

SENATE BILL 22

**57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

INTRODUCED BY

Harold Pope

AN ACT

RELATING TO MOTOR VEHICLES; ALLOWING MOTOR VEHICLE  
MANUFACTURERS TO BE LICENSED AS MOTOR VEHICLE DEALERS UNDER  
CERTAIN CONDITIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 57-16-3 NMSA 1978 (being Laws 1973,  
Chapter 6, Section 3, as amended) is amended to read:

"57-16-3. DEFINITIONS.--As used in Chapter 57, Article 16  
NMSA 1978:

A. "current price" means an amount equal to the  
price listed in the manufacturer's or distributor's printed  
price list in effect when the franchise is terminated, less  
applicable trade and cash discounts;

B. "dealer cost" means an amount equal to the sum  
of the original invoice price that the dealer paid for

.233253.1GLG

1 inventory and the cost of the delivery of the inventory from  
2 the manufacturer or distributor to the dealer, less applicable  
3 discounts;

4 C. "designated family member" means a spouse,  
5 child, grandchild, parent, brother or sister of a deceased or  
6 incapacitated dealer who is entitled to inherit the dealer's  
7 ownership interest in the dealership under the terms of a will  
8 or the laws of intestate succession in this state. In the case  
9 of an incapacitated dealer, the term means the person appointed  
10 by a court as the legal representative of the dealer's  
11 property. The term also includes the appointed and qualified  
12 personal representative and the testamentary trustee of a  
13 deceased dealer. However, the term shall be limited to mean  
14 only that individual designated by a dealer in a written  
15 document filed with the manufacturer, distributor or  
16 representative in the event that such a document has been  
17 filed;

18 D. "distributor" means any person who distributes  
19 or sells new or used motor vehicles to dealers and who is not a  
20 manufacturer;

21 E. "do not drive order" means a notice advising a  
22 motor vehicle dealer or an owner of a motor vehicle not to  
23 drive the vehicle until the vehicle has been repaired because  
24 the vehicle has a safety defect, fails to comply with a federal  
25 motor vehicle safety standard or fails to comply with a federal

.233253.1GLG

1 requirement;

2 F. "former franchisee":

3 (1) means a dealer that has entered into a  
4 franchise agreement with a manufacturer and that has:

5 (a) entered into a termination agreement  
6 or deferred termination agreement with the manufacturer related  
7 to the franchise; or

8 (b) has had the franchise canceled,  
9 terminated or otherwise ended; and

10 (2) includes the designated successor of the  
11 former franchisee in the event the former franchisee is  
12 deceased or disabled;

13 G. "franchise" means an oral or written arrangement  
14 for a definite or indefinite period in which a manufacturer,  
15 distributor or representative grants to a motor vehicle dealer  
16 a license to use a trade name, service mark or related  
17 characteristic and in which there is a community of interest in  
18 the marketing of motor vehicles or services related to  
19 marketing, service or repair of motor vehicles at wholesale,  
20 retail, leasing or otherwise;

21 H. "fraud" includes, in addition to its normal  
22 legal connotation, the following:

23 (1) a misrepresentation in any manner, whether  
24 intentionally false or due to gross negligence, of a material  
25 fact;

.233253.1GLG

1 (2) a promise or representation not made  
2 honestly and in good faith; and

3 (3) an intentional failure to disclose a  
4 material fact;

5 I. "inventory" means new or unused motorcycles,  
6 motor vehicles, motorcycle attachments and motorcycle and motor  
7 vehicle repair parts that are provided by a manufacturer or  
8 distributor to a dealer under a franchise agreement and that  
9 are purchased within thirty-six months of the termination of  
10 the franchise or are listed in the manufacturer's or  
11 distributor's current sales manual or price list at the time  
12 that the franchise is terminated;

13 J. "line-make" means a motor vehicle that is  
14 offered for sale, lease or distribution under a common name,  
15 trademark, service mark or brand name of the manufacturer of  
16 that same motor vehicle;

