

State of Wisconsin



2011 Senate Bill 96

Date of enactment: **December 7, 2011**
Date of publication*: **December 20, 2011**

2011 WISCONSIN ACT 91

AN ACT *to renumber* 218.0133 (2) (d); *to renumber and amend* 218.0125 (1); *to amend* 218.0116 (1) (km), 218.0116 (1) (rm), 218.0116 (10), 218.0125 (2), 218.0125 (3), 218.0125 (4), 218.0125 (5), 218.0133 (title), 218.0133 (2) (a), 218.0133 (2) (b) 1. b., 218.0133 (2) (b) 1. c., 218.0133 (2) (b) 2., 218.0133 (4) (a), 218.0133 (5) (a) 2., 218.0133 (5) (d), 218.0133 (6) (b) and 218.0163 (1) (a); and *to create* 218.0116 (1) (um), 218.0116 (1) (vm), 218.0116 (1) (wm), 218.0116 (1) (xm), 218.0116 (1) (y), 218.0116 (1) (ym), 218.0116 (1) (ys), 218.0125 (1) (b), 218.0125 (3m), 218.0125 (4m), 218.0128, 218.0133 (1) (c), 218.0133 (2) (d) 2., 218.0133 (2) (d) 3., 218.0133 (2) (f), 218.0133 (4) (e), 218.0133 (4) (f), 218.0133 (5) (a) 4d., 218.0133 (5) (a) 4h., 218.0133 (5) (a) 4p., 218.0133 (5) (a) 4t. and 218.0133 (7) of the statutes; **relating to:** motor vehicle dealers.

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

SECTION 1. 218.0116 (1) (km) of the statutes is amended to read:

218.0116 (1) (km) Being a manufacturer, importer, or distributor who violates s. 218.0121, 218.0122, 218.0123, 218.0124 or 218.0125, or 218.0128.

SECTION 2. 218.0116 (1) (rm) of the statutes is amended to read:

218.0116 (1) (rm) Being a grantor, as defined in s. 218.0133 (1) (b), except a motorcycle grantor, as defined in s. 218.0133 (1) (c), who fails to pay a motor vehicle dealer agreement franchise termination benefits under s. 218.0133 or being a motorcycle grantor who fails to pay a motor vehicle dealer agreement termination benefits under s. 218.0133.

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

218.0116 (1) (um) 1. In this paragraph, "site control contract" means a contract that grants authority to a manufacturer, importer, or distributor or an affiliate of a

manufacturer, importer, or distributor, during the term of an agreement or after the termination, cancellation, or nonrenewal of an agreement, to control the disposition or use of or to lease the dealer's dealership facilities.

2. Being a manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer or prospective dealer of the manufacturer's, importer's, or distributor's motorcycles, who conditions entry into an agreement or renewal of an agreement or approval of the addition of a line make of motor vehicles, franchise relocation, ownership or management change, or transfer of dealership assets on the entry by the dealer or prospective dealer into a site control contract or who coerces or attempts to coerce a dealer or prospective dealer to enter into a site control contract. This subdivision does not prohibit a site control contract for which the dealer or prospective dealer receives a separate and valuable consideration. This subdivision does not apply to a site control contract that is in existence on the effective date of this subdivision [LRB inserts date], unless the contract is amended, modified, changed,

* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

or renewed after the effective date of this subdivision [LRB inserts date].

SECTION 4. 218.0116 (1) (vm) of the statutes is created to read:

218.0116 (1) (vm) Unless the technology of a motor vehicle reasonably requires improvement of dealership facilities to accommodate the adequate sale and service of the motor vehicle or the reasonable business considerations of the manufacturer and dealer justify improvement of dealership facilities, being a manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer or prospective dealer of the manufacturer's, importer's, or distributor's motorcycles, who conditions entry into an agreement or renewal of an agreement or approval of the addition of a line make of motor vehicles, franchise relocation, ownership or management change, or transfer of dealership assets on the improvement of dealership facilities at a substantial cost to the dealer or prospective dealer or who coerces or attempts to coerce a dealer or prospective dealer to improve dealership facilities at a substantial cost to the dealer or prospective dealer. This paragraph does not prohibit improvement of dealership facilities at a substantial cost to the dealer or prospective dealer if the dealer or prospective dealer has agreed to undertake the improvement and received a separate and valuable consideration for the improvement. The burden of proof to demonstrate the technological necessity or business justification of the facilities improvement is on the manufacturer, importer, or distributor. This paragraph does not apply to an agreement to improve dealership facilities at a substantial cost to the dealer or prospective dealer that is in existence on the effective date of this paragraph [LRB inserts date], unless the agreement is amended, modified, changed, or renewed after the effective date of this paragraph [LRB inserts date].

SECTION 5. 218.0116 (1) (wm) of the statutes is created to read:

218.0116 (1) (wm) Being a manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, who unreasonably requires or coerces or attempts to coerce a dealer to provide or maintain exclusive facilities for a particular line make of motor vehicles or unreasonably refuses to permit or approve the addition of another line make to the dealership facilities of a dealer taking into consideration the reasonable business considerations of the manufacturer, importer, or distributor and the dealer. The burden of proof to demonstrate the reasonableness of the provision or maintenance of exclusive facilities or the refusal to permit or approve the addition of another line make is on the manufacturer, importer, or distributor. This paragraph does not apply to an agreement for a dealer to provide or maintain exclusive facilities for a particular line make of motor vehicles and for

which the dealer has received separate and valuable consideration that is in existence on the effective date of this paragraph [LRB inserts date], unless the agreement is amended, modified, changed, or renewed after the effective date of this paragraph [LRB inserts date].

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

218.0116 (1) (xm) Being a manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, who charges back, withholds payment, denies vehicle allocation, or takes other adverse action against a dealer for charging a service fee to a retail customer in any amount that is not prohibited under ss. 218.0101 to 218.0163 or rules promulgated by the department of transportation under ss. 218.0101 to 218.0163.

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

218.0116 (1) (y) Being a manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, who charges back, withholds payment, denies vehicle allocation, or takes other adverse action against a dealer because a motor vehicle sold by the dealer has been exported to a foreign country unless the dealer knew or reasonably should have known that the purchaser intended to export the vehicle or resell the vehicle for export. If the motor vehicle is titled or registered in any state in this country, it is presumed that the dealer had no knowledge that the purchaser intended to export the vehicle or resell the vehicle for export. The manufacturer, importer, or distributor may rebut the presumption. The burden of proof to demonstrate that the dealer knew or reasonably should have known that the purchaser intended to export the vehicle or resell the vehicle for export is on the manufacturer, importer, or distributor.

SECTION 8. 218.0116 (1) (ym) of the statutes is created to read:

218.0116 (1) (ym) Being a manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, who requires or coerces, or attempts to require or coerce, a dealer to provide the manufacturer, importer, or distributor with information regarding the retail customers of the dealer unless the information is necessary for the sale and delivery of a new motor vehicle to a retail buyer, to validate and pay customer or dealer incentives, for warranty reimbursement substantiation under s. 218.0125, or to enable the manufacturer, importer, or distributor to fulfill safety, recall, or other legal obligations.

SECTION 9. 218.0116 (1) (ys) of the statutes is created to read:

218.0116 (1) (ys) Being a manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, who transfers nonpublic customer information that was obtained from a dealer to another franchised dealer while the dealer from which the information was obtained remains a franchised dealer unless the dealer from which the information was obtained agrees to the transfer, or who uses any nonpublic personal information, as defined in 16 CFR 313.3 (n), obtained from a dealer unless the use falls within an exception under 16 CFR 313.14 or 313.15.

