

House Engrossed

motor vehicle dealers; franchises

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2410

AN ACT

AMENDING SECTIONS 28-4451, 28-4458, 28-4459 AND 28-4460, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-4464; RELATING TO MOTOR VEHICLE DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-4451, Arizona Revised Statutes, is amended to
3 read:

4 28-4451. Product liability; warranty obligations; audits;
5 vehicle exports; used vehicle recall obligations;
6 definitions

7 A. Each manufacturer shall file with the director a copy of the
8 delivery and preparation obligations required to be performed by a new
9 motor vehicle dealer before delivery of new motor vehicles to buyers.
10 These delivery and preparation obligations constitute the new motor
11 vehicle dealer's only responsibility for the product liability as between
12 the new motor vehicle dealers and the manufacturer. The new motor vehicle
13 dealer shall furnish the buyer of a new motor vehicle with a signed copy
14 of the manufacturer's or distributor's delivery and preparation
15 requirements indicating that all of the requirements have in fact been
16 performed.

17 B. Any mechanical, body or parts defects arising from any express
18 or implied warranties of the manufacturer constitute the manufacturer's
19 product or warranty liability.

20 C. The manufacturer or distributor shall compensate an authorized
21 new motor vehicle dealer who performs work to rectify the manufacturer's
22 or distributor's warranty obligations, recall obligations or delivery and
23 preparation obligations.

24 D. The compensation that the manufacturer or distributor pays to a
25 new motor vehicle dealer for diagnostic work, repair service and labor
26 shall be fair and reasonable and, at the option of the new motor vehicle
27 dealer, may be determined pursuant to subsection E of this section. Time
28 allowances for the diagnosis and performance of warranty work and service
29 shall be reasonable and adequate for the work or services to be performed.
30 The compensation that the manufacturer or distributor pays to the new
31 motor vehicle dealer for parts used in warranty or recall related service
32 shall be fair and reasonable and, at the option of the new motor vehicle
33 dealer, may be determined pursuant to subsection E of this section.

34 E. The new motor vehicle dealer may declare the retail rates that
35 it customarily charges for parts or labor or both parts and labor by
36 submitting to the manufacturer or distributor the lesser of one hundred
37 sequential, nonwarranty, customer-paid service repair orders or ninety
38 consecutive days of customer-paid service repair orders for warranty-like
39 repairs made not more than one hundred eighty days before the submission.
40 The new motor vehicle dealer's retail labor rate shall be determined by
41 dividing the amount of the dealer's total labor sales contained in the
42 submitted repair orders by the total number of labor hours that generated
43 those sales. The new motor vehicle dealer's retail rate for parts shall
44 be a percentage determined by dividing the total sales for parts in the
45 submitted repair orders by the new motor vehicle dealer's total cost for

1 those parts, minus one, multiplied by one hundred to produce a percentage.
2 Declared rates are presumed to be fair and reasonable except that a
3 manufacturer or distributor, within thirty days after receiving the new
4 motor vehicle dealer's submission, may rebut the presumption by reasonably
5 substantiating that the rate or rates are inaccurate or unreasonable
6 compared to other similarly situated same line-make new motor vehicle
7 dealers in this state. The new motor vehicle dealer's declared parts,
8 labor or both parts and labor rates shall go into effect thirty days
9 following the manufacturer's or distributor's receipt of the declaration,
10 unless the manufacturer or distributor timely sends a rebuttal of the
11 declared rate or rates to the new motor vehicle dealer. If any of the
12 declared rates are rebutted, the manufacturer or distributor shall propose
13 an adjustment of the rebutted rate or rates within thirty days after
14 receiving the new motor vehicle dealer's submission. If the new motor
15 vehicle dealer does not agree with the proposed adjusted rate or rates, it
16 may file a protest with the director within thirty days after receipt of
17 the manufacturer's or distributor's proposal. If a protest is timely
18 filed, the director shall inform the manufacturer or distributor that a
19 timely protest has been filed and that a hearing will be held on the
20 protest if any available manufacturer or distributor mediation opportunity
21 has been used and was unsuccessful in reaching an agreement between the
22 parties.

23 F. In calculating the retail rate or rates that a new motor vehicle
24 dealer customarily charges for parts or labor, the following work may not
25 be included in the calculation:

26 1. Repairs for manufacturer or distributor special events, specials
27 or promotional discounts for retail customer repairs.

28 2. Parts sold at wholesale.

29 3. Engine assemblies and transmission assemblies, if the new motor
30 vehicle dealer agrees to be compensated for those assemblies with a
31 handling charge instead of a retail parts markup.

32 4. Routine maintenance not covered under any retail customer
33 warranty, such as fluids, filters and belts not provided in the course of
34 repairs.

35 5. Nuts, bolts, fasteners and similar items that do not have
36 individual part numbers.

37 6. Vehicle reconditioning.

38 G. The manufacturer, factory branch, distributor or distributor
39 branch may reasonably and periodically audit a new motor vehicle dealer to
40 determine the validity of paid claims for dealer compensation or any
41 charge-backs for warranty parts or service compensation. Audits shall
42 only be for the twelve month period immediately following the date of the
43 payment. This limitation does not apply if the manufacturer, factory
44 branch, distributor or distributor branch reasonably suspects fraud. As a
45 result of an audit that is authorized by this subsection, the manufacturer

1 or distributor has the right to charge back to the new motor vehicle
2 dealer the amount of any previously paid claim after the new motor vehicle
3 dealer has had notice and an opportunity to participate in any available
4 manufacturer or distributor mediation processes and all legal appeals have
5 been exhausted if mediation failed to result in an agreement.

6 H. The manufacturer, factory branch, distributor or distributor
7 branch shall reserve the right to reasonable periodic audits to determine
8 the validity of paid claims for dealer compensation or any charge-backs
9 for consumer or dealer incentives. Audits shall only be for a one year
10 period immediately following the date of the payment. This limitation
11 does not apply if the manufacturer, factory branch, distributor or
12 distributor branch reasonably suspects fraud. As a result of an audit
13 authorized by this subsection, the manufacturer or distributor has the
14 right to charge back to the new motor vehicle dealer the amount of any
15 previously paid claim after the new motor vehicle dealer has had notice
16 and an opportunity to participate in any available manufacturer or
17 distributor mediation processes and all legal appeals have been exhausted
18 if mediation failed to result in an agreement.

19 I. All claims by new motor vehicle dealers under this section for
20 labor and parts and all claims for compensation relative to any sales
21 incentive programs shall be paid within thirty days after approval by the
22 manufacturer or distributor subject to the manufacturer's or distributor's
23 right to audit the claims provided in subsection G or H of this section.
24 All claims shall be either approved or disapproved within thirty days
25 after receipt on forms and in the manner specified by the manufacturer or
26 distributor. Any claim not disapproved in writing or by means of
27 electronic transmission within thirty days after receipt is deemed
28 approved, and payment must be made within thirty days after approval.

29 J. If a manufacturer or distributor furnishes a part or component
30 to a new motor vehicle dealer, at no cost, to use in performing repairs
31 under a recall, campaign service action or warranty repair, the
32 manufacturer or distributor shall compensate the dealer for the part or
33 component in the same manner as warranty parts compensation under this
34 section by compensating the dealer the retail parts rate on the wholesale
35 cost for the part or component as listed in the manufacturer's or
36 distributor's price schedule, minus the wholesale cost for the part or
37 component.

38 K. A manufacturer or distributor may not require a new motor
39 vehicle dealer to establish the retail rates customarily charged by the
40 dealer for parts or labor by an unduly burdensome or time-consuming method
41 or by requiring information that is unduly burdensome or time-consuming to
42 provide calculations, including part-by-part or transaction-by-transaction
43 calculations. A new motor vehicle dealer may not declare any new retail
44 rate more than once in any twelve-month period. A manufacturer or
45 distributor may use the repair orders submitted by a new motor vehicle

1 dealer under subsection E of this section to validate any or all of a new
2 motor vehicle dealer's current warranty reimbursement rates or require a
3 new motor vehicle dealer to submit, not more than once every twelve
4 months, repair orders pursuant to this section to validate the new motor
5 vehicle dealer's retail rate or rates. If a manufacturer or distributor
6 finds that any of a new motor vehicle dealer's retail rates have declined,
7 the manufacturer or distributor may prospectively reduce the respective
8 warranty reimbursement rate.

9 L. If the new motor vehicle dealer has otherwise properly submitted
10 the claim pursuant to the manufacturer's or distributor's warranty or
11 incentive program guidelines, a manufacturer or distributor may not deny a
12 claim by a new motor vehicle dealer for reimbursement of any warranty
13 parts or service compensation or any consumer or dealer incentive
14 compensation based solely on a new motor vehicle dealer's incidental
15 failure to comply with a specific claim processing requirement that does
16 not put into question the legitimacy of the claim. If a claim is rejected
17 for such an incidental requirement, the new motor vehicle dealer may
18 correct or complete and resubmit a previously submitted warranty or
19 incentive claim for a period of up to sixty days ~~following~~ AFTER the new
20 motor vehicle dealer's receipt of first notice of the failure from the
21 manufacturer or distributor. A manufacturer or distributor is not
22 required to approve any ~~such~~ warranty or incentive claim if all claim
23 processing requirements are not complied with by the new motor vehicle
24 dealer within the time periods prescribed by this section.

25 M. If a new motor vehicle dealer sells or leases a vehicle to a
26 customer who exports the vehicle to a foreign country, unless the
27 manufacturer, distributor or importer proves that the new motor vehicle
28 dealer knew or reasonably should have known that the vehicle would be
29 exported, a manufacturer, distributor or importer shall not do any of the
30 following:

31 1. Refuse to sell, allocate or deliver new motor vehicles to the
32 new motor vehicle dealer.

33 2. Charge back to or withhold payments or other things of value
34 from the new motor vehicle dealer that the new motor vehicle dealer
35 otherwise would be eligible for under an incentive program or contest.

36 3. Prevent a new motor vehicle dealer from participating in any
37 sales promotion or program.

38 4. Take an adverse action against a new motor vehicle dealer,
39 including reducing vehicle allocations or terminating or threatening to
40 terminate a dealer.

41 N. There is a rebuttable presumption that the new motor vehicle
42 dealer described in subsection M of this section did not know or should
43 not have reasonably known that the vehicle described in subsection M of
44 this section would be exported. The presumption may be rebutted by a

1 preponderance of the evidence that the new motor vehicle dealer knew or
2 should have reasonably known that the vehicle was to be exported.

3 0. If a timely protest is filed under subsection E of this section,
4 the director shall:

5 1. Enter an order fixing the time and place of a hearing on the
6 protest. The hearing shall be held within seventy-five days after the
7 date of the order.

8 2. Send by certified mail a copy of the order to the dealer and the
9 manufacturer.

10 3. Appoint a member of the Arizona state bar who shall be
11 designated as an administrative law judge to conduct the hearing and who
12 shall be compensated under a contractual relationship.

13 P. Prehearing discovery shall be conducted pursuant to the Arizona
14 rules of civil procedure.

15 Q. Evidence that would be admissible under the issues in such an
16 action in a state or federal court is admissible in a hearing held by the
17 administrative law judge. The administrative law judge shall reasonably
18 apportion all costs between the parties, including compensation for the
19 administrative law judge's services. The administrative law judge may:

20 1. Issue subpoenas.

21 2. Administer oaths.

22 3. Compel the attendance of witnesses and the production of books,
23 papers, documents and all other evidence.

24 4. Apply to the superior court in the county in which the hearing
25 is held for a court order enforcing this section.

26 R. A transcript of the testimony of all witnesses taken at the
27 hearing shall be made and preserved. Within forty-five days after the
28 hearing the administrative law judge shall make written findings of fact
29 and conclusions of law and enter a final order.

30 S. A party to the hearing before the administrative law judge may
31 appeal pursuant to title 12, chapter 7, article 6. An appeal of a
32 decision of an administrative law judge has preference over other civil
33 matters and shall be heard at the earliest practicable date.

34 T. As a condition to the appeal, the appealing party shall file a
35 cash bond, supersedeas bond or its equivalent with the director. The bond
36 shall be sufficient in amount to cover the damages incurred by the
37 prevailing party, but the amount of the bond may not exceed the lesser of
38 ~~fifty thousand dollars~~ \$50,000 or ten percent of the appealing party's net
39 worth. The appealing party may file alternatives to cash such as
40 certificates of deposit purchased from a financial institution licensed to
41 do business in this state pursuant to title 6 or bonds of the United
42 States government.

43 U. A manufacturer shall compensate its new motor vehicle dealers
44 for all labor and parts that are required to perform recall repairs. The
45 compensation shall be fair and reasonable and, at the option of the new

1 motor vehicle dealer, may be determined pursuant to subsection E of this
2 section. If parts or a remedy is not reasonably available to perform a
3 recall service or repair on a used motor vehicle held for sale by the new
4 motor vehicle dealer that is authorized to sell new motor vehicles of the
5 same line-make of the recalled motor vehicle within thirty days after the
6 manufacturer issues a stop-sale or do not drive notification on the used
7 motor vehicle, the manufacturer shall compensate the new motor vehicle
8 dealer at a rate of at least 1.5 percent of the value of the used motor
9 vehicle per month, or prorated portion of a month when applicable, until a
10 date when the recall parts or A remedy ~~are~~ IS delivered to the dealer or
11 when the vehicle is no longer in the new motor vehicle dealer's inventory.

