

2003 DRAFTING REQUEST

Bill

Received: 12/19/2002

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Transportation - mot veh dealers

Extra Copies: TNF, ARG

Submit via email: YES

Requester's email: Rep.Freese@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Motor Vehicle Dealers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	phurley 01/13/2003	wjackson 02/05/2003	rschluet 02/05/2003	_____	mbarman 02/05/2003		
	phurley 05/15/2003	wjackson 05/15/2003		_____			
/2	phurley	wjackson	pgreensl	_____	amentkow		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	05/28/2003	05/28/2003	05/15/2003	_____	05/15/2003		
/3	phurley 06/07/2003	wjackson 06/12/2003	rschluet 05/28/2003	_____	lemery 05/28/2003		
			chaskett 06/12/2003	_____	sbasford 06/12/2003		
/4	phurley 07/30/2003			_____		sbasford 08/15/2003	
				_____		sbasford 08/15/2003	

FE Sent For:

*None
Needed*

<END>

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13		13 WJ 6/12	rschluet 05/28/2003		lemery 05/28/2003		

FE Sent For:

13 cph
6/12

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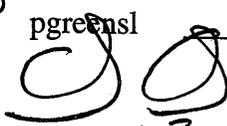
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5-28-3

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12 Wlj 5/15
5/15 P8 / gph
P8

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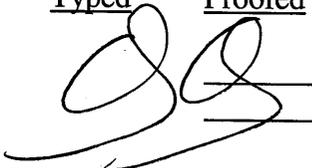
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1?	phurley	/pl WLj 2/5					
			2-5-3				

FE Sent For:

<END>

Hurley, Peggy

From: Freese, Steve
Sent: Thursday, December 12, 2002 10:44 AM
To: Hurley, Peggy
Subject: FW: Fax received (4p) from:'6082514379' on ID:2823651

Peggy:

Can you please draft a bill containing the three items found below. If you need assistance or have questions, you have permission to call Mary Ann Gerrard at WATDA (251-5577) or their attorney Paul Norman.

Thank you!

Rob Richard, Legislative Aide
Office of Rep. Steve Freese
266-7502

-----Original Message-----

From: Faxination
Sent: Tuesday, December 10, 2002 2:35 PM
To: Freese, Steve
Subject: Fax received (4p) from:'6082514379' on ID:2823651



02E03000.tif



Wisconsin Automobile & Truck Dealers Association

150 E. Gilman Street—Suite A
Madison, WI 53703
(608) 251-5577 FAX: 251-4379

Mailing Address:
P.O. Box 5345, Madison, WI 53705-0345
www.walda.org

GARY D. WILLIAMS
President

FACSIMILE COVER SHEET

TO:	Bob Beckwith
COMPANY:	Office of Rep Finance
FAX:	282, 3651

FROM:	Mary Ann Gerrard
COMPANY:	Wisconsin Auto & Truck Dealers Association
PHONE:	608-251-5577 ext. 106
FAX:	
DATE:	12-9-02
PAGES INCLUDING COVER PAGE	4

IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE CALL 608-251-5577. THANK YOU.

Bob,
Would you ask Steve to submit the following three issues to drafting. These are changes to the WI Motor Vehicle Dealer Franchise Law.

The dealers are currently discussing these items with representatives of the auto manufacturers.

Thank-you,
Mary Ann

~~100~~

Prohibit Options to Purchase [upon the Death or Disability of the Dealer Principal]

218.0114 Licenses, how granted; agreements, filing.

(9) (a) Except as provided in sub. (10), provisions of an agreement which do any of the following are void and prohibited:

...

4. Provide a manufacturer, importer or distributor with the right or option to compel the dealer or any of its owners to sell or transfer an ownership interest in the dealer or assets of the dealer to the manufacturer, importer or distributor or its assignee [upon the death or disability of an owner or operator of the dealer].

incapacity

Separate Franchises

218.0116 Licenses, how denied, suspended or revoked.

(1) A license may be denied, suspended or revoked on the following grounds:

...

(v) Being a manufacturer, importer or distributor who fails or refuses to offer for sale to its same line-make franchised dealers all models manufactured or distributed for the line make. Such offer for sale may be subject to the manufacturer's, importer's or distributor's plan or system for the allocation, scheduling and delivery of such models that complies with the requirements of s. 218.0123. This paragraph does not prohibit reasonable requirements being imposed on dealers for the marketing and servicing of particular models.

Warranty Service

218.0116 Licenses, how denied, suspended or revoked.

(1) A license may be denied, suspended or revoked on the following grounds:

...

(w) Being a manufacturer, importer or distributor who performs warranty service or delivery and preparation work on motor vehicles not owned by it or who authorizes or permits a person to perform warranty service or delivery and preparation work on motor vehicles unless the person is:

1. A motor vehicle dealer with whom the manufacturer, importer or distributor has entered into a franchise agreement for the sale and service of the manufacturer's, importer's or distributor's motor vehicles; or

2. A fleet owner, as defined in s. 218.0116(7)(d)4, who is authorized to perform warranty or delivery and preparation work only on the fleet owner's own vehicles.

