

SECTION 154. 218.01 (3) (a) 36. b. of the statutes is renumbered 218.0116 (1) (qm) 2. and amended to read:

218.0116 (1) (qm) 2. Fails to revise or remove portions of an agreement that the department of transportation declares to contain provisions which are inconsistent with ~~sub. (2) (bm)~~ s. 218.0114 (9).

SECTION 155. 218.01 (3) (a) 36. c. of the statutes is renumbered 218.0116 (1) (qm) 3. and amended to read:

218.0116 (1) (qm) 3. Requires or coerces a dealer or distributor to ~~execute~~ sign an agreement, as a condition of obtaining or continuing a franchise, that contains provisions that are void or prohibited under ~~sub. (2) (bm)~~ s. 218.0114 (9) or attempts to enforce an agreement with void or prohibited provisions.

SECTION 156. 218.01 (3) (a) 36. d. of the statutes is renumbered 218.0116 (1) (qm) 4. (intro.) and amended to read:

218.0116 (1) (qm) 4. (intro.) Requires or coerces a dealer or distributor to ~~execute~~ sign an agreement that requires arbitration as a condition of obtaining or continuing a franchise, unless the dealer or distributor has the option of signing an otherwise identical agreement without the arbitration provision or unless the agreement provides for arbitration on a case-by-case basis and only when both parties elect to refer the matter to arbitration. This ~~subd. 36. d.~~ subdivision does not apply to a manufacturer or distributor who enters into an agreement that creates a new franchise for a new line make of motor vehicle, if ~~the~~ each of the following is applicable:

a. The arbitration provision was the subject of good faith negotiations with a representative group of dealers, ~~and if each.~~

b. Each dealer voluntarily accepts the arbitration provision after receiving a franchise offering circular under s. 553.27 (4) that discloses the existence and effect of the arbitration provision, ~~and if the~~.

c. The manufacturer or dealer files a copy of the franchise offering circular and proof of good faith negotiation and voluntary acceptance of the arbitration with any filing required under ~~sub. (2) (bd) 1.~~ s. 218.0114 (7) (a).

SECTION 157. 218.01 (3) (a) 37. of the statutes is renumbered 218.0116 (1) (r) and amended to read:

218.0116 (1) (r) Being a manufacturer, distributor or importer who fails to designate in writing the area of sales responsibility assigned to a motor vehicle dealer or who changes or attempts to change an area of sales responsibility to avoid the requirements of ~~par. (f)~~ sub. (7).

SECTION 158. 218.01 (3) (a) 38. of the statutes is renumbered 218.0116 (1) (rm) and amended to read:

218.0116 (1) (rm) Being a grantor, as defined in ~~sub. (3r) (a) 2.~~ s. 218.0133 (1) (b), who fails to pay a motor vehicle dealer agreement termination benefits under ~~sub. (3r)~~ s. 218.0133.

SECTION 159. 218.01 (3) (a) 39. of the statutes is renumbered 218.0116 (1) (s) and amended to read:

218.0116 (1) (s) Being a manufacturer or distributor who modifies a motor vehicle dealer agreement during the term of the agreement or upon its renewal without complying with ~~par. (fm)~~ sub. (8).

SECTION 160. 218.01 (3) (a) 40. of the statutes is renumbered 218.0116 (1) (sm) and amended to read:

218.0116 (1) (sm) Having violated s. ~~218.017~~ 218.0172.

SECTION 161. 218.01 (3) (a) 41. of the statutes is renumbered 218.0116 (1) (t) and amended to read:

218.0116 (1) (t) Being a manufacturer, importer or distributor who compels a dealer, through a financing subsidiary of the manufacturer, importer or distributor, to agree to unreasonable operating requirements or who directly or indirectly cancels or fails to renew a dealer's franchise, except as allowed under ~~sub. (3) (a) 17. and (3n) par. (i) and s. 218.0132,~~ through the actions of a financing subsidiary of the manufacturer, importer or distributor. This subdivision paragraph does not limit the right of a financing subsidiary to engage in business practices in accordance with the usages of the trade in which it is engaged.

SECTION 162. 218.01 (3) (a) 42. of the statutes is renumbered 218.0116 (1) (tm) and amended to read:

218.0116 (1) (tm) Being a licensee who wilfully refuses or fails to participate in mediation pursuant to a demand for mediation served under ~~sub. (7m) (a) s. 218.0136 (1).~~

SECTION 163. 218.01 (3) (a) 43. of the statutes is renumbered 218.0116 (1) (u).

SECTION 164. 218.01 (3) (b) of the statutes is renumbered 218.0116 (2) and amended to read:

218.0116 (2) The licensor may without prior notice deny the application for a license within 60 days after receipt ~~thereof of the application~~ by written notice to the applicant, stating the grounds for ~~such~~ the denial. Within 30 days after ~~such~~ receiving the notice, the applicant may petition the division of hearings and appeals to conduct a hearing to review the denial, and a hearing shall be scheduled with reasonable promptness.

NOTE: "[P]rior" is inserted to eliminate an internal inconsistency.

SECTION 165. 218.01 (3) (bf) of the statutes is renumbered 218.0116 (3) and amended to read:

218.0116 (3) (a) 1. Except as provided in subd. ~~1-b~~ 2, the department of transportation shall not license an applicant as a dealer ~~an applicant~~ for the sale or lease of motor vehicles at retail unless ~~such~~ the applicant owns or leases a vehicle display lot and a permanent building ~~wherein~~ in which there are facilities to display motor vehicles and ~~facilities~~ to repair functional and nonfunctional parts of motor vehicles ~~and, where replacement parts, repair tools and equipment to service motor vehicles are kept, and at which place of business shall be kept and maintained~~ the books, records and files necessary to conduct the dealer's business shall be kept and maintained.

1m. A residence, tent or temporary stand is not a sufficiently permanent ~~place of business~~ building within the meaning of ~~this paragraph~~ subd. 1.

2. The requirements in subd. 1. ~~a.~~ that an applicant own or lease a vehicle display lot and that the permanent building owned or leased by the applicant contain facilities to display motor vehicles do not apply to persons who are engaged only in the leasing of motor vehicles and who do not maintain an inventory of motor vehicles offered for lease.

(b) An approved service contract with an established repair shop having the repair parts and repair facilities specified in ~~subd. par. (a)~~ 1. shall serve in lieu of the applicant's owning or leasing the applicant's own repair facilities if ~~such~~ the service connection is within a reasonable distance from the applicant's place of business and if ~~such~~ the service connection guarantees in writing the making of the repairs or replacements ordered by the dealer.

(c) This ~~paragraph subsection~~ does not apply to persons who deal only in mopeds or motor bicycles.

SECTION 166. 218.01 (3) (c) of the statutes is renumbered 218.0116 (4) and amended to read:

218.0116 (4) (a) No license may be suspended or revoked except after a hearing ~~thereon on the possible suspension or revocation~~. Except as provided in ~~subd. 2. par. (b)~~, the licensor shall give the licensee at least 5 days' notice of the time and place of ~~such the hearing, and the~~. The order suspending or revoking such the license shall not be effective until after 10 days' written notice thereof of the order to the licensee, after such the hearing under this paragraph has been had held.

(b) When in the licensor's opinion the best interest of the public or the trade demands it, for conduct or under circumstances specified in ~~this section ss. 218.0101 to 218.0163~~ or in rules promulgated by the licensor, the licensor may suspend a license upon not less than 24 hours' notice of hearing and with not less than 24 hours' notice of the suspension of the license.

(c) Matters involving suspensions or revocations brought before the department of transportation shall be heard and decided upon by the division of hearings and appeals. If the department of transportation requests the division of hearings and appeals to hear a matter brought before the department of transportation under ~~subd. 2. par. (b)~~, the division of hearings and appeals shall hear and decide the matter within 30 days after the date of the department of transportation's request.

SECTION 167. 218.01 (3) (d) of the statutes is renumbered 218.0116 (5) and amended to read:

218.0116 (5) The licensor may inspect the pertinent books, records, letters and contracts of a licensee and shall determine the cost of an examination. The cost of an examination shall be paid by ~~such~~ the licensee so examined within 30 days after demand ~~therefor~~ for the examination by the licensor, ~~and the~~. The licensor may maintain an action for the recovery of such the costs of the examination in any court of competent jurisdiction.

SECTION 168. 218.01 (3) (e) of the statutes is renumbered 218.0116 (6) and amended to read:

218.0116 (6) If a licensee is a firm, corporation or limited liability company, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director, trustee or manager of the firm, corporation or limited liability company, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending or revoking a license to ~~such that~~ party as an individual. Each licensee shall be responsible for the acts of any or all of his or her salespersons while acting as his or her agent, if the licensee approved of or had knowledge of the acts or other similar acts and after ~~such approval~~ approving of or obtaining knowledge of the acts retained the benefit, proceeds, profits or advantages accruing from the acts or otherwise ratified the acts.

SECTION 169. 218.01 (3) (f) 1. of the statutes is renumbered 218.0116 (7) (a) 1. and amended to read:

218.0116 (7) (a) 1. A manufacturer, importer or distributor who seeks to enter into a franchise agreement establishing or relocating a motor vehicle dealership, parts outlet or service outlet within the relevant market area of an existing enfranchised dealer of the line make of motor vehicle shall first notify, in writ-

ing, the department of transportation and ~~each such that~~ existing enfranchised dealer of its intention to establish or relocate a dealership or outlet. Within 30 days of receiving the notice or within 30 days after the end of any appeal procedure provided by the manufacturer, importer or distributor, whichever is later, any existing enfranchised dealer of the same line make to whom the manufacturer, importer or distributor is required to give notice under this ~~subdivision paragraph~~ may file with the department of transportation and the division of hearings and appeals a complaint protesting the proposed establishment or relocation of the dealership or outlet within the relevant market area of the existing enfranchised dealer.

2. If a complaint is filed under subd. 1., the department of transportation shall inform the manufacturer, importer or distributor that a timely complaint has been filed, that a hearing is required, and that the proposed franchise agreement may not be entered into until the division of hearings and appeals has held a hearing, nor thereafter, if the division of hearings and appeals determines that there is good cause for not permitting the proposed establishment or relocation of the dealership or outlet. In the event of multiple complaints, hearings shall be consolidated to expedite the disposition of the issue.

SECTION 170. 218.01 (3) (f) 2. of the statutes is renumbered 218.0116 (7) (b), and 218.0116 (7) (b) 8., as renumbered, is amended to read:

218.0116 (7) (b) 8. The effect the denial of ~~such~~ the proposed establishment or relocation would have on the license applicant, dealer or outlet operator who is seeking to establish or relocate a dealership or outlet.

SECTION 171. 218.01 (3) (f) 3. of the statutes is renumbered 218.0116 (7) (c).