12 V. The value of the used motor vehicle that is subject to a
13 stop-sale or do not drive notification shall be the average trade-in value
14 for used vehicles as determined by reference to a nationally recognized
15 publication that reports on used motor vehicle values.

16 W. It is a violation of this section for a manufacturer to reduce
17 the amount of compensation that is otherwise owed to a new motor vehicle
18 dealer, whether through a chargeback, removal from an incentive program,
19 reduction in amount owed under an incentive program or any other means,
20 because the new motor vehicle dealer has submitted a claim for
21 compensation under subsection U of this section or was otherwise
22 compensated for a vehicle that is subject to a recall if a stop-sale or do
23 not drive notification has been issued.

24 X. All reimbursement claims that are made by a new motor vehicle
25 dealer pursuant to subsection U of this section for recall remedies or
26 repairs or for compensation if no part or repair is reasonably available
27 and the used motor vehicle is subject to a stop-sale or do not drive
28 notification shall be made in compliance with at least one of the
29 following:

30 1. In a like manner as a warranty reimbursement claim under this
31 section.

32 2. At a rate set forth in a national compensation program that the
33 manufacturer manages if the compensation provided to the new motor vehicle
34 dealer equals or exceeds the reimbursement level for a claim that is
35 determined as a warranty reimbursement claim pursuant to paragraph 1 of
36 this subsection.

37 3. At the level set forth in the national compensation program
38 without further consideration if the manufacturer and new motor vehicle
39 dealer agree.

40 Y. The manufacturer shall approve or disapprove a claim within
41 thirty days after it is submitted to the manufacturer in the manner and on
42 the forms the manufacturer reasonably prescribes. The manufacturer shall
43 pay a claim within thirty days after approval of the claim. Any claim
44 that is not specifically disapproved in writing by the manufacturer within

1 thirty days following the manufacturer's receipt of the claim is deemed
2 approved.

3 Z. Subsections U through Y of this section apply only to used motor
4 vehicles that are subject to safety or emissions recalls pursuant to and
5 recalled in accordance with federal law and for which a stop-sale or do
6 not drive notification has been issued and to motor vehicle manufacturers
7 and new motor vehicle dealers with used motor vehicles of the line-make
8 that the new motor vehicle dealer is franchised to sell or on which the
9 new motor vehicle dealer is authorized to perform recall repairs.

10 AA. Subsections U through Y of this section apply only to new motor
11 vehicle dealers holding an affected used motor vehicle for sale that was
12 any of the following:

13 1. In inventory at the time the stop-sale or do not drive
14 notification was issued.

15 2. Taken in the used motor vehicle inventory of the new motor
16 vehicle dealer as a consumer trade-in incident to the purchase of a new
17 motor vehicle from the new motor vehicle dealer after the stop-sale or do
18 not drive notification was issued.

19 3. Properly taken in the used motor vehicle inventory of the new
20 motor vehicle dealer as a lease return vehicle returned to the new motor
21 vehicle dealer in accordance with the terms of the applicable contract.

22 BB. IF A FRANCHISEE DEMANDS INDEMNIFICATION, A MANUFACTURER,
23 IMPORTER, DISTRIBUTOR, DISTRIBUTOR BRANCH, FACTORY BRANCH OR FRANCHISOR
24 THAT IS LICENSED PURSUANT TO THIS CHAPTER MAY NOT FAIL OR REFUSE TO
25 INDEMNIFY AN EXISTING OR FORMER FRANCHISEE AND THE FRANCHISEE'S SUCCESSORS
26 AND ASSIGNS FOR ANY SUSTAINED DAMAGES AND ATTORNEY FEES AND OTHER EXPENSES
27 REASONABLY INCURRED BY THE FRANCHISEE THAT RESULT FROM A CLAIM THAT IS
28 MADE OR ASSERTED BY A THIRD PARTY AGAINST THE FRANCHISEE TO THE EXTENT
29 THAT THE CLAIM RESULTS FROM ANY OF THE FOLLOWING:

30 1. THE CONDITION, CHARACTERISTIC, MANUFACTURE, ASSEMBLY OR DESIGN
31 OF ANY VEHICLE, PARTS OR ACCESSORIES, TOOLS OR EQUIPMENT OR THE SELECTION
32 OR COMBINATION OF PARTS OR COMPONENTS THAT ARE MANUFACTURED OR DISTRIBUTED
33 BY THE MANUFACTURER, IMPORTER, DISTRIBUTOR, DISTRIBUTOR BRANCH, FACTORY
34 BRANCH OR FRANCHISOR.

35 2. SERVICE SYSTEMS, PROCEDURES OR METHODS THAT THE MANUFACTURER,
36 IMPORTER, DISTRIBUTOR, DISTRIBUTOR BRANCH, FACTORY BRANCH OR FRANCHISOR
37 REQUIRES THE FRANCHISEE TO USE IF THE FRANCHISEE PROPERLY USES THE SYSTEM,
38 PROCEDURE OR METHOD.

39 3. THE IMPROPER USE OR DISCLOSURE BY A MANUFACTURER, IMPORTER,
40 DISTRIBUTOR, DISTRIBUTOR BRANCH, FACTORY BRANCH OR FRANCHISOR OF NONPUBLIC
41 PERSONAL INFORMATION OBTAINED FROM A FRANCHISEE RELATING TO A CONSUMER,
42 CUSTOMER OR EMPLOYEE OF THE FRANCHISEE.

43 4. AN ACT OR OMISSION OF THE MANUFACTURER, IMPORTER, DISTRIBUTOR,
44 DISTRIBUTOR BRANCH, FACTORY BRANCH OR FRANCHISOR FOR WHICH THE FRANCHISEE
45 WOULD HAVE A CLAIM FOR CONTRIBUTION OR INDEMNITY UNDER APPLICABLE LAW OR

1 UNDER THE FRANCHISE, IRRESPECTIVE OF AND WITHOUT REGARD TO ANY PRIOR
2 TERMINATION OR EXPIRATION OF THE FRANCHISE.

3 5. AN ACT OR OMISSION OF THE FRANCHISEE THAT IS THE RESULT OF THE
4 FRANCHISEE'S USE OF A SERVICE PROVIDED BY A DIGITAL VENDOR REQUIRED BY THE
5 MANUFACTURER, IMPORTER, DISTRIBUTOR, DISTRIBUTOR BRANCH, FACTORY BRANCH OR
6 FRANCHISOR IF THE USE OF THE SERVICE VIOLATES THE LAWS OF THIS STATE OR
7 FEDERAL LAW.