218.0116(1)(3)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1231/201

PJH:.....

WLJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

GEN

1 AN ACT ...; relating to: manufacturers, importers, and distributors of motor
2 vehicles and franchised motor vehicle dealers.

Analysis by the Legislative Reference Bureau

Under current law, each manufacturer, importer, and distributor that wishes to sell motor vehicles in this state must be licensed by the Department of Transportation (DOT). In addition, each manufacturer, importer, or distributor who enters into an agreement with a motor vehicle dealer must file the agreement with DOT. DOT may void an agreement between a motor vehicle dealer and a manufacturer, importer, or distributor if the agreement contains certain violations.

Additionally, if a manufacturer, importer, or distributor commits certain violations with respect to a motor vehicle dealer, current law allows DOT to revoke the manufacturer's, importer's, or distributor's license and hold the manufacturer, importer, or distributor liable for pecuniary losses and attorneys fees incurred by the motor vehicle dealer.

This bill allows DOT to void an agreement between a motor vehicle dealer and a manufacturer, importer, or distributor if the agreement permits a manufacturer, importer, or distributor to compel a dealer or any owner of a dealership to sell or transfer an ownership interest in the dealership to the manufacturer, importer, or distributor upon the death or incapacity of an owner or operator of the dealership.

The bill also allows DOT to revoke the license of a manufacturer, importer, or distributor if the manufacturer, importer, or distributor fails to offer for sale all models manufactured or distributed for a line make to any of its dealers that hold a franchise to sell the same line make.

Finally, the bill allows DOT to revoke the license of a manufacturer, importer, or distributor if the manufacturer, importer, or distributor performs warranty service or delivery and preparation work on a motor vehicle that is not owned by a fleet manager that is authorized by the manufacturer, importer, or distributor to perform such work, by a motor vehicle dealer that holds a franchise with the manufacturer, importer, or distributor, or by the manufacturer, importer, or distributor itself.

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

History: 1999 a. 31 ss. 57 to 104; 1999 a. 186

1 **SECTION 1.** 218.0114 (9) (a) 4. of the statutes is created to read:

2 218.0114 (9) (a) 4. Provide a manufacturer, importer, or distributor with the
3 right to compel a dealer or any owner of a dealership to sell or transfer an ownership
4 interest in the dealership or assets of the dealership to the manufacturer, importer,
5 or distributor or its assignee upon the death or incapacity of an owner or operator of
6 a dealership.

7 **SECTION 2.** 218.0116 (1) (v) of the statutes is created to read:

8 218.0116 (1) (v) Being a manufacturer, importer, or distributor who fails to offer
9 for sale all models manufactured or distributed for a line make to its dealers that hold
10 a franchise to sell the same line make. Such offer for sale may be subject to the
11 manufacturer's, importer's, or distributor's plan or system for the allocation,
12 scheduling, and delivery of such models that complies with the requirements of s.
13 218.0123. This paragraph does not prohibit a manufacturer, importer, or distributor
14 from imposing reasonable requirements for the marketing and servicing of
15 particular models.

16 **SECTION 3.** 218.0116 (1) (w) of the statutes is created to read:

17 218.0116 (1) (w) Being a manufacturer, importer, or distributor who performs
18 warranty service or delivery and preparation work on a motor vehicle not owned by

1 the manufacturer, importer, or distributor, or who authorizes or permits a person to
2 perform warranty service or delivery and preparation work on a motor vehicle unless
3 the person is:

4 1. A motor vehicle dealer that holds a franchise with the manufacturer,
5 importer, or distributor.

6 2. A fleet owner, as defined in s. 218.0116 (7) (d) 4.,[√] that is authorized by the
7 manufacturer, importer, or distributor to perform warranty or delivery and
8 preparation work on the vehicles owned by the fleet owner.

9 **SECTION 4. Initial applicability.**

10 (1) This act first applies to violations that occur on the effective date of this
11 [√] subsection.

12 (END)

Hurley, Peggy

From: Richard, Rob
Sent: Monday, April 21, 2003 10:08 AM
To: Hurley, Peggy
Subject: FW: Warranty Service Legislation



Revision to
Warranty Service L..

Peggy:

Can you please incorporate this language into LRB-1231? Any questions, give me a call.

Thank you!

Rob Richard
Freese Office
266-7502

-----Original Message-----

From: Paul Norman [mailto:pnorman@boardmanlawfirm.com]
Sent: Thursday, April 10, 2003 11:16 AM
To: edanneb@autoalliance.com; jlanders@rvia.org
Cc: csnyder@watda.org; Gwilliams@watda.org; mgerrard@watda.org
Subject: Warranty Service Legislation

Jay and Libby,

Attached is the updated draft of the warranty service legislation for Wisconsin which modifies proposed (w)2 as discussed during the conference call this morning with Jill McDonald, RVIA representatives, Gary Williams and myself. Please let us know as soon as possible whether your respective organizations are comfortable with this language. I am also faxing a copy of this e-mail and the attachment to Jill.