SECTION 10. 218.0116 (10) of the statutes is amended to read:

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

SECTION 11. 218.0125 (1) of the statutes is renumbered 218.0125 (1) (intro.) and amended to read:

218.0125 (1) (intro.) In this section, ~~"dealer;~~

(a) ~~"Dealer cost"~~ means the wholesale cost for a part as listed in the manufacturer's, importer's or distributor's current price schedules or, if the part is not so listed, the dealer's original invoice cost for the part.

SECTION 12. 218.0125 (1) (b) of the statutes is created to read:

218.0125 (1) (b) "Qualifying nonwarranty repairs" means nonwarranty repairs that would be covered by the warranty of a manufacturer, importer, or distributor if the vehicle being repaired was covered by the warranty. The term does not include routine maintenance.

SECTION 13. 218.0125 (2) of the statutes is amended to read:

218.0125 (2) A manufacturer, importer, or distributor shall, for the protection of the buying public, specify the delivery and preparation obligations of its dealers before delivery of new motor vehicles to retail buyers. Except for a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, the specification shall be in writing. A copy of the delivery and preparation obligations of its dealers shall be filed with the department of transportation by every licensed motor vehicle manufacturer, importer, or distributor and shall constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer, importer, or distributor. Any mechanical, body, or parts

defects arising from any ~~express or implied~~ warranties of the manufacturer, importer, or distributor shall constitute the manufacturer's, importer's, or distributor's product or warranty liability. The

(2m) A manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles shall reasonably compensate any authorized dealer who performs work to rectify the manufacturer's, importer's, or distributor's product or warranty defects or delivery and preparation obligations or who performs any other work required, requested, or approved by the manufacturer, importer, or distributor or for which the manufacturer, importer, or distributor has agreed to pay, including compensation for labor at a labor rate equal to the effective labor rate charged all customers and for parts at an amount not less than the amount the dealer charges its other retail service customers for parts used in performing similar work by the dealer.

SECTION 14. 218.0125 (3) of the statutes is amended to read:

218.0125 (3) To be eligible for compensation for parts under sub. (2) ~~(2m)~~, a dealer of motorcycles shall notify the manufacturer, importer, or distributor of motorcycles in writing of the amounts that the dealer charges its other retail service customers for parts and request that it be paid for parts in accordance with this section. The notice may be limited to the dealer's average markup over dealer cost that the dealer charges its other retail service customers for parts used to perform similar work. The notice shall be served upon the manufacturer, importer, or distributor not less than 30 days before the date on which the dealer requests that the manufacturer, importer, or distributor begin paying the dealer for parts at the stated amounts. The manufacturer, importer, or distributor shall pay the dealer, as provided in this section, at the amounts stated in the dealer notice for parts used in work performed on and after the beginning date stated in the notice. This section applies to a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles and those dealers.

SECTION 15. 218.0125 (3m) of the statutes is created to read:

218.0125 (3m) (a) Subject to sub. (4m), a manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, shall reasonably compensate a dealer who performs work to rectify the product or warranty defects of the manufacturer, importer, or distributor or to satisfy delivery and preparation obligations of the manufacturer, importer, or distributor or who performs any other work required, requested, or approved by the manufacturer, importer, or distributor or for which the manufacturer, importer, or distributor has agreed to pay.

(b) Reasonable compensation under par. (a) for labor is equal to the dealer's effective nonwarranty labor rate multiplied by the number of hours allowed for the repair under the manufacturer's, importer's, or distributor's time allowances used in compensating the dealer for warranty work. Reasonable compensation under par. (a) for parts is equal to the dealer's cost for the parts multiplied by the sum of 1 and the dealer's average percentage markup over dealer cost for parts.

(c) 1. The effective nonwarranty labor rate is determined, using the submitted substantiating orders under sub. (4m) (a) 2., by dividing the total customer labor charges for qualifying nonwarranty repairs in the repair orders by the total number of hours that would be allowed for the repairs if the repairs were made under the manufacturer's, importer's, or distributor's time allowances used in compensating the dealer for warranty work.

2. A dealer's average percentage markup over dealer cost for parts is determined, using the submitted substantiating orders under sub. (4m) (a) 2., by dividing total charges for parts in the repair orders by the total dealer cost for the parts.

SECTION 16. 218.0125 (4) of the statutes is amended to read:

218.0125 (4) The manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles may require the dealer, at reasonable intervals, to provide the manufacturer, importer, or distributor with documents or information regarding a reasonable number of sales to other retail service customers of parts used by the dealer to perform similar work in order to substantiate that the amounts requested in the dealer's notice are consistent with the amounts that the dealer charges its other retail service customers for parts used by the dealer to perform similar work.

SECTION 17. 218.0125 (4m) of the statutes is created to read:

218.0125 (4m) (a) To be eligible for compensation for labor or parts under sub. (3m), a dealer shall submit to the manufacturer, importer, or distributor all of the following:

1. A written notice of the claimed effective nonwarranty labor rate or average percentage markup over dealer cost for parts.

2. Either 100 sequential repair orders for qualifying nonwarranty repairs or all repair orders for qualifying nonwarranty repairs performed in a 90-day period, whichever is less. All repair orders under this subdivision must be for repairs made no more than 180 days before the submission.

(b) Not more than 30 days after receiving a submission under par. (a), the manufacturer, importer, or distributor shall begin compensating the dealer based on the effective nonwarranty labor rate or average percentage markup over dealer cost for parts that is substantiated by

the submission. If the manufacturer, importer, or distributor disputes the dealer's claimed labor rate or markup, the manufacturer, importer, or distributor shall notify the dealer in writing that it disputes the labor rate or markup. A notice under this paragraph shall include a written explanation of the reason for the dispute, including the labor rate or markup that the manufacturer, importer, or distributor has determined is substantiated by the submission.

SECTION 18. 218.0125 (5) of the statutes is amended to read:

218.0125 (5) A manufacturer, importer, or distributor who fails to compensate a dealer for parts at an amount not less than the amount the dealer charges its other retail service customers for parts used to perform similar work shall not be found to have violated this section if the manufacturer, importer, or distributor shows that, for a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, the amount is not reasonably competitive to the amounts charged to retail service customers by other similarly situated franchised motor vehicle dealers in this state for the same parts when used by those dealers to perform similar work or, for any other manufacturer, importer, or distributor, the amount is not reasonably competitive to the amounts charged to retail service customers by other similarly situated franchised motor vehicle dealers in this state in performing qualifying nonwarranty repairs.

SECTION 19. 218.0128 of the statutes is created to read:

218.0128 Product liability. A manufacturer, importer, or distributor, except a manufacturer, importer, or distributor of motorcycles with respect to a dealer of the manufacturer's, importer's, or distributor's motorcycles, shall defend, indemnify, and hold harmless a dealer against any claim, judgment, or settlement for damages, court costs, expert witness fees, attorney fees, or other expenses arising out of a complaint, claim, or lawsuit to the extent that the complaint, claim, or lawsuit is caused by alleged defective or negligent manufacture, assembly, or design of a motor vehicle, part, or accessory by the manufacturer, importer, or distributor. If a complaint, claim, or lawsuit involves acts or omissions of both the manufacturer, importer, or distributor and the dealer, the manufacturer, importer, or distributor is not obligated to defend the dealer against a claim arising out of the dealer's alleged acts or omissions and is not obligated to indemnify the dealer against any part of a judgment or settlement that arises out of the dealer's alleged acts or omissions.

SECTION 20. 218.0133 (title) of the statutes is amended to read:

218.0133 (title) Agreement termination Termination benefits.

SECTION 21. 218.0133 (1) (c) of the statutes is created to read:

218.0133 (1) (c) “Motorcycle grantor” means a manufacturer of motorcycles on direct dealership, a distributor of motorcycles on indirect dealership, or an importer of motorcycles on direct dealership, with respect to a dealer of the manufacturer’s, importer’s, or distributor’s motorcycles, that has entered into an agreement with a motor vehicle dealer.

SECTION 22. 218.0133 (2) (a) of the statutes is amended to read:

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

SECTION 23. 218.0133 (2) (b) 1. b. of the statutes is amended to read:

218.0133 (2) (b) 1. b. ~~218.0133 (2) (b) 1. b. The If the grantor is a motorcycle grantor, 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. If the grantor is not a motorcycle grantor, the motor vehicle has not been operated more than 500 miles for manufacturer’s tests, predelivery tests, and motor vehicle dealer exchange in addition to operation required for motor vehicle delivery from the grantor or another dealer of the same line make.~~

SECTION 24. 218.0133 (2) (b) 1. c. of the statutes is amended to read:

218.0133 (2) (b) 1. c. The motor vehicle was acquired as part of the motor vehicle dealer’s original inventory or from the grantor or in the ordinary course of business from another motor vehicle dealer of the same line make who acquired the motor vehicle from the grantor.

SECTION 25. 218.0133 (2) (b) 2. of the statutes is amended to read:

218.0133 (2) (b) 2. A motorcycle grantor may not be required to repurchase a motor vehicle under this paragraph 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. A grantor that is not a motorcycle grantor may not be required to repurchase a motor vehicle under this para-

graph unless the vehicle is of the current or one-year prior model year or 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 a franchise or is within 18 months of the date on which the grantor terminates, cancels, or does not renew a franchise.

SECTION 26. 218.0133 (2) (d) of the statutes is renumbered 218.0133 (2) (d) 1.

SECTION 27. 218.0133 (2) (d) 2. of the statutes is created to read:

218.0133 (2) (d) 2. If the dealer leases a sign from the grantor or an entity controlled by the grantor, the grantor, except a motorcycle grantor, shall terminate or arrange for the termination of the lease.

SECTION 28. 218.0133 (2) (d) 3. of the statutes is created to read:

218.0133 (2) (d) 3. The grantor, except a motorcycle grantor, is responsible for the removal of a sign subject to subd. 1. or 2. from the dealership facility and shall bear the costs of the removal.

SECTION 29. 218.0133 (2) (f) of the statutes is created to read:

218.0133 (2) (f) The grantor, except a motorcycle grantor, shall reimburse the motor vehicle dealer for the amount of any obligations that extend beyond the effective date of the termination, cancellation, or nonrenewal under contracts for computer hardware, software, maintenance, or other related service entered into by the dealer and required by the grantor for 18 months or the remaining term of the contracts, whichever is less, unless the computer hardware, software, maintenance, or other related service was used to support the operations of a franchise other than the franchise that was terminated, cancelled, or not renewed.

SECTION 30. 218.0133 (4) (a) of the statutes is amended to read:

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

SECTION 31. 218.0133 (4) (e) of the statutes is created to read:

218.0133 (4) (e) If a dealer completed construction or renovation of its dealership facilities not more than 24 months before receiving the notice of the franchise ter-

mination, cancellation, or nonrenewal and the construction or renovation was required by the grantor, the grantor except a motorcycle grantor shall pay the dealer an amount equal to the dealer's actual cost for the construction or renovation, less any allowances or credits provided to the dealer by the grantor for the construction or renovation and less any tax savings accruing to the dealer's benefit prior to the notice of the franchise termination, cancellation, or nonrenewal from depreciation write-offs related to the construction or renovation.

SECTION 32. 218.0133 (4) (f) of the statutes is created to read:

218.0133 (4) (f) If the termination, cancellation, or nonrenewal relates to fewer than all of the franchises operated by a dealer at a single location, the amount of the termination benefit under this subsection shall be based on the percentage of total square footage attributed to the franchise being terminated, cancelled, or not renewed at the effective date of the termination, cancellation, or nonrenewal. This paragraph does not apply to a motorcycle grantor.

SECTION 33. 218.0133 (5) (a) 2. of the statutes is amended to read:

218.0133 (5) (a) 2. 218.0133 (5) (a) 2. A motor vehicle dealer who terminates or cancels an agreement with a motorcycle grantor without giving the grantor 60 days' notice or the notice required under the agreement, whichever is less or who terminates or cancels a franchise with a grantor that is not a motorcycle grantor without giving the grantor 60 days' notice or the notice required under the agreement, whichever is less.

SECTION 34. 218.0133 (5) (a) 4d. of the statutes is created to read:

218.0133 (5) (a) 4d. A motor vehicle dealer who has any license that is required to operate its dealership revoked. This subdivision does not apply to a motorcycle grantor or a dealer of its motorcycles with respect to the motorcycle grantor.

SECTION 35. 218.0133 (5) (a) 4h. of the statutes is created to read:

218.0133 (5) (a) 4h. A termination, cancellation or nonrenewal based on the motor vehicle dealer's failure to conduct its customary sales and service operations during its customary business hours for 7 consecutive business days unless the failure is caused by an act of God, work stoppage or delays due to strikes or labor disputes, an order of the department of transportation or the division of hearings and appeals, or other circumstances beyond the dealer's control. This subdivision does not apply to a motorcycle grantor or a dealer of its motorcycles with respect to the motorcycle grantor.

SECTION 36. 218.0133 (5) (a) 4p. of the statutes is created to read:

218.0133 (5) (a) 4p. A termination, cancellation, or nonrenewal based on the conviction of a motor vehicle dealer of a crime involving theft, dishonesty, or false

statement, or any other crime punishable by imprisonment for greater than one year. This subdivision does not apply to a motorcycle grantor or a dealer of its motorcycles with respect to the motorcycle grantor.

SECTION 37. 218.0133 (5) (a) 4t. of the statutes is created to read:

218.0133 (5) (a) 4t. A termination, cancellation, or nonrenewal based on the motor vehicle dealer being subject to a bankruptcy or receivership filing unless the petition is dismissed not more than 30 days after the filing date. This subdivision does not apply to a motorcycle grantor or a dealer of its motorcycles with respect to the motorcycle grantor.

SECTION 38. 218.0133 (5) (d) of the statutes is amended to read:

218.0133 (5) (d) Subsection (4) does not apply if a motorcycle grantor terminates, cancels, or fails to renew an agreement in compliance with s. 218.0116 (1) (i), unless the primary ground for termination, cancellation, or nonrenewal is inadequate sales performance by the motor vehicle dealer or if a grantor that is not a motorcycle grantor terminates, cancels, or fails to renew a franchise in compliance with s. 218.0116 (1) (i), unless the primary ground for termination, cancellation, or nonrenewal is inadequate sales performance by the motor vehicle dealer or termination, cancellation, or discontinuation of a motor vehicle line make.

SECTION 39. 218.0133 (6) (b) of the statutes is amended to read:

218.0133 (6) (b) A motorcycle grantor may not make the termination benefits payments under sub. (2) or (4) contingent on the motor vehicle dealer releasing or waiving any rights, claims, or remedies and a grantor that is not a motorcycle grantor may not make the termination benefits payments under sub. (2), (4), or (7) contingent on the motor vehicle dealer releasing or waiving any rights, claims, or remedies.

SECTION 40. 218.0133 (7) of the statutes is created to read:

218.0133 (7) If a grantor except a motorcycle grantor cancels or fails to renew a franchise under s. 218.0132 (2), in addition to the termination benefits provided in subs. (2) and (4), the grantor shall compensate the dealer in an amount not less than the fair market value of the franchise terminated or not renewed on the date immediately preceding the date the manufacturer, importer, or distributor publicly announced the termination, cancellation, or discontinuation of the line make that resulted in the franchise cancellation or nonrenewal. The manufacturer, importer, or distributor shall provide the compensation under this subsection not more than 90 days after the effective date of the cancellation or nonrenewal.

SECTION 41. 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),

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(mm), (pm), (q), (qm), (r), (rm), (s), (sm), (t), (u), (um),
(v), (vm), (w), ~~(wm)~~, (x), (xm), (y), (ym), or (ys).

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

SECTION 42. Initial applicability.
