

Act No. 239  
Public Acts of 2000  
Approved by the Governor  
June 28, 2000  
Filed with the Secretary of State  
June 28, 2000  
EFFECTIVE DATE: June 28, 2000

**STATE OF MICHIGAN  
90TH LEGISLATURE  
REGULAR SESSION OF 2000**

**Introduced by Senators Dunaskiss, Young, Bullard, Hammerstrom, North, Bennett, Johnson, McCotter, Goschka, Hart, Leland, Miller, DeBeaussaert, Byrum, McManus, Shugars, Sikkema, Jaye, Schuette and Rogers**

# **ENROLLED SENATE BILL No. 1197**

AN ACT to amend 1981 PA 118, entitled "An act to regulate motor vehicle manufacturers, distributors, wholesalers, dealers, and their representatives; to regulate dealings between manufacturers and distributors or wholesalers and their dealers; to regulate dealings between manufacturers, distributors, wholesalers, dealers, and consumers; to prohibit unfair practices; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending section 14 (MCL 445.1574), as amended by 1998 PA 456.

*The People of the State of Michigan enact:*

Sec. 14. (1) A manufacturer, importer, or distributor shall not do any of the following:

(a) Adopt, change, establish, or implement a plan or system for the allocation and distribution of new motor vehicles to new motor vehicle dealers that is arbitrary or capricious, or modify an existing plan or system that causes the plan or system to be arbitrary or capricious.

(b) Fail or refuse to advise or disclose to any new motor vehicle dealer having a dealer agreement, upon written request therefore, the basis upon which new motor vehicles of the same line make are allocated or distributed to new motor vehicle dealers in the state and the basis upon which the current allocation or distribution is being made or will be made to that new motor vehicle dealer.

(c) Refuse to deliver in reasonable quantities and within a reasonable time after receipt of a dealer's order, to any new motor vehicle dealer having a dealer agreement for the retail sale of new motor vehicles sold or distributed by a manufacturer or distributor any such motor vehicles as are covered by such dealer agreement specifically publicly advertised in the state by the manufacturer or distributor to be available for immediate delivery. However, the failure to deliver any motor vehicle shall not be considered a violation of this act if the failure is due to an act of God, a work stoppage or delay due to a strike or labor difficulty, a shortage of materials, a lack of manufacturing capacity, a freight embargo or other cause over which the manufacturer or distributor has no control. If the manufacturer or distributor requires a new motor vehicle dealer to purchase essential service tools with a purchase price in the aggregate of more than \$7,500.00 in order to receive a specific model vehicle, the manufacturer or distributor shall upon written request provide the dealer with a good faith estimate in writing of the number of vehicles of that specific model the dealer will be allocated during that model year in which the tool is required to be purchased.

(d) Increase prices of new motor vehicles which the new motor vehicle dealer had ordered and then eventually delivered to, the same retail consumer for whom the vehicle was ordered, if the order was made prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer and binding on the dealer shall constitute evidence of each order. In the event of manufacturer or distributor price reductions or cash rebates, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer. Any price reduction in excess of \$5.00 shall apply to all vehicles in the dealer's inventory

which were subject to the price reduction. A price difference applicable to new model or series motor vehicles at the time of the introduction of the new models or the series shall not be considered a price increase or price decrease. This subdivision shall not apply to price changes caused by any of the following:

(i) The addition to a motor vehicle of required or optional equipment pursuant to state or federal law.

(ii) In the case of foreign made vehicles or components, revaluation of the United States dollar.

(iii) Any increase in transportation charges due to an increase in rates charged by a common carrier and transporters.

(e) Offer any refunds or other types of inducements to any dealer for the purchase of new motor vehicles of a certain line make to be sold to this state or any political subdivision of this state without making the same offer available upon request to all other new motor vehicle dealers of the same line make.

