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

History: 1973 c. 179.

This chapter was enacted for the protection of the interests of the dealer whose economic livelihood may be imperiled by the dealership grantor, whatever its size. Rosow Oil Co. v. Heiman, 72 Wis. 2d 696, 242 N.W.2d 176 (1976).

This chapter covers only agreements entered into after April 5, 1974. Wipperfurth v. U-Haul Co. of Western Wis., Inc., 101 Wis. 2d 586, 304 N.W.2d 767 (1981).

This chapter is constitutional, it may be applied to out−of−state dealers when provided by contract. C. A. Marine Supp. Co. v. Brunswick Corp., 557 F.2d 1163. See: Boutland, Inc. v. Brunswick Corp., 558 F.2d 818.

When a dealer did not comply with all the terms of acceptance of a dealership agreement, no contract was formed and this chapter did not apply. Century Hardware Corp. v. Acme United Corp., 467 F. Supp. 350 (1979).


The fair dealership law: Good cause for review. Riteris and Robertson, WBB March, 1986.


135.02 Definitions. In this chapter:

(1) “Community of interest” means a continuing financial interest between the grantor and grantee in either the operation of the dealership business or the marketing of such goods or services.

(2) “Dealer” means a person who is a grantee of a dealership situated in this state.

(3) “Dealership” means any of the following:

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

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

(4) “Good cause” means:

(a) Failure by a dealer to comply substantially with essential and reasonable requirements imposed upon the dealer by the grantor, or sought to be imposed by the grantor, which requirements are not discriminatory as compared with requirements imposed on similarly situated dealers either by their terms or in the manner of their enforcement; or

(b) Bad faith by the dealer in carrying out the terms of the dealership.

(5) “Grantor” means a person who grants a dealership.

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


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

Wisconsin Statutes Archive.
135.02 DEALERSHIP PRACTICES

A clause providing that the party who had drafted the contract and dictated all of its provisions was not a party to the contract was void, and that party was a grantor of a dealership. Praefke Auto Electric & Battery Co., Inc. v. Tecumseh Products, Co. 110 F. Supp. 2d 899 (2000).


135.025 Purposes; rules of construction; variation by contract. (1) This chapter shall be liberally construed and applied to promote its underlying remedial purposes and policies.

(2) The underlying purposes and policies of this chapter are:

(a) To promote the compelling interest of the public in fair business relations between dealers and grantors, and in the continuation of dealerships on a fair basis;

(b) To promote dealers against unfair treatment by grantors, who inherently have superior economic power and superior bargaining power in the negotiation of dealerships;

(c) To provide dealers with rights and remedies in addition to those existing by contract or common law;

(d) To govern all dealerships, including any renewals or amendments, to the full extent consistent with the constitutions of this state and the United States.

(3) The effect of this chapter may not be varied by contract or agreement. Any contract or agreement purporting to do so is void and unenforceable to that extent only.

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

The choice of law clause in a dealership agreement was unenforceable. Bush v. National Studio Schools, 139 Wis. 2d 635, 407 N.W.2d 883 (1987).

Federal law required the enforcement of an arbitration clause even though that clause did not provide the relief guaranteed by this chapter, contrary to this section and s. 135.05. Madison Beauty Supply v. Helene Curtis, 167 Wis. 2d 237, 481 N.W.2d 644 (Cl. App. 1992).

A forum-selection clause in dealership agreement was not freely bargained for and was rendered ineffective under sub. (2) (b). Cutter v. Scott & Petzer Co. 510 F. Supp. 905 (1981).


135.03 Cancellation and alteration of dealerships.

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

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

Grantor may cancel, terminate, or not-renew a dealership if the dealer refuses to comply with such changes constitutes good cause. Ziegler Co., Inc. v. Rexnor, 147 Wis. 2d 308, 433 N.W.2d 8 (1988).

This chapter did not apply to a grantor’s action that was due to business exigencies unrelated to the dealer and was done in a nondiscriminatory manner. Remus v. Amoco Oil Co. 794 F.2d 1283 (1986).

Economic duress may serve as a basis for a claim of constructive termination of a dealership. JPM, Inc. v. John Deere, 94 F.3d 270 (1996).

A grantor’s substantial loss of money under a dealership relationship may constitute a “good cause” for changes in the contract, including termination. Mortley-Murphy Co. v. Zenith Electronics, Inc. 142 F.3d 373 (1998).

