CHAPTER 135
DEALERSHIP PRACTICES

135.01 Short title. This chapter may be cited as the “Wisconsin Fair Dealership Law.”

135.02 Definitions. The definitions in this chapter are controlling unless a contrary intention appears in the particular section of this chapter.

135.03 Cancellation and alteration of dealerships. A dealer and a manufacturer may cancel or alter a dealership agreement solely for the purpose of replacing an ineffective or unenforceable provision with another provision that is effective and enforceable or for the purpose of making a temporary or permanent change in conditions of the dealership agreement.

135.04 Notice of termination or change in dealership. The manufacturer and the dealer shall provide each other with written notice of the intention to cancel or alter the dealership agreement. The notice shall state the reason for the cancellation or alteration with reasonable specificity.

135.05 Repurchase of inventories. When a dealership is terminated because of a breach of contract or agreement by either party, it shall be scheduled to be repurchased by the other party at the price and conditions specified in the contract or agreement unless the manufacturer or the dealer agrees otherwise.

135.06 Action for damages and injunctive relief. A dealer or a manufacturer may file an action for damages or an injunctive remedy if the other party fails to comply with the terms of the dealership agreement.

135.07 Nonapplicability. A dealership agreement is not enforceable if it is contrary to public policy, exceeds the constitutional and statutory limits, or is otherwise against the public interest.

A cartage agreement between an air freight company and a trucking company did not create a “dealership” under this chapter. Kania v. Airborne Freight Corp. 99 Wis. 2d 746, 300 N.W.2d 63 (1981).

A manufacturer’s representative was not a “dealership.” Foerster, Inc. v. Atlas Metal Parts Co. 105 Wis. 2d 17, 313 N.W.2d 60 (1981).

This chapter applies exclusively to dealerships that do business within the geographic confines of the state. Swan Sales Corp. v. Jos. Schlitz Brewing Co. 126 Wis. 2d 16, 374 N.W.2d 640 (Ct. App. 1985).

Two guideposts for determining the existence of a “community of interest” under sub. (3) are: (1) a shared financial interest in the operation of a dealership or the marketing of a good or service; and (2) the degree of cooperation, coordination of activities, and sharing of common goals in the parties’ relationship. Ziegler Co., Inc. v. Roseman, Inc. 139 Wis. 2d 593, 407 N.W.2d 873 (1987).

A substantial investment distinguishes a dealership from a typical vendor—vendor relationship; establishing a loss of future profits is not sufficient. Gunderjohn v. Lowe−West America, Inc. 179 Wis. 2d 201, 507 N.W.2d 115 (Ct. App. 1994).

Contracts between an HMO and chiropractors for the provision of chiropractic services to HMO members did not did not establish the chiropractors as dealerships under sub. 135. Bakke Chiropractic Clinic v. Physicians Plus Insurance, 215 Wis. 2d 605, 573 N.W.2d 542 (Ct. App. 1997), 97–1169.

A dealership is a contract or agreement establishing a particular sort of commercial relationship that encompasses an extraordinary diverse set of business relationships not limited to the traditional franchise. The focus of the analysis must be on whether the business relationship can be said to be situated in the state after examining a broad set of factors outlined by the court. Baldeuw Company v. Tri−Clover, Inc. 2000 WI 20, 213 Wis. 2d 57, 606 N.W.2d 145, 99–0541. See also Baldeuw Company v. Tri−Clover, Inc. 183 F. Supp. 2d 1116 (2002).

Assuming without deciding that the size of the local economy relative to the cost of the putative dealer’s inventory of the grantor’s products is a relevant factor in determining the existence of a community of interest, that factor did not demonstrate the existence of a community of interest in this case. Moe v. Benelli U.S.A. Corp. 2007 WI App 254, 306 Wis. 2d 812, 743 N.W.2d 691, 105 Wis. 2d 17, 99−0541.

