



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 77 [2003 Senate Bill 235]	Revisions Relating to Manufacturers, Importers, and Distributors of Motor Vehicles
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

Current law: (1) requires each manufacturer, importer, and distributor of motor vehicles in this state to be licensed by the Wisconsin Department of Transportation (DOT); (2) requires each manufacturer, importer, or distributor that enters into an agreement with a motor vehicle dealer to file the agreement with the DOT, and specifies certain provisions in an agreement that are void and prohibited; and (3) allows the DOT to revoke the license of a manufacturer, importer, or distributor if the manufacturer, importer, or distributor commits certain violations with respect to a motor vehicle dealer, and specifies that a dealer may recover civil damages and attorney fees caused by such a violation.

2003 Wisconsin Act 77:

1. Makes void and prohibited any provision in an agreement that **waives** the dealer's or distributor's **right to a jury trial**. A violation of this prohibition is included in the current provision permitting a dealer to recover civil damages and attorney fees.

2. Makes void and prohibited a provision in an agreement that provides a manufacturer, importer, or distributor with the right or option to compel the dealer or any of its owners to sell or transfer an ownership interest in the dealer or assets of the dealer to the manufacturer, importer, or distributor or an assignee of the manufacturer, importer, or distributor. Notwithstanding this provision, an agreement may provide a manufacturer, importer, or distributor with the **right of first refusal** to acquire the dealer's assets in the event of a proposed change of ownership or transfer of dealership assets if all the statutory requirements are met. A violation of this prohibition is included in the current provision permitting a dealer to recover civil damages and attorney fees.

3. Permits the DOT to **revoke the license** of a manufacturer, importer, or distributor who fails or refuses to offer for sale to its "**same line make franchised dealers**" all models manufactured or distributed for that line make. The Act specifies that the offer for sale may be subject to the

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

manufacturer's, importer's, or distributor's plan or system for the allocation, scheduling, and delivery of such models that complies with certain statutory requirements. The failure to deliver any such motor vehicle must **not** be considered a violation of this prohibition if the failure is due to a lack of manufacturing capacity, a strike or labor difficulty, a shortage of materials, a freight embargo, or other cause beyond the control of the manufacturer, importer, or distributor. This prohibition **does not prohibit** reasonable requirements being imposed on dealers for the sale, marketing, or servicing of particular models.

4. Permits the DOT to **revoke the license** of a manufacturer, importer, or distributor who performs warranty service or delivery and preparation work on a motor vehicle that it does not own or who authorizes or permits a person to perform warranty service or delivery and preparation work on a motor vehicle **unless** the person is a motor vehicle dealer with whom the manufacturer, importer, or distributor has entered into a franchise agreement for the sale and service of the manufacturer's, importer's, or distributor's motor vehicles. This prohibition **does not prohibit** a manufacturer, importer, or distributor from:

- a. Authorizing the performance of warranty service and delivery and preparation work by a fleet owner on its own vehicles.
- b. If warranty service is temporarily not reasonably available to one or more owners of the manufacturer's, importer's, or distributor's vehicles, performing warranty services on such vehicles or authorizing the performance of warranty service on such vehicles by a person who is not a motor vehicle dealer with whom the manufacturer, importer, or distributor has entered into a franchise agreement for the sale and service of the manufacturer's, importer's, or distributor's motor vehicles. Warranty service may be provided or authorized by a manufacturer, importer, or distributor under this provision only during the period that warranty service is not otherwise reasonably available.
- c. Attempting to repair a nonconformity to a vehicle, if the repair is reasonably necessary to prevent the manufacturer, importer, or distributor from becoming subject to certain statutory requirements.

5. Specifies that item 4. **does not require** a manufacturer, importer, or distributor to perform warranty service, or to authorize or permit warranty service to be performed, under a warranty given by another manufacturer, importer, or distributor, or component manufacturer to a retail customer.

Effective Date: The Act takes effect on November 27, 2003. Act 77 first applies to a franchise agreement that exists or is entered into on November 27, 2003.

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