17 [~~J.~~] K. "manufacturer" means any person who  
18 manufactures or assembles new motor vehicles either within or  
19 outside of this state and may include a predecessor  
20 manufacturer or a successor manufacturer;

21 [~~K.~~] L. "motorcycle" means any motor vehicle used  
22 on or off a public highway that has an unladen weight of less  
23 than one thousand five hundred pounds;

24 [~~L.~~] M. "motor vehicle" means every self-propelled  
25 vehicle, having two or more wheels, by which a person or

.233253.1GLG

1 property may be transported on a public highway and includes  
2 recreational vehicles;

3 ~~[M.]~~ N. "motor vehicle dealer" or "dealer" means a  
4 person who sells or solicits or advertises the sale of new or  
5 used motor vehicles and is licensed as a dealer pursuant to the  
6 Motor Vehicle Code. "Motor vehicle dealer" or "dealer" shall  
7 not include:

8 (1) receivers, trustees, administrators,  
9 executors, guardians or other persons appointed by or acting  
10 under judgment, decree or order of any court;

11 (2) public officers while performing their  
12 duties as such officers;

13 (3) persons making casual sales of their own  
14 vehicles duly registered and licensed to them by the state; or

15 (4) finance companies, banks and other lending  
16 institutions covering sales of repossessed vehicles;

17 ~~[N.]~~ O. "person" means every natural person,  
18 partnership, corporation, association, trust, estate or any  
19 other legal entity;

20 ~~[O.]~~ P. "predecessor manufacturer" means a  
21 manufacturer that is acquired, succeeded by or assumed by a  
22 successor manufacturer;

23 ~~[P.]~~ Q. "prospective purchaser" means a person who  
24 has a bona fide written agreement to purchase a franchise;

25 ~~[Q.]~~ R. "recall claim" includes a claim for

1 reimbursement for the parts and labor required for a dealer to  
2 repair a motor vehicle subject to a do not drive order or stop  
3 sale order;

4 [R.] S. "recreational vehicle" means any motor  
5 vehicle with a camping body that either has its own motive  
6 power or is drawn by another vehicle;

7 [S.] T. "relevant market area" means an area of a  
8 size specified in this subsection around an existing motor  
9 vehicle dealer's place of business. The size of the area shall  
10 be the greater of the area of responsibility specified in the  
11 dealer's franchise or a circle with a center at the dealer's  
12 place of business and a radius of:

13 (1) seven miles, if the population of the  
14 county in which the dealership is located is two hundred fifty  
15 thousand or more;

16 (2) fifteen miles, if the population of the  
17 county in which the dealership is located is less than two  
18 hundred fifty thousand but is thirty-five thousand or more; or

19 (3) twenty miles in all other cases.

20 If the existing and proposed dealerships are in different  
21 counties, the lesser of the applicable mileage limitations  
22 shall be used. For purposes of this subsection, the population  
23 of any area shall be determined in accordance with the most  
24 recent decennial census or the most recent population update  
25 from the national planning data corporation or other similar

.233253.1GLG

1 recognized source, whichever is later;

2 [F.] U. "representative" means any person who is or  
3 acts as an agent, employee or representative of a manufacturer  
4 or distributor and who performs any duties in this state  
5 relating to promoting the distribution or sale of new or used  
6 motor vehicles or contacts dealers in this state on behalf of a  
7 manufacturer or distributor;

8 [H.] V. "sale" includes:

9 (1) the issuance, transfer, agreement for  
10 transfer, exchange, pledge, hypothecation or mortgage in any  
11 form, whether by transfer in trust or otherwise, of any motor  
12 vehicle or interest therein or of any franchise related  
13 thereto; and

14 (2) any option, subscription or other contract  
15 or solicitation looking to a sale or offer or attempt to sell  
16 in any form, whether spoken or written. A gift or delivery of  
17 any motor vehicle or franchise with respect thereto with, or  
18 as, a bonus on account of the sale of anything shall be deemed  
19 a sale of such motor vehicle or franchise;

20 [V.] W. "stop sale order" means a notice  
21 prohibiting a motor vehicle dealer from leasing or selling and  
22 delivering at wholesale or retail a used motor vehicle in the  
23 inventory of the dealer until the vehicle has been repaired  
24 because the vehicle has a safety defect, fails to comply with a  
25 federal motor vehicle safety standard or fails to comply with a

.233253.1GLG

1 federal requirement;

2 [W-] X. "successor manufacturer" means a motor  
3 vehicle manufacturer that, on or after January 1, 2010,  
4 acquires, succeeds to or assumes any part of the business of a  
5 predecessor manufacturer as the result of:

6 (1) a change in ownership, operation or  
7 control of the predecessor manufacturer;

8 (2) the termination, suspension or cessation  
9 of all or a part of the business operation of the predecessor  
10 manufacturer;

11 (3) the discontinuance of the sale of a  
12 product line; or

13 (4) a change in the distribution system by the  
14 predecessor manufacturer, whether through a change in  
15 distributor or the predecessor manufacturer's decision to cease  
16 conducting business through a distributor; and

17 [~~X-~~] Y. "value of the used motor vehicle" means the  
18 average trade-in value indicated in an independent third party  
19 guide for a used motor vehicle of the same year, make and  
20 model."

21 SECTION 2. Section 57-16-5 NMSA 1978 (being Laws 1973,  
22 Chapter 6, Section 5, as amended) is amended to read:

23 "57-16-5. UNLAWFUL ACTS--MANUFACTURERS--DISTRIBUTORS--  
24 REPRESENTATIVES.--It is unlawful for a manufacturer,  
25 distributor or representative to:

.233253.1GLG



1           A. coerce or attempt to coerce a dealer to order or  
2 accept delivery of a motor vehicle, appliances, equipment,  
3 parts or accessories therefor or any other commodity that the  
4 motor vehicle dealer has not voluntarily ordered;

5           B. coerce or attempt to coerce a dealer to order or  
6 accept delivery of a motor vehicle with special features,  
7 appliances, accessories or equipment not included in the list  
8 price of the motor vehicles as publicly advertised by the  
9 manufacturer;

10          C. coerce or attempt to coerce a dealer to order  
11 for any person any parts, accessories, equipment, machinery,  
12 tools, appliances or any commodity whatsoever;

13          D. refuse to deliver, in reasonable quantities and  
14 within a reasonable time after receipt of a dealer's order, to  
15 a motor vehicle dealer having a franchise or contractual  
16 arrangement for the retail sale of motor vehicles sold or  
17 distributed by the manufacturer, distributor or representative,  
18 those motor vehicles, parts or accessories covered by the  
19 franchise or contract specifically publicly advertised by the  
20 manufacturer, distributor or representative to be available for  
21 immediate delivery; provided, however, the failure to deliver a  
22 motor vehicle, parts or accessories shall not be considered a  
23 violation of Chapter 57, Article 16 NMSA 1978 if the failure is  
24 due to an act of God, work stoppage or delay due to a strike or  
25 labor difficulty, shortage of materials, freight embargo or

.233253.1GLG

1 other cause over which the manufacturer, distributor or  
2 representative or an agent thereof has no control;

3 E. coerce or attempt to coerce a motor vehicle  
4 dealer to enter into an agreement with the manufacturer,  
5 distributor or representative or to do any other act  
6 prejudicial to the dealer by threatening to cancel a franchise  
7 or a contractual agreement existing between the manufacturer,  
8 distributor or representative and the dealer; provided,  
9 however, that notice in good faith to a motor vehicle dealer of  
10 the dealer's violation of the terms or provisions of the  
11 franchise or contractual agreement does not constitute a  
12 violation of Chapter 57, Article 16 NMSA 1978;

13 F. terminate or cancel the franchise or selling  
14 agreement of a dealer without due cause. "Due cause" means a  
15 material breach by a dealer, due to matters within the dealer's  
16 control, of a lawful provision of a franchise or selling  
17 agreement. As used in this subsection, "material breach" means  
18 a contract violation that is substantial and significant. In  
19 determining whether due cause exists under this subsection, the  
20 court shall take into consideration only the dealer's sales in  
21 relation to the business available to the dealer; the dealer's  
22 investment and obligations; injury to the public welfare; the  
23 adequacy of the dealer's sales and service facilities,  
24 equipment and parts; the qualifications of the management,  
25 sales and service personnel to provide the consumer with

.233253.1GLG

1 reasonably good service and care of new motor vehicles; the  
2 dealer's failure to comply with the requirements of the  
3 franchise; and the harm to the manufacturer or distributor.  
4 The nonrenewal of a franchise or selling agreement, without due  
5 cause, shall constitute an unfair termination or cancellation  
6 regardless of the terms or provisions of the franchise or  
7 selling agreement. The manufacturer, distributor or  
8 representative shall notify a motor vehicle dealer in writing  
9 by registered mail of the termination or cancellation of the  
10 franchise or selling agreement of the dealer at least sixty  
11 days before the effective date thereof, stating the specific  
12 grounds for termination or cancellation; and the manufacturer,  
13 distributor or representative shall notify a motor vehicle  
14 dealer in writing by registered mail at least sixty days before  
15 the contractual term of the dealer's franchise or selling  
16 agreement expires that it will not be renewed, stating the  
17 specific grounds for nonrenewal in those cases where there is  
18 no intention to renew, and in no event shall the contractual  
19 term of a franchise or selling agreement expire without the  
20 written consent of the motor vehicle dealer involved prior to  
21 the expiration of at least sixty days following the written  
22 notice. During the sixty-day period, either party may in  
23 appropriate circumstances petition a district court to modify  
24 the sixty-day stay or to extend it pending a final  
25 determination of proceedings on the merits. The court may

.233253.1GLG

1 grant preliminary and final injunctive relief;

2 G. use false, deceptive or misleading advertising  
3 in connection with the manufacturer's, distributor's or  
4 representative's business;

5 H. offer to sell or to sell a motor vehicle to a  
6 motor vehicle dealer in this or any other state of the United  
7 States at a lower actual price than the actual price offered to  
8 any other motor vehicle dealer in this state for the same model  
9 vehicle similarly equipped or to utilize devices, including  
10 sales promotion plans or programs that result in a lesser  
11 actual price; provided, however, the provisions of this  
12 subsection do not apply to sales to a motor vehicle dealer for  
13 resale to a unit of the United States government, the state or  
14 its political subdivisions; and provided, further, the  
15 provisions of this subsection do not apply to sales to a motor  
16 vehicle dealer of a motor vehicle ultimately sold, donated or  
17 used by the dealer in a driver education program; and provided,  
18 further, that the provisions of this subsection do not apply if  
19 a manufacturer, distributor or representative offers to sell or  
20 sells new motor vehicles to all motor vehicle dealers at an  
21 equal price. As used in this section, "actual price" means the  
22 price to be paid by the dealer less any incentive paid by the  
23 manufacturer, distributor or representative, whether paid to  
24 the dealer or the ultimate purchaser of the vehicle. This  
25 provision does not apply to sales by the manufacturer,

.233253.1GLG

1 distributor or representatives to the United States government  
2 or its agencies. The provisions of this subsection dealing  
3 with vehicle prices in another state and defining actual price  
4 do not apply to a manufacturer or distributor if all of the  
5 manufacturer's or distributor's dealers within fifty miles of a  
6 neighboring state are given all cash or credit incentives  
7 available in the neighboring state, whether the incentives are  
8 offered by the manufacturer or distributor or a finance  
9 subsidiary of either, affecting the price or financing terms of  
10 a vehicle;

11 I. willfully discriminate, either directly or  
12 indirectly, in price between different purchasers of a  
13 commodity of like grade or quality where the effect of the  
14 discrimination may be to lessen substantially competition or  
15 tend to create a monopoly or to injure or destroy the business  
16 of a competitor;