8 ~~BB.~~ CC. For the purposes of this section: ~~—~~

9 1. "SERVICE PROVIDED BY A DIGITAL VENDOR" INCLUDES ANY ELECTRONIC
10 SYSTEM THAT MANAGES CONSUMER DATA OR GENERATES CONSUMER NOTICES OR
11 DOCUMENTATION.

12 2. "Stop-sale or do not drive notification" means a notification
13 that is issued by a manufacturer to some or all of its franchised
14 dealerships and that states that certain used motor vehicles in the
15 dealerships' inventories shall not be sold or leased, either at retail or
16 wholesale, due to a federal safety defect or noncompliance recall or a
17 federal or California emissions recall.

18 Sec. 2. Section 28-4458, Arizona Revised Statutes, is amended to
19 read:

20 28-4458. Coercion prohibited; definition

21 A. A manufacturer of new motor vehicles, factory branch,
22 distributor, distributor branch, field representative, officer or agent or
23 any representative of a manufacturer of new motor vehicles, factory
24 branch, distributor, distributor branch, field representative, officer or
25 agent shall not coerce or attempt to coerce a new motor vehicle dealer to
26 do any of the following:

27 1. Accept delivery of a new motor vehicle or vehicles, parts or
28 accessories for the vehicle or vehicles or any other commodities that the
29 dealer has not ordered.

30 2. Enter into an agreement with the manufacturer, factory branch,
31 distributor, distributor branch or representative of the manufacturer,
32 factory branch, distributor or distributor branch.

33 3. Do any other act unfair to the dealer by threatening to cancel
34 or not renew a franchise existing between the manufacturer, factory
35 branch, distributor, distributor branch or representative of the
36 manufacturer, factory branch, distributor or distributor branch and the
37 dealer.

38 4. Construct, renovate or make substantial alterations to the
39 dealer's facilities unless the manufacturer, factory branch, distributor,
40 distributor branch or representative of the manufacturer, factory branch,
41 distributor or distributor branch is able to demonstrate that the changes
42 are reasonable and justifiable in light of current and reasonably
43 foreseeable economic conditions, the availability of additional vehicle
44 allocation and the dealer's market for the sale of vehicles or unless the

1 alteration is reasonably required to effectively display and service a
2 vehicle based on the technology of the vehicle.

3 5. Enter into a real property use or site control agreement as a
4 condition of awarding a franchise, adding a line-make or dealer agreement
5 to an existing new motor vehicle dealer, renewing a dealer agreement,
6 approving the sale or transfer of the ownership of a dealership or
7 approving the relocation of a dealership. This paragraph does not apply
8 to a real property use or site control agreement if either of the
9 following is offered to and accepted by the dealer without coercion or
10 condition in exchange for a real property use or site control agreement:

11 (a) Fair and reasonable monetary consideration.

12 (b) Separate and valuable consideration that may be calculated to a
13 sum certain.

14 6. In connection with the sale of a used motor vehicle, other than
15 a used motor vehicle sold pursuant to a factory's certified pre-owned
16 program, require the use of only parts and accessories manufactured by the
17 manufacturer, factory branch, distributor, distributor branch or importer.
18 This paragraph does not apply to parts used to perform repairs pursuant to
19 a recall or repairs performed pursuant to a manufacturer, factory branch,
20 distributor, distributor branch or importer's warranty.

21 7. **INSTALL ON THE DEALER'S DEALERSHIP PREMISES A CUSTOMER FACING**
22 **ELECTRIC VEHICLE CHARGING STATION ACCESSIBLE TO THE GENERAL PUBLIC.**

23 B. A manufacturer, factory branch, distributor, distributor branch
24 or field representative or an officer, agent or representative of a
25 manufacturer, factory branch, distributor, distributor branch or field
26 representative shall not require, coerce or attempt to coerce any new
27 motor vehicle dealer in this state to refrain from participation in the
28 management of, investment in or acquisition of any other line-make of new
29 motor vehicle or related products unless justified by reasonable business
30 considerations.

31 C. A manufacturer, factory branch, distributor, distributor branch,
32 field representative or officer shall not coerce or attempt to coerce a
33 motor vehicle dealer and a manufacturer shall not do either of the
34 following:

35 1. Release to any outside party any confidential financial
36 information of the dealer that may be provided from time to time by the
37 dealer.

38 2. Release to the general public average or composite prices,
39 identified as such, based in whole or in part on such financial
40 information.

41 D. Information described in subsection C, paragraphs 1 and 2 of
42 this section shall not be released without the express written consent of
43 the dealer, except that it may be released:

1 1. Pursuant to subpoena or as otherwise required by law in any
2 administrative, judicial or arbitration proceeding or in any law
3 enforcement investigation.

4 2. To a law enforcement agency, except that this exception does not
5 apply to personal financial information.

6 E. A manufacturer, importer or distributor shall not adopt, change,
7 establish or implement a plan or system for the allocation, scheduling or
8 delivery of new motor vehicles, parts or accessories to its motor vehicle
9 dealers that is not fair, reasonable and equitable or modify an existing
10 plan or system for the allocation, scheduling or delivery of new motor
11 vehicles, parts or accessories in a manner that causes the plan or system
12 to be unreasonable, unfair or inequitable **TO THE DEALERS OF THE**
13 **MANUFACTURER'S, IMPORTER'S OR DISTRIBUTOR'S LINE-MAKE.** On the request of
14 a franchisee, a manufacturer, importer or distributor shall disclose in
15 writing to the franchisee the basis on which new motor vehicles, parts and
16 accessories are allocated, scheduled and delivered among the
17 manufacturer's, importer's or distributor's dealers of the same line-make.

18 F. A manufacturer, factory branch, distributor, distributor branch
19 or field representative or an officer, agent or representative of a
20 manufacturer, factory branch, distributor, distributor branch or field
21 representative shall not require a dealer or condition the awarding of a
22 franchise, the addition of a line-make, the renewal of a franchise, the
23 approval of the relocation of a franchise or the approval of a sale or
24 transfer of a franchise on the willingness of a dealer or a proposed
25 dealer or owner of an interest in the dealership facility to construct,
26 renovate or maintain exclusive facilities, personnel or showroom area
27 dedicated to a particular line-make if the imposition of such a
28 requirement would be unreasonable in light of the existing circumstances,
29 including the manufacturer's reasonable business considerations, present
30 economic and market conditions and forecasts for future economic and
31 market conditions in the dealer's retail territory. The manufacturer,
32 factory branch, distributor, distributor branch or field representative
33 has the burden of proof to demonstrate that its demand for exclusivity is
34 justified by reasonable business considerations and is reasonable in light
35 of the dealer's circumstances. This subsection does not apply to a
36 voluntary agreement between a dealer and a manufacturer if separate and
37 valuable consideration was offered and accepted. The renewal of a
38 franchise agreement does not, by itself, constitute separate and valuable
39 consideration. The manufacturer has the burden of proof to show by a
40 preponderance of the evidence that the dealer entered into a voluntary
41 agreement regarding exclusivity.