Under sub. (2), a “dealer” is defined in ch. 135 to mean “a person who is a grantee of a dealership situated in this state.” Sub. (3) defines “dealership” in part as “contract or agreement . . . between 2 or more persons, by which a person is granted the right to sell or distribute goods or services, or to use a trade name, trademark, service mark, logotype, advertising or other commercial symbol related to intoxicating liquor.” This paragraph does not apply to dealerships described in s. 135.066 (5) (a) and (b).

Under sub. (2), a “dealership” is defined in this chapter as “a continuing financial interest in the operation of the dealership business or the marketing of such goods or services.”

135.08 “Dealership” means any of the following:

(a) A contract or agreement, either expressed or implied, whether oral or written, between 2 or more persons, by which a person is granted the right to sell or distribute goods or services, or to use a trade name, trademark, service mark, logotype, advertising or other commercial symbol in which there is a community of interest in the business of offering, selling or distributing goods or services at wholesale, retail, by lease, agreement or otherwise.

(b) A contract or agreement, either expressed or implied, whether oral or written, between 2 or more persons by which a wholesaler, as defined in s. 125.02 (21), is granted the right to sell or distribute intoxicating liquor or use a trade name, trademark, service mark, logotype, advertising or other commercial symbol related to intoxicating liquor. This paragraph does not apply to dealerships described in s. 135.066 (5) (a) and (b).

(c) A “grantor” means a person who grants a dealership.

(d) “Person” means a natural person, partnership, joint venture, corporation or other entity.

135.03 Cancellation and alteration of dealerships. No grantor, directly or through any officer, agent or employee, may terminate, cancel, fail to renew or substantially change the competitive circumstances of a dealership agreement without good cause. The burden of proving good cause is on the grantor.

History: 1973 c. 179; 1977 c. 171.

A grantor may cancel, terminate, or non-renew a dealership if the dealer refuses to make changes that are essential and reasonable, and not discriminatory, failure to substantially comply with the changes constitutes good cause. Zigler Co., Inc. v. Rexnord, 147 Wis. 2d 306, 433 N.W.2d 8 (1988).

A supplier violated this section by terminating without good cause all dealership agreements with independently owned pharmacies in the state. Kealey Pharmacy & Home Care Service, Inc. v. Walgreen Co. 761 F.2d 345 (1985).

This chapter did not apply to a grantor’s action that was due to business exigencies unpreventable to the dealer and was done in a nondiscriminatory manner. Remus v. Amoco Oil Co. 794 F.2d 1238 (1986).

Economic duress may serve as a basis for a claim of constructive termination of a dealership. JPM, Inc. v. John Deere Co., Inc. 527 F.3d 372 (2008).

A grantor’s substantial loss of money under a dealership relationship may constitute “good cause” for changes in the contract, including termination. Morley–Murphy Co. v. Zenith Electronics Corp., 142 F.3d 573 (1998).

In a change in credit terms was a change in a dealer’s “competitive circumstances.” Van v. Mobil Oil Corp. 515 F. Supp. 487 (1981).

This section did not apply when a grantor withdrew in a nondiscriminatory fashion from a product market on a large geographic scale. A 90−day notice was required. St. Joseph Equipment v. Massey–Ferguson, Inc. 546 F. Supp. 1245 (1982).

Franchises failed to meet their burden of proof that their competitive circumstances could be substantially changed by a new agreement. Breder’s 33 Flavors Franchising Corp. v. Wokosin, 591 F. Supp. 1333 (1984).


When parties continue their relations after the term of a dealership contract has expired the contract has been renewed for an indefinite term. Aftermkt & Home Care Service, Inc. v. Walgreen Co., 328 F.3d 1086 (2003).

Assignment of a second distributor in Wisconsin did not breach the agreement or cause a substantial change in the competitive circumstances of the nonexclusive dealership agreement in violation of s. 135.03. However, the defendant’s assignment of a second distributor was a violation of s. 135.04 because it caused a substantial change in the competitive circumstances of the plaintiff’s truck blower distributorship and the defendant failed to provide the plaintiff with 90 days’ written notice.

When a dealer becomes so egregious as to amount to constructive termination of the dealership this section is violated. Constructive termination of a dealership agreement occurs when the grantor takes actions that amount to a substantial, commercial, and nondiscriminatory changes in the way it does business with dealers. To show good cause for making a substantial change in the competitive circumstances of a dealership agreement, the grantor must demonstrate: 1) an objectively ascertainable need for change; 2) a proportionate response to that need; and 3) a nondiscriminatory action. This chapter makes no distinction between for-profit and not-for-profit entities, and, as such, the court cannot judicially craft a lower threshold for when not-for-profit organizations wish to substantially change the competitive circumstances of a dealership agreement.


Assumption of a franchise by one of the defendant’s employees did not amount to constructive termination of the franchise agreement. Girl Scouts of Manitou Council, Inc. v. Girl Scouts of the United States of America, 700 F. Supp. 2d 1055 (2010).


“Good cause” is not limited to the statutory definition of the term under s. 135.02 (4) (g). A grantor’s own circumstances may constitute good cause adequate for purposes, substantial, and nondiscriminatory changes in the way it does business with dealers. To show good cause for making a substantial change in the competitive circumstances of a dealership agreement, the grantor must demonstrate: 1) an objectively ascertainable need for change; 2) a proportionate response to that need; and 3) a nondiscriminatory action. This chapter makes no distinction between for-profit and not-for-profit entities, and, as such, the court cannot judicially craft a lower threshold for when not-for-profit organizations wish to substantially change the competitive circumstances of a dealership agreement. Girl Scouts of Manitou Council, Inc. v. Girl Scouts of the United States of America, 700 F. Supp. 2d 1055 (2011).


This chapter is applicable to nonprofit grantor’s. Girl Scouts of Manitou Council, Inc. v. Girl Scouts of the United States of America, 646 F.3d 983 (2011).


135.04 Notice of termination or change in dealership. Except as provided in this section, a grantor shall provide a dealer at least 90 days’ prior written notice of termination, cancellation, nonrenewal or substantial change in competitive circumstances. The notice shall state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and shall provide that the dealer has 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days the notice shall be void. The notice provisions of this section shall not apply if the reason for termination, cancellation or nonrenewal

History: 1977 c. 171.

The choice of law clause in a dealership agreement was unenforceable. Bush v. National Truck Parts, Inc., 139 Wis. 2d 635, 407 N.W.2d 833 (1987).

Federal law required the enforcement of an arbitration clause even though that clause did not provide the relief guaranteed by this chapter, contrary to this section and s. 135.05. Madison Beauty Supply v. Helene Curtis, 167 Wis. 2d 237, 418 N.W.2d 647 (1988).

A forum–selection clause in a dealership agreement was not freely bargained for and was rendered ineffective under sub. (2) (b). Cutter v. Scott & Fetzer Co. 510 F. Supp. 363 (1981).

is insolvency, the occurrence of an assignment for the benefit of creditors or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial change in competitive circumstances is nonpayment of sums due under the dealership, the dealer shall be entitled to written notice of such default, and shall have 10 days in which to remedy such default from the date of delivery of or posting of such notice.

**History:** 1973 c. 179.

A grantor must give a 90-day notice when termination is for nonpayment of sums due. White Hen Pantry v.Buttko, 100 Wis. 2d 169, 301 N.W.2d 216 (1981).

The notice requirement of this section applies to substantial changes of circumstances, and not to a dealership agreement. Actions that substantially change in competitive circumstances and that are controlled by the grantor or are allowed by the dealership agreement require the statutory notice. Jungbluth v. Hometown, Inc. 201 Wis. 2d 237, 548 N.W.2d 519 (1996), 94-1523.

Steps that the grantor requires the dealer to take in order to rectify a deficiency must be reasonable. Al Bishop Agency, Inc. v. Lithuania, etc. 474 F. Supp. 828 (1979).