17 J. offer to sell or to sell parts or accessories to  
18 a motor vehicle dealer for use in the dealer's own business for  
19 the purpose of repairing or replacing the same or a comparable  
20 part or accessory at a lower actual price than the actual price  
21 charged to any other motor vehicle dealer for similar parts or  
22 accessories for use in the dealer's own business; provided,  
23 however, in those cases where motor vehicle dealers have a  
24 franchise to operate and serve as wholesalers of parts and  
25 accessories to retail outlets or other dealers, whether or not

.233253.1GLG

1 the dealer is regularly designated as a wholesaler, nothing in  
2 this section prevents a manufacturer, distributor or  
3 representative from selling to the motor vehicle dealer who  
4 operates and serves as a wholesaler of parts and accessories  
5 such parts and accessories as may be ordered by the motor  
6 vehicle dealer for resale to retail outlets at a lower actual  
7 price than the actual price charged a motor vehicle dealer who  
8 does not operate or serve as a wholesaler of parts and  
9 accessories;

10 K. prevent or attempt to prevent by contract or  
11 otherwise a motor vehicle dealer from changing the capital  
12 structure of the dealer's dealership or the means by or through  
13 which the dealer finances the operation of the dealership, if  
14 the dealer at all times meets any reasonable capital standards  
15 agreed to between the dealer and the manufacturer, distributor  
16 or representative, and if the change by the dealer does not  
17 result in a change in the executive management control of the  
18 dealership;

19 L. prevent or attempt to prevent by contract or  
20 otherwise a motor vehicle dealer or an officer, partner or  
21 stockholder of a motor vehicle dealer from selling or  
22 transferring a part of the interest of any of them to any other  
23 person or party; provided, however, that no dealer, officer,  
24 partner or stockholder shall have the right to sell, transfer  
25 or assign the franchise or power of management or control

.233253.1GLG

1     thereunder without the consent of the manufacturer, distributor  
2     or representative except that the manufacturer, distributor or  
3     representative shall not withhold consent to the sale, transfer  
4     or assignment of the franchise to a qualified buyer capable of  
5     being licensed in New Mexico and who meets the manufacturer's  
6     or distributor's uniformly applied requirement for appointment  
7     as a dealer. Uniform application shall not prevent the  
8     application of a separate standard of consent for sale,  
9     transfer or assignment to minority or women dealer candidates,  
10    and shall not require the application of an identical standard  
11    to all persons in all situations. The requirement of uniform  
12    application shall be met if the manufacturer applies the same  
13    set of standards, which takes into account business performance  
14    and experience, financial qualifications, facility requirements  
15    and other relevant characteristics; provided that, if two  
16    dealers, persons or situations are identical, given the  
17    characteristics considered in the standards, the two dealers,  
18    persons or situations shall be treated identically, except as  
19    provided in this subsection. Upon request, a manufacturer or  
20    distributor shall provide its dealer with a copy of the  
21    standards that are normally relied upon by the manufacturer or  
22    distributor to evaluate a proposed sale, transfer or  
23    assignment. A manufacturer, distributor or representative  
24    shall send a letter by certified mail approving or withholding  
25    consent within sixty calendar days of receiving the completed

.233253.1GLG

1 application forms and related information requested by a  
2 manufacturer or distributor as provided below. A manufacturer,  
3 distributor or representative shall send its existing motor  
4 vehicle dealer the necessary application forms and identify the  
5 related information required within twenty calendar days of  
6 receiving written notice from the existing motor vehicle dealer  
7 of the proposed sale or transfer. No manufacturer, distributor  
8 or representative shall require any information not requested  
9 in the twenty-day period, and submission of the information  
10 requested within that period together with a completed form of  
11 the application provided shall constitute a completed  
12 application form. A request for consent shall be deemed  
13 granted, and the manufacturer, distributor or representative  
14 shall be estopped from denying the consent, if the consent has  
15 not been expressly withheld during the applicable sixty-day  
16 period;