2003 BILL

REGEN

1 AN ACT *to create* 218.0114 (9) (a) 4., 218.0116 (1) (v) and 218.0116 (1) (w) of the
2 statutes; **relating to:** manufacturers, importers, and distributors of motor
3 vehicles and franchised motor vehicle dealers.

Analysis by the Legislative Reference Bureau

Under current law, each manufacturer, importer, and distributor that wishes to sell motor vehicles in this state must be licensed by the Department of Transportation (DOT). In addition, each manufacturer, importer, or distributor who enters into an agreement with a motor vehicle dealer must file the agreement with DOT. DOT may void an agreement between a motor vehicle dealer and a manufacturer, importer, or distributor if the agreement contains certain violations.

Additionally, if a manufacturer, importer, or distributor commits certain violations with respect to a motor vehicle dealer, current law allows DOT to revoke the manufacturer's, importer's, or distributor's license and hold the manufacturer, importer, or distributor liable for pecuniary losses and attorney fees incurred by the motor vehicle dealer.

This bill allows DOT to void an agreement between a motor vehicle dealer and a manufacturer, importer, or distributor if the agreement permits a manufacturer, importer, or distributor to compel a dealer or any owner of a dealership to sell or transfer an ownership interest in the dealership to the manufacturer, importer, or distributor upon the death or incapacity of an owner or operator of the dealership.

The bill also allows DOT to revoke the license of a manufacturer, importer, or distributor if the manufacturer, importer, or distributor fails to offer for sale all

BILL

under most circumstances

models manufactured or distributed for a line make to any of its dealers that hold a franchise to sell the same line make.

Finally, the bill allows DOT to revoke the license of a manufacturer, importer, or distributor if the manufacturer, importer, or distributor performs warranty service or delivery and preparation work on a motor vehicle that is not owned by a fleet manager that is authorized by the manufacturer, importer, or distributor to perform such work, by a motor vehicle dealer that holds a franchise with the manufacturer, importer, or distributor, or by the manufacturer, importer, or distributor itself.

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

- 1 **SECTION 1.** 218.0114 (9) (a) 4. of the statutes is created to read:
- 2 218.0114 (9) (a) 4. Provide a manufacturer, importer, or distributor with the
- 3 right to compel a dealer or any owner of a dealership to sell or transfer an ownership
- 4 interest in the dealership or assets of the dealership to the manufacturer, importer,
- 5 or distributor or its assignee upon the death or incapacity of an owner or operator of
- 6 a dealership.
- 7 **SECTION 2.** 218.0116 (1) (v) of the statutes is created to read:
- 8 218.0116 (1) (v) Being a manufacturer, importer, or distributor who fails to offer
- 9 for sale all models manufactured or distributed for a line make to its dealers that hold
- 10 a franchise to sell the same line make. Such offer for sale may be subject to the
- 11 manufacturer's, importer's, or distributor's plan or system for the allocation,
- 12 scheduling, and delivery of such models that complies with the requirements of s.
- 13 218.0123. This paragraph does not prohibit a manufacturer, importer, or distributor
- 14 from imposing reasonable requirements for the marketing and servicing of
- 15 particular models.
- 16 **SECTION 3.** 218.0116 (1) (w) of the statutes is created to read:

Proposed revision to Warranty Service legislation to address RV manufacturers' concern about being made responsible for chassis or other component manufacturer's warranty. (Additional language is in bold.) (Draft #2/04-10-2003)

3. Warranty Service

218.0116 Licenses, how denied, suspended or revoked.

(1) A license may be denied, suspended or revoked on the following grounds:

Section # 218.0116(1)(w) of the statutes is deleted to read
218.0116 (1) ~~(w)~~

Strike
(w) 1. Being a manufacturer, importer, or distributor who performs warranty service or delivery and preparation work on motor vehicles ~~not owned by~~ or who authorizes or permits a person to perform warranty service or delivery and preparation work on motor vehicles unless the person is a motor vehicle dealer with whom the manufacturer, importer, or distributor has entered into a franchise agreement for the sale and service of the manufacturer's, importer's, or distributor's motor vehicles. ~~Provided, however, this paragraph shall not prohibit a manufacturer, importer, or distributor from doing any of the following:~~

a. Authorizing the performance of warranty service and delivery and preparation work by a fleet owner, as defined in s. 218.0116(7)(d) on its own vehicles.

Plain
b. During the duration of circumstances that temporarily cause warranty service to not be otherwise reasonably available to one or more owners of the manufacturer's, importer's, or distributor's vehicles, performing warranty service on such vehicles or authorizing the performance of warranty service on such vehicles by a person who is not a motor vehicle dealer with whom the manufacturer, importer, or distributor has entered into a franchise agreement for the sale and service of the manufacturer's, importer's or distributor's motor vehicles.

c. Attempting to repair a nonconformity, as defined in s. 218.0171(1)(f), to a vehicle, if such repair is reasonably necessary to prevent the manufacturer, importer, or distributor becoming subject to the requirements of s. 218.0171(2)(b).

division
2. Subparagraph 1 does not require a manufacturer, importer, or distributor to perform warranty service, or to authorize or permit warranty service to be performed, under a warranty given by another manufacturer, importer or distributor or component manufacturer to a retail customer.

