

Automobile Franchise Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Chris H. Wilson

Cosponsor:

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LONG TITLE

General Description:

This bill amends provisions related to an automobile franchise.

Highlighted Provisions:

This bill:

- defines "affiliate";
- repeals provisions relating to a franchisor's ability to engage in certain activities;
- amends the definition of "franchise holder" to include a manufacturer that acquires or expands the manufacturer's interests under certain conditions;
- excludes a dealership from the definition of "franchise holder"; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-14-201, as last amended by Laws of Utah 2024, Chapter 507

41-3-102, as last amended by Laws of Utah 2024, Chapter 507

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-14-201** is amended to read:

13-14-201 . Prohibited acts by franchisors -- Affiliates -- Disclosures.

- (1) A franchisor may not in this state:
- (a) except as provided in Subsection (3), require a franchisee to order or accept delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;
 - (b) require a franchisee to:
 - (i) participate monetarily in any advertising campaign; or
 - (ii) participate in a contest, or purchase any promotional materials, display devices, or display decorations or materials;
 - (c) require a franchisee to change the capital structure of the franchisee's dealership or the means by or through which the franchisee finances the operation of the franchisee's dealership, if the dealership at all times meets reasonable capital standards determined by and applied in a nondiscriminatory manner by the franchisor;
 - (d) require a franchisee to refrain from participating in the management of, investment in, or acquisition of any other line of new motor vehicles or related products, if the franchisee:
 - (i) maintains a reasonable line of credit for each make or line of vehicles; and
 - (ii) complies with reasonable capital and facilities requirements of the franchisor;
 - (e) require a franchisee to prospectively agree to a release, assignment, novation, waiver, or estoppel that would:
 - (i) relieve a franchisor from any liability, including notice and hearing rights imposed on the franchisor by this chapter; or
 - (ii) require any controversy between the franchisee and a franchisor to be referred to a third party if the decision by the third party would be binding;
 - (f) require a franchisee to change the location of the principal place of business of the franchisee's dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable or cause the franchisee to lose control of the premises or impose any other unreasonable requirement related to the facilities or premises;
 - (g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an advertising association;
 - (h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to cancel a franchise agreement or other contractual agreement or understanding existing between the franchisor and franchisee;

- (i) adopt, change, establish, enforce, modify, or implement a plan or system for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to the franchisor's franchisees so that the plan or system is not fair, reasonable, and equitable, including a plan or system that imposes a vehicle sales objective, goal, or quota on a franchisee, or that evaluates a franchisee's sales effectiveness or overall sales performance, without providing a reasonable opportunity for the franchisee to acquire the necessary vehicles in a timely manner from the franchisor on commercially reasonable terms;
- (j) increase the price of any new motor vehicle that the franchisee has ordered from the franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser if the order was made [~~prior to~~] before the franchisee's receipt of an official written price increase notification;
- (k) fail to indemnify and hold harmless the franchisor's franchisee against any judgment for damages or settlement approved in writing by the franchisor:
- (i) including court costs and attorney fees arising out of actions, claims, or proceedings including those based on:
- (A) strict liability;
- (B) negligence;
- (C) misrepresentation;
- (D) express or implied warranty;
- (E) revocation as described in Section 70A-2-608; or
- (F) rejection as described in Section 70A-2-602; and
- (ii) to the extent the judgment or settlement relates to alleged defective or negligent actions by the franchisor;
- (l) threaten or coerce a franchisee to waive or forbear the franchisee's right to protest the establishment or relocation of a same line-make franchisee in the relevant market area of the affected franchisee;
- (m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new motor vehicles of each make, series, and model needed by the franchisee to achieve a percentage of total new vehicle sales of each make, series, and model equitably related to the total new vehicle production or importation being achieved nationally at the time of the order by each make, series, and model covered under the franchise agreement;
- (n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing

dealer facility or facilities, including by:

- (i) requiring or otherwise coercing a franchisee to exclude or remove from the franchisee's facility operations the selling or servicing of a line-make of vehicles for which the franchisee has a franchise agreement to utilize the facilities; or
- (ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or line-make in an existing facility owned or occupied by the franchisee that includes the selling or servicing of another franchise or line-make at the facility provided that the franchisee gives the franchisor written notice of the franchise co-location;