17 M. obtain money, goods, services, anything of value  
18 or any other benefit from any other person with whom the motor  
19 vehicle dealer does business on account of or in relation to  
20 the transactions between the dealer and the other person,  
21 unless the benefit is promptly accounted for and transmitted to  
22 the motor vehicle dealer;

23 N. require a motor vehicle dealer to assent to a  
24 release, assignment, novation, waiver or estoppel that would  
25 relieve a person from liability imposed by Chapter 57, Article

.233253.1GLG



1 16 NMSA 1978;

2 O. require a motor vehicle dealer to provide  
3 installment financing with a specified financial institution;

4 P. establish an additional franchise, including any  
5 franchise for a warranty or service facility outside of the  
6 relevant market area of the dealer establishing the facility,  
7 but excluding the relocation of existing franchises, for the  
8 same line-make in a relevant market area where the same line-  
9 make is presently being served by an existing motor vehicle  
10 dealer if such addition would be inequitable to the existing  
11 dealer; provided, however, that the sales and service needs of  
12 the public shall be given due consideration in determining the  
13 equities of the existing dealer. The sole fact that the  
14 manufacturer, distributor or representative desires further  
15 penetration of the market is not grounds for establishing an  
16 additional franchise; provided, further, that the manufacturer,  
17 distributor or representative shall give a ninety-day written  
18 notice by registered mail to all same line-make dealers in a  
19 relevant market area of its intention to establish an  
20 additional franchise;

21 Q. offer to sell or lease or to sell or lease a new  
22 motor vehicle to a person, except a distributor, at a lower  
23 actual price therefor than the actual price offered and charged  
24 to a motor vehicle dealer for the same model vehicle similarly  
25 equipped or to utilize any device that results in a lower

.233253.1GLG

1 actual price;

2 R. sell, lease or provide motorcycles, parts or  
3 accessories to a person not a dealer or distributor for the  
4 line-make sold, leased or provided. The provisions of this  
5 subsection do not apply to sales, leases or provisions of motor  
6 vehicles, parts or accessories by a manufacturer, distributor  
7 or representative to the United States government or its  
8 agencies or the state or its political subdivisions;

9 S. offer a finance program, either directly or  
10 through an affiliate, based on the physical location of the  
11 selling dealer or the residence of the buyer. The provisions  
12 of this subsection do not apply to a manufacturer or  
13 distributor that has no dealer within fifty miles of a state  
14 line or if all of the manufacturer's or distributor's dealers  
15 within that fifty miles are given all cash or credit incentives  
16 available in the neighboring state, whether the incentives are  
17 offered by the manufacturer or the distributor or a finance  
18 subsidiary of either, affecting the price or financing terms of  
19 a vehicle;

20 T. force a dealer to sell or relocate a franchise  
21 with another manufacturer located at the same physical location  
22 or consider the existence of another line-make at a dealership  
23 for product allocation, successorship, location approval and  
24 capitalization; provided that a manufacturer or distributor may  
25 require that the dealer:

.233253.1GLG

1 (1) meet the manufacturer's capitalization  
2 requirements;

3 (2) meet the manufacturer's facilities  
4 requirements; and

5 (3) not have committed fraudulent acts;

6 U. enforce a right of first refusal or option to  
7 purchase the dealership by a manufacturer or distributor or to  
8 require a dealer to grant a right or option to a manufacturer  
9 or distributor;

10 V. be licensed as a dealer or perform warranty or  
11 other service or own an interest, directly or indirectly, in a  
12 person licensed as a dealer or performing warranty or other  
13 service; provided that a manufacturer:

14 (1) or distributor may own a person licensed  
15 as a dealer for a reasonable time in order to dispose of an  
16 interest acquired as a secured party or as part of a dealer  
17 development program; and

18 (2) may be licensed as a dealer and may  
19 perform warranty and other service, directly or indirectly,  
20 through a wholly owned entity; provided that the manufacturer:

21 (a) does not have any independent  
22 franchise dealers in the state; and

23 (b) sells and services only the line-  
24 make of motor vehicles that the manufacturer manufactures;

