Branches. (§§ 15-201 — 15-214)

§ 15-201. Definitions.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Distributor” means a distributor who is authorized by the manufacturer or the manufacturer’s authorized importer to enter into franchise agreements with dealers of:
 - (1) New motor vehicles constructed or assembled outside of the United States; or
 - (2) New two-stage vehicles completed outside of the United States by a second-stage manufacturer.
- (c) “Factory branch” means a branch office of a manufacturer from which the manufacturer:
 - (1) Sells or promotes the sale to dealers in this State of a particular brand or make of new motor vehicles, or new completed two-stage vehicles;
 - (2) Directs and supervises its representatives in this State; or
 - (3) Supervises or contacts its dealers or prospective dealers in this State.
- (d) “License” means a manufacturer’s, distributor’s, or factory branch’s license issued by the Administration under this subtitle.
- (e) “Manufacturer” means:
 - (1) A manufacturer of new motor vehicles constructed or assembled in the United States;
 - (2) A second-stage manufacturer of new two-stage vehicles completed in the United States; and
 - (3) In the case of trucks, a person engaged in the business of manufacturing truck component parts.
- (f) “Second-stage manufacturer” has the meaning stated in § 13-113.2 of this article.

History

An. Code 1957, art. 661/2, §§ 1-125.1, 3-113.1A, 3-113.3, 5-702; 1977, ch. 14, § 2; 1979, ch. 299; 1986, ch. 448; 1993, ch. 310; 1995, ch. 629; 1996, ch. 583.

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Md. Transportation Code Ann. § 15-202

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§ 15-202. License required.

- (a) A manufacturer may not transfer any new motor vehicle, new two-stage vehicle, or truck component part to any dealer or distributor in this State unless the manufacturer is licensed by the Administration under this subtitle.
- (b) A distributor may not transfer any new motor vehicle, or new two-stage vehicle to any dealer in this State unless the distributor is licensed by the Administration under this subtitle.
- (c) A person may not conduct the business of a factory branch in new motor vehicles, or new two-stage vehicles unless the person is licensed by the Administration under this subtitle.

History

An. Code 1957, art. 661/2, § 5-702; 1977, ch. 14, § 2; 1979, ch. 299; 1986, ch. 472, § 1; 1995, ch. 629.

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Md. Transportation Code Ann. § 15-206

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§ 15-206. Scope of license.

A license issued under this subtitle authorizes the licensee to conduct the business of a manufacturer, distributor, or factory branch, as the case may be, during the license year for which it is issued.

History

An. Code 1957, art. 661/2, § 5-705; 1977, ch. 14, § 2.

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Md. Transportation Code Ann. § 15-206.1

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§ 15-206.1. Good faith.

(a) In this section, “good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(b) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, or representative, may not fail to act in good faith:

(1) In acting or purporting to act under the terms, provisions, or conditions of any franchise agreement; or

(2) In any transaction or conduct governed by this subtitle.

History

2001, ch. 667.

Annotations

Notes

Editor's note. —

Section 2, ch. 667, Acts 2001, provides that “this Act shall be applicable to any franchise agreement in existence on or after October 1, 2001.”

Applicability. —

Where automobile dealers alleged that a manufacturer broke its promise not to reactivate an open point, this section and § 15-207(e) of this subtitle did not apply and could not be used to challenge the reactivation of the open point since the manufacturer was not required to apply performance standards or show good cause before reactivating the open point. *Heritage Oldsmobile-Imports v. Volkswagen of Am., Inc.*, 264 F. Supp. 2d 282, 2003 U.S. Dist. LEXIS 9242 (D. Md. 2003).

“Good faith” does not add new/additional obligations. —

Court granted a manufacturer's motion to dismiss a dealership's lawsuit alleging the manufacturer provided insufficient due process during the dealership's appeal of the manufacturer's decision to terminate their dealer agreement. This section, which required good faith, did not interpose obligations about which the contract was silent, and the dealer agreement was silent about what process was required during the appeal but did state that

the appeal would be informal. *Lanham Ford, Inc. v. Ford Motor Co.*, 273 F. Supp. 2d 691, 2003 U.S. Dist. LEXIS 12924 (D. Md. 2003), *aff'd*, 101 Fed. Appx. 381, 2004 U.S. App. LEXIS 11225 (4th Cir. 2004).

In a federal suit between a franchisor and franchisee wherein State of Maryland law applied, the franchisor was granted summary judgment on the franchisee's counterclaims asserting violations of (b) because the franchisee failed to provide any evidence that the franchisor acted in bad faith; the franchisor's prior lenience with respect to projected facility-related milestone requirements did not make its subsequent decision to enforce them an act of bad faith. *Jaguar Land Rover N. Am., LLC v. Manhattan Imported Cars, Inc.*, 738 F. Supp. 2d 640, 2010 U.S. Dist. LEXIS 95828 (D. Md. 2010), *aff'd*, 477 Fed. Appx. 84, 2012 U.S. App. LEXIS 8260 (4th Cir. 2012).

Dealers plausibly stated claim. —

Where dealers alleged that a manufacturer of automobile parts violated its duty of good faith under Md. Code Ann., Transp. § 15-206.1(b) when it terminated their franchise, the dealers' claim survived a motion to dismiss because the dealers plausibly alleged that the manufacturer breached the franchise agreement, violated statutory law, and committed tortious acts. *Paccar Inc. v. Elliot Wilson Capitol Trucks LLC*, 905 F. Supp. 2d 675, 2012 U.S. Dist. LEXIS 166962 (D. Md. 2012).

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Md. Transportation Code Ann. § 15-207

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§ 15-207. Coercion of dealer prohibited.

(a)

(1) In this section the following words have the meanings indicated.

(2)

(i) “Coerce” means to compel or attempt to compel by threat of harm, breach of contract, or other adverse action or consequences, including the loss of any incentive or other benefit made available to other dealers of the same line make in the State.

(ii) “Coerce” includes to act in a manner that violates § 15-206.1 of this subtitle.

(iii) “Coerce” does not include to argue, urge, recommend, or persuade.

(3) “Require” means to impose upon a dealer a provision not required by law or previously agreed to by a dealer in a franchise agreement, excluding business decisions made to comply with the requirements of this title by a manufacturer, distributor, or factory branch which are uniformly applied to all Maryland dealers in new vehicles of the manufacturer, distributor, or factory branch.

(b) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, affiliate, or representative, may not coerce any dealer to make any agreement with the manufacturer, distributor, or factory branch or their agent, employee, affiliate, or representative.

(c) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, affiliate, or representative, may not coerce any dealer to order or accept delivery of any vehicle, any equipment, parts, or accessories for a vehicle, or any other commodity that is not required by law or by the dealer's franchise or that was not ordered voluntarily by the dealer.

(d) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, affiliate, or representative, may not require or coerce a dealer, by franchise agreement or otherwise, or as a condition to the renewal or continuation of a franchise agreement, to:

(1) Exclude from the use of the dealer's facilities a dealership for which the dealer has a franchise agreement to utilize the facilities; or

(2) Materially change the dealer's facilities or method of conducting business if the change would impose substantial financial hardship on the business of the dealer.

(e)

(1) The provisions of this subsection apply notwithstanding the terms of any franchise agreement or agreement related to a franchise.

(2) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, affiliate, or representative, may not require or coerce a dealer to adhere to performance standards that are not applied uniformly to other similarly situated dealers.

(3)

(i) Whether or not uniformly applied to other similarly situated dealers, an assigned market area or a performance standard, sales objective, or program for measuring dealership performance that may have a material effect on a dealer, including the dealer's right to a benefit or payment under any incentive or reimbursement program, and the application of the standard, sales objective, or program by a manufacturer, distributor, or factory branch shall:

1. Be fair, reasonable, and equitable;
2. Be based on accurate information; and
3. Include considerations of the demographic characteristics and consumer preferences of the population in the dealer's assigned market area, including:
 - A. Car and truck preferences of consumers; and
 - B. Geographic characteristics, such as natural boundaries, road conditions, and terrain, that affect car and truck shopping patterns.