- (o) fail to include in any franchise agreement or other agreement governing a franchisee's ownership of a dealership or a franchisee's conduct of business under a franchise the following language or language to the effect that: "If any provision in this agreement contravenes the laws or regulations of any state or other jurisdiction where this agreement is to be performed, or provided for by such laws or regulations, the provision is considered to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force.";
- (p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to purchasers ~~[who]~~ that acquire the vehicle in this state except through a franchisee with ~~[whom]~~ which the franchisor has established a written franchise agreement, if the franchisor's trade name, trademark, service mark, or related characteristic is an integral element in the distribution, sale, offer for sale, or lease;
- (q) engage in the distribution or sale of a recreational vehicle that is manufactured, rented, sold, or offered for sale in this state without being constructed in accordance with the standards set by the American National Standards Institute for recreational vehicles and evidenced by a seal or plate attached to the vehicle;
- (r) except as provided in Subsection (2), authorize or permit a person to perform warranty service repairs on motor vehicles, except warranty service repairs:
 - (i) by a franchisee with ~~[whom]~~ which the franchisor has entered into a franchise agreement for the sale and service of the franchisor's motor vehicles; or
 - (ii) on owned motor vehicles by a person or government entity ~~[who]~~ that has purchased new motor vehicles ~~[pursuant to]~~ in accordance with a franchisor's fleet discount program;
- (s) fail to provide a franchisee with a written franchise agreement;
- (t)(i) except as provided in Subsection (1)(t)(ii) and notwithstanding any other provisions of this chapter:

- 128 (A) unreasonably fail or refuse to offer to [its] the franchisor's same line-make
129 franchised dealers all models manufactured for that line-make; or
- 130 (B) unreasonably require a dealer to:
- 131 (I) pay any extra fee, remodel, renovate, or recondition the dealer's existing
132 facilities; or
- 133 (II) purchase unreasonable advertising displays or other materials as a
134 prerequisite to receiving a model or series of vehicles; and
- 135 (ii) notwithstanding Subsection (1)(t)(i), a recreational vehicle franchisor may split a
136 line-make between motor home and travel trailer products;
- 137 (u) except as provided in Subsection (6), directly or indirectly:
- 138 (i) own an interest in a new motor vehicle dealer or dealership;
- 139 (ii) operate or control a new motor vehicle dealer or dealership;
- 140 (iii) act in the capacity of a new motor vehicle dealer, as defined in Section 13-14-102;
- 141 or
- 142 (iv) operate a motor vehicle service facility;
- 143 (v) fail to timely pay for all reimbursements to a franchisee for incentives and other
144 payments made by the franchisor;
- 145 (w) directly or indirectly influence or direct potential customers to franchisees in an
146 inequitable manner, including:
- 147 (i) charging a franchisee a fee for a referral regarding a potential sale or lease of any
148 of the franchisee's products or services in an amount exceeding the actual cost of
149 the referral;
- 150 (ii) giving a customer referral to a franchisee on the condition that the franchisee
151 agree to sell the vehicle at a price fixed by the franchisor; or
- 152 (iii) advising a potential customer as to the amount that the potential customer should
153 pay for a particular product;
- 154 (x) fail to provide comparable delivery terms to each franchisee for a product of the
155 franchisor, including the time of delivery after the placement of an order by the
156 franchisee;
- 157 (y) if a franchisor provides personnel training to the franchisor's franchisees,
158 unreasonably fail to make that training available to each franchisee on proportionally
159 equal terms;
- 160 (z) condition a franchisee's eligibility to participate in a sales incentive program on the
161 requirement that a franchisee use the financing services of the franchisor or a