25 W. fail to recognize and approve the transfer of a

1 dealership to a person named as a successor, donee, beneficiary  
2 or devisee in a valid testamentary or trust instrument;  
3 provided that a manufacturer or distributor may impose  
4 standards or criteria used in a transfer;

5 X. impose capitalization requirements not necessary  
6 to assure that the dealer can meet its financial obligations;

7 Y. compel a dealer through a finance subsidiary of  
8 the manufacturer or distributor to agree to unreasonable  
9 operating requirements or directly or indirectly to terminate a  
10 dealer, except as allowed by Subsection F of this section,  
11 through the actions of a finance subsidiary of the manufacturer  
12 or distributor. This subsection shall not limit the right of a  
13 financing entity to engage in business practices in accordance  
14 with the usage of the trade in which it is engaged;

15 Z. require a dealer or the dealer's successor to  
16 [~~+~~] construct a new dealership, require the relocation of an  
17 existing dealership or substantially change, alter or remodel:

18 (1) a dealer's facility except as necessary to  
19 comply with health or safety laws or to comply with technology  
20 requirements necessary to sell or service vehicles; or

21 (2) [~~construct a new dealership, require~~  
22 ~~relocation of an existing dealership or substantially change,~~  
23 ~~alter or remodel~~] an existing dealership before the tenth  
24 anniversary of the date that the construction or change,  
25 alteration or remodel of the dealership at that location was

.233253.1GLG

1 completed if the construction was in substantial compliance  
2 with standards or plans provided by a manufacturer, distributor  
3 or representative;

4 AA. unreasonably withhold approval for a dealer to  
5 purchase substantially similar goods or services related to the  
6 construction, alteration, remodel or renovation of a dealership  
7 facility from vendors of the dealer's choice. This subsection  
8 shall not be construed to allow a dealer or vendor to infringe  
9 upon or impair a manufacturer's trademark rights or to erect or  
10 maintain a sign that does not conform to the manufacturer's  
11 reasonable fabrication specifications and trademark usage  
12 guidelines;

13 BB. use an unreasonable, arbitrary or unfair sales  
14 or other performance standard in determining a franchise motor  
15 vehicle dealer's compliance with a franchise agreement. The  
16 manufacturer has the burden of proving the reasonableness of  
17 its performance standards;

18 CC. fail to compensate a motor vehicle dealer for  
19 labor and parts required for a dealer to perform necessary  
20 repairs on an affected new or used motor vehicle pursuant to a  
21 recall, do not drive order or stop sale order, if the dealer  
22 holds a franchise of the same line-make as the subject vehicle;

23 DD. fail to compensate a motor vehicle dealer as  
24 prescribed by Chapter 57, Article 16 NMSA 1978 for a delay in  
25 delivering parts or equipment needed to perform recall-related

.233253.1GLG

1 repairs on an affected used motor vehicle in the dealer's  
2 inventory that is subject to a do not drive order or stop sale  
3 order, if the dealer holds a franchise of the same line-make as  
4 the vehicle;

5 EE. subject to the manufacturer's audit rights  
6 provided in Section 57-16-7 NMSA 1978, reduce compensation to a  
7 motor vehicle dealer, process a charge back to a dealer, reduce  
8 the amount of compensation that the manufacturer otherwise owes  
9 to an individual dealer under an incentive program or remove an  
10 individual dealer from an incentive program solely because the  
11 motor vehicle dealer submitted a claim or received compensation  
12 for a claim. This subsection does not prohibit a manufacturer  
13 from modifying or discontinuing an incentive program  
14 prospectively or from making ordinary business decisions; or

15 FF. use data, calculations or statistical  
16 determinations of the sales performance of a motor vehicle  
17 dealer to take adverse action against the motor vehicle dealer  
18 for any period of time during which the dealer has at least  
19 five percent of its total new and used motor vehicle inventory  
20 subject to a stop sale order or do not drive order; provided  
21 that the motor vehicle dealer's performance, as reflected in  
22 the data, calculations or statistical determinations, is  
23 adversely affected by the stop sale order or do not drive  
24 order."