SECTION 172. 218.01 (3) (f) 4. (intro.) of the statutes is renumbered 218.0116 (7) (d) (intro.) and amended to read:

218.0116 (7) (d) (intro.) For purposes of this ~~paragraph~~ subsection:

SECTION 173. 218.01 (3) (f) 4. a. of the statutes is renumbered 218.0116 (7) (d) 1h. and amended to read:

218.0116 (7) (d) 1h. The reopening or replacement of a dealership or outlet that has been closed for less than 2 years, at the original location or within 2 miles of the original location by the closest highway route, is not the establishment of a motor vehicle dealership or outlet, unless the location is within 4 miles, by the closest highway route, of another franchised dealer of the same line make and is closer to that dealer than the closed dealership or outlet. ~~In this subd. 4. a., "closed" means the effective date of the termination or expiration of the dealership's or outlet's license or franchise, whichever is earlier.~~

1m. The reopening or replacement of a dealership or outlet that has been closed for less than 2 years at a location other than the original location and other than a location within 2 miles of the original location by the closest highway route, but within the area of sales responsibility that had been assigned to the closed dealership or outlet by the manufacturer, importer or distributor is not the establishment of a motor vehicle dealership or outlet, unless the new location is within 6 miles, by the closest highway route, of another franchised dealer of the same line make and is closer to that dealer than the closed dealership or outlet.

1q. The reopening or replacement of a dealership or outlet that has been closed for 2 or more years or that is at a location outside of the area of sales responsibility that had been assigned to the closed dealership or outlet by the manufacturer, importer or distributor is the establishment of a dealership or outlet.

NOTE: The definition of "closed" is recreated by this bill as s. 218.0116 (7) (d) 1d. for proper placement consistent with current style.

SECTION 174. 218.01 (3) (f) 4. b. of the statutes is renumbered 218.0116 (7) (d) 2.

SECTION 175. 218.01 (3) (f) 4. c. of the statutes is renumbered 218.0116 (7) (d) 3. and amended to read:

218.0116 (7) (d) 3. The establishment or relocation of a service or parts outlet requires that notice be given under ~~subd. 1. par. (a)~~ to existing enfranchised dealers who are otherwise entitled to receive ~~such~~ notice under par. (a) and who are authorized to perform work to rectify product or warranty defects or delivery and preparation obligations on the same line make as the proposed service outlet or to use a trade name, trademark or service mark that is also proposed to be used by the proposed service or parts outlet, except that the establishment or relocation of a service or parts outlet that is owned and operated by a motor vehicle dealership enfranchised by the manufacturer, importer or distributor requires that notice be given only to existing dealers who are otherwise entitled to receive ~~such~~ notice under par. (a) and who hold a franchise to sell the same line make as the dealership that will own and operate the proposed service or parts outlet.

SECTION 176. 218.01 (3) (f) 4. d. of the statutes is renumbered 218.0116 (7) (d) 4. and amended to read:

218.0116 (7) (d) 4. A manufacturer's, importer's or distributor's authorization of a fleet owner to perform warranty or delivery and preparation work only on the fleet owner's own vehicles is not the establishment of a service outlet. In this ~~subd. 4. d. subdivision,~~ "fleet:

a. "Fleet owner" means a person who owns for its own use or for the use of others 10 or more motor vehicles of the current or preceding model year manufac-

tured or sold by the manufacturer, importer or distributor who is authorizing the warranty work to be performed, ~~except that "fleet.~~

b. "Fleet owner" does not include persons engaged in the business of leasing motor vehicles to individual consumers.

SECTION 177. 218.01 (3) (f) 4. e. of the statutes is renumbered 218.0116 (7) (d) 5.

SECTION 178. 218.01 (3) (fm) of the statutes is renumbered 218.0116 (8).

SECTION 179. 218.01 (3) (g) of the statutes, as affected by 1997 Wisconsin Act 27, is renumbered 218.0116 (9) and amended to read:

218.0116 (9) Any person in interest aggrieved by a decision of the division of hearings and appeals or an order of the division of banking may have a review ~~thereof of the decision~~ as provided in ch. 227.

SECTION 180. 218.01 (3) (h) of the statutes is renumbered 218.0116 (10) and amended to read:

218.0116 (10) In addition to the licensor's authority to deny, suspend or revoke a license under ~~this section ss. 218.0101 to 218.0163~~, the division of banking, after public hearing, may issue a special order enjoining any licensee from engaging in any act or practice which is determined by the division of banking to be in violation of any provision of ~~par. (a) sub. (1)~~, and the division of hearings and appeals may be petitioned to issue such a special order after notice and hearing thereon.

SECTION 181. 218.01 (3a) (title) of the statutes is renumbered 218.0117 (title).

SECTION 182. 218.01 (3a) (a) of the statutes is renumbered 218.0117 (1) and amended to read:

218.0117 (1) If a dealer, distributor or manufacturer is convicted under s. 341.55 (1) a ~~second~~ 2nd or subsequent time within the same registration year, the department of transportation shall revoke the license of ~~such~~ the dealer, distributor or manufacturer for a period not to exceed one year. For the purposes of this ~~paragraph~~ subsection, the conviction of ~~the~~ an employe of a dealer, distributor or manufacturer shall be counted as a conviction of the employer.

SECTION 183. 218.01 (3a) (b) of the statutes is renumbered 218.0117 (2) and amended to read:

218.0117 (2) If a transporter is convicted under s. 341.55 (3) a 2nd or subsequent time within the same license period, the department of transportation shall revoke the license of ~~such~~ the transporter for a period not to exceed one year.

SECTION 184. 218.01 (3a) (c) of the statutes is renumbered 218.0117 (3) and amended to read:

218.0117 (3) A dealer, distributor, manufacturer or transporter whose license has been revoked shall ~~forthwith~~ immediately surrender its registration plates to a traffic officer or peace officer designated by the department of transportation. A dealer, distributor, manufacturer or transporter who fails to return the plates as required by this ~~subsection~~ section may be fined not more than \$200 or imprisoned for not more than 6 months or both.

NOTE: "(F)orthwith" is replaced with "immediately" and "for" is added for consistency with current style.

SECTION 185. 218.01 (3a) (d) of the statutes is renumbered 218.0117 (4).

SECTION 186. 218.01 (3c) (title) of the statutes is renumbered 218.0131 (title).

SECTION 187. 218.01 (3c) (b) of the statutes is renumbered 218.0131 (1) and amended to read:

218.0131 (1) Any designated family member of a deceased or incapacitated dealer shall have the right to succeed ~~such~~ the deceased or incapacitated dealer in the ownership or operation of the dealership under the existing franchise agreement ~~provided if~~ the designated family member gives the manufacturer, factory branch or distributor written notice of his or her intention to do so within 120 days of the dealer's death or incapacity ~~and~~, unless there exists good cause for refusal to honor ~~such~~ the succession on the part of the manufacturer, factory branch or distributor. The manufacturer, factory branch or distributor may request, and the designated family member shall provide, ~~such~~ personal and financial data as that is reasonably necessary to determine whether the succession should be honored.

SECTION 188. 218.01 (3c) (c) of the statutes is renumbered 218.0131 (2) and amended to read:

218.0131 (2) If a manufacturer, factory branch or distributor believes it has good cause for refusing to honor the succession to the ownership and operation of a dealership by a family member of a deceased or incapacitated dealer under the existing franchise agreement, ~~such~~ the manufacturer, factory branch or distributor may, within 30 days of receipt of notice of the designated family member's intent to succeed the dealer in the ownership and operation of the dealership, serve upon ~~such~~ the designated family member and the department of transportation notice of its refusal to honor the succession and of its intent to discontinue the existing franchise agreement with the dealership no sooner than 60 days from the date ~~such~~ the notice is served. ~~Such~~ The notice shall state the specific grounds for the refusal to honor the succession and the discontinuance of the franchise agreement. If no notice of ~~such~~ refusal and discontinuance is timely

served upon the family member and department of transportation, or if the division of hearings and appeals rules in favor of the complainant in a hearing held under ~~par. (d)~~ sub. (3), the franchise agreement shall continue in effect subject to termination only in the manner prescribed in this subchapter.

SECTION 189. 218.01 (3c) (d) of the statutes is renumbered 218.0131 (3) (a) and amended to read:

218.0131 (3) (a) Any designated family member who receives a notice of the manufacturer's, factory branch's or distributor's refusal to honor his or her succession to the ownership and operation of the dealership may, within the 60-day notice period, serve on the respondent and file in triplicate with the division of hearings and appeals a verified complaint for a hearing and determination by the division of hearings and appeals on whether good cause exists for ~~such~~ the manufacturer's, factory branch's or distributor's refusal and discontinuance. The division of hearings and appeals shall forward a copy of the complaint to the department of transportation.

(b) The manufacturer, factory branch or distributor shall, at the hearing held under par. (a), have the burden of establishing good cause for ~~such~~ its refusal by showing that the succession would be detrimental to the public interest or to the representation of the manufacturer, factory branch or distributor. The franchise agreement shall continue in effect until the final determination of the issues raised in ~~such~~ the complaint.

(c) If the complainant prevails at the hearing held under par. (a), he or she shall have a cause of action against the defendant manufacturer, factory branch or distributor for reasonable expenses and attorney fees incurred in ~~such~~ the matter. If the manufacturer, factory branch or distributor prevails, the division of

hearings and appeals shall include in its order approving the termination of the franchise agreement such conditions as are reasonable and adequate to afford the complainant an opportunity to receive fair and reasonable compensation for the value of the dealership.

SECTION 190. 218.01 (3c) (e) of the statutes is renumbered 218.0131 (4) and amended to read:

218.0131 (4) Nothing in this ~~subsection~~ section shall prevent a dealer, during the dealer's lifetime, from designating any person as his or her successor dealer by written instrument filed with the manufacturer, factory branch or distributor.

SECTION 191. 218.01 (3n) (title) of the statutes is renumbered 218.0132 (title).

SECTION 192. 218.01 (3n) (a) of the statutes is renumbered 218.0132 (1) (a) and amended to read:

218.0132 (1) (a) For purposes of ~~sub. (3) (a) 17. s. 218.0116 (1) (i)~~, the termination, cancellation or discontinuation of a motor vehicle line make will be considered to be the cancellation or failure to renew the franchise of a motor vehicle dealer or distributor of that line make even if that line make is part of an agreement that includes other line makes ~~but~~.

(b) Notwithstanding par. (a), a manufacturer, importer or distributor may change, add or delete models, specifications, model names, numbers or identifying marks or similar characteristics of motor vehicles that it markets without effecting a cancellation or failure to renew a franchise.

SECTION 193. 218.01 (3n) (b) (intro.) of the statutes is renumbered 218.0132 (2) (intro.) and amended to read:

218.0132 (2) (intro.) The cancellation or nonrenewal of a franchise shall not be a violation of ~~sub. (3) (a) 17.~~ s. 218.0116 (1) (i) if all of the following requirements are met:

SECTION 194. 218.01 (3n) (b) 1. of the statutes is renumbered 218.0132 (2) (a).

SECTION 195. 218.01 (3n) (b) 2. of the statutes is renumbered 218.0132 (2) (b).

SECTION 196. 218.01 (3n) (b) 3. of the statutes is renumbered 218.0132 (2) (c) and amended to read:

218.0132 (2) (c) If the franchisee is a motor vehicle dealer, the dealer receives the termination benefits under ~~sub. (3r)~~ s. 218.0133.

SECTION 197. 218.01 (3n) (b) 4. (intro.) of the statutes is renumbered 218.0132 (2) (d) (intro.).

SECTION 198. 218.01 (3n) (b) 4. a. of the statutes is renumbered 218.0132 (2) (d) 1.

SECTION 199. 218.01 (3n) (b) 4. b. of the statutes is renumbered 218.0132 (2) (d) 2. and amended to read:

218.0132 (2) (d) 2. Compensates the dealer or distributor for the actual pecuniary loss caused by the franchise cancellation or nonrenewal. In determining the actual pecuniary loss, the value of any continued service or parts business available to the dealer or distributor for the line make covered by the franchise shall be considered. If the dealer or distributor and the manufacturer, importer or distributor cannot agree on the amount of compensation to be paid under this ~~subd. 4. b. subdivision,~~ either may file a declaratory judgment action in a court of competent jurisdiction.

SECTION 200. 218.01 (3n) (b) 4. c. of the statutes is renumbered 218.0132 (2) (d) 3. and amended to read:

218.0132 (2) (d) 3. Establishes, in a proceeding brought by the dealer or distributor alleging that the cancellation or nonrenewal violates ~~sub. (3) (a) 17. s. 218.0116 (1) (i)~~, that the continued distribution of the line make in the United States would cause it economic loss and that, after the effective date of the franchise cancellation or nonrenewal, neither the manufacturer, importer or distributor nor any owner, assignee or licensee of the trademarks or service marks used for the purpose of designating, making known or distinguishing the line make covered by the franchise will use the trademarks or service marks, either alone or in conjunction with other marks, in designating, making known or distinguishing any line make of motor vehicle sold or distributed in the United States.

SECTION 201. 218.01 (3n) (b) 4. d. of the statutes is renumbered 218.0132 (2) (d) 4. (intro.) and amended to read:

218.0132 (2) (d) 4. (intro.) If the franchise relates to a line make that is sold or distributed in less than 13 states of the United States, establishes, in a proceeding brought by the dealer or distributor alleging that the cancellation or nonrenewal violates ~~sub. (3) (a) 17. s. 218.0116 (1) (i)~~, that all of the following:

a. That the continued distribution of the line make in this state would cause it economic loss ~~and that,~~

b. That after the effective date of the franchise cancellation or nonrenewal, neither the manufacturer, importer or distributor nor any owner, assignee or licensee of the trademarks or service marks used for the purpose of designating, making known or distinguishing the line make covered by the franchise will use ~~such~~ those trademarks or service marks, either alone or in conjunction with other

marks, in designating, making known or distinguishing any line make of motor vehicle sold or distributed in this state, except that, if the line make covered by the franchise has been first distributed in this state less than 2 years before the effective date of the cancellation or nonrenewal, ~~such those~~ trademarks and service marks may be used in this state after 6 years from the effective date of the cancellation or nonrenewal.

SECTION 202. 218.01 (3n) (b) 4. e. of the statutes is renumbered 218.0132 (2) (d) 5. (intro.) and amended to read:

218.0132 (2) (d) 5. (intro.) Establishes, in a proceeding brought by the dealer or distributor alleging that the cancellation or nonrenewal violates ~~sub. (3)~~ ~~(a) 17.~~ s. 218.0116 (1) (i), that all of the following:

a. That the continued distribution of the line make in this state is prohibited by law or by an order of a court or agency with jurisdiction to issue the order and that.

b. That the continued distribution of the line make in this state cannot be made to comply with the law or order through the reasonable efforts of the manufacturer, importer or distributor and that.

c. That after the effective date of the franchise cancellation or nonrenewal, neither the manufacturer, importer or distributor nor any owner, assignee or licensee of the trademarks or service marks used for the purpose of designating, making known or distinguishing the line make covered by the franchise will use ~~such those~~ trademarks or service marks, either alone or in conjunction with other marks, in designating, making known or distinguishing any comparable line make of motor vehicle sold or distributed in this state.

SECTION 203. 218.01 (3r) (title) of the statutes is renumbered 218.0133 (title).

SECTION 204. 218.01 (3r) (a) (intro.) of the statutes is renumbered 218.0133 (1) (intro.) and amended to read:

218.0133 (1) (intro.) In this ~~subsection~~ section:

SECTION 205. 218.01 (3r) (a) 1. of the statutes is renumbered 218.0133 (1) (a).

SECTION 206. 218.01 (3r) (a) 2. of the statutes is renumbered 218.0133 (1) (b).

SECTION 207. 218.01 (3r) (b) 1. of the statutes is renumbered 218.0133 (2) (a) and amended to read:

218.0133 (2) (a) Except as provided in ~~par. (e) sub. (5)~~ and subject to ~~par. (e) sub. (3)~~, when a grantor or motor vehicle dealer terminates, cancels or does not renew an agreement a grantor shall pay a motor vehicle dealer all of the termination benefits under ~~subds. 2. to 5. pars. (b) to (e)~~.

SECTION 208. 218.01 (3r) (b) 2. of the statutes is renumbered 218.0133 (2) (b) 1. (intro.) and amended to read:

218.0133 (2) (b) 1. (intro.) A grantor shall repurchase from the motor vehicle dealer any unsold new motor vehicles vehicle that have meets all of the following criteria:

a. The motor vehicle has not been structurally modified by a motor vehicle dealer, that have,

b. The motor vehicle has not been operated more than 300 miles for manufacturer's tests, predelivery tests and motor vehicle dealer exchange in

addition to operation required for motor vehicle delivery from the grantor and that the.

c. The motor vehicle dealer was acquired as part of the motor vehicle dealer's original inventory or ~~acquired~~ from the grantor or from another motor vehicle dealer of the same line make and who acquired the motor vehicle from the grantor. ~~In addition, a~~

2. A grantor may not be required to repurchase a motor vehicle under this subdivision unless the date on the original dealer invoice is within 12 months of the date on which the motor vehicle dealer terminates, cancels or does not renew an agreement or is within 18 months of the date on which the grantor terminates, cancels or does not renew an agreement.

3. The repurchase price for a new motor vehicle shall be the motor vehicle invoice price from the grantor, plus destination, delivery or distribution charges and sales taxes incurred by the motor vehicle dealer, less allowances paid or credited to the motor vehicle dealer by the grantor. A grantor may subtract from a new motor vehicle repurchase price an amount equal to the diminution in wholesale value caused by damages to a new motor vehicle before the motor vehicle dealer delivers the new motor vehicle to the grantor.

SECTION 209. 218.01 (3r) (b) 3. of the statutes is renumbered 218.0133 (2) (c) 1. (intro.) and amended to read:

218.0133 (2) (c) 1. (intro.) A grantor shall repurchase from the motor vehicle dealer any unused, undamaged and unsold parts and accessories and unopened appearance and maintenance materials and paints ~~that~~ if those items meet all of the following criteria:

a. The items are in the motor vehicle dealer's inventory or subject to a non-cancelable order to the grantor on the effective date of the termination, cancellation or nonrenewal, ~~that~~ and are in original packaging, or, if sheet metal or body panels, ~~that~~ are in a comparable substitute for original packaging, ~~and that the~~.

b. The items were acquired by the motor vehicle dealer ~~acquired~~ from the grantor or from ~~its~~ the motor vehicle dealer's predecessor motor vehicle dealer ~~if~~ and the parts, accessories and materials and paints items are listed for sale in the grantor's price schedules in effect on the effective date of the termination, cancellation or nonrenewal ~~or, the items~~ are part of the motor vehicle dealer's original inventory acquired from the grantor or ~~are~~ the items were acquired by the motor vehicle dealer from the grantor within 4 years before the effective date of the termination, cancellation or nonrenewal. ~~However, a~~

2. A grantor may not be required to repurchase items that are not listed for sale in the grantor's price schedules in effect on the effective date of the termination, cancellation or nonrenewal if, within 2 years before the effective date of the termination, cancellation or nonrenewal, the grantor permitted a motor vehicle dealer to return obsolete parts and accessories, or a reasonable percentage of parts and accessories, for an amount that is equal to or greater than the price at which those items were listed for sale, less any allowances, at the time the return was permitted.

3. The repurchase price for parts, accessories ~~and~~, materials and paints repurchased under subd. 1. shall be the price at which those items are listed for sale in the grantor's price schedules in effect on the effective date of the termination, cancellation or nonrenewal, or, if an item is not listed, the motor vehicle dealer's original invoice cost, plus destination, delivery or distribution charges, and

sales taxes incurred by the motor vehicle dealer, less allowances paid or credited to the motor vehicle dealer by the grantor. If a motor vehicle dealer inventories, handles and packages repurchased items for delivery to the grantor, the grantor shall reimburse the motor vehicle dealer an additional amount equal to 2% of the repurchase price under this subdivision.

SECTION 210. 218.01 (3r) (b) 4. of the statutes is renumbered 218.0133 (2) (d).

SECTION 211. 218.01 (3r) (b) 5. of the statutes is renumbered 218.0133 (2) (e).

SECTION 212. 218.01 (3r) (c) of the statutes is renumbered 218.0133 (3) and amended to read:

218.0133 (3) (a) The grantor shall provide a list of the motor vehicles, parts, accessories, materials and paints, signs, tools, equipment and furnishings that the motor vehicle dealer is authorized to return to the grantor within 30 days after the grantor receives a written inventory of the property that the motor vehicle dealer intends to return or within 30 days after the effective date of the termination, cancellation or nonrenewal, whichever is later. Within 60 days after the property is actually returned by the motor vehicle dealer to the grantor, f.o.b. dealership facilities, the grantor shall pay the motor vehicle dealer the reimbursement amount under ~~par. (b) 2. to 5.~~ sub. (2) (b) to (e), except that the grantor may apply the reimbursement amount first to pay any amount owed by the motor vehicle dealer to the grantor.

(b) If a repurchase price under ~~par. (b)~~ sub. (2) depends on a purchase date or original cost or includes an associated cost, the motor vehicle dealer shall have

the burden of proving by documentary evidence the purchase date, original cost or associated cost.