Insert A

that it does not own

If warranty service is temporarily unavailable

-no bold

Hurley, Peggy

From: Paul Norman [pnorman@boardmanlawfirm.com]
Sent: Tuesday, May 27, 2003 11:47 AM
To: peggy.hurley@legis.state.wi.us
Cc: csnyder@watda.org; Gwilliams@watda.org; mgerrard@watda.org
Subject: LRB - 1468/P2

12/3/2

Peggy,

This e-mail is a follow-up on our telephone conference this morning regarding this draft. As an attorney for WATDA, my only concerns with it relate to s. 218.0116(1)(w)1.b., which beings on line 12 of page 3. As we discussed, there are two concepts that were included in the agreed upon language between WATDA and the manufacturers, which are not incorporated in the draft. One is that warranty service may be provided by other than a franchised dealer if such service is temporarily not otherwise reasonably available to one or more owners of a manufacturer's vehicles. The other is that where warranty service is temporarily not otherwise reasonably available to such owners, the manufacturer may perform, or permit someone other than a franchised dealer to perform, such service only while such nonavailability exists.

It is my understanding that you will review the agreed upon language by the dealers and manufacturers and attempt to incorporate these two concepts into a revised draft of LRB-1468/P2. If you have any questions or want to discuss this with me further, I can be reached at 283-1766.

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2 statutes; **relating to:** manufacturers, importers, and distributors of motor
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Additionally, if a manufacturer, importer, or distributor commits certain violations with respect to a motor vehicle dealer, current law allows DOT to revoke the manufacturer's, importer's, or distributor's license and hold the manufacturer, importer, or distributor liable for pecuniary losses and attorney fees incurred by the motor vehicle dealer.

This bill allows DOT to void an agreement between a motor vehicle dealer and a manufacturer, importer, or distributor if the agreement permits a manufacturer, importer, or distributor to compel a dealer or any owner of a dealership to sell or transfer an ownership interest in the dealership to the manufacturer, importer, or distributor upon the death or incapacity of an owner or operator of the dealership.

The bill also allows DOT to revoke the license of a manufacturer, importer, or distributor if the manufacturer, importer, or distributor fails to offer for sale all

BILL

models manufactured or distributed for a line make to any of its dealers that hold a franchise to sell the same line make.

Finally, the bill allows DOT to revoke the license of a manufacturer, importer, or distributor under most circumstances if the manufacturer, importer, or distributor performs warranty service or delivery and preparation work on a motor vehicle that is not owned by a fleet manager that is authorized by the manufacturer, importer, or distributor to perform such work, by a motor vehicle dealer that holds a franchise with the manufacturer, importer, or distributor, or by the manufacturer, importer, or distributor itself.

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

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4 interest in the dealership or assets of the dealership to the manufacturer, importer,
5 or distributor or its assignee upon the death or incapacity of an owner or operator of
6 a dealership.

7 **SECTION 2.** 218.0116 (1) (v) of the statutes is created to read:

8 218.0116 (1) (v) Being a manufacturer, importer, or distributor who fails to offer
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10 a franchise to sell the same line make. Such offer for sale may be subject to the
11 manufacturer's, importer's, or distributor's plan or system for the allocation,
12 scheduling, and delivery of such models that complies with the requirements of s.
13 218.0123. This paragraph does not prohibit a manufacturer, importer, or distributor
14 from imposing reasonable requirements for the marketing and servicing of
15 particular models.

16 **SECTION 3.** 218.0116 (1) (w) of the statutes is created to read:

BILL

1 218.0116 (1) (w) 1. Being a manufacturer, importer, or distributor who
 2 performs warranty service or delivery and preparation work on a motor vehicle that
 3 it does not own or who authorizes or permits a person to perform warranty service
 4 or delivery and preparation work on a motor vehicle unless the person is a motor
 5 vehicle dealer with whom the manufacturer, importer, or distributor has entered into
 6 a franchise agreement for the sale and service of the manufacturer's, importer's, or
 7 distributor's motor vehicles. This subdivision shall not prohibit a manufacturer,
 8 importer, or distributor from:

9 a. Authorizing the performance of warranty service and delivery and
 10 preparation work by a fleet owner, as defined in s. 218.0116 (7) (d) 4., on its own
 11 vehicles.

12 b. If warranty service is temporarily ~~unavailable~~ ^{not reasonably available} to one or more owners of the
 13 manufacturer's, importer's, or distributor's vehicles, performing warranty service on
 14 such vehicles or authorizing the performance of warranty service on such vehicles
 15 by a person who is not a motor vehicle dealer with whom the manufacturer, importer,
 16 or distributor has entered into a franchise agreement for the sale and service of the
 17 manufacturer's, importer's, or distributor's motor vehicles ^{Not. Warranty service may be provided under this sub-division only during the period that warranty service is not otherwise reasonably available}

18 c. Attempting to repair a nonconformity, as defined in s. 218.0171 (1) (f), to a
 19 vehicle, if such repair is reasonably necessary to prevent the manufacturer, importer,
 20 or distributor from becoming subject to the requirements of s. 218.0171 (2) (b).