(ii) A dealer that claims that the assignment of a market area or application of a performance standard, sales objective, or program for measuring dealership performance is unfair or unreasonable due to the manufacturer, distributor, or factory branch failing to reasonably consider demographic characteristics of the population in the dealer's assigned market area, including car and truck preferences of consumers, or due to the geographic characteristics, such as natural boundaries, road conditions, and terrain, that affect car and truck shopping patterns in the dealer's assigned marketing area, may file a claim in a court of competent jurisdiction to determine whether the design of the assigned market area or the application of the performance standard, sales objective, or program is unfair or unreasonable under this paragraph.

(iii) A manufacturer, distributor, or factory branch has the burden of proving that the design of the assigned market area, or the performance standard, sales objective, or program for measuring dealership performance is fair and reasonable under this paragraph.

(4)

(i) If the performance standard is based on a survey, it must be shown that:

1. The survey was designed with experts;
2. The proper universe was examined;
3. A representative sample was chosen; and
4. The data was accurately reported.

(ii) The manufacturer, distributor, or factory branch shall establish the objectivity of the survey process and provide this information to any dealer of the same line make covered by the survey on request.

(f) A franchise agreement or other contract offered to a dealer by a manufacturer, distributor, or factory branch may not contain any provision requiring a dealer to pay the attorney's fees of the manufacturer, distributor, or factory branch related to disputes involving the franchise.

(g)**(1)**

(i) If the dealer is an entity other than an individual, the dealer shall designate an individual to represent the dealer to do business with the manufacturer, distributor, or factory branch.

(ii) Approval of the individual may not be withheld by the manufacturer, distributor, or factory branch unless the individual is unfit due to lack of good moral character or fails to meet reasonable general business experience requirements.

(2) A dealer shall have a reasonable amount of time to:

- (i)** Designate a representative or a successor if a change is required for any reason; and
- (ii)** Obtain approval of the representative or successor designated under item (i) of this paragraph, including time for a hearing, in the event of any objection by the manufacturer, distributor, or factory branch.

(3) At a hearing resulting from an objection to the approval of the designated individual, the manufacturer, distributor, or factory branch has the burden of proving that the designated individual is not of good moral character or fails to meet reasonable general business experience requirements.

(h)

(1)

(i) Any consumer rebates, dealer incentives, price or interest rate reductions, or finance terms that a manufacturer, distributor, or factory branch offers or advertises, or allows its dealers to offer or advertise, shall be offered to all dealers of the same line make.

(ii) Any manufacturer, distributor, or factory branch that denies the benefit of any consumer rebates, dealer incentives, price or interest rate reductions, or finance terms to a dealer on the basis that the dealer failed to comply with performance standards has the burden of proving that the performance standards comply with the provisions of this section.

(2) Unless a dealer violates a State or local law intended to protect the public, a manufacturer, distributor, or factory branch may not:

- (i)** Require a dealer to alter or replace an existing dealership facility; or
- (ii)** Deny, or threaten to deny, any benefit generally available to all dealers for a dealer's failure to alter or replace an existing dealership facility.

(3) A manufacturer, distributor, or factory branch may not reduce the price of a motor vehicle charged to a dealer or provide different financing terms to a dealer in exchange for the dealer's agreement to:

- (i)** Maintain an exclusive sales or service facility;
- (ii)** Build or alter a sales or service facility; or
- (iii)** Participate in a floor plan or other financing arrangement.

(i) A manufacturer, distributor, or factory branch may offer rebates, cash incentives, or other promotional items for the sale of a vehicle by its dealers if:

(1) The same rebate, cash incentive, or promotion is offered to all of its dealers of the same line make; and

(2) Any rebate, cash incentive, or promotion that is based on the sale of an individual vehicle is not increased for meeting a performance standard unless the standard is reasonable considering all existing circumstances.

(j) A manufacturer, distributor, or factory branch may not discriminate among its dealers in any program that provides assistance to its dealers, including Internet listings, sales leads, warranty policy adjustments, marketing programs, and dealer recognition programs.

(k)

(1) This subsection does not apply to:

- (i)** The purchase or procurement of:
 1. Moveable displays;
 2. Brochures or other promotional materials;

- 3. Special tools and training as required by the manufacturer;
 - 4. Parts for repairs made under warranty obligations of a manufacturer, distributor, or factory branch; or
 - 5. Any goods or services for which a manufacturer, a distributor, a factory branch, or an affiliate provides a credit, stipend, payment, or reimbursement to the dealer that covers all or a substantial portion of the dealer's program costs;
- (ii) Optional programs;
 - (iii) A program, or the renewal or modification of a program, in existence on October 1, 2014; or
 - (iv) An agreement between the manufacturer, distributor, factory branch, or affiliate and the dealer that is directly related to the dealer's completion of a program if separate and valuable consideration has been offered to the dealer and accepted.
- (2)
- (i) Subject to subparagraph (ii) of this paragraph, a manufacturer, distributor, factory branch, or one of its affiliates may not, directly or through an agent, an employee, an affiliate, or a representative, require or coerce by agreement, program, or incentive provision, a dealer to purchase goods or services from a vendor that is selected, identified, or designated by the manufacturer, distributor, factory branch, or one of its affiliates.
 - (ii) A manufacturer, distributor, factory branch, or one of its affiliates may offer a dealer the option to obtain goods or services under this subsection of substantially similar quality and design from a vendor chosen by the dealer subject to the advanced approval of the manufacturer, distributor, factory branch, or one of its affiliates.
- (3) A manufacturer, distributor, factory branch, or one of its affiliates may not unreasonably withhold the approval required under paragraph (2) of this subsection.
- (4) Nothing in this subsection may be construed to allow a dealer or vendor to:
- (i) Directly or indirectly eliminate or impair in any way a manufacturer's intellectual property, trademark, or trade dress rights; or
 - (ii) Erect or maintain signs that do not conform to the intellectual property usage guidelines of the manufacturer, distributor, factory branch, or one of its affiliates.
- (5)
- (i) A manufacturer, distributor, factory branch, or one of its affiliates may not penalize a dealer for failure to participate in an optional program.
 - (ii) Withholding the benefits of an optional program in which the dealer failed to participate may not be construed to be a penalty imposed by the manufacturer, distributor, factory branch, or affiliate.

History

An. Code 1957, art. 661/2, §§ 1-108.1, 5-706; 1977, ch. 14, § 2; 1986, ch. 472, § 1; 1996, ch. 583; 1998, ch. 608; 2006, ch. 437; 2009, ch. 747; 2014, ch. 326; 2017, ch. 560.

Annotations

Notes

Effect of amendments. —

Chapter 437, Acts 2006, effective October 1, 2006, in (d)(1), substituted “Exclude” for “Eliminate” at the beginning, and deleted “as of March 1, 1996” after “facilities”; and added (g).

Chapter 747, Acts 2009, effective June 1, 2009, added “including the loss of any benefit made available to other dealers of the same line make in the State” in (a)(2)(i); added (a)(2)(ii) and redesignated accordingly; in (b), (c), in the introductory language of (d), and in (e)(1), added “affiliate”; in (b) added “or their agent, employee, affiliate, or representative”; added the (e)(2)(i) designation; in (e)(2)(i) added “sales objective” twice and “including the dealer’s right to payment under any incentive or reimbursement program”; added (e)(2)(ii) and (e)(2)(iii); and added (h) through (j).

Chapter 326, Acts 2014, effective October 1, 2014, added (k).