(f) Release to an outside party, except under subpoena or in an administrative or judicial proceeding to which the new motor vehicle dealer or the manufacturer or distributor are parties, any business, financial, or personal information which has been provided by the dealer to the manufacturer or distributor, unless the new motor vehicle dealer gives his or her written consent.

(g) Deny a new motor vehicle dealer the right to associate with another new motor vehicle dealer for any lawful purpose.

(h) Directly or indirectly own, operate, or control a new motor vehicle dealer including, but not limited to, a new motor vehicle dealer engaged primarily in performing warranty repair services on motor vehicles pursuant to the manufacturer's warranty. This subdivision does not apply to any of the following:

(i) The ownership, operation, or control by a manufacturer or distributor of a new motor vehicle dealer for a period of not more than 24 months during the transition from 1 owner or operator to another. The circuit court may extend the 24-month time period for an additional 12 months upon receipt of an application from a manufacturer or distributor and a showing of good cause.

(ii) The ownership, operation, or control of a new motor vehicle dealer by a manufacturer or distributor while it is being sold under a bona fide contract or purchase option to the operator of the new motor vehicle dealer.

(iii) The direct or indirect ownership by a manufacturer of an entity that owns, operates, or controls a new motor vehicle dealer of the same line make franchised by the manufacturer, if all of the following conditions are met:

(A) As of May 1, 2000, the manufacturer for a period of not less than 12 months has continuously owned, directly or indirectly, 1 or more new motor vehicle dealers in this state.

(B) All of the new motor vehicle dealers selling the manufacturer's motor vehicles in this state trade exclusively in the manufacturer's line make.

(C) As of January 1, 2000, not fewer than 1/2 of the new motor vehicle dealers of the line make within this state own and operate 2 or more new motor vehicle dealer facilities in the geographic territory or area covered by the franchise agreement with the manufacturer.

(D) For a manufacturer or any entity in which the manufacturer has more than a 45% ownership interest, the manufacturer or entity has not acquired, operated, or controlled a new motor vehicle dealer that the manufacturer did not directly or indirectly own as of May 1, 2000.

(i) Sell any new motor vehicle directly to a retail customer other than through its franchised dealers, unless the retail customer is a nonprofit organization or a federal, state, or local government or agency. This subdivision does not prohibit a manufacturer from providing information to a consumer for the purpose of marketing or facilitating the sale of new motor vehicles or from establishing a program to sell or offer to sell new motor vehicles through the manufacturer's new motor vehicle dealers.

(j) Prevent or attempt to prevent by contract or otherwise any new motor vehicle dealer from changing the executive management of a new motor vehicle dealer unless the manufacturer or distributor, having the burden of proof, can show that the change of executive management will result in executive management by a person or persons who are not of good moral character or who do not meet reasonable, preexisting, and equitably applied standards of the manufacturer or distributor. If a manufacturer or distributor rejects a proposed change in the executive management, the manufacturer or distributor shall give written notice of its reasons to the dealer within 60 days after receiving written notice from the dealer of the proposed change and all related information reasonably requested by the manufacturer or distributor, or the change in executive management shall be considered approved.

(k) Unreasonably withhold consent to the sale, transfer, or exchange of the dealership to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state.

(l) Fail to respond in writing to a request for consent to a sale, transfer, or exchange of a dealership within 60 days after receipt of a written application from the new motor vehicle dealer on the forms generally utilized by the manufacturer or distributor for such purpose and containing the information required therein. Failure to respond to the request within the 60 days shall be considered consent.

(m) Unfairly prevent a new motor vehicle dealer from receiving reasonable compensation for the value of the new motor vehicle dealership.

(2) A manufacturer or distributor, either directly or through any subsidiary, shall not terminate, cancel, fail to renew, or discontinue any lease of the new motor vehicle dealer's established place of business except for a material breach of the lease.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5554 of the 90th Legislature is enacted into law.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Jay E. Randall*

Clerk of the House of Representatives.

Approved .....

.....  
Governor.