



Alaska State Legislature

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Work Draft for Committee Substitute to House Bill 136 Version R

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

Sectional Summary

Section 1

Adds legislative intent language to uncodified law:

It is in the public interest to protect have warranty service for new motor vehicles and maintain fair competition among auto manufacturers and auto dealers.

Section 2

Amends AS 45.25.010:

Applicability: AS 45.25.020 -045.25.310 apply to franchise agreements between manufacturers and Alaska auto dealers.

Section 3

Amends AS 45.25.110(a):

Manufacturers may not terminate an auto dealer unless they have complied with notice requirements and shown good cause for termination. Auto dealers have up to 120 days to correct areas out of compliance with the franchise agreement. The manufacturer may terminate a franchise if the dealer has systemically engaged in fraud.

Section 4

Adds new subsection to AS 45.25.110:

Good cause to terminate a franchise does not include the failure of an auto dealer to meet sales or service goals due to factors beyond the control of the dealer including market conditions or insufficient supply of new motor vehicles.

Section 5

Amends AS 45.25.140(a):

Updates and amends the manufacturers repurchase requirements upon termination of a franchise agreement. The manufacturer must repurchase current year models of new motor vehicles, certain new motor vehicle models from the prior year, parts, trademark signs and equipment, special tools, computer, printers, and electronic hardware.

Section 6

Amends AS 45.25.150(b)

If a franchise termination occurs, auto dealers have an obligation to mitigate damages under a lease and mitigate the costs of facility relocations, alterations or remodels.

Section 7

Adds new subsection to AS 45.25.150:

If a franchise termination occurs, manufacturers must pay the costs of relocation, alteration or remodeling of an auto dealers facilities if they were required by the manufacturer and were completed within three years of termination.

Section 8

Repeals and reenacts AS 45.25.160:

This section establishes a procedure for the proposed transfer of a dealership.

- Manufacturers may not prevent the sale of a franchise to a potential buyer who is capable of being licensed as an auto dealer and who meets the manufacturers' standards.
- Upon receipt of the notice to transfer the franchise, manufacturers have 30 days to request supplemental information after which the manufacturer has 75 days to give notice of rejection of the transfer.
- The manufacturer has the right of first refusal to a transfer with limitations. The manufacturer has the same notice requirements for the right of first refusal as they have for rejecting the transfer outright. A manufacturer may not exercise the right of first refusal if the transfer of the franchise is to a family member or a managerial employee owning 15% or more of the dealership. If a manufacturer exercises the right of first refusal, then the manufacturer must provide the auto dealer with the same compensation as offered by the proposed buyer. The manufacturers must also pay the legal fees incurred for the preparation of the void transfer agreement.

Section 9

Amends AS 45.25.180(d)

Expands the factors that the superior court must consider in a lawsuit addressing whether good cause exists to establish or relocate a dealership.

Section 10

Adds new subsection to AS 45.25.180

Establishes the burden of proof in a franchise lawsuit. A manufacturer has the burden of proof to establish good cause for establishing or relocating a dealership that the manufacturer has proposed. An auto dealer must establish good cause for any establishment or relocation that the auto dealer proposes.

Section 11

Amends AS 45.25.190

This section updates the statutory references in the arbitration section.

Section 12

Adds new sections to article 2 of AS 45.25

This section addresses warranty work and pay rates for warranty work:

Sec 45.25.200: A manufacturer must pay an auto dealer for all warranty work if the auto dealer provides documentation of the need for the repairs. The auto dealer must submit the claim within 90 days of the completed warranty work, and a manufacturer must approve the claim within 30 days of receipt. If the manufacturer rejects the claim they

must provide notice of their reasons to the auto dealers, who may correct the issues within 30 days of receipt of the rejection. A manufacturer may conduct an audit of warranty repairs performed, which must be done within a year of the claim. Only one audit can be performed per year.

Sec 45.25.210: A manufacturer must provide auto dealers with a schedule of compensation for warranty work. The rates may not be less than the rates that the auto dealer charges customers for similar retail work. To establish this warranty rate, auto dealers shall submit 100 sequentially ordered claims. Rates for special events and manufacturer specials are not considered in this calculation.

Sec 45.25.220: If a vehicle needs warranty repairs and is located in a remote location, the manufacturer shall make reasonable efforts to repair the vehicle in the remote location. If the repairs cannot be made on site, the manufacturer may arrange, at no cost to the owner, to ship the vehicle to a location where repairs can be completed. The manufacturer is responsible for returning the repaired vehicle to the remote location. The manufacturer may direct auto dealers to refer customers in remote locations to the manufacturer. Auto dealers may subcontract warranty work in a remote location. 'Remote location' refers to a location that is not accessible by road or is 100 road miles or more from an auto dealer.

Sec 45.25.230: Manufacturers shall provide auto dealers with specific instructions for the preparation of new vehicles before delivery to buyers, compensation for the preparation, and the amount of time allowed for preparation.

Section 13

Repeals and reenacts AS 45.25.300

Regarding unfair practices, manufacturers may not:

- Require or coerce auto dealers to relocate or remodel their facilities if the changes are unreasonable.
- Require auto dealers to purchase a set number of certified pre-owned vehicles or lease return vehicles
- Refuse to deliver for sale a line or make of vehicles that manufacturer makes.
- Require auto dealers to purchase unreasonable advertising displays or an unreasonable number of signs.
- Require auto dealers to accept vehicles, parts, accessories or equipment they did not voluntarily order.
- Increase the price of a vehicle ordered by the auto dealer between the time of order and the time of payment.
- Require or coerce auto dealers to join an advertising association or contribute to an advertising campaign.

Section 14

Repeals and reenacts AS 45.25.990(19)

Defines "terminate" for this chapter.

Section 15

Adds new paragraph to AS 45.25.990

Defines 'schedule of compensation' and "warranty work" for this chapter.

Section 16

Repeals AS 45.25.320