21 2. Subdivision 1. does not require a manufacturer, importer, or distributor to
 22 perform warranty service, or to authorize or permit warranty service to be
 23 performed, under a warranty given by another manufacturer, importer, or
 24 distributor or component manufacturer to a retail customer.

SECTION 4. Initial applicability.

by a manufacturer, importer, or distributor

2003 - 2004 LEGISLATURE

LRB - 1468/P2
PJH:jld:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Make this version of 1468 → change to analysis & change to

1 AN ACT to amend 218.0114 (9) (a) 2., 218.0114 (10) (a), 218.0121 (3m) (b) 2. and
2 218.0163 (1) (a); and to create 218.0114 (9) (a) 4., 218.0114 (9) (d), 218.0116 (1)
3 (v) and 218.0116 (1) (w) of the statutes; relating to: wholesale motor vehicle
4 dealers.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

- 5 SECTION 1. 218.0114 (9) (a) 2. of the statutes is amended to read:
- 6 218.0114 (9) (a) 2. Prevent a dealer or distributor from bringing an action in
- 7 a particular forum otherwise available under the law or waive the dealer's or
- 8 distributor's right to a jury trial.
- 9 SECTION 2. 218.0114 (9) (a) 4. of the statutes is created to read:
- 10 218.0114 (9) (a) 4. Provide a manufacturer, importer, or distributor with the
- 11 right or option to compel the dealer or any of its owners to sell or transfer an

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- 2 -

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SECTION 2

1 ownership interest in the dealer or assets of the dealer to the manufacturer, importer,
2 or distributor or an assignee of the manufacturer, importer, or distributor.

3 **SECTION 3.** 218.0114 (9) (d) of the statutes is created to read:

4 218.0114 (9) (d) Notwithstanding par. (a) 4., an agreement may provide a
5 manufacturer, importer, or distributor with the right of first refusal to acquire the
6 dealer's assets in the event of a proposed change of ownership or transfer of
7 dealership assets if all of the requirements of s. 218.0134 (4) (c) are met.

8 **SECTION 4.** 218.0114 (10) (a) of the statutes is amended to read:

9 218.0114 (10) (a) A settlement agreement that is entered into by a dealer or
10 distributor voluntarily ~~and that waives rights, remedies or defenses~~ with respect to
11 a particular dispute existing when the settlement agreement is reached.

12 **SECTION 5.** 218.0116 (1) (v) of the statutes is created to read:

13 218.0116 (1) (v) Being a manufacturer, importer, or distributor who fails or
14 refuses to offer for sale to its same line make franchised dealers all models
15 manufactured or distributed for the line make. Such offer for sale may be subject to
16 the manufacturer's, importer's, or distributor's plan or system for the allocation,
17 scheduling, and delivery of such models that complies with the requirements of s.
18 218.0123. However, the failure to deliver any such motor vehicle shall not be
19 considered a violation of this paragraph if the failure is due to a lack of
20 manufacturing capacity, a strike or labor difficulty, a shortage or materials, a freight
21 embargo, or other cause beyond the control of the manufacture, importer, or
22 distributor. This paragraph does not prohibit reasonable requirements being
23 imposed on dealers for the sale, marketing, or servicing of particular models.

24 **SECTION 6.** 218.0116 (1) (w) of the statutes is created to read:

1 218.0116 (1) (w) 1. Being a manufacturer, importer, or distributor who
 2 performs warranty service or delivery and preparation work on a motor vehicle that
 3 it does not own or who authorizes or permits a person to perform warranty service
 4 or delivery and preparation work on a motor vehicle unless the person is a motor
 5 vehicle dealer with whom the manufacturer, importer, or distributor has entered into
 6 a franchise agreement for the sale and service of the manufacturer's, importer's, or
 7 distributor's motor vehicles. This subdivision shall not prohibit a manufacturer,
 8 importer, or distributor from:

9 a. Authorizing the performance of warranty service and delivery and
 10 preparation work by a fleet owner, as defined in s. 218.0116 (7) (d) 4., on its own
 11 vehicles.

12 ~~b. If warranty service is temporarily unavailable to one or more owners of the
 13 manufacturer's, importer's, or distributor's vehicles, performing warranty service on
 14 such vehicles or authorizing the performance of warranty service on such vehicles
 15 by a person who is not a motor vehicle dealer with whom the manufacturer, importer,
 16 or distributor has entered into a franchise agreement for the sale and service of the
 17 manufacturer's, importer's, or distributor's motor vehicles.~~

(A)

18 c. Attempting to repair a nonconformity , as defined in s. 218.0171 (1) (f), to a
 19 vehicle, if such repair is reasonably necessary to prevent the manufacturer, importer,
 20 or distributor from becoming subject to the requirements of s. 218.0171 (2) (b).