42 G. Any condition, stipulation or provision in a franchise or
43 distributorship agreement purporting to bind any person acquiring or
44 holding a franchise or distributorship to waive compliance with any
45 provision of this chapter or any other law of this state is void except

1 that a person who is acquiring or holding a franchise or distributorship
2 is not prohibited under this section from electing in writing, at or after
3 the time a dispute arises, from using any voluntary dispute resolution
4 procedure, from entering into any voluntary agreement to settle legitimate
5 disputes between the disputed parties or from entering into any agreement
6 waiving any provision of this chapter or any other law of this state for
7 which the franchisee receives separate and valid consideration at the time
8 of the execution of the waiver.

9 H. A MANUFACTURER, IMPORTER OR DISTRIBUTOR IS NOT REQUIRED TO MAKE
10 AVAILABLE OR PAY INCENTIVES OR OTHER BENEFITS TO A DEALER THAT HAS NOT
11 SATISFIED THE REQUIREMENTS FOR ELIGIBILITY ON THE SAME TERMS THAT ARE
12 APPLIED UNIFORMLY AND EQUITABLY TO ALL DEALERS OF THE SAME LINE-MAKE IN
13 THIS STATE.

14 I. FOR THE PURPOSES OF THIS SECTION, "COERCE":

15 1. MEANS THE USE OF FORCE OR THREAT TO PERSUADE, CONSTRAIN OR
16 COMPEL A DEALER TO TAKE OR REFRAIN FROM TAKING A SPECIFIC ACTION.

17 2. INCLUDES THREATENING TO WITHHOLD VEHICLES OR PARTS OR REFUSING
18 TO OFFER AVAILABLE INCENTIVES ON THE SAME TERMS AS OFFERED TO OTHER
19 DEALERS OF THE SAME LINE-MAKE IN THIS STATE OR OFFERING A DEALER A HIGHER
20 PRICE FOR VEHICLES OR PARTS THAN IS OFFERED TO OTHER SAME LINE-MAKE
21 DEALERS IN THIS STATE OR NOT PROVIDING THE OPPORTUNITY TO EARN AVAILABLE
22 INCENTIVES ON THE SAME TERMS AS OTHER SAME LINE-MAKE DEALERS IN THIS STATE
23 ON THE BASIS OF THE DEALER REFUSING, DECLINING OR FAILING TO PERFORM A
24 SPECIFIC BEHAVIOR.

25 3. DOES NOT INCLUDE REQUIRED COMPLIANCE WITH A MANUFACTURER'S,
26 IMPORTER'S OR DISTRIBUTOR'S REASONABLY NECESSARY STANDARDS AND
27 REQUIREMENTS TO FULFILL THE DEALER'S SALES AND SERVICE OBLIGATIONS.

28 Sec. 3. Section 28-4459, Arizona Revised Statutes, is amended to
29 read:

30 28-4459. Manufacturer or distributor right of first refusal

31 A. If a change of all, or substantially all, ownership of a new
32 motor vehicle dealership or transfer of all, or substantially all,
33 dealership assets is proposed, a manufacturer or distributor may exercise
34 a right of first refusal to acquire the dealership if all of the following
35 requirements are met:

36 1. The manufacturer or distributor notifies the dealer in writing
37 within sixty days after receipt of the completed application forms and
38 related information generally used by a manufacturer or distributor to
39 conduct its review and a copy of all agreements regarding the proposed
40 transfer of its intent to exercise its right of first refusal or its
41 rejection of the proposed transfer. If the manufacturer or distributor
42 fails to notify the dealer of its exercise of its right of first refusal
43 or its rejection of the proposed transfer within the sixty day period, the
44 proposed transfer is deemed to be approved by the manufacturer or
45 distributor.

1 2. The exercise of the right of first refusal results in the dealer
2 receiving the same or greater compensation than the dealer negotiated or
3 contracted to receive in connection with the proposed change of all, or
4 substantially all, ownership of the dealership or transfer of all, or
5 substantially all, dealership assets.

6 3. The proposed change of all, or substantially all, dealership
7 assets does not involve the transfer of assets or the transfer or issuance
8 of stock by the dealer or one or more dealer owners to a designated family
9 member or members or the spouse, child, grandchild, spouse of a child or
10 grandchild, brother, sister or parent of the dealer or one or more dealer
11 owners or to a qualified manager, a partnership or a corporation
12 controlled by any of those persons.

13 4. The manufacturer or distributor agrees to pay the reasonable
14 expenses, including reasonable attorney fees that do not exceed the usual,
15 customary and reasonable fees charged for similar work done for other
16 clients, incurred by the proposed new owner and transferee before the
17 manufacturer's or distributor's exercise of its right of first refusal in
18 negotiating and implementing the contract for the proposed change of all,
19 or substantially all, ownership of the dealership or transfer of all, or
20 substantially all, dealership assets. Notwithstanding the provisions of
21 this paragraph, a manufacturer or distributor shall not pay those expenses
22 and attorney fees if the dealer has not submitted or caused to be
23 submitted to the manufacturer or distributor an accounting of those
24 expenses within twenty days after the dealers' receipt of the
25 manufacturer's or distributor's written request for the accounting. This
26 accounting may be requested by a manufacturer or distributor before
27 exercising its right of first refusal.

28 **B. A MANUFACTURER OR DISTRIBUTOR MAY NOT USE OR THREATEN TO USE THE**
29 **EXERCISE OF THE RIGHT OF FIRST REFUSAL IN BAD FAITH.**

30 Sec. 4. Section 28-4460, Arizona Revised Statutes, is amended to
31 read:

32 28-4460. Factories; competition or unfair discrimination
33 prohibited; definitions

34 A. A factory shall not directly or indirectly compete with or
35 unfairly discriminate among its dealers.

36 B. Competing with or unfair discrimination includes any one of the
37 following:

38 1. The factory having an ownership interest or franchise interest
39 in, or operating or acting in the capacity of, a new motor vehicle dealer
40 or a used motor vehicle dealer, except that:

41 (a) A factory is not prohibited from owning or operating as a new
42 motor vehicle dealer for a temporary period if either of the following
43 applies:

44 (i) The temporary period is not more than twelve months during the
45 transition from one dealer to another dealer if the dealership is for sale

1 and is being actively marketed by the factory at a bona fide reasonable
2 price and on reasonable terms and conditions to any independent qualified
3 buyer.