SECTION 213. 218.01 (3r) (d) 1. of the statutes is renumbered 218.0133 (4) (a) and amended to read:

218.0133 (4) (a) Except as provided in ~~par. (e) sub. (5)~~ and subject to ~~subd. 4, par. (d)~~, when a grantor terminates, cancels or does not renew an agreement a grantor shall, upon request, pay a motor vehicle dealer the termination benefits under ~~subd. 2. or 3. par. (b) or (c)~~. If a motor vehicle dealer receives benefits under ~~subd. 2. or 3. par. (b) or (c)~~, the grantor shall be entitled to the possession and use of the dealership facilities for the period that the termination benefits payment covers.

SECTION 214. 218.01 (3r) (d) 2. of the statutes is renumbered 218.0133 (4) (b).

SECTION 215. 218.01 (3r) (d) 3. of the statutes is renumbered 218.0133 (4) (c).

SECTION 216. 218.01 (3r) (d) 4. of the statutes is renumbered 218.0133 (4) (d) and amended to read:

218.0133 (4) (d) ~~Subdivisions 2. and 3. Paragraphs (b) and (c)~~ apply only to dealership facilities that are used in performing sales and service obligations under an agreement before the motor vehicle dealer receives notice of the termination, cancellation or nonrenewal of the agreement.

SECTION 217. 218.01 (3r) (e) 1. (intro.) of the statutes is renumbered 218.0133 (5) (a) (intro.) and amended to read:

218.0133 (5) (a) (intro.) ~~Paragraphs (b) and (d) Subsections (2) and (4)~~ do not apply to any of the following:

SECTION 218. 218.01 (3r) (c) 1. a. of the statutes is renumbered 218.0133 (5)

(a) 1.

SECTION 219. 218.01 (3r) (e) 1. b. of the statutes is renumbered 218.0133 (5)

(a) 2.

SECTION 220. 218.01 (3r) (e) 1. c. of the statutes is renumbered 218.0133 (5)

(a) 3.

SECTION 221. 218.01 (3r) (e) 1. d. of the statutes is renumbered 218.0133 (5)

(a) 4.

SECTION 222. 218.01 (3r) (e) 1. e. of the statutes is renumbered 218.0133 (5)

(a) 5. and amended to read:

218.0133 (5) (a) 5. A motor vehicle dealer who terminates, cancels or fails to renew an agreement to sell motor homes, as defined in s. 340.01 (33m), unless a court, a licensor or the division of hearings and appeals determines that the grantor has not acted in good faith or has materially violated the agreement or a provision of ~~this section~~ ss. 218.0101 to 218.0163 and determines that the motor vehicle dealer has not acted in bad faith or has not violated the agreement or a provision of ~~this section~~ ss. 218.0101 to 218.0163.

SECTION 223. 218.01 (3r) (e) 1. f. of the statutes is renumbered 218.0133 (5)

(a) 6.

SECTION 224. 218.01 (3r) (e) 2. of the statutes is renumbered 218.0133 (5)

(b) and amended to read:

218.0133 (5) (b) ~~Paragraph (b)~~ Subsection (2) does not apply to a motor vehicle dealer who is unable to convey clear title to property under ~~par. (b) 2. to 5. sub. (2) (b) to (e)~~ on the date on which the grantor takes delivery of the property.

SECTION 225. 218.01 (3r) (e) 3. of the statutes is renumbered 218.0133 (5) (c) and amended to read:

218.0133 (5) (c) ~~Paragraph (b)~~ Subsection (2) does not apply to property under ~~par. (b) 2. to 5.~~ sub. (2) (b) to (e) that is acquired by a motor vehicle dealer from another motor vehicle dealer if the property is acquired after the motor vehicle dealer receives or gives notice of termination, cancellation or nonrenewal or if the property was acquired other than in the ordinary course of the motor vehicle dealer's business.

SECTION 226. 218.01 (3r) (e) 4. of the statutes is renumbered 218.0133 (5) (d) and amended to read:

218.0133 (5) (d) ~~Paragraph (d)~~ Subsection (4) does not apply if a grantor terminates, cancels or fails to renew an agreement in compliance with ~~sub. (3) (a) 17. s. 218.0116 (1) (i)~~, unless the primary ground for termination, cancellation or nonrenewal is inadequate sales performance by the motor vehicle dealer.

SECTION 227. 218.01 (3r) (f) of the statutes is renumbered 218.0133 (6) and amended to read:

218.0133 (6) (a) This ~~subsection~~ section does not restrict the right of a motor vehicle dealer to pursue any other remedy available against a grantor who terminates, cancels or does not renew an agreement.

(b) A grantor may not make the termination benefits payments under ~~par. (b) or (d)~~ sub. (2) or (4) contingent on the motor vehicle dealer releasing or waiving any rights, claims or remedies.

SECTION 228. 218.01 (3x) (title) of the statutes is renumbered 218.0134 (title).

SECTION 229. 218.01 (3x) (a) of the statutes is renumbered 218.0134 (1) and amended to read:

218.0134 (1) In this ~~subsection~~ section, “affected grantor” means a manufacturer on direct dealerships, a distributor on indirect dealerships or an importer on direct dealerships that has entered into an agreement with a motor vehicle dealer and that is directly affected by an action proposed to be undertaken by the dealer under this ~~subsection~~ section.

SECTION 230. 218.01 (3x) (b) of the statutes is renumbered 218.0134 (2) and amended to read:

218.0134 (2) (a) If a motor vehicle dealer’s agreement with an affected grantor requires the grantor’s prior approval of an action proposed to be undertaken by the dealer under this ~~subsection~~ section, a dealer may not voluntarily change its ownership or executive management, transfer its dealership assets to another person, add another franchise at the same location as its existing franchise or relocate a franchise without giving prior written notice of the proposed action to the affected grantor and to the department of transportation. Within 20 days after receiving the notice, the affected grantor may serve the dealer with a written list of the information not already known or in the possession of the grantor that is reasonably necessary in order for the grantor to determine whether the proposed action should be approved. The grantor shall, in good faith, confirm in writing to the dealer the date on which it has received from the dealer or from other sources al

l the information specified on the list.

(b) An affected grantor who does not approve of the proposed action shall, within 30 days after receiving the dealer’s written notice of the proposed action

or within 30 days after receiving all the information specified in a written list served on the dealer under ~~subd. 1. par. (a)~~, whichever is later, file with the department of transportation and serve upon the dealer a written statement of the reasons for its disapproval. The reasons given for the disapproval or any explanation of those reasons by the manufacturer, distributor or importer shall not subject the manufacturer, distributor or importer to any civil liability unless the reasons given or explanations made are malicious and published with the sole intent to cause harm to the dealer or a transferee of the dealer. Failure to file and serve a statement within the applicable period shall, notwithstanding the terms of any agreement, constitute approval of the proposed action by the grantor. If an affected grantor files a written statement within the applicable period, the dealer may not voluntarily undertake the proposed action unless it receives an order permitting it to do so from the division of hearings and appeals under ~~par. (e) 2. sub. (3) (b)~~.

(c) A dealer who is served with a written statement by an affected grantor under ~~subd. 2. par. (b)~~ may file with the department of transportation and the division of hearings and appeals and serve upon the affected grantor a complaint for the determination of whether there is good cause for permitting the proposed action to be undertaken. The division of hearings and appeals shall promptly schedule a hearing and decide the matter. The proposed action may not be undertaken pending the determination of the matter.

SECTION 231. 218.01 (3x) (c) of the statutes is renumbered 218.0134 (3).

SECTION 232. 218.01 (3x) (d) (intro.) of the statutes is renumbered 218.0134 (4) (intro.) and amended to read:

218.0134 (4) (intro.) This ~~subsection~~ section does not apply to:

SECTION 233. 218.01 (3x) (d) 1. of the statutes is renumbered 218.0134 (4) (a).

SECTION 234. 218.01 (3x) (d) 2. of the statutes is renumbered 218.0134 (4) (b) and amended to read:

218.0134 (4) (b) A proposed action that would require an affected grantor to give notice under ~~sub. (3) (f) 1. s. 218.0116 (7) (a)~~, except that the dealer must have the affected grantor's written approval before undertaking any such proposed action:

SECTION 235. 218.01 (3x) (d) 3. (intro.) of the statutes is renumbered 218.0134 (4) (c) (intro.).

SECTION 236. 218.01 (3x) (d) 3. a. of the statutes is renumbered 218.0134 (4) (c) 1.

SECTION 237. 218.01 (3x) (d) 3. b. of the statutes is renumbered 218.0134 (4) (c) 2. (intro.) and amended to read:

218.0134 (4) (c) 2. (intro.) The proposed change of ownership or transfer of dealership assets does not involve the transfer of assets or the transfer or issuance of stock by the dealer or one or more dealer owners to one or more immediate family members of one or more dealer owners or to a qualifying member of the dealer's management or to a partnership, limited liability company or corporation controlled by ~~such those~~ persons. In this ~~subd. 3. b. subdivision~~, "immediate";

a. "Immediate family member" means the spouse, child, grandchild, spouse of a child or grandchild, brother, sister or parent of the dealer owner; ~~and "qualifying~~ing.

b. “Qualifying member of the dealer’s management” means an individual who has been employed by the dealer for at least 2 years and who otherwise qualifies as a dealer operator.

SECTION 238. 218.01 (3x) (d) 3. c. of the statutes is renumbered 218.0134 (4) (c) 3. and amended to read:

218.0134 (4) (c) 3. The affected grantor agrees to pay the reasonable expenses, including reasonable attorney fees that do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed new owner or transferee before the grantor’s exercise of its right of first refusal in negotiating and implementing the contract for the proposed change of ownership or transfer of dealership assets. Notwithstanding this ~~subd. 3. c. subdivision~~, no payment of expenses and attorney fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 7 days after the dealer’s receipt of the affected grantor’s written request for an accounting.

SECTION 239. 218.01 (3x) (d) 4. of the statutes is renumbered 218.0134 (4) (d).

SECTION 240. 218.01 (4) of the statutes is renumbered 218.0151 and amended to read:

218.0151 Advisory committee. The licensor may appoint annually one or more local advisory committees and one general advisory committee, each consisting of not more than 9 members. The committees upon request of the licensor may advise and assist the licensor in the administration of ~~this section ss.~~ 218.0101 to 218.0163. The members of ~~said the~~ committees shall receive no compensation for their services or expenses.

SECTION 241. 218.01 (5) (title) of the statutes is renumbered 218.0152 (title).