21 2. Subdivision 1. does not require a manufacturer, importer, or distributor to
 22 perform warranty service, or to authorize or permit warranty service to be
 23 performed, under a warranty given by another manufacturer, importer, or
 24 distributor or component manufacturer to a retail customer.

25 SECTION 7. 218.0121 (3m) (b) 2. of the statutes is amended to read:

2003 - 2004 Legislature

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LRB - 1231/3
PJH:wj:rs
SECTION 3

BILL

1 218.0116 (1) (w) 1. Being a manufacturer, importer, or distributor who
 2 performs warranty service or delivery and preparation work on a motor vehicle that
 3 it does not own or who authorizes or permits a person to perform warranty service
 4 or delivery and preparation work on a motor vehicle unless the person is a motor
 5 vehicle dealer with whom the manufacturer, importer, or distributor has entered into
 6 a franchise agreement for the sale and service of the manufacturer's, importer's, or
 7 distributor's motor vehicles. This subdivision shall not prohibit a manufacturer,
 8 importer, or distributor from:

9 a. Authorizing the performance of warranty service and delivery and
 10 preparation work by a fleet owner, as defined in s. 218.0116 (7) (d) 4., on its own
 11 vehicles.

12 b. If warranty service is temporarily not reasonably available to one or more
 13 owners of the manufacturer's, importer's, or distributor's vehicles, performing
 14 warranty service on such vehicles or authorizing the performance of warranty
 15 service on such vehicles by a person who is not a motor vehicle dealer with whom the
 16 manufacturer, importer, or distributor has entered into a franchise agreement for the
 17 sale and service of the manufacturer's, importer's, or distributor's motor vehicles.
 18 Warranty service may be provided by a manufacturer, importer, or distributor under
 19 this subdivision only during the period that warranty service is not otherwise
 20 reasonably available.

A

21 c. Attempting to repair a nonconformity, as defined in s. 218.0171 (1) (f), to a
 22 vehicle, if such repair is reasonably necessary to prevent the manufacturer, importer,
 23 or distributor from becoming subject to the requirements of s. 218.0171 (2) (b).

24 2. Subdivision 1. does not require a manufacturer, importer, or distributor to
 25 perform warranty service, or to authorize or permit warranty service to be



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1231/3

PJH:wlj:ts

2003 BILL

REGEN

1 AN ACT *to create* 218.0114 (9) (a) 4., 218.0116 (1) (v) and 218.0116 (1) (w) of the
2 statutes; **relating to:** manufacturers, importers, and distributors of motor
3 vehicles and franchised motor vehicle dealers.

Analysis by the Legislative Reference Bureau

Under current law, each manufacturer, importer, and distributor that wishes to sell motor vehicles in this state must be licensed by the Department of Transportation (DOT). In addition, each manufacturer, importer, or distributor who enters into an agreement with a motor vehicle dealer must file the agreement with DOT. DOT may void an agreement between a motor vehicle dealer and a manufacturer, importer, or distributor if the agreement contains certain violations.

Additionally, if a manufacturer, importer, or distributor commits certain violations with respect to a motor vehicle dealer, current law allows DOT to revoke the manufacturer's, importer's, or distributor's license and hold the manufacturer, importer, or distributor liable for pecuniary losses and attorney fees incurred by the motor vehicle dealer.

This bill allows DOT to void an agreement between a motor vehicle dealer and a manufacturer, importer, or distributor if the agreement permits a manufacturer, importer, or distributor to compel a dealer or any owner of a dealership to sell or transfer an ownership interest in the dealership to the manufacturer, importer, or distributor upon the death or incapacity of an owner or operator of the dealership.

The bill also allows DOT to revoke the license of a manufacturer, importer, or distributor if the manufacturer, importer, or distributor fails to offer for sale all

BILL

models manufactured or distributed for a line make to any of its dealers that hold a franchise to sell the same line make. ^{that}

Finally, the bill allows DOT to revoke the license of a manufacturer, importer, or distributor under most circumstances if the manufacturer, importer, or distributor performs warranty service or delivery and preparation work on a motor vehicle that is not owned by a fleet manager that is authorized by the manufacturer, importer, or distributor to perform such work, by a motor vehicle dealer that holds a franchise with the manufacturer, importer, or distributor, or by the manufacturer, importer, or distributor itself.

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

SECTION 1. 218.0114 (9) (a) 4. of the statutes is created to read:

218.0114 (9) (a) 4. Provide a manufacturer, importer, or distributor with the right to compel a dealer or any owner of a dealership to sell or transfer an ownership interest in the dealership or assets of the dealership to the manufacturer, importer, or distributor or its assignee upon the death or incapacity of an owner or operator of a dealership.

SECTION 2. 218.0116 (1) (v) of the statutes is created to read:

218.0116(1) (v) Being a manufacturer, importer, or distributor who fails to offer for sale all models manufactured or distributed for a line make to its dealers that hold a franchise to sell the same line make. Such offer for sale may be subject to the manufacturer's, importer's, or distributor's plan or system for the allocation, scheduling, and delivery of such models that complies with the requirements of s. 218.0123. This paragraph does not prohibit a manufacturer, importer, or distributor from imposing reasonable requirements for the marketing and servicing of particular models.