4 (ii) The factory submits evidence that disposition of its interest
5 will result in financial loss to the factory or dealership.
6 The temporary period may be extended in one year increments if either of
7 the requirements of this subdivision are met.

8 (b) A factory is not prohibited from temporarily owning a
9 dealership while in a bona fide relationship with a qualified person. A
10 bona fide relationship with a person who is qualified requires that:

11 (i) The total sales price of the dealership is not less than an
12 amount that is consistent with standard business practices.

13 (ii) The independent qualified person make a substantial
14 unencumbered bona fide initial investment in the dealership that is
15 reasonable and consistent with standard business practices.

16 (iii) The bona fide initial investment of the qualified person is
17 subject to potential loss. The qualified person's percentage share of any
18 potential dealership losses shall not be less than the person's percentage
19 share of ownership of the dealership at the time of the loss.

20 (iv) The qualified person buy substantial portions of the factory's
21 remaining ownership interest in substantial regular periodic payments
22 throughout the acquisition period.

23 (v) The qualified person can expect to acquire and retain full and
24 complete ownership of the dealership within a reasonable period of time
25 that is not longer than ten years and on reasonable terms and conditions
26 that are consistent with standard business practices. The ten-year
27 acquisition period may be extended for good cause shown by the qualified
28 person.

29 (vi) During the acquisition period if the qualified person is paid
30 a management fee, the management fee shall be reasonable and consistent
31 with standard business practices for an individual managing a franchise of
32 similar size and volume of sales and leases of vehicles or products.

33 (c) A factory is not prohibited from owning on a permanent basis a
34 minority interest in a dealership if all of the following conditions are
35 satisfied:

36 (i) The interest owned by the factory is not more than forty-five
37 percent or the percentage interest actually owned by the factory on
38 January 1, 2000, whichever is less.

39 (ii) Any dealership in which the factory owns the interest shall
40 not be less than seventy-five miles from the nearest dealership of the
41 same line-make in which the factory does not own the interest.

42 (iii) All dealerships in which the factory owns the interest shall
43 not sell or lease more than one of the line-makes of new motor vehicles
44 and parts manufactured by the factory.

1 (iv) All dealerships in which the factory owns the interest shall
2 sell or lease the same line-make of new motor vehicles and parts
3 manufactured by the factory. The dealerships may also sell or lease new
4 motor vehicles and parts of a line-make manufactured by a factory that
5 does not have an ownership interest in the dealership.

6 (v) The factory or an entity in which the factory has the interest
7 must have been licensed in this state as a new motor vehicle dealer on
8 January 1, 2000 selling the line-make of new motor vehicle manufactured by
9 the factory.

10 (vi) The factory must have owned the interest in at least one
11 dealership selling the line-make manufactured by the factory on January 1,
12 2000.

13 (vii) The factory or an entity in which the factory has the
14 interest shall not sell any line-make of new motor vehicle that it was not
15 selling in this state before January 1, 2000.

16 (viii) All automotive related services and financing related to the
17 line-make or the factory owning the interest shall be sold or provided
18 only to owners of vehicles of the line-make, regardless of where the
19 vehicle was purchased, or to any purchasers of any new or used motor
20 vehicles purchased from a dealership in which the factory has an interest.
21 This item shall not preclude that dealership from selling or providing any
22 nonwarranty repairs or maintenance on motor vehicles of any line-make or
23 warranty repairs or maintenance of any line-make of new motor vehicles
24 sold by the dealership and not manufactured by the factory.

25 (ix) All used motor vehicles of a line-make manufactured by the
26 factory, other than the line-make that the dealership sells or leases new,
27 acquired by the dealership, directly or indirectly from the factory, shall
28 be acquired only at wholesale auction open to dealers of all line-makes
29 manufactured by the factory.

30 2. The factory selling, leasing or providing, or offering to sell,
31 lease or provide, a vehicle or product, service or financing to any retail
32 consumer or lead, **INCLUDING A SUBSCRIPTION SERVICE FOR A MOTOR VEHICLE**
33 **FEATURE THAT USES COMPONENTS AND HARDWARE THAT IS ALREADY INSTALLED ON THE**
34 **MOTOR VEHICLE AT THE TIME OF PURCHASE OR LEASE AND WOULD FUNCTION AFTER**
35 **ACTIVATION WITHOUT ONGOING COST TO OR SUPPORT BY THE DEALER, MANUFACTURER,**
36 **FACTORY, DISTRIBUTOR OR THIRD-PARTY SERVICE PROVIDER.** This paragraph does
37 not:

38 (a) Prohibit a factory from advertising to sell, lease or provide a
39 vehicle or product, service or financing through its dealers.

40 (b) Prohibit a factory from selling, leasing or providing or
41 offering to sell, lease or provide a vehicle or product, service or
42 financing through its dealers.

43 (c) Prohibit a factory from providing a vehicle or product or
44 service for occasional promotional or charitable uses.

1 (d) Prohibit a factory from selling, leasing or providing a vehicle
2 or product, service or financing to an agency of the federal government.

3 (e) Prohibit a factory from selling or leasing a vehicle or
4 product, service or financing through its dealers to retail consumers who
5 qualify for any reasonable factory sponsored factory employee, factory
6 retiree or factory vendor new vehicle purchase program or any other
7 reasonable similar factory related new vehicle purchase program.

8 (f) Prohibit a factory from providing financing to retail consumers
9 through any used motor vehicle dealer or new motor vehicle dealer of any
10 line-make.

11 (g) Prohibit a factory from providing a loan directly to a person
12 or entity if the loan is for a purpose unrelated to the ownership or
13 leasing of a new motor vehicle or a used motor vehicle not for resale.

14 (h) Prohibit a factory from providing loans directly to used motor
15 vehicle dealers or new motor vehicle dealers of any line-make for any
16 purpose, including working capital, real estate, construction or motor
17 vehicle or parts inventories.

18 (i) Prohibit a factory from arranging or providing emergency
19 roadside service.

20 (j) Prohibit a factory from offering factory sponsored extended
21 service contracts to purchasers of new motor vehicles, provided that:

22 (i) Such offers shall not take place less than ninety days after
23 the date the retail consumer takes delivery of the new motor vehicle.

24 (ii) Such offers are made to retail consumers only at the
25 manufacturer's suggested retail price.