SECTION 242. 218.01 (5) (a) of the statutes is renumbered 218.0152 (1) and amended to read:

218.0152 (1) The licensor shall promote the interests of retail buyers and lessees of motor vehicles relating to default, delinquency, repossession or collection charges and the refund of the finance charge and insurance premium on prepayment of the instalment contract or consumer lease. It may define unfair practices in the motor vehicle industry and trade between licensees or between any licensees and retail buyers, lessees or prospective lessees of motor vehicles, but may not limit the price at which licensees may sell, assign or transfer receivables, contracts or other evidence of any obligation arising out of an instalment sale or consumer lease made under ~~this section~~ ss. 218.0101 to 218.0163.

SECTION 243. 218.01 (5) (b) 1. of the statutes is renumbered 218.0152 (2) (a) (intro.) and amended to read:

218.0152 (2) (a) (intro.) The division of banking, department of transportation and division of hearings and appeals shall have the power in hearings arising under this chapter to ~~determine~~ do all of the following:

1. Determine the place, in this state, where ~~they~~ the hearings shall be held; ~~to subpoena.~~

2. Subpoena witnesses and documents; ~~to take.~~

3. Take and permit the taking of depositions of witnesses residing in or outside of this state and to otherwise permit the discovery and preservation of evidence before hearing, in the manner provided for in civil actions in courts of record; ~~to pay such.~~

4. Pay the witnesses described in subd. 2 the fees and mileage for their attendance ~~as is that are~~ provided for witnesses in civil actions in courts of record; ~~and to administer.~~

5. Administer oaths.

SECTION 244. 218.01 (5) (b) 2. of the statutes is renumbered 218.0152 (2) (b) and amended to read:

218.0152 (2) (b) If the licensor has reason to believe that a violation of ~~this section ss. 218.0101 to 218.0163~~ has occurred, the licensor may issue subpoenas to compel the attendance of persons to be examined or the production of materials regarding the violation. Subpoenas shall be issued and served in accordance with ch. 885.

SECTION 245. 218.01 (5) (b) 3. of the statutes is renumbered 218.0152 (2) (c) and amended to read:

218.0152 (2) (c) A person providing information under this ~~paragraph sub-~~section may request that the information be designated as a trade secret, as defined in s. 134.90 (1) (c), or as confidential business information. The division of hearings and appeals or licensor shall approve the designation if the person providing the information demonstrates that the release of the information would adversely affect the person's competitive position. At least 15 days before any information designated as a trade secret or as confidential business information is disclosed to any other person, the division of hearings and appeals or licensor shall notify the person providing the information. The person providing the information may seek a court order limiting or prohibiting the disclosure. ~~In such cases, in which case~~ the court shall weigh the need for confidentiality of the infor-

mation against the public interest in disclosure. Confidentiality is waived if the person providing the information consents in writing to disclosure.

SECTION 246. 218.01 (5) (c) of the statutes is renumbered 218.0152 (3) and amended to read:

218.0152 (3) The licensor may ~~make~~ promulgate such rules ~~and regulations~~ ~~as it shall deem~~ as it considers necessary or proper for the effective administration and enforcement of ~~this section~~ ss. 218.0101 to 218.0163, but no licensee shall be subject to examination or audit by the licensor except as provided in ~~sub. (3)~~ ~~(d)~~ s. 218.0116 (5).

SECTION 247. 218.01 (5m) (title) of the statutes is renumbered 218.0141 (title).

SECTION 248. 218.01 (5m) (a) of the statutes is renumbered 218.0141.

SECTION 249. 218.01 (6) (title) of the statutes is renumbered 218.0142 (title).

SECTION 250. 218.01 (6) (a) of the statutes is renumbered 218.0142 (1).

SECTION 251. 218.01 (6) (b) of the statutes is renumbered 218.0142 (2) (a) (intro.) and amended to read:

218.0142 (2) (a) (intro.) Prior to or concurrent with any instalment sale, the seller shall deliver to the buyer a written statement clearly describing ~~clearly~~ ~~the~~ all of the following:

1. The motor vehicle sold to the buyer, ~~the~~.
2. The cash sale price, ~~the~~.
3. The cash paid down by the buyer, ~~the~~.
4. The amount credited the buyer for any trade-in ~~and a~~.
5. A description of the cost to the retail buyer of any insurance, ~~the~~.

6. The amount financed, which may include the cost of insurance, and sales and use taxes, the.

7. The amount of the finance charge, the.

8. The amount of any other charge specifying its purpose, the.

9. The total of payments due from the buyer, the.

10. The terms of the payment of such the total, the of payments due from the buyer.

11. The amount and date of each payment necessary finally to finally pay the total and a.

12. A summary of any insurance coverage to be effected.

(b) The division of banking may determine the form of the statement required under par. (a).

(c) If a written order is taken from a prospective purchaser in connection with any instalment sale, the written statement described in par. (a) shall be given to the purchaser prior to or concurrent with the signing of the order by the purchaser.

SECTION 252. 218.01 (6) (bp) of the statutes is renumbered 218.0142 (3).

SECTION 253. 218.01 (6) (c) of the statutes is renumbered 218.0142 (4) and amended to read:

218.0142 (4) An exact copy of the instalment sale contract and any note or notes given in connection ~~therewith~~ with the contract shall be furnished by the seller to the buyer at the time the buyer signs ~~such~~ the contract. The buyer's copy of the contract shall contain the signature of the seller identical with the signature on the original contract. No contract shall be signed in blank except that a detailed description of the motor vehicle including the serial number or other

identifying marks of the vehicle sold which are not available at the time of execution of ~~such~~ the contract may be filled in before final delivery of the motor vehicle.

SECTION 254. 218.01 (6) (d) of the statutes is renumbered 218.0142 (5) and amended to read:

218.0142 (5) A violation of ~~par. (a), (b) or (bp)~~ sub. (1), (2) or (3) bars recovery of any finance charge by the seller, or an assignee of the seller who, at the time of the assignment, had knowledge of the violation, in any suit upon a sales contract arising from the sale where the violation occurred.

SECTION 255. 218.01 (6) (e) of the statutes is renumbered 218.0142 (6) (a) (intro.) and amended to read:

218.0142 (6) (a) (intro.) Prior to 30 days after acquisition of any retail installment contract from a retail seller, every finance company shall ~~mail~~ do all of the following:

1. Mail or deliver to the retail buyer a written notice that ~~it~~ the finance company has acquired the retail instalment contract from the retail seller, ~~and shall also mail.~~

2. Mail or cause to be mailed with the notice described in subd. 1. a statement of the particulars of the retail instalment contract price required under ~~par. (b)~~ sub. (2) to be stated by the retail seller, in accordance with the finance company's records respecting ~~such~~ the particulars of the retail instalment contract, including the amount of the finance charge.

(b) Every finance company, if insurance is provided by ~~it~~ the finance company, shall also within ~~the~~ 30 days after acquisition of the retail instalment contract send or cause to be sent to the retail buyer a policy of insurance clearly setting forth the exact nature of the insurance coverage and the amount of the

premiums, each stated separately, which shall be filed with the commissioner of insurance in accordance with ch. 625. The cancellation and rewriting of any such policy provided by the finance company shall comply with the requirements of s. 631.69.

SECTION 256. 218.01 (6) (em) of the statutes is renumbered 218.0142 (7) and amended to read:

218.0142 (7) In the event that the dealer shall finance the instalment sale contract, the division of banking may permit the dealer to combine the information required by ~~pars. (b) and (c) last above~~ subs. (2) and (6) in one statement under ~~such rules and regulations as that~~ the division of banking may from time to time ~~prescribe~~ promulgate.

NOTE: Modernizes language in accordance with current drafting style and usage.

SECTION 257. 218.01 (6) (f) of the statutes is renumbered 218.0142 (8) and amended to read:

218.0142 (8) Any retail buyer of a motor vehicle, ~~resident in the state of Wisconsin, at the time of purchase,~~ under a retail instalment contract, who is a resident of this state at the time of purchase shall have a valid defense in any action or proceeding at law to enforce ~~said the~~ contract by any finance company that is not licensed hereunder and which has purchased or otherwise acquired ~~such the~~ contract, if ~~such the~~ finance company has wilfully failed or refused to comply with ~~par. (e) sub. (6)~~.

SECTION 258. 218.01 (6) (g) of the statutes is renumbered 218.0142 (9) (intro.) and amended to read:

218.0142 (9) (intro.) Any retail buyer of a motor vehicle, ~~resident of the state of Wisconsin at the time of purchase,~~ under a retail instalment contract made in

this state, who is a resident of this state at the time of purchase shall have a valid defense against the recovery of the principal, finance charge and other fees included in the contract, in any action or proceeding at law to enforce the contract by any person who has purchased or otherwise acquired the contract, if all of the following are true:

(a) The person who acquired the contract has failed or refused prior to the purchase or acquisition to be licensed as a sales finance company under ~~this section~~, and the ss. 218.0101 to 218.0163.

(b) The person who acquired the contract is actually engaged in business, in whole or in part as a sales finance company.

SECTION 259. 218.01 (6) (h) of the statutes is renumbered 218.0142 (10) and amended to read:

218.0142 (10) All transactions which constitute consumer transactions (s. 421.301 (13)) are subject to chs. 421 to 427, in addition to ~~this section~~ ss. 218.0101 to 218.0163.

SECTION 260. 218.01 (6) (k) of the statutes is renumbered 218.0142 (11) and amended to read:

218.0142 (11) This ~~subsection~~ section does not apply to a retail instalment sale of a motor vehicle made on or after November 1, 1981, if the motor vehicle is to be used primarily for business or commercial purposes and not for the buyer's personal, family or household use.

SECTION 261. 218.01 (6m) of the statutes is renumbered 218.0143 and amended to read:

218.0143 Notice of insurance to buyer under instalment sales contract. (1) Whenever a person sells or agrees to sell any motor vehicle at retail

under a retail instalment contract wherein provision is made provides for insurance coverage, or a charge is made ~~therefor, such for insurance coverage,~~ the policy so issued or provided for, shall include public liability coverage protecting the driver of ~~such the~~ motor vehicle against damages resulting from the negligent use ~~thereof or, of the vehicle.~~

(2) Whenever a person sells or agrees to sell any motor vehicle at retail under a retail instalment contract which does not provide for insurance coverage the seller shall, in writing, notify the buyer at the time of making such the retail instalment contract that the motor vehicle is not covered by public liability insurance protecting the driver against damages resulting from the negligent use thereof of the vehicle.

(3) The seller shall obtain, on a form separate from the retail instalment contract, the signed acknowledgment of the buyer that he or she has been notified that the contract does or does not include such public liability insurance protecting the driver against damages resulting from the negligent use of the vehicle.

SECTION 262. 218.01 (6x) (title) and (a) to (d) of the statutes are renumbered 218.0144 (title) and (1) to (4), and 218.0144 (4), as renumbered, is amended to read:

218.0144 (4) A prospective lessor may cancel a prelease agreement that, with regard to the lease terms disclosed in the prelease agreement, is contingent upon approval of the prospective lessee's credit by a sales finance company to whom the prospective lessor intends to assign the consumer lease, if the prelease agreement contains a provision requiring the prospective lessor to give the prospective lessee written notice of ~~such the~~ cancellation within 10 business days of

execution of the prelease agreement and the notice is given to the prospective lessee.

SECTION 263. 218.01 (6x) (e) of the statutes, as affected by 1997 Wisconsin Act 48, is renumbered 218.0144 (5).

SECTION 264. 218.01 (7) of the statutes is renumbered 218.0145 and amended to read:

218.0145 Prohibited acts. (1) No manufacturer ~~of motor vehicles, no wholesaler or distributor of motor vehicles, and no officer, agent or representative of either a manufacturer, wholesaler or distributor,~~ shall induce or coerce, or attempt to induce or coerce, any retail motor vehicle dealer or prospective retail motor vehicle dealer in this state to sell, assign or transfer any retail instalment sales contract, obtained by ~~such~~ the dealer in connection with the sale by the dealer in this state of motor vehicles manufactured or sold by ~~such~~ the manufacturer, wholesaler or distributor, to a specified sales finance company or class of ~~such~~ sales finance companies, or to any other specified person, by any of the following acts or means ~~hereinafter set forth, namely:~~

(a) By any express or implied statement, suggestion, promise or threat, made directly or indirectly, that ~~such~~ the manufacturer, wholesaler or distributor will in any manner benefit or injure ~~such~~ the dealer, ~~whether such statement, suggestion, threat or promise is express or implied, or made directly or indirectly.~~

(b) By any act that will benefit or injure ~~such~~ the dealer.

(c) By any contract, or any express or implied offer of contract, made directly or indirectly to ~~such~~ the dealer, for handling ~~such~~ motor vehicles manufactured or sold by the manufacturer, wholesaler or distributor, on the condition that ~~such~~ the dealer sell, assign or transfer the dealer's retail instalment ~~contract thereon~~

contracts on motor vehicles manufactured or sold by the manufacturer, wholesaler or distributor, in this state, to a specified sales finance company or class of such sales finance companies, or to any other specified person.

(d) By any express or implied statement or representation, made directly or indirectly, that ~~such~~ the dealer is under any obligation ~~whatsoever~~ to sell, assign or transfer any of the dealer's retail sales contracts, in this state, on motor vehicles manufactured or sold by ~~such~~ the manufacturer, wholesaler or distributor to ~~such a~~ a sales finance company, or class of sales finance companies, or other specified person, because of any relationship or affiliation between ~~such~~ the manufacturer, wholesaler or distributor and ~~such~~ the sales finance company or companies or ~~such~~ the specified person or persons.

(2) Any ~~such~~ statements, threats, promises, acts, contracts or offers of contracts, set forth in ~~par. (a) sub. (1)~~ sub. (1) are declared unfair trade practices and unfair competition and against the policy of this state, are unlawful and are prohibited.

(3) No sales finance company, and no officer, agent or representative ~~thereof~~ of a sales finance company, shall induce or coerce or attempt to induce or coerce any retail motor vehicle dealer to transfer to ~~such~~ the sales finance company any of the dealer's retail instalment sales contracts in this state ~~of such dealer~~ on any motor vehicle by any of the following acts or means, ~~namely~~:

(a) By any statement or representation, express or implied, made directly or indirectly, that the manufacturer, wholesaler or distributor of ~~such~~ the motor vehicles will grant ~~such~~ the dealer a franchise to handle ~~such~~ the manufacturer's, wholesaler's or distributor's motor vehicles if ~~such~~ the dealer ~~shall~~ will sell, assign or transfer all or part of such retail sales contracts to such sales finance company.

(b) By any statement or representation, express or implied, made directly or indirectly, that the manufacturer, wholesaler or distributor of ~~such motor vehicles~~ will in any manner benefit or injure ~~such the~~ dealer if ~~such the~~ dealer ~~shall~~ does or ~~shall~~ does not sell, assign or transfer all or part of ~~such the dealer's~~ retail sales contracts to ~~such the~~ sales finance company.

(c) By an express or implied statement or representation made directly or indirectly, that there is an express or implied obligation on the part of ~~such the~~ dealer to so sell, assign or transfer all or part of ~~such the dealer's~~ retail sales contracts on ~~such the manufacturer's, wholesaler's or distributor's~~ motor vehicles to ~~such the~~ sales finance company because of any relationship or affiliation between ~~such the~~ sales finance company and the manufacturer, wholesaler or distributor of ~~such motor vehicles~~.

(4) Any ~~such statement~~ statements or representations set forth in ~~par. (e)~~ sub. (3) are declared to be unfair trade practices ~~and~~, unfair competition and against the policy of this state, and are unlawful and are prohibited.

(5) Any retail motor vehicle dealer who, pursuant to any inducement, statement, promise or threat ~~hereinbefore~~ declared unlawful under this section, shall sell, assign or transfer any or all of the dealer's retail instalment contracts shall not be guilty of any unlawful act and may be compelled to testify to each such unlawful act.

(6) No manufacturer shall directly or indirectly pay or give, or contract to pay or give, anything of service or value to any sales finance company licensee in this state, and no ~~such~~ sales finance company licensee in this state shall accept or receive or contract or agree to accept or receive directly or indirectly any payment or thing of service ~~of or~~ value from any manufacturer, if the effect of the pay-

ment or ~~the~~ giving of any such ~~the~~ thing of service or value by the manufacturer, or the acceptance or receipt ~~thereof~~ of the payment or thing of service or value by the sales finance company licensee, may be to lessen or eliminate competition or tend to grant an unfair trade advantage or create a monopoly in the sales finance company licensee ~~who accepts or receives the payment, thing or service of value or contracts or agrees to accept or receive the same.~~

NOTE: Manufacturer, wholesaler and distributor are defined under s. 218.0101, as renumbered by this bill, as manufacturer, wholesalers and distributors of motor vehicles. Redundant and superfluous language is deleted.

SECTION 265. 218.01 (7a) of the statutes, as affected by 1997 Wisconsin Act 27, is renumbered 218.0146.

SECTION 266. 218.01 (7b) (title) of the statutes is renumbered 218.0147 (title).

SECTION 267. 218.01 (7b) of the statutes is renumbered 218.0147 (1) and amended to read:

218.0147 (1) No minor ~~shall~~ may purchase or lease any motor vehicle unless the minor, at the time of purchase or lease, submits to the seller or lessor a statement verified before a person authorized to administer oaths and made and signed by either parent of the purchaser or lessee, if ~~such~~ the signing parent has custody of the minor or, if neither parent has custody, then by the person having custody, setting forth that the purchaser or lessee has consent to purchase or lease the vehicle. The signature on the statement shall not impute any liability for the purchase price of the motor vehicle or for any payments under the consumer lease to the consenting person. The statement shall not adversely affect any other arrangement for the assumption of liability for the purchase price or any lease payments which the consenting person may make.

(2) If a motor vehicle is purchased by a minor, the signed statement described in sub. (1) shall accompany the application for a certificate of title and shall be filed by the department of transportation with the application. Failure to obtain the consent or to forward it, together with the application for a certificate of title in the event of the purchase of a motor vehicle, shall not void the contract of sale or consumer lease of a motor vehicle in the hands of an innocent holder, without notice, for value and in the ordinary course of business.

(3) Any person who sells or leases a motor vehicle to a minor with knowledge of ~~such~~ that fact without procuring ~~such a~~ the statement described in sub. (1) may be fined not more than \$200 or imprisoned for not more than 6 months or both.

SECTION 268. 218.01 (7m) (title) of the statutes is renumbered 218.0136 (title).

SECTION 269. 218.01 (7m) (a) of the statutes is renumbered 218.0136 (1) and amended to read:

218.0136 (1) A licensee may not file a complaint or petition with the division of hearings and appeals or bring an action under ~~sub. (9) (a)~~ s. 218.0163 (1), based on an alleged violation of ~~this section ss. 218.0101 to 218.0163~~ by any other licensee or pursuant to ~~sub. (3) (f) or (fm), (3e) or (3x)~~ under s. 218.0116 (7) or (8), 218.0131 or 218.0134, unless the licensee serves a demand for mediation upon the other licensee before or contemporaneous with the filing of the complaint or petition or the bringing of the action. A demand for mediation shall be in writing and served upon the other licensee by certified mail at an address designated for that licensee in the licensor's records. The demand for mediation shall contain a brief statement of the dispute and the relief sought by the licensee filing the demand.

SECTION 270. 218.01 (7m) (b) of the statutes is renumbered 218.0136 (2).

SECTION 271. 218.01 (7m) (c) of the statutes is renumbered 218.0136 (3) and amended to read:

218.0136 (3) The service of a demand for mediation under ~~par. (a)~~ sub. (1) shall stay the time for the filing of any complaint or petition with the division of hearings and appeals or for bringing an action under ~~sub. (9) (a)~~ s. 218.0163 (1), based on an alleged violation of ~~this section~~ ss. 218.0101 to 218.0163 by the other licensee or ~~pursuant to sub. (3) (f) or (fm), (3e) or (3x)~~ under s. 218.0116 (7) or (8), 218.0131 or 218.0134, until the representatives of both licensees have met with a mutually selected mediator for the purpose of attempting to resolve the dispute. If a complaint or petition is filed before the meeting, the division of hearings and appeals or the court shall enter an order suspending the proceeding or action until the meeting has occurred and may, upon the written stipulation of all parties to the proceeding or action that they wish to continue to mediate under this ~~subsection~~ section, enter an order suspending the proceeding or action for as long a period as the division of hearings and appeals or court considers to be appropriate. A suspension order issued under this ~~paragraph~~ subsection may be revoked upon motion of any party or upon motion of the division of hearings and appeals or the court.

SECTION 272. 218.01 (7m) (d) of the statutes is renumbered 218.0136 (4) and amended to read:

218.0136 (4) The licensor shall encourage licensees under this ~~subsection~~ section to establish, maintain and administer a panel of mediators who have the character, ability and training to serve as mediators and who have knowledge of the motor vehicle industry.

SECTION 273. 218.01 (7r) of the statutes is renumbered 218.0137 and amended to read:

218.0137 Arbitration of disputes between licensees. A manufacturer, importer or distributor and a dealer may agree to submit a dispute arising under a franchise agreement or under ~~this section~~ ss. 218.0101 to 218.0163 to binding arbitration. Unless agreed otherwise in an agreement that complies with ~~sub. (2) (bm) 2. and (3) (a) 36. d.~~ ss. 218.0114 (9) (b) and 218.0116 (1) (qm) 4., any arbitration proceeding shall be voluntary, initiated by serving a written demand for arbitration on the other party, and shall be conducted under the provisions of the state of Wisconsin arbitration plan administered by representatives of the licensees.