The insolvency exception to the notice requirement did not apply to insolvency that was not known to the grantor at the time of termination. Bruno Wine & Spirits v. Guimarra Vineyards, 573 F. Supp. 337 (1983).

Assignment of a second distributor in Wisconsin did not breach the agreement or cause a substantial change in the competitive circumstances of the nonexclusive dealership agreement in violation of s. 135.03. However, the defendant’s assignment of a supermarket was a violation of s. 135.03 because it caused a substantial change in the competitive circumstances of the plaintiff’s truck distributorship and the defendant failed to provide the plaintiff with 90 days’ written notice. Wisconsin Compressed Air Corp. v. Gardner Denver, Inc. 571 F. Supp. 2d 992 (2008).

### 135.045 Repurchase of inventories.

If a dealership is terminated by the grantor, the grantor, at the option of the dealer, shall repurchase all inventories sold by the grantor to the dealer for resale under the dealership agreement at the fair wholesale market value. This section applies only to merchandise with a name, trademark, label or other mark on it which identifies the grantor.

**History:** 1977 c. 171.


### 135.05 Application to arbitration agreements.

This chapter shall not apply to provisions for the binding arbitration of disputes contained in a dealership agreement concerning the items covered in s. 135.03, if the criteria for determining whether good cause existed for a termination, cancellation, nonrenewal or substantial change of competitive circumstances, and the relief provided is no less than that provided for in this chapter.

**History:** 1973 c. 179.

Federal law required enforcement of an arbitration clause even though that clause did not provide the relief guaranteed by this chapter, contrary to this section and s. 135.025. Madison Beauty Supply v. Helene Curtis, 167 Wis. 2d 237, 481 N.W.2d 644 (Ct. App. 1992).

### 135.06 Action for damages and injunctive relief.

If any grantor violates this chapter, a dealer may bring an action against the grantor in any court of competent jurisdiction for damages caused by such violation. The dealer may also be granted injunctive relief against unlawful termination, cancellation, nonrenewal or substantial change of competitive circumstances.

**History:** 1973 c. 179; 1993 a. 482.

In an action for termination of a dealership upon written notice not complying with this chapter and without good cause, the statutory notice limitations started running upon receipt of the termination notice. Les Moss, Inc. v. Essinoignel Sko Co., Inc. 125 Wis. 2d 51, 361 N.W.2d 653 (1985).

A cause of action accrued when a defective notice under s. 135.04 was given, not when the dealership was actually terminated. Hammil v. Rickel Mfg. Corp. 201 Wis. 2nd 320, 548 N.W.2d 519 (1996), 94-1523.

This section does not restrict recovery of damages with respect to inventory on hand at the time of termination to “fair wholesale market value.” Kealey Pharmacy v. Walgreen Co. 761 F.2d 345 (1985).

A cause of action was accruing under this section. Bright v. Land O’ Lakes, Inc. 844 F.2d 436 (7th Cir. 1988).

There is no presumption in favor of injunctive relief and against damages for lost future profits. Friesburg Farm Equip. v. Van Dale, Inc. 197 F.3d 995 (1992).

### 135.065 Temporary injunctions.

In any action brought by a dealer against a grantor under this chapter, any violation of this chapter by the grantor is deemed an irreparable injury to the dealer for determining if a temporary injunction should be issued.

**History:** 1977 c. 171.

Four factors considered in granting preliminary injunction are discussed. The loss of good will constituted irreparable harm. Reinders Bros. v. Rain Bird Eastern Sales Corp. 627 F.2d 44 (1980).

The court did not abuse its discretion in granting a preliminary injunction notwithstanding the arguable likelihood that the defendant would ultimately prevail at trial. Menominee Rubber Co. v. Gould, Inc. 657 F.2d 164 (1981).

Although the plaintiff showed irreparable harm, the failure to show a reasonable likelihood of success on the merits precluded a preliminary injunction. Milwaukee Rentals, Inc. v. Budget Rent A Car Corp. 496 F. Supp. 253 (1980).