26 (k) Prohibit a factory from selling a lease vehicle to the original
27 lessee pursuant to a purchase option set forth in the lease. Such sale
28 may be a credit sale with the factory as the credit seller and may include
29 the direct sale of extended service contracts at the manufacturer's
30 suggested retail price.

31 (l) Prohibit a factory, at the request of a motor vehicle lessee,
32 from extending a lease of a motor vehicle.

33 (m) Prohibit a factory from offering and approving a retail
34 consumer credit application for the financing or leasing of a motor
35 vehicle if both of the following apply:

36 (i) The final transaction takes place through a licensed motor
37 vehicle dealer.

38 (ii) The factory does not establish or quote any interest rate,
39 finance rate or lease rate in association with a credit application.

40 (n) Prohibit a factory from renewing or charging any subscription
41 or connection fees for any in-vehicle electronic wireless communication,
42 information or entertainment services **SUCH AS NAVIGATION SYSTEM UPDATES,**
43 **SATELLITE RADIO, ROADSIDE ASSISTANCE, SOFTWARE-DEPENDENT DRIVER ASSISTANCE**
44 **OR DRIVER AUTOMATION FEATURES AND VEHICLE-CONNECTED SERVICES THAT RELY ON**
45 **CELLULAR OR OTHER DATA NETWORKS FOR CONTINUED OPERATION.**

1 3. The factory controlling any aspect of the final amount charged,
2 the final sales price or the final lease price for any vehicle or product,
3 trade-in or service offered to retail consumers in a dealer's area of
4 responsibility without the written consent of the dealer. The dealer's
5 consent may be withdrawn on forty-five days' notice without retribution or
6 the threat of retribution from the factory. This paragraph does not
7 prohibit a factory from:

8 (a) Changing dealer cost or establishing any of the following:

9 (i) Manufacturer's suggested retail price pursuant to 15 United
10 States Code section 1232.

11 (ii) Factory's suggested retail price for parts.

12 (iii) Factory's suggested retail price for service.

13 (b) Establishing from time to time reasonable sales, lease or
14 financing promotions of reasonable and limited duration. Programs up to a
15 year are presumed to be of reasonable and limited duration.

16 (c) Establishing reasonable standard feature option packages or
17 vehicle option content in any way.

18 (d) Establishing the terms of any vehicle warranty.

19 (e) Establishing reasonable sales, lease or financing terms through
20 its dealers to retail consumers who qualify for any reasonable factory
21 sponsored factory employee, factory retiree or factory vendor new vehicle
22 purchase program or any other reasonable similar factory related new
23 vehicle purchase program.

24 (f) Linking the factory's internet site to internet sites
25 maintained by its dealers or third parties, or to internet sites
26 maintained jointly by the factory and its dealers and made available to
27 all of the factory's dealers of the same line-make, provided that the
28 factory shall not dictate, limit, establish, set or endorse as a basis for
29 a retail transaction any price other than the manufacturer's suggested
30 retail price.

31 (g) Establishing the price at which the lessee of a motor vehicle
32 may purchase or re-lease that motor vehicle on expiration or termination
33 of that lessee's lease.

34 (h) Operating or facilitating a program or system through which
35 individual dealers may provide quotes or offers to individual consumers.

36 4. The factory refusing to unconditionally offer and provide to its
37 same line-make dealers all models, series and editions of new motor
38 vehicles that are publicly advertised for that line-make in this
39 state. The failure to deliver any new motor vehicles shall not be
40 considered a violation of this paragraph if the failure is caused by a
41 lack of manufacturing capacity, labor strike, shortage of materials or
42 trade embargo or any other condition over which the factory has no
43 control. A factory may require a dealer to purchase reasonable quantities
44 of advertising materials, purchase reasonable quantities of special tools
45 required to properly service a motor vehicle and undertake reasonable

1 salesperson or service person training related to the motor vehicle as a
2 condition of receiving a motor vehicle. This paragraph does not:

3 (a) Apply to recreational vehicle manufacturers.

4 (b) Prohibit a factory from providing monetary, financial or
5 optional equipment incentives to fleet purchasers for new motor vehicles
6 not for resale.

7 5. The factory denying to any dealer any price reduction, rebate,
8 incentive payment or similar pricing device relating to the sale or offer
9 to sell a new motor vehicle to a dealer, pursuant to a program that
10 discriminates among dealers of the same line-make in this state, when the
11 dealer cannot qualify or receive the benefits of the program for reasons
12 other than the dealer's failure to use reasonable effort to qualify and
13 the terms of the program are such that a failure to qualify or receive its
14 benefits would constitute the constructive termination of the dealer.

15 6. The factory failing to provide or direct a lead relating to a
16 particular line-make either:

17 (a) To the dealer with whom the lead has a preexisting
18 relationship.

19 (b) To the dealer of the same line-make that is located closest to
20 where the lead resides, or to the local business address if the lead is a
21 business.

22 (c) To the dealer of the same line-make in whose assigned area of
23 responsibility the lead resides, or the local business address if the lead
24 is a business.

25 (d) According to the lead's voluntary preference.

26 7. THE FACTORY IMPLEMENTING OR MODIFYING A VEHICLE RESERVATION
27 SYSTEM FOR THE SALE OR LEASE OF MOTOR VEHICLES THAT DOES NOT COMPLY WITH
28 THE FOLLOWING REQUIREMENTS:

29 (a) A VEHICLE RESERVATION SYSTEM DESIGNED, IMPLEMENTED OR
30 CONTROLLED BY THE FACTORY THAT ALLOCATES VEHICLES TO DEALERS SHALL USE
31 CUSTOMER DEALER SELECTION OR OTHER OBJECTIVE CRITERIA TO ALLOCATE THE
32 VEHICLES.

33 (b) AT LEAST THIRTY DAYS BEFORE IMPLEMENTING A VEHICLE RESERVATION
34 SYSTEM, A FACTORY SHALL MAKE AVAILABLE TO ITS DEALERS A DESCRIPTION OF THE
35 RESERVATION PROGRAM RULES AND REQUIREMENTS THROUGH THE SYSTEM, AS
36 APPLICABLE. NOTICE OF A CHANGE TO THE RULES AND REQUIREMENTS SHALL BE
37 PROVIDED BY THE FACTORY TO ITS DEALERS AT LEAST THIRTY DAYS BEFORE THE
38 CHANGES BECOMING EFFECTIVE.

39 C. Under subsection B, paragraph 6 of this section:

40 1. The factory need not provide or direct a lead to a dealer who
41 does not sell the vehicle or product, service or financing in which the
42 lead expresses an interest.