Chapter 560, Acts 2017, effective October 1, 2017, in (a)(2)(i) added “action or” and “incentive or other”; in (a)(3) added “made to comply with the requirements of this title”; added (e)(1), and redesignated accordingly; and rewrote (e)(3).

Editor’s note. —

Section 2, ch. 608, Acts 1998, provides that “this Act shall be construed to apply to any franchise agreement in effect on or entered into on or after July 1, 1998.”

Collateral estoppel effect of administrative findings. —

Administration findings have full collateral estoppel effect during subsequent litigation of the claim. *Bethesda Ford, Inc. v. Ford Motor Co.*, 572 F. Supp. 623, 1983 U.S. Dist. LEXIS 13206 (D. Md. 1983).

Applicability. —

Where automobile dealers alleged that a manufacturer broke its promise not to reactivate an open point, § 15-206.1 of this subtitle and (e) did not apply and could not be used to challenge the reactivation of the open point since the manufacturer was not required to apply performance standards or show good cause before reactivating the open point. *Heritage Oldsmobile-Imports v. Volkswagen of Am., Inc.*, 264 F. Supp. 2d 282, 2003 U.S. Dist. LEXIS 9242 (D. Md. 2003).

Requirements for finding of coercion. —

In order for coercion to exist within the meaning of this section, the manufacturer must specifically undertake to change the dealer’s conduct; there must be a demand, accompanied by a threat of sanctions for noncompliance. *Wootton Enters. v. Subaru of Am., Inc.*, 134 F. Supp. 2d 698, 2001 U.S. Dist. LEXIS 2476 (D. Md. 2001), *aff’d*, 34 Fed. Appx. 57, 2002 U.S. App. LEXIS 7180 (4th Cir. 2002).

Enforcement of compliance with facility-related milestones and related sanctions not deemed coercion. —

In a federal suit between a franchisor and franchisee wherein Maryland law applied, the franchisor was granted summary judgment on the franchisee’s counterclaims asserting violations of (b) and (d) because the franchisor’s attempts to enforce the franchisee’s compliance with various facility-related projected milestones and suspending incentive payments conditioned on those milestones did not constitute coercion. *Jaguar Land Rover N. Am., LLC v. Manhattan Imported Cars, Inc.*, 738 F. Supp. 2d 640, 2010 U.S. Dist. LEXIS 95828 (D. Md. 2010), *aff’d*, 477 Fed. Appx. 84, 2012 U.S. App. LEXIS 8260 (4th Cir. 2012).

Dealers plausibly stated coercion claim. —

In an action in which dealers alleged that a manufacturer of automobile parts attempted to coerce them to sell their franchise to either the manufacturer or a certain buyer, the dealers stated a plausible claim for violation of Md. Code

Md. Transportation Code Ann. § 15-207

Ann., Transp. § 15-207(b) because the dealers alleged (1) that the manufacturer stated that it would not approve of the sale to any other buyer, (2) that the manufacturer unilaterally imposed unrealistic facility improvement requirements on the dealers in an attempt to coerce them into selling the franchise to a certain buyer, and (3) that the manufacturer told the dealers that the only way out of litigation was to sell the dealership back to the manufacturer. *Paccar Inc. v. Elliot Wilson Capitol Trucks LLC*, 905 F. Supp. 2d 675, 2012 U.S. Dist. LEXIS 166962 (D. Md. 2012).

In an action in which dealers alleged that a manufacturer of automobile parts attempted to coerce them to sell their franchise to an exclusive dealership, the dealers stated a plausible claim for violation of Md. Code Ann., Transp. § 15-207(d) because it was plausible that the alleged coercion was motivated by a desire to force the dealers to transform their franchises into exclusive dealerships. *Paccar Inc. v. Elliot Wilson Capitol Trucks LLC*, 905 F. Supp. 2d 675, 2012 U.S. Dist. LEXIS 166962 (D. Md. 2012).

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§ 15-207.1. Access to consumer data from dealer.

(a)

(1) In this section the following words have the meanings indicated.

(2)

(i) “Consumer data” means nonpublic personal information, as defined in 15 U.S.C. § 6809(4), collected by a dealer and provided by the dealer directly to a manufacturer, distributor, or factory branch, or its agent.

(ii) “Consumer data” does not include the same or similar data that is obtained by a manufacturer from any other source.

(3) “Data management system” means a computer hardware or software system that:

(i) Is owned, leased, or licensed by a dealer, including a system of web-based applications;

(ii) Is located at the dealership or hosted remotely; and

(iii) Stores and provides access to consumer data collected and stored by the dealer.

(b) Notwithstanding the provisions of any franchise agreement, a manufacturer, distributor, or factory branch, or its agent:

(1) Shall allow a dealer to furnish consumer data in a widely accepted file format, such as comma-separated values, and through a third-party vendor selected by the dealer;

(2) May access or obtain consumer data directly from a dealer’s data management system only with the express written consent of the dealer;

(3) May not take any adverse action against a dealer for refusing to grant access to the dealer’s data management system;

(4) May require that a franchised dealer of the manufacturer, distributor, or factory branch provide consumer data or transactional data that pertains to:

(i) Claims for warranty parts or repairs;

(ii) Sales and deliveries of new or certified pre-owned vehicles of any line make of the manufacturer, distributor, or factory branch;

(iii) Safety or recall obligations; or

(iv) Validation and payment of customer or dealer incentives; and

(5) Shall indemnify the dealer for any third-party claims asserted against or damages incurred by the dealer to the extent the claims of damages are caused by access to and unlawful disclosure of consumer data resulting from a breach caused by the manufacturer, distributor, or factory branch, or its

agent, or a third party to which the manufacturer, distributor, or factory branch, or its agent, has provided the consumer data in violation of this section.

(c) A manufacturer, distributor, or factory branch, or its agent, may not require that a dealer grant the manufacturer, distributor, or factory branch, or its agent, access to the dealer's data management system through a franchise agreement or as a condition of renewal or continuation of the franchise agreement.

(d) Written consent under subsection (b)(2) of this section:

- (1)** Shall be separate from the dealer franchise agreement;
- (2)** Shall be executed by the dealer; and
- (3)** May be withdrawn by the dealer on 30 days' written notice to the manufacturer, distributor, or factory branch.

History

2018, ch. 12, § 6; ch. 517.

Annotations

Notes

Editor's note. —

Pursuant to § 6, ch. 12, Acts 2018, "and" was deleted at the end of (b)(2).

Section 2 ch. 517, Acts 2018, provides that the act shall take effect October 1, 2018.

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Md. Transportation Code Ann. § 15-208

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§ 15-208. Refusal to deliver vehicles prohibited.

(a) A manufacturer may not refuse to deliver new motor vehicles, new two-stage vehicles, or truck component parts, as the case may be, to a licensed dealer or distributor, in reasonable quantities and within a reasonable time after receipt of a written order, if:

- (1) The manufacturer specifically advertises that these vehicles or truck component parts are available for immediate delivery; and
- (2) The dealer or distributor has a franchise or other contract with the manufacturer for the sale of these vehicles or truck component parts to the public.

(b) A distributor may not refuse to deliver new motor vehicles, or new two-stage vehicles, as the case may be, to a licensed dealer, in reasonable quantities and within a reasonable time after receipt of a written order, if:

- (1) The distributor specifically advertises that these vehicles are available for immediate delivery; and
- (2) The dealer has a franchise or other contract with the distributor for the sale of these vehicles to the public.

(c) A factory branch may not refuse to deliver new motor vehicles, or new two-stage vehicles, as the case may be, to a licensed dealer, in reasonable quantities and within a reasonable time after receipt of a written order, if:

- (1) The factory branch specifically advertises that these vehicles are available for immediate delivery; and
- (2) The dealer has a franchise or other contract with the factory branch for the sale of these vehicles to the public.