SECTION 274. 218.01 (7t) of the statutes is renumbered 218.0138 and amended to read:

218.0138 Immunity and presumption of good faith. A mediator or arbitrator is immune from civil liability for any good faith act or omission within the scope of the mediator's or arbitrator's performance of his or her powers and duties under ~~sub. (7m) s. 218.0136~~ or the arbitration plan referred to in ~~sub. (7r) s. 218.0137~~. Every act or omission of a mediator or arbitrator is presumed to be a good faith act or omission. This presumption may be overcome only by clear and convincing evidence.

SECTION 275. 218.01 (8) of the statutes is renumbered 218.0161 and amended to read:

218.0161 Penalties. Except for ~~sub. (3) (a) 1., 3., 6., 7., 11., 12., 13., 20., 25., 29. and 30.~~ s. 218.0116 (1) (a), (b), (cm), (d), (f), (fm), (g), (jm), (m), (o) and (om),

any person violating ~~this section ss. 218.0101 to 218.0163~~ may be required to forfeit not less than \$25 nor more than \$500 for each violation.

SECTION 276. 218.01 (8m) of the statutes is renumbered 218.0162 and amended to read:

218.0162 Commencement of action. Upon the request of the licensor, the department of justice or the district attorney may commence an action in the name of the state to recover a forfeiture under ~~sub. (8) s. 218.0161~~. An action under ~~sub. (8) s. 218.0161~~ shall be commenced within 3 years after the occurrence of the unlawful act or practice which is the subject of the action.

SECTION 277. 218.01 (9) of the statutes is renumbered 218.0163 and amended to read:

218.0163 Civil damages. (1) Without exhausting any administrative remedy available under an agreement or ~~this section ss. 218.0101 to 218.0163~~, except as provided in ~~sub. (3) (f) and (fm) s. 218.0116 (7) and (8)~~, a licensee may recover damages in a court of competent jurisdiction for pecuniary loss, together with actual costs including a reasonable attorney fee fees, if the pecuniary loss is caused by any of the following:

(a) A violation by any other licensee of ~~sub. (3) (a) 4., 11., 15., 16., 17., 22., 23., 24., 26., 32., 35., 36., 37., 38., 39., 40., 41. or 43 s. 218.0116 (1) (bm), (f), (h), (hm), (i), (km), (L), (Lm), (mm), (pm), (q), (qm), (r), (rm), (s), (sm), (t) or (u).~~

(b) Any unfair practice found by a licensor or the division of hearings and appeals under ~~sub. (5) (a) s. 218.0152 (1).~~

(1m) If a court finds that a violation or practice described in ~~par. (a) 1. or 2. sub. (1) (a) or (b)~~ is wilful, a licensee shall recover damages in an amount equal

to 3 times the pecuniary loss, together with actual costs including reasonable attorney fees.

(2) Any retail buyer, lessee or prospective lessee suffering pecuniary loss because of a violation by a licensee of ~~sub. (3) (a) 4., 5., 6., 8., 9., 10., 11., 18., 25. or 31.~~ s. 218.0116 (1) (bm), (c), (cm), (dm), (e), (em), (f), (im), (m) or (p) may recover damages for the loss in any court of competent jurisdiction together with costs, including reasonable attorney fees.

SECTION 278. 218.0116 (1) (i) 1. of the statutes is created to read:

218.0116 (1) (i) 1. (intro.) In this paragraph:

a. "Due regard to the equities" means treatment in enforcing an agreement that is fair and equitable to a motor vehicle dealer or distributor and that is not discriminatory compared to similarly situated dealers or distributors; ~~and "just.~~

b. "Just provocation" means a material breach by a motor vehicle dealer or distributor, due to matters within the dealer's or distributor's control, of a reasonable and necessary provision of an agreement and the breach is not cured within a reasonable time after written notice of the breach has been received from the manufacturer, importer or distributor.

NOTE: Recreates definitions previously contained in s. 218.01 (3) (a) 18., for proper placement consistent with current style.

SECTION 279. 218.0116 (1) (i) 1. of the statutes is created to read:

218.0116 (1) (im) 1. In this paragraph, "bushing" means:

a. With respect to an order or contract of purchase, the practice of increasing the selling price of a motor vehicle above that originally quoted the purchaser as evidenced by a purchase order or contract which has been signed by both the purchaser and dealer licensee.

b. With respect to a consumer lease or prelease agreement, the practice of increasing the gross capitalized cost above that originally quoted the lessee or prospective lessee as evidenced by a consumer lease or prelease agreement which has been signed by both the lessee or prospective lessee and the dealer licensee.

NOTE: Recreates a definition previously contained in s. 218.01 (3) (a) 18., for proper placement consistent with current style. The former text referred to "this section", the only occurrence of the term "bushing" is in this statutory subunit. As a result, "section" is replaced by "paragraph".

SECTION 280. 218.0116 (7) (d) 1d. of the statutes is created to read:

218.0116 (7) (d) 1d. "Closed" means the effective date of the termination or expiration of a dealership's or outlet's license or franchise, whichever is earlier.

NOTE: Recreates a definition previously contained in s. 218.01 (3) (f) 4. a., for proper placement consistent with current style.

SECTION 281. 218.015 of the statutes is renumbered 218.0171, and 218.0171 (1) (c) and (e), as renumbered, are amended to read:

218.0171 (1) (c) "Manufacturer" means a manufacturer as defined in s. ~~218.01 (1) (L)~~ 218.0101 (20) and agents of the manufacturer, including an importer, a distributor, factory branch, distributor branch and any warrantors of the manufacturer's motor vehicles, but not including a motor vehicle dealer.

(e) "Motor vehicle dealer" has the meaning given under s. ~~218.01 (1) (n)~~ 218.0101 (23) (a).

SECTION 282. 218.017 of the statutes is renumbered 218.0172, and 218.0172 (1) (b), (c), (d) and (e), as renumbered, are amended to read:

218.0172 (1) (b) "Consumer" has the meaning given in s. ~~218.015~~ 218.0171 (1) (b).

(c) "Manufacturer" has the meaning given in s. ~~218.015~~ 218.0171 (1) (c).

(d) "Motor vehicle" has the meaning given in s. ~~218.015~~ 218.0171 (1) (d).

(e) "Motor vehicle dealer" means a motor vehicle dealer, as defined in s. ~~218.01 (1) (n)~~ 218.0101 (23) (a), that sells new motor vehicles.

SECTION 283. 218.12 (5) of the statutes is amended to read:

218.12 (5) The provision of s. ~~218.01 (3)~~ 218.0116 relating to the denial, suspension and revocation of a motor vehicle salesperson's license shall apply to the denial, suspension and revocation of a mobile home salesperson's license so far as applicable.

SECTION 284. 218.12 (6) of the statutes is amended to read:

218.12 (6) The provisions of s. ~~218.01 (3) (g) and (5)~~ ss. 218.0116 (9) and 218.0152 shall apply to this section, mobile home sales practices and the regulation of travel trailer or mobile home salespersons, as far as applicable.

SECTION 285. 218.205 (2) (a) of the statutes is amended to read:

218.205 (2) (a) Motor vehicle dealers licensed under s. ~~218.01 (2)~~ 218.0114 who remove, but do not sell, as such, parts of motor vehicles prior to sale of such vehicles to motor vehicle salvage dealers or scrap metal processors.

SECTION 286. 218.21 (1m) of the statutes is amended to read:

218.21 (1m) The department may not require information relating to the applicant's solvency or financial standing if the applicant provides a bond in the amount provided in sub. (4) and under conditions specified in s. ~~218.01 (2) (h) 2.~~ 218.0114 (20) (b).

SECTION 287. 218.21 (4) (a) of the statutes is amended to read:

218.21 (4) (a) Unless the applicant furnishes a bond, or other adequate collateral as security, of not less than \$25,000 under conditions provided by s. ~~218.01 (2) (h) 2.~~ 218.0114 (20) (b), every application shall be accompanied by a current financial statement to determine the applicant's solvency as required

under sub. (1). Except as provided in par. (b), this paragraph does not apply to the application of a scrap metal processor.

SECTION 288. 218.21 (6) of the statutes is amended to read:

218.21 (6) A bond may be required under conditions as provided by s. ~~218.01 (2) (h) 2.~~ 218.0114 (20) (b).

SECTION 289. 218.22 (1) (intro.) of the statutes is amended to read:

218.22 (1) (intro.) The department shall issue a license to the applicant for a motor vehicle salvage dealer's license upon the receipt of a properly completed application form accompanied by the fee required under sub. (2) (c) or (d), upon being satisfied that the applicant is financially solvent or that the applicant has furnished a bond, or other adequate collateral as security, of not less than \$25,000 under conditions provided by s. ~~218.01 (2) (h) 2.~~ 218.0114 (20) (b), and of good character and:

SECTION 290. 218.22 (3) (m) of the statutes is amended to read:

218.22 (3) (m) Having sold a retail instalment contract to a sales finance company not licensed under s. ~~218.01~~ ss. 218.0101 to 218.0163.

SECTION 291. 218.22 (5) of the statutes is amended to read:

218.22 (5) No salvage dealer licensed under ss. 218.205 to 218.23 shall be licensed as a dealer under s. ~~218.01 (2)~~ 218.0114 at his or her salvage dealer location, provided that nothing herein shall prohibit licensing and transacting of both businesses at the same location where the salvage operations are physically separated.

SECTION 292. 218.40 (3) of the statutes is amended to read:

218.40 (3) "Moped dealer" means any person, firm or corporation, who is engaged wholly or in part in the business of selling mopeds. ~~Provided, however,~~

except that a person, firm or corporation who is also a motor vehicle dealer under ~~s. 218.01~~ ss. 218.0101 to 218.0163 shall be governed and regulated by the provisions of ~~s. 218.01~~ ss. 218.0101 to 218.0163 and not this section.

SECTION 293. 218.505 of the statutes is amended to read:

218.505 Salvage pools to be licensed as wholesalers. No motor vehicle salvage pool may engage in business as such unless licensed as a wholesaler under ~~s. 218.01~~ ss. 218.0101 to 218.0163.

SECTION 294. 220.285 (1) of the statutes is amended to read:

220.285 (1) Any state bank, trust company bank, licensee under ~~s. ss.~~ 138.09, 138.12, 218.01 218.0101 to 218.0163, 218.02, 218.04 or 218.05 or ch. 217 or credit union may cause any or all records kept by such bank, licensee or credit union to be recorded, copied or reproduced by any photostatic, photographic or miniature photographic process or by optical imaging if the process employed correctly, accurately and permanently copies, reproduces or forms a medium for copying, reproducing or recording the original record on a film or other durable material. A bank, licensee or credit union may thereafter dispose of the original record after first obtaining the written consent of the division. This section, excepting that part of it which requires written consent of the division, is applicable to national banking associations insofar as it does not contravene federal law.