43 2. The factory is responsible only for providing to the dealer
44 information that it possesses concerning the lead.

1 3. The factory is not precluded from providing or directing leads
2 to any other dealer of the same line-make.

3 4. All leads are provided or directed in a fair, nondiscriminatory,
4 equitable and timely manner to dealers and, except as provided in
5 subsection D of this section, without charging a fee for those leads.

6 D. Subsection B, paragraph 6 of this section does not apply to any
7 factory sponsored internet-based program specifically designed to provide
8 retail consumers with internet access to dealer quotations on vehicles,
9 products, financing or services if:

10 1. Fees for the program are reasonable and consistent with industry
11 standards.

12 2. Dealer participation is not conditioned on participation in any
13 other program or on ratings derived from customer surveys.

14 E. A manufacturer or distributor may not recover all or any portion
15 of its costs for compensating a dealer for warranty parts and service,
16 including parts and service associated with vehicle recalls, either by
17 reduction in the amount due the dealer or by separate charge, surcharge,
18 administrative fee or other imposition. This subsection does not prohibit
19 a manufacturer or distributor from increasing the wholesale price of a
20 vehicle or part in the ordinary course of business.

21 F. For the purposes of this section:

22 1. "Controlling" means dictating, limiting, establishing, setting
23 or endorsing as a basis for a retail transaction any price other than the
24 manufacturer's suggested retail price.

25 2. "Dealer" or "dealership" means a new motor vehicle dealer or
26 franchisee.

27 3. "Factory":

28 (a) Means a manufacturer, importer or distributor or any legal
29 entity in which a manufacturer, importer or distributor owns a majority
30 interest or has direct or indirect power to direct or cause the direction
31 of the management whether through voting securities, contract or
32 otherwise.

33 (b) Includes successors in interest to all entities described in
34 subdivision (a) of this paragraph that continue retail operations selling
35 or servicing the same line-make as any motor vehicle dealer that has, as
36 of the effective date of such succession, a franchise to sell and service
37 such line-make, including successors that acquire the interests by
38 purchase, merger or conversion.

39 (c) Excludes any new motor vehicle dealer, used motor vehicle
40 dealer or trailer manufacturer.

41 (d) Excludes any agent, affiliate, representative or subsidiary
42 that is primarily engaged in the business of rental of passenger and
43 commercial motor vehicles and industrial and construction equipment and
44 activities incidental to that business if all of the following conditions
45 are satisfied:

1 (i) Passenger and commercial motor vehicles sold by the agent,
2 affiliate, representative or subsidiary are limited to used passenger and
3 commercial motor vehicles that have been previously used exclusively and
4 regularly by the agent, affiliate, representative or subsidiary in the
5 conduct of business and used passenger and commercial motor vehicles
6 traded in on motor vehicles sold by the agent, affiliate, representative
7 or subsidiary.

8 (ii) Warranty repairs performed by the agent, affiliate,
9 representative or subsidiary on passenger and commercial motor vehicles
10 are limited to those passenger and commercial motor vehicles that it owns,
11 previously owned or takes in trade.

12 (iii) Motor vehicle financing provided by the agent, affiliate,
13 representative or subsidiary to retail consumers for passenger and
14 commercial motor vehicles is limited to vehicles sold by the agent,
15 affiliate, representative or subsidiary in the conduct of business.

16 4. "Financing":

17 (a) Means the financial service of providing retail consumers the
18 ability to pay for a purchase or lease of a new or used motor vehicle,
19 parts or services over an extended period of time.

20 (b) Does not include the furnishing of credit cards capable of
21 general use in retail transactions or the provision of any loans secured
22 by real estate.

23 5. "MOTOR VEHICLE FEATURE" MEANS A CONVENIENCE OR SAFETY FUNCTION
24 INCLUDED ON A MOTOR VEHICLE, SUCH AS HEATED SEATS OR DRIVER ASSISTANCE,
25 THAT TYPICALLY IS OFFERED TO A CONSUMER AS AN UPGRADE AT THE TIME OF
26 PURCHASE OR LEASE OF THE MOTOR VEHICLE.

27 ~~5.~~ 6. "Parts":

28 (a) Means all items that are designed to be incorporated within or
29 attached to or used to operate, maintain or service a motor vehicle.

30 (b) Does not include any of the following:

31 (i) Parts purchased or provided for use by professional racing
32 enterprises.

33 (ii) Parts no longer included in the current factory price
34 schedule.

35 (iii) Specialized parts for research vehicles or other similar uses
36 of limited application.

37 (iv) Owners' manuals or repair manuals.

38 (v) Parts that are provided by an automotive recycler in the normal
39 course of business for an automotive recycler.

40 (vi) Motor vehicle keys.

41 ~~6.~~ 7. "Service" means either of the following:

42 (a) Motor vehicle warranty and nonwarranty repairs or maintenance,
43 including both parts and labor.

44 (b) Extended warranties, vehicle mechanical maintenance insurance
45 and similar vehicle repair service contracts.

1 8. "SUBSCRIPTION SERVICE":

2 (a) MEANS A SERVICE THAT IS PROVIDED IN EXCHANGE FOR A RECURRING
3 PAYMENT, INCLUDING A WEEKLY, MONTHLY OR ANNUAL PAYMENT THAT IS CHARGED TO
4 AND MADE BY A CONSUMER.

5 (b) DOES NOT INCLUDE A CONSUMER'S RECURRING PAYMENT MADE PURSUANT
6 TO A RETAIL INSTALLMENT CONTRACT AS DEFINED IN SECTION 44-281 OR LEASE AS
7 DEFINED IN SECTION 47-2A103.

8 ~~7.~~ 9. "Vehicle or product" means a new motor vehicle, a used motor
9 vehicle or parts.

10 10. "VEHICLE RESERVATION SYSTEM" MEANS A PROCESS THAT IS USED TO
11 HOLD OPEN THE OPPORTUNITY FOR A SPECIFIED CONSUMER TO PLACE AN ORDER FOR
12 THE PURCHASE OR LEASE OF A NEW MOTOR VEHICLE.

13 Sec. 5. Title 28, chapter 10, article 5, Arizona Revised Statutes,
14 is amended by adding section 28-4464, to read:

15 28-4464. Applicability

16 THIS ARTICLE DOES NOT APPLY TO A MANUFACTURER THAT DOES NOT AND HAS
17 NEVER USED FRANCHISED NEW MOTOR VEHICLE DEALERS TO OFFER, SELL OR SERVICE
18 NEW MOTOR VEHICLES THAT ARE MANUFACTURED OR DISTRIBUTED BY A FRANCHISOR,
19 MANUFACTURER, IMPORTER OR DISTRIBUTOR.