



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 256
[2005 Assembly Bill 823]

Motor Vehicle Dealers

2005 Wisconsin Act 256 clarifies certain duties a motor vehicle manufacturer, importer, or distributor has concerning motor vehicle dealers. Under **current law**, a manufacturer, importer, or distributor may be liable for civil damages, including actual costs and attorneys fees, if it causes harm to a dealer by certain actions or failure to act. **Under this Act**, a manufacturer, importer, or distributor may be liable for damages, including actual costs and attorneys fees, if it engages in action or fails to act in a way that is arbitrary and causes material damage to the dealer.

Under the Act, if a manufacturer, importer, or distributor cancels or discontinues an agreement with a dealer and the dealer challenges the cancellation or discontinuation as unwarranted, the burden of proof at a hearing before the Division of Hearings and Appeals in the Department of Administration (DOA) on the matter is on the manufacturer, distributor, or importer to show that the discontinuation or cancellation was fair, for just provocation, and with due regard to the equities.

Similarly, if a manufacturer, importer, or distributor seeks to modify an existing contract or to establish or relocate a dealership in the relevant market area of an existing dealer of the same line make, or refuses to permit a dealer to take a proposed action, the burden of proof is on the manufacturer, importer, or distributor to demonstrate that there is good cause for the modification, establishment, relocation, or refusal. **Under the Act**, a dealer who prevails against a manufacturer, importer, or distributor at the hearing has a cause of action for reasonable expenses and attorneys fees incurred in connection with all proceedings resulting from the complaint, unless the expenses and fees are otherwise provided for by statute, or the Division of Hearings and Appeals in DOA determines that the actions of the manufacturer, importer, or distributor were substantially justified or that other circumstances would make awards of expenses and attorneys fees unjust.

Effective Date: The Act takes effect on April 13, 2006.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.