SECTION 3. 218.0116 (1) (w) of the statutes is created to read:

BILL

1 218.0116 (1) (w) 1. Being a manufacturer, importer, or distributor who
2 performs warranty service or delivery and preparation work on a motor vehicle that
3 it does not own or who authorizes or permits a person to perform warranty service
4 or delivery and preparation work on a motor vehicle unless the person is a motor
5 vehicle dealer with whom the manufacturer, importer, or distributor has entered into
6 a franchise agreement for the sale and service of the manufacturer's, importer's, or
7 distributor's motor vehicles. This subdivision shall not prohibit a manufacturer,
8 importer, or distributor from:

9 a. Authorizing the performance of warranty service and delivery and
10 preparation work by a fleet owner, as defined in s. 218.0116 (7) (d) 4., on its own
11 vehicles.

12 b. If warranty service is temporarily not reasonably available to one or more
13 owners of the manufacturer's, importer's, or distributor's vehicles, performing
14 warranty service on such vehicles or authorizing the performance of warranty
15 service on such vehicles by a person who is not a motor vehicle dealer with whom the
16 manufacturer, importer, or distributor has entered into a franchise agreement for the
17 sale and service of the manufacturer's, importer's, or distributor's motor vehicles.

18 ~~Warranty~~ service may be provided by a manufacturer, importer, or distributor under ~~or~~ ^{or authorized}
19 this subdivision only during the period that warranty service is not otherwise
20 reasonably available.

21 c. Attempting to repair a nonconformity, as defined in s. 218.0171 (1) (f), to a
22 vehicle, if ~~such~~ ^{the} repair is reasonably necessary to prevent the manufacturer, importer,
23 or distributor from becoming subject to the requirements of s. 218.0171 (2) (b).

24 2. Subdivision 1. does not require a manufacturer, importer, or distributor to
25 perform warranty service, or to authorize or permit warranty service to be

BILL

1 performed, under a warranty given by another manufacturer, importer, or
2 distributor or component manufacturer to a retail customer.

3 **SECTION 4. Initial applicability.**

4 (1) This act first applies to violations that occur on the effective date of this
5 subsection.

6 (END)

Ins B^d

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 218.0114 (9) (a) 2., 218.0114 (10) (a), 218.0121 (3m) (b) 2. and
 2 218.0163 (1) (a); and **to create** 218.0114 (9) (a) 4., 218.0114 (9) (d), 218.0116 (1)
 3 (v) and 218.0116 (1) (w) of the statutes; **relating to:** wholesale motor vehicle
 4 dealers.

Analysis by the Legislative Reference Bureau
 This is a preliminary draft. An analysis will be provided in a later version.

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

5 SECTION ~~1~~ 218.0114 (9) (a) 2. of the statutes is amended to read:
 6 218.0114 (9) (a) 2. Prevent a dealer or distributor from bringing an action in
 7 a particular forum otherwise available under the law or waive the dealer's or
 8 distributor's right to a jury trial.

9 SECTION ~~2~~ 218.0114 (9) (a) 4. of the statutes is created to read:
 10 218.0114 (9) (a) 4. Provide a manufacturer, importer, or distributor with the
 11 right or option to compel the dealer or any of its owners to sell or transfer an

Insert A

Ins A

1 ownership interest in the dealer or assets of the dealer to the manufacturer, importer,
2 or distributor or an assignee of the manufacturer, importer, or distributor.

3 ~~SECTION 5.~~ [#] 218.0114 (9) (d) of the statutes is created to read:

4 218.0114 (9) (d) Notwithstanding par. (a) 4., an agreement may provide a
5 manufacturer, importer, or distributor with the right of first refusal to acquire the
6 dealer's assets in the event of a proposed change of ownership or transfer of
7 dealership assets if all of the requirements of s. 218.0134 (4) (c) are met.

8 ~~SECTION 5.~~ [#] 218.0114 (10) (a) of the statutes is amended to read:

9 218.0114 (10) (a) A settlement agreement that is entered into by a dealer or
10 distributor voluntarily ~~and that waives rights, remedies or defenses~~ with respect to
11 a particular dispute existing when the settlement agreement is reached.

12 ~~SECTION 5.~~ [#] 218.0116 (1) (v) of the statutes is created to read:

13 218.0116 (1) (v) Being a manufacturer, importer, or distributor who fails or
14 refuses to offer for sale to its same line make franchised dealers all models
15 manufactured or distributed for the line make. ~~Such~~ offer for sale may be subject to
16 the manufacturer's, importer's, or distributor's plan or system for the allocation,
17 scheduling, and delivery of such models that complies with the requirements of s.
18 218.0123. However, the failure to deliver any such motor vehicle shall not be
19 considered a violation of this paragraph if the failure is due to a lack of
20 manufacturing capacity, a strike or labor difficulty, a shortage or materials, a freight
21 embargo, or other cause beyond the control of the manufacture, importer, or
22 distributor. This paragraph does not prohibit reasonable requirements being
23 imposed on dealers for the sale, marketing, or servicing of particular models.

