



# Alaska State Legislature

## Representative Matt Claman

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### House Bill 136

*“An Act relating to motor vehicle franchises, motor vehicle transactions, motor vehicle dealers, motor vehicle manufacturers, and motor vehicle distributors.”*

#### Sectional Summary

##### **Section 1**

*Adds section to uncodified law:*

Legislative findings: It is in the public interest to prevent fraudulent activities between automobile manufacturers and motor vehicle dealers, and to protect Alaskans’ investments by regulating the manufacturers and the dealers.

##### **Section 2**

*Amends AS 45.25.110(a):*

Manufacturer may not terminate franchise agreements unless they have met notice requirements shown good cause and acted in good faith, or the dealer has systematically engaged in fraud against consumers.

##### **Section 3**

*Adds new subsection to AS 45.24.110:*

Outside of franchise agreement terms, manufacturers may not to terminate a franchise if a dealer sells or is invested in other lines or makes of new vehicles, intends to relocate fleet to another facility within the market area, or fails to make substantial changes to the number of franchises on dealership premises.

##### **Section 4**

*Amends AS 45.25, adds new section:*

Sec 45.25.115: “Good cause: burden of proof”. Adds detailed description of “good cause” and notice requirements for termination of franchise. Adds requirements that the manufacturer provide dealer with reasonable performance goals.

##### **Section 5**

*Amends AS 45.25.120(a):*

(a) “Before termination of a franchise agreement” Further addresses notice requirements for termination of franchise, Manufacturers must give 90 days of notice unless dealer is insolvent, has failed to conduct business for seven consecutive days, is convicted of a felony, or has license revoked or suspended for more than 30 days, in which case they must only provide 15 days. If discontinuing sale and distribution of product, manufacturer must provide 180 days notice.

##### **Section 6**

*Amends AS 45.25 and adds new section:*

Sec 45.25.135: The dealer may terminate the franchise agreement by giving the manufacturer 90 days notice.

### **Section 7**

*Repeals and reenacts 45.25.140:*

Sec. 45.25.140: At the time of termination, the manufacturer must pay the cost of unsold new vehicles, parts and accessories, and their distribution and delivery, as well as the market value of all equipment and computers.

### **Section 8**

*Repeals and reenacts 45.25.150:*

Sec. 45.25.150: Requires manufacturer, upon dealer request, to pay dealer for costs of relocating dealership or updating facilities within 3 years of termination if required by manufacturer as condition for maintaining franchise.

### **Section 9**

*Amends AS 45.25 and adds new section:*

Sec. 45.25.155: Application of payment provisions. The payment provisions of Section 8 and Section 9 don't apply if dealer is insolvent, subject of a bankruptcy proceeding, or has not opened for seven consecutive business days, except in circumstances beyond dealer's control.

### **Section 10**

*Repeals and reenacts AS 45.25.160:*

A manufacturer may not withhold consent to the sale of franchise if the buyer meets manufacturer standards and is capable of being licensed as a new motor vehicle dealer in the state. The buyer provide their financial information if requested by the manufacturer. If the manufacturer refuses to approve the sale, they shall provide written notice as to reasoning no more than 60 days after date of request from dealer. Failure to respond within 60 days to initial request for sale is considered consent.

### **Section 11**

*Amends AS 45.25 by adding a new section:*

AS 45.25.165: Dealers are not relieved of obligation to mitigate dealer damages upon termination.

### **Section 12**

*Repeals and reenacts AS 45.25.170:*

Dealer may appoint successor to franchise in circumstances of death or incapacity, or if the franchise has been owned by the same persons for 5 consecutive years or more. A person may succeed the ownership of the franchise if the successor is qualified and meets manufacturer standards, provides written notice of intent to succeed ownership and agrees to be bound by terms of existing franchise. Manufacturers are required to provide specific grounds for refusal to honor succession, and failure to do so within 60 days is considered approval of successor.

### **Section 13**

*Repeals and reenacts AS 45.25.180:*

A manufacturer must provide 90 days written notice if establishing or relocating additional dealers into a dealer's relevant market area. The manufacturer must establish good cause to do so.

## **Section 14**

*Amends AS 45.25 by adding a new section:*

Sec 45.25.185: Dealers may file action in superior court within 30 days of receiving notice of termination to determine whether good cause for termination exists. If manufacture refuses to approve sale, dealers have 20 days from receipt of notice to file action.

## **Section 15**

*Amends AS 45.25 by adding new sections:*

Sec 45.25.200: The manufacturer shall pay for all warranty work done by dealer if the dealer has submitted claims within 90 days of work completion. The manufacture must approve or deny claim within 15 days or receipt of notice and provide written reasons for denial.

Sec 45.25.210: The manufacturer shall provide dealer with schedule of compensation for warranty work, policy work and other services that manufacturer requires. The manufacturer may not dictate average retail percentage markup.

Sec 45.25.220: If a certified technician isn't available within one business day of delivery, dealer may use non-certified technician to perform repair under supervision of certified technician. Manufacturer will pay dealer same price as if certified technician had completed repair. If vehicle is in location off the road system or more than 100 miles from certified dealer, a dealer may arrange to have a non-certified technician where the vehicle is located.

Sec 45.25.230: If manufacturer discontinues or reduces vehicle line to the extent the franchise is no longer economically viable, dealer may consider the termination or reduction a termination of the franchise agreement.

## **Section 16**

*Repeals and reenacts AS 45.25.300:*

Outside of franchise agreement terms, manufacturers may not: offer incentive programs that sell vehicles cheaper to one dealer than another, change methods for delivery and allocation if unreasonable, prevent dealer's ability to collect documentation service fee, withhold parts or accessories, require unreasonable advertising displays, refuse to offer all models manufactured, bypass the dealer and sell directly to the client, require a dealer to make material alteration to dealership facility.

## **Section 17**

*Repeal and reenacts AS 45.35.990(19):*

Defines terminate.

## **Section 18**

*Amends AS 45.25.990:*

Defines line or make and relevant market area

## **Section 19**

*Repeals AS 45.25.110(b) and AS 45.25.110(c):*

Repeals franchise agreement termination due to death or incapacity. Must provide 'good cause'.

## **Section 20**

*Adds a new section to uncodified law:*

This is an applicability section regarding to whom the bill may be applicable and the effective date and following definitions.

**Section 21**

*Adds a new section to uncodified law:*

This is basically a transition schedule of compensation and definition section.