SECTION 295. 227.43 (1) (bg) of the statutes is amended to read:

227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review under ss. 84.30 (18), 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9) (b), 86.32 (1), 114.134 (4) (b), 114.135 (9), 114.20 (19), 175.05 (4) (b), 194.145 (1), 194.46, ~~218.01 (2) (bd) 2. and (c) 2., (3) (b), (e), (f) 1., (fm) 1. and (h) and (3e)~~ (d) 218.0114 (7) (d) and (12) (b), 218.0116 (2), (4), (7) (a), (8) (a) and (10), 218.0131

~~(3)~~, 218.11 (7) (a) and (b), 218.22 (4) (a) and (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09 (2m) (d), 342.26, 343.69 and 348.25 (9).

SECTION 296. 340.01 (11) (d) of the statutes is amended to read:

340.01 (11) (d) A finance company licensed under ~~s. ss.~~ 138.09 or ~~218.01~~ 218.0101 to 218.0163 who sells or offers for sale motor vehicles repossessed or foreclosed by it under the terms of a security contract.

SECTION 297. 340.01 (28e) of the statutes is amended to read:

340.01 (28e) "Manufacturers buyback vehicle" means a motor vehicle repurchased by its manufacturer, or by an authorized distributor or dealer with compensation from the manufacturer, because of a nonconformity that was not corrected after a reasonable attempt to repair the nonconformity under s. ~~218.015~~ 218.0171 or under a similar law of another state.

SECTION 298. 340.01 (35e) of the statutes is amended to read:

340.01 (35e) "Motor vehicle dealer" has the meaning given in s. ~~218.01 (1)~~ ~~(n)~~ 218.0101 (23) (a).

SECTION 299. 340.01 (74t) of the statutes is amended to read:

340.01 (74t) "Wholesaler" has the meaning given in s. ~~218.01 (1) (e)~~ 218.0101 (6).

SECTION 300. 341.51 (6) of the statutes is amended to read:

341.51 (6) A person licensed under ~~s. 218.01~~ ss. 218.0101 to 218.0163 or 218.41 as a dealer, distributor or manufacturer of only mopeds may, but need not, apply for registration under this section.

SECTION 301. 341.57 (1) of the statutes is amended to read:

341.57 (1) Any motor vehicle owned or being repossessed by a finance company licensed under ~~s. ss.~~ 138.09 or ~~218.01~~ 218.0101 to 218.0163, by a credit

union licensed under ch. 186, by a savings bank organized under ch. 214, by a savings and loan association organized under ch. 215 or by a state bank or a national bank with offices in this state, may be operated on the highways of this state for any necessary purpose in repossessing, reconditioning or reselling such vehicle without such vehicle being registered if the vehicle has displayed upon it a valid registration plate issued to such licensee pursuant to this section.

SECTION 302. 341.57 (2) of the statutes is amended to read:

341.57 (2) A finance company licensed under ~~s. ss. 138.09 or 218.01~~ 218.0101 to 218.0163, a credit union licensed under ch. 186, a savings bank organized under ch. 214, a savings and loan association organized under ch. 215 or a state bank or a national bank with offices in this state may apply to the department for registration on such form as the department provides. Upon receipt of the application together with a registration fee of \$75, the department shall register the applicant and shall issue one registration plate containing the registration number assigned to the applicant. The department, upon receiving a fee of \$5 for each additional plate desired by the applicant, shall issue additional plates as the applicant orders. Section 341.52 applies to the design of the plates. The registration and plates are valid only during the calendar year for which issued. A plate is transferable from one motor vehicle to another. The department may charge a fee of \$2 per plate for replacing lost, damaged or illegible plates issued under this subsection.

SECTION 303. 342.12 (3) (a) of the statutes is amended to read:

342.12 (3) (a) The applicant is a dealer licensed under ~~s. 218.01~~ ss. 218.0101 to 218.0163 or 218.11 and is financially responsible as substantiated by the last financial statement on file with the licensor, a finance company licensed under

~~s. ss. 138.09 or 218.01~~ 218.0101 to 218.0163, a bank organized under the laws of this state, or a national bank located in this state; or

SECTION 304. 342.18 (4) (a) of the statutes is amended to read:

342.18 (4) (a) Whenever application therefor accompanied by the required fee is made by a finance company licensed under ~~s. ss. 138.09 or 218.01~~ 218.0101 to 218.0163, a bank organized under the laws of this state, or a national bank located in this state, and the vehicle in question is a used vehicle for which the department had issued a certificate of title to the previous owner or a vehicle previously registered in another jurisdiction or is a mobile home.

SECTION 305. 344.572 (2) of the statutes is amended to read:

344.572 (2) Sections 344.574, 344.576 and 344.578 do not apply to a rental agreement under which a person rents from a motor vehicle dealer licensed under ~~s. 218.01~~ ss. 218.0101 to 218.0163 a private passenger vehicle owned by the dealer if the private passenger vehicle is rented only for use while a vehicle owned or leased by the person or which the person has agreed to purchase is being serviced, repaired, manufactured or delivered.

SECTION 306. 345.11 (1g) of the statutes is amended to read:

345.11 (1g) The uniform traffic citation may be used for violations of s. ~~218.01 (2) (a)~~ 218.0114 (1). The report of conviction shall be forwarded to the department.

SECTION 307. 345.11 (5) of the statutes is amended to read:

345.11 (5) Notwithstanding any other provision of the statutes, the use of the uniform traffic citation promulgated under sub. (4) by any peace officer in connection with the enforcement of any state traffic laws, any local traffic ordinances in strict conformity with the state traffic laws or s. ~~218.01 (2) (a)~~ 218.0114 (1) shall

be deemed adequate process to give the appropriate court jurisdiction over the person upon the filing with or transmitting to the court of the uniform traffic citation.

SECTION 308. 422.201 (3) of the statutes is amended to read:

422.201 (3) For licensees under s. 138.09 and under ~~s. 218.01~~ ss. 218.0101 to 218.0163, the finance charge, calculated according to those sections, may not exceed the maximums permitted in ss. 138.09 and ~~218.01~~ 218.0101 to 218.0163, respectively.

SECTION 309. 422.202 (3) (c) of the statutes is amended to read:

422.202 (3) (c) A merchant may not, in the same transaction, be subject to the penalty in s. 138.09 (9) (b), ~~218.01 (8)~~ 218.0161 or 425.305 and the penalty in s. 425.304, based on the assessment of the same additional charges.

SECTION 310. 425.301 (4) of the statutes is amended to read:

425.301 (4) The liability of a merchant under chs. 421 to 427 is in lieu of and not in addition to any liability under the federal consumer credit protection act and ~~s. ss. 138.09 or 218.01~~ 218.0101 to 218.0163. An action by a person alleging a violation under chs. 421 to 427 may not be maintained if a final judgment has been rendered for or against that person with respect to the same violation under the federal consumer credit protection act or ~~s. ss. 138.09 or 218.01~~ 218.0101 to 218.0163. If a final judgment is entered against any merchant under chs. 421 to 427 and the federal consumer credit protection act or ~~s. ss. 138.09 or 218.01~~ 218.0101 to 218.0163 for the same violation, the merchant has a cause of action for appropriate relief to the extent necessary to avoid double liability.

SECTION 311. 429.102 (1) of the statutes is amended to read:

429.102 (1) To the extent that ~~s. 218.01~~ ss. 218.0101 to 218.0163 and chs. 411 and 421 to 427 are inconsistent with this chapter, the provisions of this chapter shall apply.

SECTION 312. 429.102 (2) of the statutes is amended to read:

429.102 (2) Unless superseded by the particular provisions of this chapter, parties to a motor vehicle consumer lease have all of the obligations, duties, rights and remedies provided in ~~s. 218.01~~ ss. 218.0101 to 218.0163 and chs. 411 and 421 to 427 that apply to the transaction.

SECTION 313. 429.104 (13m) of the statutes, as affected by 1997 Wisconsin Act 48, is amended to read:

429.104 (13m) "Gross capitalized cost" means the sum of all amounts capitalized in the consumer lease that, after subtracting the capitalized cost reduction, amortizes to the residual value by the depreciation portion of the periodic lease payments over the scheduled term of the lease or, for a single-payment lease, the single payment. These amounts may include taxes; fees for registration, license, acquisition, administration and assignment; other fees; charges for insurance, service contracts and extended warranties; and charges for a waiver of the contractual obligation to pay the gap amount, for accessories and their installation, for other services and benefits incidental to the consumer lease, and for delivering, servicing, repairing or improving the vehicle. With respect to a vehicle or other property traded in connection with a consumer lease, the term may include the outstanding unpaid balance of the amount financed under a consumer loan, as defined in s. 421.301 (12), or a retail instalment contract, as defined in s. ~~218.01 (1) (t)~~ 218.0101 (32), or the unpaid balance of any early ter-

mination costs under a lease or other obligation of the lessee. The term does not include any rent charge.

SECTION 314. 429.104 (19) of the statutes is amended to read:

429.104 (19) "Motor vehicle" has the meaning given in s. ~~218.01 (1) (m)~~ 218.0101 (22).

SECTION 315. 429.104 (21) of the statutes is amended to read:

429.104 (21) "Prospective lessee" means a natural person who enters into a prelease agreement under s. ~~218.01 (6x)~~ 218.0144 with a prospective lessor, or who otherwise intends to become a lessee.

SECTION 316. 429.104 (21m) of the statutes is amended to read:

429.104 (21m) "Prospective lessor" means a person regularly engaged in the business of leasing or selling vehicles who enters into a prelease agreement under s. ~~218.01 (6x)~~ 218.0144 with a prospective lessee, or who otherwise intends to become a lessor.

SECTION 317. 429.301 (2) of the statutes is amended to read:

429.301 (2) If a party to a consumer lease recovers damages or penalties under this chapter for an act or omission, the party may not recover any damages or penalties for the same act or omission under s. ~~218.01~~ ss. 218.0101 to 218.0163 or chs. 411 and 421 to 427.

SECTION 318. 553.235 (2) (a) of the statutes is amended to read:

553.235 (2) (a) The exemption under sub. (1) is not available for the sale of a franchise in which the franchisee would be a motor vehicle dealer or a motor vehicle distributor or wholesaler, as defined in s. ~~218.01 (1)~~ 218.0101.

SECTION 319. 779.85 (3) of the statutes is amended to read:

779.85 (3) "Goods" has the meaning set forth in s. 402.105 (1) (c) except that this term does not include a "motor vehicle" as defined in s. ~~218.01 (1) (m)~~ 218.0101 (22).

SECTION 320. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 218.01 (7a) of the statutes takes effect on January 1, 1999.

(END)