The

24 SECTION 6. 218.0116 (1) (w) of the statutes is created to read:

1 ~~218.0116 (1) (w) 1. Being a manufacturer, importer, or distributor who~~
2 ~~performs warranty service or delivery and preparation work on a motor vehicle that~~
3 ~~it does not own or who authorizes or permits a person to perform warranty service~~
4 ~~or delivery and preparation work on a motor vehicle unless the person is a motor~~
5 ~~vehicle dealer with whom the manufacturer, importer, or distributor has entered into~~
6 ~~a franchise agreement for the sale and service of the manufacturer's, importer's, or~~
7 ~~distributor's motor vehicles. This subdivision shall not prohibit a manufacturer,~~
8 ~~importer, or distributor from.~~

9 a. ~~Authorizing the performance of warranty service and delivery and~~
10 ~~preparation work by a fleet owner, as defined in s. 218.0116 (7) (d) 4., on its own~~
11 ~~vehicles.~~

12 b. ~~If warranty service is temporarily unavailable to one or more owners of the~~
13 ~~manufacturer's, importer's, or distributor's vehicles, performing warranty service on~~
14 ~~such vehicles or authorizing the performance of warranty service on such vehicles~~
15 ~~by a person who is not a motor vehicle dealer with whom the manufacturer, importer,~~
16 ~~or distributor has entered into a franchise agreement for the sale and service of the~~
17 ~~manufacturer's, importer's, or distributor's motor vehicles.~~

18 c. ~~Attempting to repair a nonconformity, as defined in s. 218.0171 (1) (f), to a~~
19 ~~vehicle, if such repair is reasonably necessary to prevent the manufacturer, importer,~~
20 ~~or distributor from becoming subject to the requirements of s. 218.0171 (2) (b).~~

21 2. ~~Subdivision 1. does not require a manufacturer, importer, or distributor to~~
22 ~~perform warranty service, or to authorize or permit warranty service to be~~
23 ~~performed, under a warranty given by another manufacturer, importer, or~~
24 ~~distributor or component manufacturer to a retail customer.~~

25 ~~SECTION 6. 218.0121 (3m) (b) 2. of the statutes is amended to read:~~

Ins B

Ins
B, cont.

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218.0121 (3m) (b) 2. The dealer operator of the dealership is unable to acquire full ownership of the dealership with his or her own assets ~~or in conjunction with financial investments and loans from investors or lenders other than the factory holding an ownership interest in the dealership.~~

SECTION ~~8~~ 218.0163 (1) (a) of the statutes is amended to read:

218.0163 (1) (a) A violation by any other licensee of s. 218.0116 (1) (bm), (f), (h), (hm), (i), (km), (L), (Lm), (mm), (pm), (q), (qm), (r), (rm), (s), (sm), (t) ~~or~~, (u), (v), or (w).

SECTION 9. Initial applicability.

(1) This act first applies to a franchise agreement that exists or is entered into on the effective date of this subsection.

(END)

Insert Analysis

Analysis by the Legislative Reference Bureau

Under current law, each manufacturer, importer, and distributor that wishes to sell motor vehicles in this state must be licensed by the Department of Transportation (DOT). In addition, each manufacturer, importer, or distributor ~~who~~^{that} enters into an agreement with a motor vehicle dealer must file the agreement with DOT. Certain provisions in ~~such~~^{now} an agreement are void and prohibited.

Additionally, if a manufacturer, importer, or distributor commits certain violations with respect to a motor vehicle dealer, current law allows DOT to revoke the manufacturer's, importer's, or distributor's license. The dealer may also recover damages and attorney fees caused by the violation.

This bill makes void and prohibited any provision in an agreement that waives the dealer's or ~~the~~[@] distributor's right to a jury trial. It also makes void and prohibited a provision that permits a manufacturer, importer, or distributor to compel a dealer or any owner to transfer an ownership interest in, or assets of, the dealership to the manufacturer, importer, or distributor.

~~except certain rights of first refusal.~~ However, an agreement may provide a manufacturer, importer, or distributor with the right of first refusal to acquire the dealer's assets in the event of a proposed change

The bill also allows DOT to revoke the license of a manufacturer, importer, or distributor if the manufacturer, importer, or distributor fails to offer for sale all models manufactured or distributed for a line make to any of its dealers that hold a franchise to sell that line make.

of ownership or transfer

Finally, the bill allows DOT to revoke the license of a manufacturer, importer, or distributor under most circumstances if the manufacturer, importer, or distributor performs warranty or delivery and preparations work on a vehicle that it does not own or permits a person other than a dealer franchised to sell and service the manufacturer's, importer's, or distributor's vehicles, to perform such work.

Basford, Sarah

From: Richard, Rob
Sent: Friday, August 15, 2003 3:37 PM
To: Basford, Sarah

Sarah:

I wasn't sure who to contact with this request. I don't have the ability to make this request electronically by clicking the button. Please send me the Assembly jackets for LRB-1231/4 and LRB-1468/3. Thank you!

Rob Richard, Legislative Aide
Office of Rep. Steve Freese