(d) A failure to deliver vehicles because of a labor strike, government regulation, or other cause not the fault of the manufacturer, distributor, or factory branch is not a violation of this section.

(e) If a dealer has a franchise or other contract with a manufacturer, distributor, or factory branch for the sale of vehicles or truck component parts of a specific line or make, the manufacturer, distributor, or factory branch shall allow the dealer to:

- (1) Purchase the vehicles or truck component parts at the same price and on the same terms as all other dealers with a franchise or other contract for the sale of vehicles or truck component parts of the same line or make; and
- (2) Receive the same right to incentive payments that is given to all other dealers with a franchise or other contract for the sale of vehicles or truck component parts of the same line or make.

History

Md. Transportation Code Ann. § 15-208

An. Code 1957, art. 661/2, § 5-706; 1977, ch. 14, § 2; 1979, ch. 299; 1986, ch. 472, § 1; 1995, ch. 629; 2009, ch. 747.

Annotations

Notes

Effect of amendments. —

Chapter 747, Acts 2009, effective June 1, 2009, added (e).

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Md. Transportation Code Ann. § 15-210

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§ 15-210. Deceptive advertising prohibited.

- (a) A manufacturer, whether directly or through an agent, employee, or representative, may not use any advertisement that is in any way false, deceptive, or misleading.
- (b) A distributor, whether directly or through an agent, employee, or representative, may not use any advertisement that is in any way false, deceptive, or misleading.
- (c) A factory branch, whether directly or through an agent, employee, or representative, may not use any advertisement that is in any way false, deceptive, or misleading.

History

An. Code 1957, art. 661/2, § 5-706; 1977, ch. 14, § 2; 1986, ch. 472, § 1; 1988, ch. 6, § 1.

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Md. Transportation Code Ann. § 15-211

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Michie's™ Annotated Code of Maryland > Transportation (Titles 1 — 27) > Title 15. Vehicle Laws — Licensing of Businesses and Occupations. (Subts. 1 — 8) > Subtitle 2. Manufacturers, Distributors, and Factory Branches. (§§ 15-201 — 15-214)

§ 15-211. Prevention of transfer of ownership interests in dealership prohibited.

- (a) A manufacturer, whether directly or through an agent, employee, affiliate, or representative, may not prevent, by contract or otherwise, any owner, partner, or stockholder of any dealership from transferring any ownership interest in the dealership to any other person.
- (b) A distributor, whether directly or through an agent, employee, affiliate, or representative, may not prevent, by contract or otherwise, any owner, partner, or stockholder of any dealership from transferring any ownership interest in the dealership to any other person.
- (c) A factory branch, whether directly or through an agent, employee, affiliate, or representative, may not prevent, by contract or otherwise, any owner, partner, or stockholder of any dealership from transferring any ownership interest in the dealership to any other person.
- (d)
 - (1) A dealer or an owner, partner, or stockholder of a dealership may not sell, assign, or otherwise transfer a franchise or any right under a franchise without the consent of the manufacturer.
 - (2) Notwithstanding the terms of any franchise agreement or agreement related to a franchise, a manufacturer may not exercise a right of first refusal in the event of a sale or transfer or proposed sale or transfer of a dealer's business or any equity interest in a dealer's business to a person who meets the manufacturer's reasonable qualifications for ownership and is:
 - (i) A member of the dealer's immediate family;
 - (ii) A qualified manager with at least 2 years management experience at the dealer's business;
 - (iii) An existing dealer in good standing; or
 - (iv) A business entity controlled by a person described in item (i), (ii), or (iii) of this paragraph.
 - (3) If a manufacturer exercises a right of first refusal in the event of a sale or transfer or proposed sale or transfer of the dealer's business or an equity interest in the dealer's business, the manufacturer shall pay the reasonable expenses, including customary attorney's fees, incurred by the prospective purchaser in negotiating and implementing the contract for the proposed sale or transfer, provided that the dealer has given the manufacturer at least 45 days' notice of an intent to sell or transfer.
- (e)
 - (1) A manufacturer may not unreasonably withhold consent to the transfer of a franchise under subsection (d) of this section.
 - (2) If an owner, partner, or stockholder of a dealership seeks to sell, assign, or otherwise transfer a franchise or any right under a franchise, the owner, partner, or stockholder shall provide written notice to the manufacturer of the proposed transfer.

(3) Within 20 days after a manufacturer receives written notice of a proposed transfer from a transferor, the manufacturer shall provide the transferor with all forms and requests for information that the manufacturer considers necessary to evaluate the proposed transfer.

(4) Within 75 days after a manufacturer receives all completed forms and requested information from a transferor, the manufacturer shall:

- (i)** Give consent to the transfer; or
- (ii)** Provide a written statement of the specific grounds for its refusal to consent to the transfer, consistent with the requirements under subsection (k) of this section.

(f)

(1) A dealer or an owner, partner, or stockholder of a dealership may not sell, assign, or otherwise transfer a franchise or any right under a franchise without the consent of the distributor.

(2) Notwithstanding the terms of any agreement related to the franchise, a distributor may not exercise a right of first refusal in the event of a sale or transfer or proposed sale or transfer of a dealer's business or any equity interest in a dealer's business to a person who meets the distributor's reasonable qualifications for ownership and is:

- (i)** A member of the dealer's immediate family;
- (ii)** A qualified manager with at least 2 years management experience at the dealer's business;
- (iii)** An existing dealer in good standing; or
- (iv)** A business entity controlled by a person described in item (i), (ii), or (iii) of this paragraph.

(3) If a distributor exercises a right of first refusal in the event of a sale or transfer or proposed sale or transfer of the dealer's business or an equity interest in the dealer's business, the distributor shall pay the reasonable expenses, including customary attorney's fees, incurred by the prospective purchaser in negotiating and implementing the contract for the proposed sale or transfer, provided that the dealer has given the distributor at least 45 days' notice of an intent to sell or transfer.

(g) However, the distributor may not unreasonably withhold consent to the transfer of a franchise under subsection (f) of this section.

(h)

(1) A dealer or an owner, partner, or stockholder of a dealership may not sell, assign, or otherwise transfer a franchise or any right under a franchise without the consent of the factory branch.

(2) Notwithstanding the terms of any agreement related to the franchise, a factory branch may not exercise a right of first refusal in the event of a sale or transfer or proposed sale or transfer of a dealer's business or any equity interest in a dealer's business to a person who meets the factory branch's reasonable qualifications for ownership and is:

- (i)** A member of the dealer's immediate family;
- (ii)** A qualified manager with at least 2 years management experience at the dealer's business;
- (iii)** An existing dealer in good standing; or
- (iv)** A business entity controlled by a person described in item (i), (ii), or (iii) of this paragraph.

(3) If a factory branch exercises a right of first refusal in the event of a sale or transfer or proposed sale or transfer of the dealer's business or an equity interest in the dealer's business, the factory branch shall pay the reasonable expenses, including customary attorney's fees, incurred by the prospective purchaser in negotiating and implementing the contract for the proposed sale or transfer, provided that the dealer has given the factory branch at least 45 days' notice of an intent to sell or transfer.

(i) However, the factory branch may not unreasonably withhold consent to the transfer of a franchise under subsection (h) of this section.

(j) A manufacturer, distributor, or factory branch may not impose a condition on the approval of the sale or transfer of the ownership of a dealership, by the sale of the business, stock transfer, or otherwise, if the condition would violate the provisions of this title if imposed on an existing dealer.

(k)

(1) A manufacturer, distributor, or factory branch violates this section if, without a statement of specific grounds consistent with this title for the action, the manufacturer, distributor, or factory branch takes action to prevent or refuse to approve:

(i) The sale, assignment, or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise;

(ii) The sale, transfer, or assignment of a dealer franchise; or

(iii) A change in the executive management or principal operator of the dealership.

