

2001 SENATE BILL 275

October 10, 2001 – Introduced by Senators BRESKE, DARLING, DECKER, SCHULTZ, PLACHE, WELCH, MOEN, HUELSMAN, JAUCH, S. FITZGERALD, M. MEYER, ROSENZWEIG, GROBSCHMIDT, LAZICH, ERPENBACH and COWLES, cosponsored by Representatives FREESE, MUSSER, KRAWCZYK, RYBA, LOEFFELHOLZ, GUNDERSON, LIPPERT, LASSA, SINICKI, OLSEN, KESTELL, HUNDERTMARK, LADWIG, SKINDRUD, VRAKAS, GRONEMUS, SYKORA, M. LEHMAN, COGGS, ALBERS, MEYERHOFER, HAHN and WASSERMAN. Referred to Committee on Insurance, Tourism, and Transportation.

1 **AN ACT to amend** 218.0134 (2) (b) and 218.0163 (1) (intro.); and **to create**
2 218.0163 (1) (c) of the statutes; **relating to:** proposed actions regarding motor
3 vehicle franchises.

Analysis by the Legislative Reference Bureau

Under current law, each manufacturer, distributor, or importer of motor vehicles (affected grantor) that wishes to sell its motor vehicles in the state is licensed by the department of transportation (DOT). An affected grantor may enter into an agreement with a motor vehicle dealer that sets forth the terms under which the dealer may sell the affected grantor's vehicles via a motor vehicle franchise. If a dealer wishes to transfer its assets to another person, to change ownership or executive management, or to relocate the franchise or open a second franchise at the same location, and the franchise agreement requires that the affected grantor approve the proposed action, the dealer must give the affected grantor written notice of the proposed action and must secure the approval of the affected grantor before making the proposed action.

Under current law, the affected grantor must either approve of the proposed action; or, within 30 days of receiving written notice of the proposed action, must serve the motor vehicle dealer with a written report setting forth its reasons for not approving and must file a copy of this report with DOT. The dealer may then seek a decision from the division of hearing and appeals (division) within DOT permitting the proposed action. An affected grantor that does not comply with these requirements may have its license revoked and may be liable to the dealer for

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pecuniary losses, as well as actual costs and and attorney fees incurred by the dealer because of the affected grantor's failure to comply.

Under this bill, if the division determines that there is good cause to permit the proposed action, the affected grantor may be liable for the dealer's pecuniary loss, as well as for actual costs, including costs and attorney fees incurred by the dealer in obtaining a determination of good cause from the division.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 218.0134 (2) (b) of the statutes is amended to read:

2 218.0134 (2) (b) An affected grantor who does not approve of the proposed
3 action shall, within 30 days after receiving the dealer's written notice of the proposed
4 action or within 30 days after receiving all the information specified in a written list
5 served on the dealer under par. (a), whichever is later, file with the department of
6 transportation and serve upon the dealer a written statement of the reasons for its
7 disapproval. The publication of the reasons given for the disapproval or any
8 explanation of those reasons by the manufacturer, distributor or importer shall not
9 subject the manufacturer, distributor or importer to any civil liability unless the
10 reasons given or explanations made are malicious and published with the sole intent
11 to cause harm to the dealer or a transferee of the dealer. Failure to file and serve a
12 statement within the applicable period shall, notwithstanding the terms of any
13 agreement, constitute approval of the proposed action by the grantor. If an affected
14 grantor files a written statement within the applicable period, the dealer may not
15 voluntarily undertake the proposed action unless it receives an order permitting it
16 to do so from the division of hearings and appeals under sub. (3) (b).

17 **SECTION 2.** 218.0163 (1) (intro.) of the statutes is amended to read:

