CHAPTER 135
DEALERSHIP PRACTICES

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 impaired by the dealership grantor, whatever its size. Ros sow Oil Co. v. Heiman. 72 Wis. 2d 690, 238 N.W.2d 176 (1976).

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

This chapter applies exclusively to dealerships that do business within the geographic confines of the state. Swan Sales Corp. v. Jos. Schlitz Brewing Co. 126 Wis. 2d 16, 374 N.W.2d 640 (CIp. App. 1987).

Two guidelines for determining the existence of a “community of interest” under sub. (3) are: (1) a shared financial interest in the operation of the dealership or the marketing of a good or service; and (2) the degree of coop or coop, cost or profits, and sharing of common goals in the parties’ relationship. Ziegler Co., Inc. v. Rexnord, Inc. 139 Wis. 2d 593, 407 N.W.2d 873 (1987).

A substantial investment distinguishes a dealership from a typical vendor−vendor relationship; establishing a loss of future profits is not sufficient. Gunderjohn v. Loe w−Ameri can, Inc. 179 Wis. 2d 201, 507 N.W.2d 115 (CIp. App. 1993).

Contracts between an HMO and chiropractors for the provision of chiropractic services to HMO members did not establish the dealership relationship under ch. 135. Bakke Chiropractic Clinic v. Physicians Plus Insurance. 215 Wis. 2d 605, 573 N.W.2d 542 (CIp. App.1997), 97−1169.

A dealership is a contract or agreement establishing a particular sort of commercial relationship that encompasses an extraordinary diverse set of business relationships not limited to the traditional franchise. The focus of the analysis must be on whether on−going relationship can be said to be in existence in the state after examining a broad set of outlined by the court. Baldwin Company v. Tri−Cl ower. 1981 Wis. 10, 223 Wis. 2d 57, 606 N.W.2d 145, 99−0541. See also Baldwin Company v. Tri− Clo ver. 183 F. Supp. 2d 1116 (2002).

Assuming without deciding that the size of the local economy relative to the cost of the putative dealer’s inventory of the grantor’s products is a relevant factor in determining the existence of a community of interest, that factor did not demonstrate the existence of a community of interest in this case. Moe v. Benelli U.S.A. Corp. 2001 WI App 254, 306 Wis. 2d 812, 733 N.W.2d 691, 09−1512.

Subpar. (2), “dealership” defined in ch. 135 to mean “a person who is a grantee of a dealership situated in this state.” Sub. (3) defines “dealership” in part as “contract or agreement . . . between 2 or more persons, by which a person is granted the right to sell or distribute goods or services . . .” Sub. (6) defines “person” as “a natural person, partnership, joint venture, corporation or other entity” and a city is a municipal corporation. Under s. 990.01 (26), “person” includes all partnerships, associations, and bodies politic and corporate. The general term “corporation” presumptively should be read to include more specific types of corporations. Under the facts of this case, the relationships between the defendant city and the golf pro plaintiffs who operated its golf courses constituted “dealerships” under sub. (3). Benson v. City of Madison, 2017 WI 65, 376 Wis. 2d 35, 897 N.W.2d 16, 15−2366.

When an otherwise protected property transfers a protected interest to a third party, a “community of interest” is destroyed and the party removed from WFDL protection. Lakefield Telephone Co. v. Northern Telecom, Inc. 197 F.3d 392 (1992).

A community of interest exists when a large proportion of a dealer’s revenues are derived from the dealership, or when the alleged dealer has made sizable investments in the grantor’s goods or services. Freeburg Farm Equip. v. Van Dale, Inc. 978 F.2d 395 (1992).

There is no “community of interest” in the sale of services not yet in existence when the availability of the services is dependent on the happening of an uncertain condition. Klawon v. Embassy Suites, Inc. 1993 F.3d 1404 (1993).

This chapter does not protect a manufacturer’s representative that lacks the unqualified authorization to sell or the authority to commit the manufacturer to a sale. Sales & Marketing Assoc., Inc. v. Huff. 2000 Wis. 255, 264 Wis. 2d 812, 733 N.W.2d 691, 09−1512.

If a grantor is losing substantial money under the dealership relationship, it may constitute “good cause” for changes in the contract, including termination. Morley− Murphy Co. v. Zenith Electronics, Inc. 142 F.3d 573 (1998).

This chapter specifies who may take advantage of its protections through the terms “dealer” and “dealership” and obviates the need to resort to conflict of laws principles. Investment in the state without in−state sales does not bring a party within the geographic confines of the state. Generac Corp. v. Catterpillar, Inc. 172 F.3d 971 (1999).

A manufacturer’s right of approval of its distributors’ subdistributors did not create a contractual relationship between the manufacturer and the subdistributor subject to this chapter. P撤K Auto Electric & Battery Company, Inc. v. Tecumseh Products Company. 255 F.3d 460 (2001).

The distinction between a dealer and a manufacturer’s representative is discussed. All Business Agency, Inc. v. Lithonia−Division of National Services, Inc. 474 F. Supp. 828 (1979).

The employment relationship was not a “dealership.” O’Leary v. Sterling Extruder Corp. 533 F. Supp. 1205 (1982).

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).

A manufacturer’s representative was not a “dealership.” Foerster, Inc. v. Atlas Metal Parts Co. 105 Wis. 2d 17, 313 N.W.2d 601 (1981).

Chapter 135 applies exclusively to dealerships that do business within the geographic confines of the state. Swan Sales Corp. v. Jos. Schlitz Brewing Co. 126 Wis. 2d 16, 374 N.W.2d 640 (CIp. App. 1987).

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) “Deal ership” 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 to 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. 135.02 (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 by the dealer, or, sought to be imposed by the grantor, which requirements are not discriminatory as compared with requirements imposed on other similarly situated dealers either by their terms or in the manner of their enforcement; or

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

The plaintiff was not a “dealer” since money advanced to the company for fixtures and inventory was refundable. Moore v. Tandy Corp. Radio Shack Div. 631 F. Supp. 1037 (1986).

It is improper to determine whether under sub. (3) a “community of interest” exists by examining the effect termination has on a division of the plaintiff. U.S. v. Davis, 756 F. Supp. 1162 (1991).

The “situated in this state” requirement under sub. (2) is satisfied as long as the dealership agreements with independent Wisconsin dealerships are in Wisconsin. CS-Wisconsin Office v. Houston Satellite Systems, 779 F. Supp. 979 (1991).

There is no “community of interest” under sub. (3) when there is an utter absence of “shared goals” or “cooperative coordinated efforts” between the parties. Cajun of Wisconsin v. Winston Furniture Co. 817 F. Supp 778 (1995).

Even if a person is granted a right to sell a product, the person is not a dealer unless that person actually sells the product. Smith v. Rainsoft, 848 F. Supp. 1413 (1994).

Under sub. (2), minimum use of a trade name or mark is insufficient; there must be substantial use in the “good cause” for changes in the contract, including termination. Morley–Murphy Co. v. Zenith Electronics, Inc. 142 F.3d 573 (1998).

A change in credit terms was a change in the competitive circumstances of a dealership agreement. Van v. Mobil Oil 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 rendered invalid by the parties' agreement by continuing to conduct business in Wisconsin. Precision Auto Electric & Battery Co., Inc. v. Tecumseh Products, Co. 110 F. Supp. 2d 899 (2000).

Nothing in the text or legislative history of ch. 135 suggests that the legislature intended to preclude co-ops from being dealers. Sub. (2) defines a dealer as “a person who is a grantor of a dealership.” Sub. (6) defines a person as a “corporation or other entity.” Under s. 185.02, a co-op is an “association incorporated” in the state. Thus the term “co-op” is a corporation or other entity within sub. (6) and subject to ch. 135. Build-a-World, Inc. v. Marvin Lumber & Cedar, Inc. 882 F. Supp. 2d 1065 (2007).

In determining whether a plaintiff has a right to sell under the WFDL, the most important factor is the dealer’s ability to transfer the product itself, or title to the product, or control of a transaction at the moment of the agreement to sell.

A manufacturer’s representative, defined as an independent contractor who solicits orders for a manufacturer's product from potential customers and is paid a commission and has no control over the sale of the goods, is not a grantor. Constructive termination by the manufacturer’s representative was a violation of s. 135.04 because it caused a substantial change in the competitive circumstances of the plaintiff’s truck distributor. Budget Truck Rental Corp. v. Gardner Denver, Inc. 571 F. Supp. 2d 992 (2008).

An action becomes so egregious as to amount to constructive termination of the dealership this section is violated. Constructive termination of a dealership agreement can occur when the grantor takes actions that amount to a effective end to the commercially meaningful aspects of the dealership relationship, regardless of whether the formal contractual relationship between the parties continues in force. Girl Scouts of Manitou Council, Inc. v. Girl Scouts of the United States of America, 700 F. Supp. 2d 1055 (2010).

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

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

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.

The law requires 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 (Ct. App. 1992).

Forum-selection clause in a dealership agreement was not freely bargained for and was not deemed valid under sub. (2) (b) Cutter v. Scott & Feizer Co. 510 F. Supp. 905 (1981).

The relinquishment of territory and the signing of a guaranty agreement were changes in the competitive circumstances of a dealership agreement. Wisconsin Compressed Air Corp. v. Gardner Denver, Inc. 571 F. Supp. 2d 992 (2008).

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

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

For good cause, the grantor may terminate, cancel, or non-renew, or substantially change the competitive circumstances of a dealership agreement without good cause.

The burden of proving good cause is on the grantor.

A grantor may cancel, terminate, or non-renew a dealership if the dealer refuses to accept changes that are essential, reasonable, and not discriminatory. A dealer’s failure to substantially comply with the changes constitutes good cause.

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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 good will constituted irreparable harm. Reinders Bros. v. Rain Bird Eastern Sales Corp. 627 F.2d 44 (1980).

The court did not abuse its 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. Vixes, Inc. 774 F. Supp. 1160 (1991).

If a plaintiff establishes the likelihood of a violation of this chapter, the statute creates a rebuttable presumption of irreparable harm. The effect of the statute is to transfer from the plaintiff to the defendant the burden of going forward with evidence on the question of irreparable injury. If neither party presents evidence on the issue, the rebuttable presumption created by the statute requires a finding in favor of the defendant. If, however, the grantor presents evidence of the absence of irreparable injury, the plaintiff must come forward with evidence negating the grantor’s evidence. S&S Sales Corp. v. Marvin Lumber & Cedar Co., 435 F. Supp. 2d 879 (2006).

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 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 dealership agreements expect changes to state legislation regarding those dealership agreements.

(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 dealership agreements:

(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.

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


When a “dealer” under ch. 135 is also a “franchisee” under ch. 553, the commissioner of securities may deny, suspend, or revoke the franchisor’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.

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