(2)

(i) An existing dealer denied the sale, assignment, transfer, or change under this section may request that the Administrator conduct a hearing to review the denial or the imposition of a condition in violation of this section.

(ii) If the Administrator finds that the action leading to the denial or the imposition of a condition was in violation of this section, the Administrator may order the sale, assignment, or transfer to be approved by the manufacturer, distributor, or factory branch without imposition of the condition.

(3)

(i) An applicant for approval of a sale, assignment, or transfer of ownership of a dealership or an existing dealer denied the sale, assignment, or transfer may institute an action for damages in the circuit court for the county in which the dealer's principal place of business is located, if:

1. The existing dealer does not request a hearing by the Administrator; and

2. The action taken in violation of this section to deny the sale, assignment, or transfer of ownership or the change in executive management or the condition imposed on the sale, assignment, or transfer is the proximate cause of the failure of the contract for the sale, assignment, or transfer of ownership of the dealership.

(ii) An action for damages under this section must be instituted within 2 years of the violation of this section.

History

An. Code 1957, art. 661/2, § 5-706; 1977, ch. 14, § 2; 1986, ch. 472, § 1; 2009, ch. 747; 2020, ch. 417, § 1; ch. 418, § 1.

Annotations

Notes

Effect of amendments. —

Md. Transportation Code Ann. § 15-211

Chapter 747, Acts 2009, effective June 1, 2009, added “affiliate” in (a) through (c); added the (d)(1), (f)(1), and (h)(1) designations; added (d)(2), (d)(3), (f)(2), (f)(3), (h)(2), (h)(3), (j), and (k); and made a stylistic change.

Acts 2020, chs. 417 and 418, effective October 1, 2020, made identical changes. Each reenacted (d) and (k) without change; added (e)(2) through (e)(4) and made related changes.

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End of Document

Md. Transportation Code Ann. § 15-211.1

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Michie's™ Annotated Code of Maryland > Transportation (Titles 1 — 27) > Title 15. Vehicle Laws — Licensing of Businesses and Occupations. (Subts. 1 — 8) > Subtitle 2. Manufacturers, Distributors, and Factory Branches. (§§ 15-201 — 15-214)

§ 15-211.1. Operation of dealership of a deceased or incapacitated dealer.

(a)

(1) A designated family member of a deceased or incapacitated dealer may succeed the dealer in the ownership or operation of the dealership under the existing franchise agreement if the designated family member:

- (i)** Gives the manufacturer, distributor, or factory branch written notice of the designated family member's intention to succeed to the dealership within 120 days after the dealer's death or incapacity;
- (ii)** Agrees to be bound by all of the terms and conditions of the franchise agreement; and
- (iii)** Meets the current criteria that the manufacturer, distributor, or factory branch generally applies in qualifying dealers.

(2) A manufacturer, distributor, or factory branch may refuse to honor the existing franchise agreement with the designated family member only for good cause.

(b)

(1) The manufacturer, distributor, or factory branch may request from a designated family member personal and financial data reasonably necessary to determine whether the existing franchise agreement should be honored.

(2) The designated family member shall supply the personal and financial data promptly upon the request.

(c) If a manufacturer, distributor, or factory branch believes that good cause exists for refusing to honor the succession, the manufacturer, distributor, or factory branch may, within 60 days after receipt of the notice of the designated family member's intent to succeed the dealer or, if the manufacturer, distributor, or factory branch requested personal or financial data, within 60 days after the receipt of the requested data, provide written notice to the designated family member of the manufacturer, distributor, or factory branch's refusal to approve the succession.

(d) The notice of the manufacturer, distributor, or factory branch provided in accordance with subsection (c) of this section shall state the specific grounds for the refusal to approve the succession and that discontinuance of the franchise agreement shall take effect not less than 90 days after the date the notice is provided.

(e) If written notice of refusal is not provided in accordance with subsection (c) of this section, the franchise agreement shall continue in effect and shall be subject to termination only as otherwise permitted by this title.

(f) This section does not preclude a dealer from designating any person as the dealer's successor by written instrument filed with the manufacturer, distributor, or factory branch. If a written instrument is filed,

the instrument alone shall determine the succession rights to the management and operation of the dealership.

(g)

(1) This section applies only to a dealer who is an individual.

(2) In the event of the incapacity or death of an individual designated to act as a representative of a dealer that is an entity under § 15-207(g) of this subtitle, the procedure for replacement of the individual shall be as provided in § 15-207(g) of this subtitle.

History

1996, ch. 583; 2006, ch. 437.

Annotations

Notes

Effect of amendments. —

Chapter 437, Acts 2006, effective October 1, 2006, added (g).

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Md. Transportation Code Ann. § 15-209

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Michie's™ Annotated Code of Maryland > Transportation (Titles 1 — 27) > Title 15. Vehicle Laws — Licensing of Businesses and Occupations. (Subts. 1 — 8) > Subtitle 2. Manufacturers, Distributors, and Factory Branches. (§§ 15-201 — 15-214)

§ 15-209. Wrongful termination of dealer's franchise prohibited.

- (a) A manufacturer may not terminate, cancel, or fail to renew the franchise of a dealer, notwithstanding any term or provision of the franchise, unless:
- (1) The dealer has failed to comply substantially with the reasonable requirements of the franchise; and
 - (2) Except as otherwise provided by subsection (d) of this section, the manufacturer:
 - (i) Gives the dealer at least 90 days' prior written notice of the termination, cancellation, or nonrenewal and of the specific grounds for the action; and
 - (ii) Provides the Administration with a copy of that notice.
- (b) A distributor may not terminate, cancel, or fail to renew the franchise of a dealer, notwithstanding any term or provision of the franchise, unless:
- (1) The dealer has failed to comply substantially with the reasonable requirements of the franchise; and
 - (2) Except as otherwise provided by subsection (d) of this section, the distributor:
 - (i) Gives the dealer at least 90 days' prior written notice of the termination, cancellation, or nonrenewal and of the specific grounds for the action; and
 - (ii) Provides the Administration with a copy of that notice.
- (c) A factory branch may not terminate, cancel, or fail to renew the franchise of a dealer, notwithstanding any term or provision of the franchise, unless:
- (1) The dealer has failed to comply substantially with the reasonable requirements of the franchise; and
 - (2) Except as otherwise provided by subsection (d) of this section, the factory branch:
 - (i) Gives the dealer at least 90 days' prior written notice of the termination, cancellation, or nonrenewal and of the specific grounds for the action; and
 - (ii) Provides the Administration with a copy of that notice.
- (d) The 90-day notice period required by subsection (a) of this section:
- (1) May be reduced to not less than 15 days, if the ground for the termination, cancellation, or nonrenewal is the dealer's inability to reasonably serve the interests of the public; and
 - (2) Is not required, if the dealer waives it in writing.
- (e)

(1) If a dealer receives written notice that his franchise is being terminated, canceled, or not renewed, the dealer may, within the notice period required by this section, request a hearing under Title 12, Subtitle 2 of this article in which the manufacturer, distributor, or factory branch must show that the dealer has failed to comply substantially with the reasonable requirements of the franchise.

(2) If the dealer requests a hearing under this subsection, the dealer's franchise continues in effect, notwithstanding any term or provision of the franchise or any other provision of this subtitle, until the Administration, after the hearing, makes a final determination.

(3) A dealer, manufacturer, distributor, or factory branch may appeal the determination of the Administration to the circuit court for the county in which the dealer's principal place of business is located.

(4) If the dealer, manufacturer, distributor, or factory branch appeals the determination of the Administration to a circuit court, the dealer's franchise continues in effect, notwithstanding any term or provision of the franchise or any other provision of this subtitle, until the circuit court makes a final determination.

(5) A dealer, manufacturer, distributor, or factory branch may appeal from a final judgment entered by a circuit court to the Court of Special Appeals as provided in § 12-301 of the Courts and Judicial Proceedings Article.

(f)

(1) In addition to any administrative and criminal sanctions imposed under this subtitle, a manufacturer, distributor, or factory branch that terminates, cancels, or fails to renew the franchise of a dealer in violation of this section shall pay to the dealer the fair value of his business as a going concern.

(2) On payment, the dealer shall convey his business, free of liens and encumbrances, to the manufacturer, distributor, or factory branch.

History

An. Code 1957, art. 661/2, §§ 5-706, 5-709; 1977, ch. 14, § 2; 1982, ch. 820, § 3; 1983, ch. 247; 1986, ch. 472, § 1; 2005, ch. 25, § 13; 2006, ch. 437.

Annotations

Notes

Effect of amendments. —

Chapter 437, Acts 2006, effective October 1, 2006, substituted “in which. . . show that” for “to determine whether” in (e)(1); substituted “dealer’s” for “person’s” in (e)(3); added (e)(4); and redesignated former (e)(4) as (e)(5).

Franchise defined. —

The word “franchise” should encompass all oral or written understandings between the franchisor and franchisee, limited only by the possible applicability of the statute of frauds on parol evidence rule. *Bethesda Ford, Inc. v. Ford Motor Co.*, 572 F. Supp. 623, 1983 U.S. Dist. LEXIS 13206 (D. Md. 1983).

Reduced notice period prior to termination. —

Where car dealer's inadequate parts and service facilities impaired its ability to serve its customers in the manner contemplated by the dealership agreement, this section required only a 15-day notice period prior to dealership termination. *Fred Menke's Car Store, Inc. v. Volvo N. Am. Corp.*, 698 F. Supp. 1287, 1987 U.S. Dist. LEXIS 14366 (D. Md. 1987), *aff'd*, 862 F.2d 869, 1988 U.S. App. LEXIS 14966 (4th Cir. 1988).

Ninety-day notice not applicable to expiration date in contract. —

This section requires that a manufacturer, distributor, or factory branch provide a dealer with 90 days notice of termination, cancellation, or nonrenewal, but such notice need not be given 90 days prior to the expiration date stated in the contract between the parties. *GMC v. Bannings Beltway Pontiac*, 138 Md. App. 671, 773 A.2d 584, 2001 Md. App. LEXIS 98 (2001).

Collateral estoppel. —

All issues necessary to the Administration decision will be afforded full collateral estoppel effect in subsequent litigation of the original declaration and a cross-counterclaim. *Bethesda Ford, Inc. v. Ford Motor Co.*, 572 F. Supp. 623, 1983 U.S. Dist. LEXIS 13206 (D. Md. 1983).

A franchisee will not later be allowed to challenge the Motor Vehicle Administration's authority to resolve issues which the franchisee created. *Bethesda Ford, Inc. v. Ford Motor Co.*, 572 F. Supp. 623, 1983 U.S. Dist. LEXIS 13206 (D. Md. 1983).

Principles of res judicata. —

Principles of res judicata apply to judicial affirmances of administrative agency decisions. *Bethesda Ford, Inc. v. Ford Motor Co.*, 572 F. Supp. 623, 1983 U.S. Dist. LEXIS 13206 (D. Md. 1983).

Franchisor could not be found in contempt following entry of judgment resulting in expiration of order restraining termination of agreement. —

Interlocutory injunction to prevent franchisor from terminating agreement expired, by operation of law, when judgment absolute was entered so that there was no valid restraining order in effect against franchisor, and franchisor could not be found in contempt. *GMC v. Miller Buick, Inc.*, 56 Md. App. 374, 467 A.2d 1064, 1983 Md. App. LEXIS 387 (1983), *cert. denied*, 299 Md. 136, 472 A.2d 999 (1984).

Md. Transportation Code Ann. § 15-212

Statutes current with legislation effective through June 29, 2022, from the 2022 Regular Session of the General Assembly. Some statute sections may be more current.

Michie's™ Annotated Code of Maryland > Transportation (Titles 1 — 27) > Title 15. Vehicle Laws — Licensing of Businesses and Occupations. (Subts. 1 — 8) > Subtitle 2. Manufacturers, Distributors, and Factory Branches. (§§ 15-201 — 15-214)

§ 15-212. Refusal, suspension, or revocation of license; other administrative sanctions.

(a) In this section, “motor home” means a motor vehicle that:

- (1) Is designed to provide temporary living quarters, built into as an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van; and
- (2) Contains permanently installed independent life support systems which provide at least four of the following facilities:
 - (i) Cooking;
 - (ii) Refrigeration or ice box;
 - (iii) Self-contained toilet;
 - (iv) Heating, air-conditioning, or both;
 - (v) A potable water supply system including a faucet and sink;
 - (vi) Separate 110-125 volt electrical power supply; or
 - (vii) An LP gas supply.

(b) In addition to the other grounds specified in Subtitle 1 of this title for refusal, suspension, or revocation of a license, the Administration may refuse to grant a license under this subtitle to any person and may suspend, revoke, or refuse to renew the license of any person if it finds that the person has:

- (1) Made any material misrepresentation in transferring a vehicle or truck component part to a dealer or distributor;
- (2) Failed to comply with any written warranty agreement; or
- (3) Failed to reasonably compensate any franchised dealer who does work under:
 - (i) The vehicle preparation and delivery obligations of the dealer; or
 - (ii) Any outstanding express or implied new vehicle or truck component parts warranty.

(c)

- (1) A licensee shall specify in writing to each of its motor vehicle dealers licensed in the State:
 - (i) The dealer's obligation for vehicle preparation, delivery, warranties, and recalls on its products;
 - (ii) The schedule of compensation to be paid to the dealers for parts, including parts assemblies, and labor, including diagnostic labor and associated administrative requirements, in connection with the service obligations established under item (i) of this paragraph; and

- (iii) A time allowance for the performance of labor described in this paragraph that is reasonable and adequate.
- (2) Reasonable compensation under this section may not be less than:
 - (i) With respect to labor for warranty or recall repairs, the dealer's current labor rate for nonwarranty repairs of a like kind for retail customers; and
 - (ii) With respect to any part, the dealer's cost plus its current retail mark-up percentage charged to retail customers for nonwarranty repairs of a like kind.
- (3)
 - (i) For purposes of paragraph (2) of this subsection, the dealer's labor rate or parts mark-up percentage shall be established by a submission to the licensee of whichever of the following produces fewer repair orders closed, as of the date of submission, within the preceding 180 days:
 1. 100 qualifying sequential customer-paid repair orders; or
 2. 90 days of qualifying customer-paid repair orders.
 - (ii) With respect to parts, a schedule of compensation established under this subsection shall be equal to the parts mark-up percentage as reflected in qualifying repair orders, calculated by dividing the total charges for parts in the repair orders by the total dealer cost for the parts minus one.
 - (iii)
 1. A dealer may not make a submission under this subsection more than once in 1 year.
 2. For purposes of subparagraph 1 of this subparagraph, a revision or supplement to a submission to correct or clarify the submission does not constitute a new submission.
- (4) Repair orders for labor or parts in connection with any of the following may not constitute a qualifying repair order under paragraph (2) of this subsection:
 - (i) Accessories;
 - (ii) Repairs for manufacturer, distributor, or factory branch special events, promotions, or service campaigns;
 - (iii) Repairs related to collision;
 - (iv) Vehicle emission or safety inspections required by law;
 - (v) Parts sold, or repairs performed, at wholesale or for insurance carriers, or other third-party payors;
 - (vi) Routine maintenance not covered under any warranty, including maintenance involving fluids, filters, and belts not provided in the course of repairs;
 - (vii) Nuts, bolts, fasteners, and similar items that do not have an individual parts number;
 - (viii) Tires;
 - (ix) Vehicle reconditioning;
 - (x) Goodwill or policy repairs or replacements; or
 - (xi) Repairs on vehicles from a different line-make.
- (5) If a licensee gives a dealer a part at no cost to use in performing a repair under a recall, campaign service action, or warranty repair, the licensee shall compensate the dealer for the part by paying the dealer the parts mark-up percentage established under this subsection on the cost for the part listed on the licensee's price schedule.
- (6)