- 162 subsidiary or affiliate of the franchisor for inventory financing;
- 163 (aa) make available for public disclosure, except with the franchisee's permission or
- 164 under subpoena or in any administrative or judicial proceeding in which the
- 165 franchisee or the franchisor is a party, any confidential financial information
- 166 regarding a franchisee, including:
- 167 (i) monthly financial statements provided by the franchisee;
- 168 (ii) the profitability of a franchisee; or
- 169 (iii) the status of a franchisee's inventory of products;
- 170 (bb) use any performance standard, incentive program, or similar method to measure the
- 171 performance of franchisees unless the standard or program:
- 172 (i) is designed and administered in a fair, reasonable, and equitable manner;
- 173 (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample;
- 174 and
- 175 (iii) is, upon request by a franchisee, disclosed and explained in writing to the
- 176 franchisee, including:
- 177 (A) how the standard or program is designed;
- 178 (B) how the standard or program will be administered; and
- 179 (C) the types of data that will be collected and used in the application of the
- 180 standard or program;
- 181 (cc) other than sales to the federal government, directly or indirectly, sell, lease, offer to
- 182 sell, or offer to lease, a new motor vehicle or any motor vehicle owned by the
- 183 franchisor, except through a franchised new motor vehicle dealer;
- 184 (dd) compel a franchisee, through a finance subsidiary, to agree to unreasonable
- 185 operating requirements, except that this Subsection (1)(dd) may not be construed to
- 186 limit the right of a financing subsidiary to engage in business practices in accordance
- 187 with the usage of trade in retail and wholesale motor vehicle financing;
- 188 (ee) condition the franchisor's participation in co-op advertising for a product category
- 189 on the franchisee's participation in any program related to another product category
- 190 or on the franchisee's achievement of any level of sales in a product category other
- 191 than that which is the subject of the co-op advertising;
- 192 (ff) except as provided in Subsections (7) through (9), discriminate against a franchisee
- 193 in the state in favor of another franchisee of the same line-make in the state:
- 194 (i) by selling or offering to sell a new motor vehicle to one franchisee at a higher
- 195 actual price, including the price for vehicle transportation, than the actual price at

- 196 which the same model similarly equipped is offered to or is made available by the
197 franchisor to another franchisee in the state during a similar time period;
- 198 (ii) except as provided in Subsection (8), by using a promotional program or device
199 or an incentive, payment, or other benefit, whether paid at the time of the sale of
200 the new motor vehicle to the franchisee or later, that results in the sale of or offer
201 to sell a new motor vehicle to one franchisee in the state at a higher price,
202 including the price for vehicle transportation, than the price at which the same
203 model similarly equipped is offered or is made available by the franchisor to
204 another franchisee in the state during a similar time period;
- 205 (iii) except as provided in Subsection (9), by failing to provide or direct a lead in a
206 fair, equitable, and timely manner; or
- 207 (iv) if the franchisee complies with any reasonable requirement concerning the sale
208 of new motor vehicles, by using or considering the performance of any of [its] the
209 franchisor's franchisees located in this state relating to the sale of the franchisor's
210 new motor vehicles in determining the:
- 211 (A) dealer's eligibility to purchase program, certified, or other used motor vehicles
212 from the franchisor;
- 213 (B) volume, type, or model of program, certified, or other used motor vehicles the
214 dealer is eligible to purchase from the franchisor;
- 215 (C) price of any program, certified, or other used motor vehicles that the dealer is
216 eligible to purchase from the franchisor; or
- 217 (D) availability or amount of any discount, credit, rebate, or sales incentive the
218 dealer is eligible to receive from the manufacturer for the purchase of any
219 program, certified, or other motor vehicle offered for sale by the franchisor;
- 220 (gg)(i) take control over funds owned or under the control of a franchisee based on
221 the findings of a warranty audit, sales incentive audit, or recall repair audit, unless
222 the following conditions are satisfied:
- 223 (A) the franchisor fully identifies in writing the basis for the franchisor's claim or
224 charge back arising from the audit, including notifying the franchisee that the
225 franchisee has 20 days from the day on which the franchisee receives the
226 franchisor's claim or charge back to assert a protest in writing to the franchisor
227 identifying the basis for the protest;
- 228 (B) the franchisee's protest shall inform the franchisor that the protest shall be
229 submitted to a mediator in the state who is identified by name and address in