A change in credit terms was a change in a dealer’s “competitive circumstances”. Van v. Middle One Corp., 515 F. Supp. 487 (1981).

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


When parties continue their relations after the term of a dealership contract has expired, the contract has been renewed for another period of the same length. Praefke Auto Electric & Battery Co., Inc. v. Tecumseh Products, Co. 110 F. Supp. 2d 899 (2000). Reversed on other grounds.


135.04 Notice of termination or change in dealership.

Except as provided in this section, a grantor shall provide a dealer at least 90 days’ prior written notice of termination, cancellation, nonrenewal or substantial change in competitive circumstances.

The notice shall state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and shall provide that the dealer has 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days the notice shall be void. The notice provisions of this section shall not apply if the reason for termination, cancellation or nonrenewal is in good cause and the dealer has not been given notice of the reasons for the termination, cancellation, nonrenewal or substantial change in competitive circumstances and the dealer shall be entitled to written notice of such defect, and shall have 10 days in which to remedy such defect from the date of delivery or posting of such notice.

History: 1973 c. 179.

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

The notice requirement of this section applies to substantial changes of circumstances of a dealership, not a dealership agreement. Actions that substantially change competitive circumstances and those controlled by the grantor are governed by this chapter and the dealership agreement require the statutory notice. Jungbluth v. Hometown, Inc. 201 Wis. 2d 320, 548 N.W.2d 519 (1996).

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


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

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

History: 1973 c. 171.

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

History: 1973 c. 179.

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

135.06 Action for damages and injunctive relief. If any grantor violates this chapter, a dealer may bring an action against such grantor in any court of competent jurisdiction for damages sustained by the dealer as a consequence of the grantor’s violation, together with the actual costs of the action, including reasonable actual attorney fees, and the dealer also may be granted injunctive relief against unlawful termination, cancellation, nonrenewal or substantial change of competitive circumstances.

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

In an action for termination of a dealership upon written notice not complying with this chapter and without good cause, the statute of limitations started running upon receipt of the termination notice. LeMoie, Inc. v. Rossignol Ski Co., Inc. 122 Wis. 2d 51, 361 N.W.2d 633 (1983).

The term “actual costs of the action” includes appellee attorney fees. Siegel v. Lear, Inc. 156 Wis. 2d 621, 457 N.W.2d 533 (Cl. App. 1990).


A cause of action accrued when a defective notice under s. 135.04 was given, not when the dealership was actually terminated. Hamill v. Richel Mfg. Corp. 719 F.2d 252 (1983).
This section does not restrict recovery of damages with respect to inventory on hand at the time of termination to "fair wholesale market value." - Kealey Pharmacy v. Walgreen Co. 761 F.2d 345 (1985).

Although deals were properly included under this section. Bright v. Land O' Lakes, Inc. 844 F.2d 436 (7th Cir. 1988).

There is no presumption in favor of injunctive relief and against damages for lost future profits. Frieburg Farm Equip. v. Van Dale, Inc. 976 F.2d 395 (9th Cir. 1992).


An arbitration award that did not award attorney fees was enforceable. Parties may agree to bear their own legal expenses when resolving differences; what the parties may do, an arbitrator as their mutual agent may also do. George Watts & Son, Inc. v. Tiffany & Co. 248 F.3d 577 (2001).

### 135.065 Temporary injunctions

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

**History:** 1977 c. 171.

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

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

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

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

### 135.066 Intoxicating liquor dealerships

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

   (2) **Definitions.** (a) "Intoxicating liquor" has the meaning given in s. 125.02 (8) minus wine.

   (5) **Nonapplicability.** This section does not apply to any of the following dealerships:

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

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

   (6) **Severability.** The provisions of this section are severable as provided in s. 990.001 (11).

   **History:** 1999 a. 9.

### 135.07 Nonapplicability

This chapter does not apply:

1. To a dealership to which a motor vehicle dealer or motor vehicle distributor or wholesaler as defined in s. 218.0101 is a party in such capacity.

2. To the insurance business.

3. Where goods or services are marketed by a dealership on a door to door basis.

   **History:** 1973 c. 179; 1975 c. 371; 1999 a. 31.

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

66 Atty. Gen. 11.