Md. Transportation Code Ann. § 15-212

- (i) The schedule of compensation submitted under paragraph (3) of this subsection shall be presumed to be accurate and reasonable.
- (ii) The licensee shall approve or rebut the dealer's submission within 30 days of receipt.
- (iii) If the licensee approves a dealer's submission, the licensee shall begin compensating the dealer under the schedule within 30 days after the date of approval.
- (iv) In the absence of a timely rebuttal by the licensee, the schedule of compensation submitted by the dealer shall go into effect on the 31st day following the licensee's receipt of the schedule.
- (v) Any rebuttal of the schedule of compensation by the licensee shall:
 1. Be delivered to the dealer within 30 days of the licensee's receipt of the schedule; and
 2. Consist of reasonable substantiating evidence that the declared rate is materially inaccurate.
- (vi) In the event of a timely rebuttal, on resolution of the matter by agreement of the parties or by administrative, judicial, or other action, a licensee's payment obligations under the resulting schedule of compensation shall begin on the 31st day following a final order unless otherwise provided for by the fact finder.
- (vii)
 1. To the extent that any action commenced under subsection (d) of this section or § 15-213 or § 15-214 of this subtitle involves the application of paragraph (3) of this subsection, the issues shall be limited to whether the labor rate or parts mark-up percentage stated in the dealer's submission was materially inaccurate.
 2. A licensee shall have the burden of proving under this subparagraph that the dealer's submission was materially inaccurate.
- (viii)
 1. A licensee may verify a dealer's effective rates once annually.
 2. If a licensee finds that a dealer's effective rates have increased or decreased, the licensee may increase or decrease, respectively, the warranty reimbursement rate prospectively.
- (7) A licensee may not directly or indirectly:
 - (i) Calculate its own labor rate or parts mark-up percentage on a warranty reimbursement rate submission by the licensee's dealer under this section, or require a dealer to calculate a labor rate or parts mark-up percentage, by any method not required under this section, including a method that is unduly burdensome or time-consuming or that requires information that is unduly burdensome or time-consuming to provide such as:
 1. A part-by-part or transaction-by-transaction calculation; or
 2. Presentation of information as to, or calculations based on, the dealer's or other dealers' warranty compensation;
 - (ii) Establish or implement a special part or component number for parts used in warranty fulfillment, if the special part or component number results in reduced compensation for the dealer unless the part is used for specific, limited repair situations;
 - (iii) Require or coerce a dealer to change the prices for which it sells parts or labor for retail customer repairs;
 - (iv) Take adverse action against a dealer because the dealer seeks compensation under this section, by:

Md. Transportation Code Ann. § 15-212

1. Implementing a process that is inconsistent with the licensee's obligations to the dealer under this subtitle; or
 2. Failing to act in good faith;
- (v) Conduct any warranty or retail customer repair audit, or other service-related audit, solely because the dealer makes a request for warranty reimbursement at retail rates in the ordinary course of business; or
- (vi) Establish, implement, enforce, or apply any policy, standard, rule, program, or incentive regarding the compensation due under this section other than in a uniform manner among the licensee's dealers in the State.
- (8) The provisions of paragraphs (1) through (7) of this subsection do not apply to travel trailers or parts of systems, fixtures, appliances, furnishings, accessories, and features of motor homes that are not manufactured by the manufacturer of the motor home as a part of the unit.
- (9)
- (i) A claim filed under this section by a dealer with a manufacturer or distributor shall be:
 1. In the manner and form reasonably prescribed by the manufacturer or distributor; and
 2. Approved or disapproved within 30 days of receipt.
 - (ii) A claim not approved or disapproved within 30 days of receipt shall be deemed approved.
 - (iii) Payment of or credit issued on a claim filed under this section shall be made within 30 days of approval.
- (10) A dealer's failure to comply with a specific requirement of the manufacturer or distributor may not constitute grounds for denial of the claim or reduction of the amount of compensation paid to the dealer if the dealer presents documentation or other reasonable evidence to substantiate that the repair and the claim were done according to manufacturer warranty guidelines.
- (11)
- (i) If a claim filed under this section is shown by the manufacturer or distributor to be false or unsubstantiated, the manufacturer or distributor may charge back the claim within 9 months from the date the claim was paid or credit issued.
 - (ii) This paragraph does not limit the right of a manufacturer or distributor to:
 1. Conduct an audit of any claim filed under this section; or
 2. Charge back for any claim that is proven to be fraudulent.
 - (iii) An audit under this paragraph shall be conducted according to generally accepted accounting principles.
- (12) A licensee may not prohibit a dealer from, or take any adverse action against a dealer for, providing to a customer information given to the dealer by a manufacturer related to any condition that may substantially affect motor vehicle safety, durability, reliability, or performance.
- (13) A dealer may provide the information specified in paragraph (12) of this subsection only to a customer that has:
- (i) Purchased the vehicle for which the information pertains from the dealer; or
 - (ii) Had the vehicle for which the information pertains serviced by the dealer.
- (14) A licensee may not deny a claim, reduce the amount of compensation to a dealer, or process a charge back to a dealer for performing covered warranty or required recall repairs on a vehicle:
- (i) For resolving a condition covered by the licensee's original warranty;

- (ii) For remedying a safety-related defect that is subject to an outstanding recall under federal law;
- (iii) If the dealer properly performed the repairs and submitted the claims; or
- (iv) If the dealer discovered the need for repairs:
 1. During the course of a separate repair requested by the customer; or
 2. Through notice of an outstanding recall under federal law for a safety-related defect.
- (d) As to any person licensed under this subtitle, instead of or in addition to revocation, suspension, or nonrenewal of a license under this section, the Administrator:
 - (1) May order the licensee to pay a fine not exceeding \$50,000 for each violation of this subtitle; and
 - (2) May order the licensee to compensate any person for financial injury or other damage suffered as a result of the violation.

History

An. Code 1957, art. 661/2, § 5-707; 1977, ch. 14, § 2; 1985, ch. 141; 1993, ch. 615; 1994, ch. 498; 1995, ch. 629; 2004, ch. 295; 2014, ch. 45, § 5; ch. 326; 2016, ch. 720; 2020, ch. 628.

Annotations

Notes

Effect of amendments. —

Chapter 326, Acts 2014, effective October 1, 2014, rewrote (c).

Chapter 720, Acts 2016, effective October 1, 2016, enacted pursuant to Art. II, § 17(c) of the Maryland Constitution without the Governor's signature, reenacted (c)(1) and (c)(11) without change and added (c)(12) through (c)(14).

Acts 2020, ch. 628, effective May 8, 2020, redesignated former (c)(14)(i) as (c)(14) and redesignated (c)(14)(i)1. through (c)(14)(i)4.B. as (c)(14)(i) through (c)(14)(iv)2.

Editor's note. —

Pursuant to § 5, ch. 45, Acts 2014, hyphens were added to "transaction-by-transaction" in (c)(7)(i)1.

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Md. Transportation Code Ann. § 15-212.1

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Michie's™ Annotated Code of Maryland > Transportation (Titles 1 — 27) > Title 15. Vehicle Laws — Licensing of Businesses and Occupations. (Subts. 1 — 8) > Subtitle 2. Manufacturers, Distributors, and Factory Branches. (§§ 15-201 — 15-214)

§ 15-212.1. Compensation of dealer for incentive or reimbursement programs.