- the franchisee's notice to the franchisor;
- (C) if mediation is requested under Subsection (1)(gg)(i)(B), mediation shall occur no later than 30 days after the day on which the franchisor receives the franchisee's protest of a claim or charge back;
- (D) if mediation does not lead to a resolution of the protest, the protest shall be set for binding arbitration in the same venue in which the mediation occurred;
- (E) binding arbitration under Subsection (1)(gg)(i)(D) shall be conducted:
- (I) by an arbitrator mutually agreed upon by the franchisor and the franchisee; and
- (II) on a date mutually agreed upon by the franchisor and the franchisee, but shall be held no later than 90 days after the franchisor's receipt of the franchisee's notice of protest;
- (F) this Subsection (1)(gg)(i) applies exclusively to warranty audits, recall repair audits, and sales incentive audits;
- (G) Subsections (1)(gg)(i)(A) through (E) do not apply if the franchisor reasonably believes that the amount of the claim or charge back is related to a fraudulent act by the franchisee; and
- (H) the costs of the mediator or arbitrator instituted under this Subsection (1)(gg) shall be shared equally by the franchisor and the franchisee; or
- (ii) require a franchisee to execute a written waiver of the requirements of Subsection (1)(gg)(i);
- (hh) coerce, or attempt to coerce a franchisee to purchase or sell an aftermarket product manufactured by the franchisor, or obtained by the franchisor for resale from a third-party supplier and the franchisor or [its] the franchisor's affiliate derives a financial benefit from the franchisee's sale or purchase of the aftermarket product as a condition to obtaining preferential status from the franchisor;
- (ii) through an affiliate, take any action that would otherwise be prohibited under this chapter;
- (jj) impose any fee, surcharge, or other charge on a franchisee designed to recover the cost of a warranty repair for which the franchisor pays the franchisee;
- (kk) except as provided by the audit provisions of this chapter, take an action designed to recover a cost related to a recall, including:
- (i) imposing a fee, surcharge, or other charge on a franchisee;
- (ii) reducing the compensation the franchisor owes to a franchisee;

- 264 (iii) removing the franchisee from an incentive program; or
265 (iv) reducing the amount the franchisor owes to a franchisee under an incentive
266 program;
- 267 (ll) directly or indirectly condition any of the following actions on the willingness of a
268 franchisee, prospective new franchisee, or owner of an interest in a dealership facility
269 to enter into a site-control agreement:
- 270 (i) the awarding of a franchise to a prospective new franchisee;
271 (ii) the addition of a line-make or franchise to an existing franchisee;
272 (iii) the renewal of an existing franchisee's franchise;
273 (iv) the approval of the relocation of an existing franchisee's dealership facility,
274 unless the franchisor pays, and the franchisee voluntarily accepts, additional
275 specified cash consideration to facilitate the relocation; or
276 (v) the approval of the sale or transfer of a franchise's ownership, unless the
277 franchisor pays, and the buyer voluntarily accepts, additional specified cash
278 consideration to facilitate the sale or transfer;
- 279 (mm) subject to Subsection (11), deny a franchisee the right to return any or all parts or
280 accessories that:
- 281 (i) were specified for and sold to the franchisee under an automated ordering system
282 required by the franchisor; and
283 (ii)(A) are in good, resalable condition; and
284 (B)(I) the franchisee received within the previous 12 months; or
285 (II) are listed in the current parts catalog;
- 286 (nn) subject to Subsection (12), obtain from a franchisee a waiver of a franchisee's right,
287 by threatening:
- 288 (i) to impose a detriment upon the franchisee's business; or
289 (ii) to withhold any entitlement, benefit, or service:
- 290 (A) to which the franchisee is entitled under a franchise agreement, contract,
291 statute, rule, regulation, or law; or
292 (B) that has been granted to more than one other franchisee of the franchisor in the
293 state;
- 294 (oo) coerce a franchisee to establish, or provide by agreement, program, or incentive
295 provision that a franchisee must establish, a price at which the franchisee is required
296 to sell a product or service that is:
- 297 (i) sold in connection with the franchisee's sale of a motor vehicle; and