A presumption of irreparable harm exists in favor of a dealer when a violation is shown. For the presumption to apply, a dealership relationship must be shown to exist. Price Engineering Co., Inc. v. Vickes, Inc. 774 F. Supp. 1160 (1991).

If a plaintiff establishes the likelihood of a violation of this chapter, the statute creates a rebuttable presumption that a preliminary injunction should issue in favor of the dealer. If, however, the grantor presents evidence of the absence of irreparable injury, the presumption is no longer relevant, and the dealer must come forward with evidence to establish the presence of the grantor’s evidence.

### 135.066 Intoxicating liquor dealerships.

#### (1) LEGISLATIVE FINDINGS.

The legislature finds that a balanced and healthy 3-tier system for distributing intoxicating liquor is in the best interest of this state and its citizens; that the 3-tier system for distributing intoxicating liquor has existed since the 1930’s; that a balanced and healthy 3-tier system ensures a level system between the manufacturer and wholesale tiers; that a wholesale tier consisting of numerous healthy competitors is necessary for a balanced and healthy 3-tier system; that the number of intoxicating liquor wholesalers in this state is in significant decline; that this decline threatens the health and stability of the wholesale tier; that the regulation of all intoxicating liquor dealerships, regardless of when they were entered into, is necessary to promote and maintain a wholesale tier consisting of numerous healthy competitors; and that the maintenance and promotion of the 3-tier system will promote the public health, safety and welfare. The legislature further finds that a stable and healthy wholesale tier provides an efficient and effective means for tax collection. The legislature further finds that dealerships between intoxicating liquor wholesalers and manufacturers have been subject to state regulation since the enactment of the 21st Amendment to the U.S. Constitution and that the parties to those dealership agreements promote the state legislature regarding those dealership agreements.

#### (2) DEFINITION.

“Intoxicating liquor” has the meaning given in s. 125.02 (8) minus wine.

**NOTE:** Sub. (2) is shown as renumbered under sub. (2) (a) by the legislative reference bureau under s. 13.92 (1) (b) (1m) 2.

#### (5) NONAPPLICABILITY.

This section does not apply to any of the following dealerships:

- (a) Dealerships in which a grantor, including any affiliate, division or subsidiary of the grantor, has never produced more than 200,000 gallons of intoxicating liquor in any year.

- (b) Dealerships in which the dealer’s net revenues from the sale of all of the grantor’s brands of intoxicating liquor constitute less than 5 percent of the dealer’s total net revenues from the sale of intoxicating liquor during the dealer’s most recent fiscal year preceding a grantor’s cancellation or alteration of a dealership.

#### (6) SEVERABILITY.

The provisions of this section are severable as provided in s. 990.001 (1m).  

**History:** 1999 a. 9; s. 13.92 (1) (b) 2s; s. 35.17 correction in (2) (title).

A wine grantor–dealer relationship is not included within the definition of a dealership in s. 135.02 (3) (b). Sub. (2) provides the definition of intoxicating liquor dealerships.

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liquor for purposes of this chapter, and that definition explicitly excludes wine. Winebow, Inc. v. Capitol–Husting Co., Inc. 2018 WI 60, 381 Wis. 2d 732, 914 N.W.2d 631, 17–1395.

135.066  Nonapplicability. This chapter does not apply:
(1) To a dealership to which a motor vehicle dealer or motor vehicle distributor or wholesaler as defined in s. 218.0101 is a party in such capacity.
(2) To the insurance business.
(3) Where goods or services are marketed by a dealership on a door to door basis.

When a “dealer” under ch. 135 is also a “franchisee” under ch. 553, the commissioner of securities may deny, suspend, or revoke the franchisor’s registration or revoke its exemption if the franchisor has contracted to violate or avoid the provisions of ch. 135. Ch. 135 expresses public policy and its provisions may not be waived. 66 Atty. Gen. 11.