(a) Upon the filing of a claim, a manufacturer, factory branch, or distributor shall compensate a dealer for any incentive or reimbursement program sponsored by the manufacturer, factory branch, or distributor, under the terms of which the dealer is eligible for compensation.

(b)

(1) A claim filed under this section shall be:

- (i) In the manner and form prescribed by the manufacturer, factory branch, or distributor; and
- (ii) Approved or disapproved within 30 days of receipt.

(2) A claim not approved or disapproved within 30 days of receipt shall be deemed approved.

(3) Payment of a claim filed under this section shall be made within 30 days of approval.

(c)

(1) If a claim filed under this section is shown by the manufacturer, factory branch, or distributor to be false or unsubstantiated, the manufacturer, factory branch, or distributor may charge back the claim within 6 months from the payment of the incentive or reimbursement.

(2) This paragraph does not limit the right of a manufacturer, factory branch, or distributor to:

- (i) Conduct an audit of any claim filed under this section; or
- (ii) Charge back for any claim that is proven to be fraudulent.

(3) An audit under this paragraph shall be conducted according to generally accepted accounting principles.

(d) A manufacturer, distributor, or factory branch may not refuse to pay, or claim reimbursement from, a dealer for sales, incentives, or payments related to a motor vehicle sold by the dealer because the purchaser of the motor vehicle exported or resold the motor vehicle in violation of the policy of the manufacturer, distributor, or factory branch unless the manufacturer, distributor, or factory branch can show that, at the time of sale, the dealer knew or should have known of the purchaser's intention to export or resell the motor vehicle.

(e)

(1) This subsection applies only to an incentive payment, a reimbursement payment, cash, a gift, or a thing of value earned by an employee of a dealer on or after May 1, 2009.

(2)

- (i) An incentive payment, a reimbursement payment, cash, a gift, or a thing of value to be given by a manufacturer, distributor, or factory branch to an employee of a dealer may be given:

1. Directly to the employee; or
2. To the dealer to be distributed to the employee.

(ii) An incentive payment, a reimbursement payment, or cash given to a dealer for distribution to an employee under this paragraph shall be distributed to the employee as part of the payroll process after the appropriate payroll deductions have been made by the dealer.

(3) A manufacturer, distributor, or factory branch shall make information available to a dealer about any incentive payment, reimbursement payment, cash, gift, or thing of value totaling more than \$200 in a calendar year that is given directly to an employee of the dealer.

History

1994, ch. 498; 2004, ch. 295; 2009, ch. 747; 2010, ch. 3.

Annotations

Notes

Effect of amendments. —

Chapter 747, Acts 2009, effective June 1, 2009, in (c)(1) substituted “6 months from the payment” for “9 months from the end” and deleted “program” at the end; and added (d) and (e).

Chapter 3, Acts 2010, enacted March 25, 2010, and effective from date of enactment, rewrote (e).

Claim for warranty claim reimbursements supported by evidence. —

In a federal suit between a franchisor and franchisee wherein Maryland law applied, the franchisor was denied summary judgment on the franchisee's counterclaims asserting violations of (a) with regard to the payment of various warranty claims because although the franchisee did not clearly and succinctly demonstrate that it was entitled to warranty reimbursements, there was sufficient evidence that a reasonable jury could reach a verdict in its favor as there existed some evidence that it properly returned the parts as required for reimbursement on some warranty claims. *Jaguar Land Rover N. Am., LLC v. Manhattan Imported Cars, Inc.*, 738 F. Supp. 2d 640, 2010 U.S. Dist. LEXIS 95828 (D. Md. 2010), *aff'd*, 477 Fed. Appx. 84, 2012 U.S. App. LEXIS 8260 (4th Cir. 2012).

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Md. Transportation Code Ann. § 15-212.2

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§ 15-212.2. Termination of dealership; payments and reimbursements.

(a) If a manufacturer, distributor, or factory branch terminates, suspends, refuses to renew, or closes a dealer's franchise or refuses to supply new vehicles to a dealer who holds a franchise, the manufacturer, distributor, or factory branch shall:

- (1) Reimburse the dealer for any costs the dealer incurred for facility upgrades or alterations required by the manufacturer, distributor, or factory branch within the previous 2 years;
- (2) Pay the dealer at least the dealer cost, plus any charges by the franchisor, distributor, or factory branch, for distribution, delivery, and taxes paid by the dealer, less all allowances paid to the dealer by the franchisor for any new, undamaged motor vehicles purchased within 18 months of the date of the termination, suspension, refusal to renew, closure, or refusal to supply, whether acquired from the franchisor or from another dealer of the same line make in the ordinary course of business;
- (3) Pay the dealer at least the dealer acquisition cost of each new, unused, undamaged, and unsold part or accessory if the part or accessory is in the current parts catalog and is:
 - (i) Still in the original, resalable merchandising package and in unbroken lots; or
 - (ii) In the case of sheet metal, in the original packaging or a comparable substitute for the original packaging;
- (4) Pay the dealer at least the fair market value of each undamaged sign owned by the dealer that bears a trademark, trade name, or commercial symbol used or claimed by the franchisor if the sign was purchased from or at the request of the franchisor;
- (5) Pay the dealer at least the fair market value of all special tools and automotive service equipment owned by the dealer that were recommended and designated as special tools or equipment by the franchisor, if the tools and equipment are in useable and good condition except for normal wear and tear; and
- (6) Pay the dealer at least the reasonable cost of transporting, handling, packing, and loading motor vehicle parts, signs, tools, and special equipment subject to repurchase under this section.

(b)

- (1) If a manufacturer of motor homes terminates or cancels a motor home dealer, the manufacturer shall reimburse the dealer, less any allowances, discounts, or rebates paid to the dealer by the manufacturer, for at least:
 - (i) The total net inventory invoice costs;
 - (ii) Any charges by the manufacturer for distribution delivery; and
 - (iii) Any inventory related taxes paid by the dealer.
- (2) This subsection only applies to motor homes in inventory that:

- (i) Are new and untitled;
- (ii) Were acquired from the manufacturer within 18 months before the effective date of the notice of termination or cancellation;
- (iii) Have not been used, other than for demonstration purposes; and
- (iv) Have not been altered or damaged.

History

2009, ch. 747.

Annotations

Notes

Editor's note. —

Section 2, ch. 747, Acts 2009, provides that the act shall take effect June 1, 2009.

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Md. Transportation Code Ann. § 15-213

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§ 15-213. Right of injured persons to sue for damages.

Notwithstanding any administrative or criminal sanctions imposed by this subtitle, if a person suffers financial injury or other damage as a result of a violation of this subtitle by any other person, whether or not that other person has been found guilty of a criminal violation, the injured person may recover damages and reasonable attorneys' fees in any court of competent jurisdiction.

History

An. Code 1957, art. 661/2, § 5-708; 1977, ch. 14, § 2; 2009, ch. 747.

Annotations

Notes

Effect of amendments. —

Chapter 747, Acts 2009, effective June 1, 2009, reenacted the section without change.

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Md. Transportation Code Ann. § 15-214

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§ 15-214. Dispute resolution.

In addition to any other right to request a hearing under this subtitle and notwithstanding any provisions of the franchise agreement to the contrary, a dealer, designated dealer successor as provided in § 15-211.1 of this subtitle, manufacturer, distributor, or factory branch may request a hearing under Title 12, Subtitle 2 of this article to:

- (1) Resolve a dispute under any provision of this title between a dealer or a designated dealer successor and a manufacturer, distributor, or factory branch; or
- (2) Seek clarification or interpretation of any provision of this subtitle.

History

1996, ch. 583.

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