- 298 (ii)(A) in the case of a product, not manufactured, provided, or distributed by the
299 franchisor or an affiliate; or
- 300 (B) in the case of a service, not provided by the franchisor or an affiliate;
- 301 (pp) except as necessary to comply with a health or safety law, or to comply with a
302 technology requirement compliance with which is necessary to sell or service a motor
303 vehicle that the franchisee is authorized or licensed by the franchisor to sell or
304 service, coerce or require a franchisee, through a penalty or other detriment to the
305 franchisee's business, to:
- 306 (i) construct a new dealer facility or materially alter or remodel an existing dealer
307 facility before the date that is 10 years after the date the construction of the new
308 dealer facility at that location was completed, if the construction substantially
309 complied with the franchisor's brand image standards or plans that the franchisor
310 provided or approved; or
- 311 (ii) materially alter or remodel an existing dealer facility before the date that is 10
312 years after the date the previous alteration or remodeling at that location was
313 completed, if the previous alteration or remodeling substantially complied with
314 the franchisor's brand image standards or plans that the franchisor provided or
315 approved;
- 316 (qq) notwithstanding the terms of a franchise agreement providing otherwise and subject
317 to Subsection (14):
- 318 (i) coerce or require a franchisee, including by agreement, program, or incentive
319 provision, to purchase a good or service, relating to a facility construction,
320 alteration, or remodel, from a vendor that a franchisor or [its] the franchisor's
321 affiliate selects, identifies, or designates, without allowing the franchisee, after
322 consultation with the franchisor, to obtain a like good or service of substantially
323 similar quality from a vendor that the franchisee chooses; or
- 324 (ii) coerce or require a franchisee, including by agreement, program, or incentive
325 provision, to lease a sign or other franchisor image element from the franchisor or
326 an affiliate without providing the franchisee the right to purchase a sign or other
327 franchisor image element of like kind and quality from a vendor that the
328 franchisee chooses;
- 329 (rr) when providing a new motor vehicle to a franchisee for offer or sale to the public,
330 fail to provide to the franchisee a written disclosure that may be provided to a
331 potential buyer of the new motor vehicle of each accessory or function of the vehicle

that may be initiated, updated, changed, or maintained by the franchisor or affiliate through over the air or remote means, and the charge to the customer at the time of sale for such initiation, update, change, or maintenance; or

(ss) fail to provide reasonable compensation to a franchisee for assistance requested by a customer whose vehicle was subjected to an over the air or remote change, repair, or update to any part, system, accessory, or function by the franchisor or affiliate and performed at the franchisee's dealership in order to satisfy the customer.

(2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to perform warranty service repairs on motor vehicles if the warranty services are for a franchisor of recreational vehicles.

(3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry a reasonable inventory of:

(a) new motor vehicle models offered for sale by the franchisor; and

(b) parts to service the repair of the new motor vehicles.

(4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee maintain separate sales personnel or display space.

(5) Upon the written request of any franchisee, a franchisor shall disclose in writing to the franchisee the basis on which new motor vehicles, parts, and accessories are allocated, scheduled, and delivered among the franchisor's dealers of the same line-make.

(6)(a) A franchisor may engage in any of the activities listed in Subsection (1)(u), for a period not to exceed 12 months if:

(i)(A) the person from ~~whom~~ which the franchisor acquired the interest in or control of the new motor vehicle dealership was a franchised new motor vehicle dealer; and

(B) the franchisor's interest in the new motor vehicle dealership is for sale at a reasonable price and on reasonable terms and conditions; or

(ii) the franchisor is engaging in the activity listed in Subsection (1)(u) for the purpose of broadening the diversity of ~~its~~ the franchisor's dealer body and facilitating the ownership of a new motor vehicle dealership by a person ~~who~~ that:

(A) is part of a group that has been historically underrepresented in the franchisor's dealer body;

(B) would not otherwise be able to purchase a new motor vehicle dealership;

(C) has made a significant investment in the new motor vehicle dealership which is subject to loss;

