

8-2438. Ownership and operation of new vehicle dealership by certain entities prohibited; exceptions. (a) Except as provided by this section, and notwithstanding any other provisions of the vehicle dealers and manufacturers licensing act, with respect to motor vehicles, a first stage manufacturer of vehicles or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, may not directly or indirectly:

- (1) Own an interest in a new vehicle dealer or dealership;
- (2) operate a new vehicle dealer or dealership; or
- (3) act in the capacity of a new vehicle dealer or dealership, or otherwise sell new vehicles at retail.

(b) A first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative may own an interest in a franchised dealer or dealership, or otherwise control a dealership, for a period not to exceed 12 months from the date the first or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, acquires the dealership if:

- (1) The person from whom the dealer or dealership was acquired was [a] new vehicle dealer; and
- (2) the dealership is for sale by the first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, at a reasonable price and on reasonable terms and conditions.

(c) On a showing of good cause by a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, as the case may be, the director may extend the time limit set forth in subsection (b) one time for a period of not to exceed 12 months.

(d) For the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been under-represented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, but for no other purpose, a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, may temporarily own an interest in a new vehicle dealer or dealership if the first or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative's participation in the new vehicle dealer or dealership is in a bona fide relationship with a new vehicle dealer who:

- (1) Has made a significant investment in the new vehicle dealer or dealership, which is subject to loss;
- (2) has an ownership interest in the new vehicle dealer or dealership; and

(3) operates the new vehicle dealer or dealership under a plan to acquire full ownership of the new vehicle dealer or dealership within a reasonable time and under reasonable terms and conditions.

(e) A first stage manufacturer of vehicles or a second stage manufacturer of vehicles may own a minority interest in an entity that owns and operates a new vehicle dealer, licensed under the dealers and manufacturer's licensing act, of the line-make manufactured by the first or second stage manufacturer if all of the new vehicle dealers owned and operated by the entity in this state are new vehicle dealers of only the line-make manufactured by the manufacturer and if, on January 1, 2000: (1) There were not more than two new vehicle dealers of that line-make licensed as new vehicle dealers in this state; and (2) at the time the manufacturer first acquires an ownership interest or assumes operation or control, the distance between any new vehicle dealer owned and operated by an entity in which the manufacturer has an ownership interest and the nearest unaffiliated new vehicle dealer of the same line-make is not less than 100 miles.

(f) The words or phrases used in this section shall have the meanings otherwise provided by law, except the following specific words or phrases:

(1) "Dealership" means any physical premises, equipment, and business facilities on or with which a new vehicle dealer operates its business, including the sale or repair of motor vehicles. Dealership includes premises or facilities at which a person engages in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise agreement or a motor vehicle manufacturer's warranty; and

(2) "line-make vehicle" means those new motor vehicles which are offered for sale, lease or distribution under a common name, trademark, service mark or brand name of the manufacturer or distributor of the same.

(g) The provisions of this section shall not apply to a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative as to only those dealers or dealerships which are already owned by such first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, as the case may be, on the effective date of this act.

History: L. 2000, ch. 20, § 1; Mar. 30.