- 366 (D) has an ownership interest in the new motor vehicle dealership; and
367 (E) operates the new motor vehicle dealership under a plan to acquire full
368 ownership of the dealership within a reasonable period of time and under
369 reasonable terms and conditions.
- 370 (b) The executive director may, for good cause shown, extend the time limit set forth in
371 Subsection (6)(a) for an additional period not to exceed 12 months.
- 372 ~~[(c) A franchisor who was engaged in any of the activities listed in Subsection (1)(u) in
373 this state prior to May 1, 2000, may continue to engage in that activity, but may not
374 expand that activity to acquire an interest in any other new motor vehicle dealerships
375 or motor vehicle service facilities after May 1, 2000.]~~
- 376 ~~[(d) Notwithstanding Subsection (1)(u), a franchisor may own, operate, or control a new
377 motor vehicle dealership trading in a line-make of motor vehicle if:]~~
- 378 ~~[(i) as to that line-make of motor vehicle, there are no more than four franchised new
379 motor vehicle dealerships licensed and in operation within the state as of January
380 1, 2000;]~~
- 381 ~~[(ii) the franchisor does not own directly or indirectly, more than a 45% interest in
382 the dealership;]~~
- 383 ~~[(iii) at the time the franchisor first acquires ownership or assumes operation or
384 control of the dealership, the distance between the dealership thus owned,
385 operated, or controlled and the nearest unaffiliated new motor vehicle dealership
386 trading in the same line-make is not less than 150 miles;]~~
- 387 ~~[(iv) all the franchisor's franchise agreements confer rights on the franchisee to
388 develop and operate as many dealership facilities as the franchisee and franchisor
389 shall agree are appropriate within a defined geographic territory or area; and]~~
- 390 ~~[(v) as of January 1, 2000, no fewer than half of the franchisees of the line-make
391 within the state own and operate two or more dealership facilities in the
392 geographic area covered by the franchise agreement.]~~
- 393 (7) Subsection (1)(ff) does not apply to recreational vehicles.
- 394 (8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is
395 functionally available to all competing franchisees of the same line-make in the state on
396 substantially comparable terms.
- 397 (9) Subsection (1)(ff)(iii) may not be construed to:
- 398 (a) permit provision of or access to customer information that is otherwise protected
399 from disclosure by law or by contract between a franchisor and a franchisee; or

(b) require a franchisor to disregard the preference volunteered by a potential customer in providing or directing a lead.

(10) Subsection (1)(ii) does not limit the right of an affiliate to engage in business practices in accordance with the usage of trade in which the affiliate is engaged.

(11)(a) Subsection (1)(mm) does not apply to parts or accessories that the franchisee ordered and purchased outside of an automated parts ordering system required by the franchisor.

(b) In determining whether parts or accessories in a franchisee's inventory were specified and sold under an automated ordering system required by the franchisor, the parts and accessories in the franchisee's inventory are presumed to be the most recent parts and accessories that the franchisor sold to the franchisee.

(12)(a) Subsection (1)(nn) does not apply to a good faith settlement of a dispute, including a dispute relating to contract negotiations, in which the franchisee gives a waiver in exchange for fair consideration in the form of a benefit conferred on the franchisee.

(b) Subsection (12)(a) may not be construed to defeat a franchisee's claim that a waiver has been obtained in violation of Subsection (1)(nn).

(13)(a) As used in Subsection (1)(pp):

(i) "Materially alter":

(A) means to make a material architectural, structural, or aesthetic alteration; and

(B) does not include routine maintenance, such as interior painting, reasonably necessary to keep a dealership facility in attractive condition.

(ii) "Penalty or other detriment" does not include a payment under an agreement, incentive, or program that is offered to but declined or not accepted by a franchisee, even if a similar payment is made to another franchisee in the state that chooses to participate in the agreement, incentive, or program.

(b) Subsection (1)(pp) does not apply to:

(i) a program that provides a lump sum payment to assist a franchisee to make a facility improvement or to pay for a sign or a franchisor image element, if the payment is not dependent on the franchisee selling or purchasing a specific number of new vehicles;

(ii) a program that is in effect on May 8, 2012, with more than one franchisee in the state or to a renewal or modification of the program;

(iii) a program that provides reimbursement to a franchisee on reasonable, written

- 434 terms for a substantial portion of the franchisee's cost of making a facility
 435 improvement or installing signage or a franchisor image element; or
 436 (iv) a written agreement between a franchisor and franchisee, in effect before May 8,
 437 2012, under which a franchisee agrees to construct a new dealer facility.
- 438 (14)(a) Subsection (1)(qq)(i) does not apply to:
- 439 (i) signage purchased by a franchisee in which the franchisor has an intellectual
 440 property right; or
- 441 (ii) a good used in a facility construction, alteration, or remodel that is:
- 442 (A) a moveable interior display that contains material subject to a franchisor's
 443 intellectual property right; or
- 444 (B) specifically eligible for reimbursement of over one-half [its] the good's cost [
 445 pursuant to] in accordance with a franchisor or distributor program or incentive
 446 granted to the franchisee on reasonable, written terms.
- 447 (b) Subsection (1)(qq)(ii) may not be construed to allow a franchisee to:
- 448 (i) impair or eliminate a franchisor's intellectual property right; or
- 449 (ii) erect or maintain a sign that does not conform to the franchisor's reasonable
 450 fabrication specifications and intellectual property usage guidelines.
- 451 (15) A franchisor may comply with Subsection (1)(rr) by notifying the franchisee that the
 452 information in a written disclosure described in Subsection (1)(rr) is available on a
 453 website or by other digital means.

454 Section 2. Section **41-3-102** is amended to read:

455 **41-3-102 . Definitions.**

456 As used in this chapter:

- 457 (1) "Administrator" means the motor vehicle enforcement administrator.
- 458 (2)(a) "Affiliate" means a person that:
- 459 (i) manufactures, distributes, sells, or leases new motor vehicles; and
- 460 (ii) directly or indirectly, through one or more intermediaries:
- 461 (A) possesses control over a person specified;
- 462 (B) is controlled by a person specified; or
- 463 (C) shares common control with a person specified.
- 464 (b) As used in this Subsection (2), "control" includes the power to direct or cause the
 465 direction of the management and policies of any person through ownership,
 466 contractual rights, or other means.
- 467 [(2)] (3) "Agent" means a person other than a holder of any dealer's or salesperson's license

issued under this chapter, ~~[who]~~ that for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

~~[(3)]~~ (4) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

~~[(4)]~~ (5) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection ~~[(4)(a)]~~ (5)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

~~[(5)]~~ (6) "Body shop" means a person engaged in rebuilding, restoring, repairing, or painting the body of motor vehicles for compensation.

~~[(6)]~~ (7) "Commission" means the State Tax Commission.

~~[(7)]~~ (8) "Crusher" means a person ~~[who]~~ that crushes or shreds motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

~~[(8)]~~ (9)(a) "Dealer" means a person:

(i) ~~[whose]~~ for which the business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) ~~[who]~~ that sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) "Dealer" includes a representative or consignee of any dealer.

~~[(9)]~~ (10) "Direct-sale manufacturer" means a person:

(a) that is both a manufacturer and a dealer;

(b) that is:

(i) an electric vehicle manufacturer; or

(ii) a low-volume manufacturer;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.

502 ~~[(10)]~~ (11) "Direct-sale manufacturer salesperson" means an individual who for a salary,
503 commission, or compensation of any kind, is employed either directly, indirectly,
504 regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or
505 to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the
506 direct-sale manufacturer who employs the individual.

507 ~~[(11)]~~ (12)(a) "Dismantler" means a person engaged in the business of dismantling motor
508 vehicles subject to registration under Chapter 1a, Motor Vehicle Act, for the resale of
509 parts or for salvage.

510 (b) "Dismantler" includes a person ~~[who]~~ that dismantles three or more motor vehicles in
511 any 12-month period.

512 ~~[(12)]~~ (13) "Distributor" means a person ~~[who]~~ that has a franchise from a manufacturer of
513 motor vehicles to distribute motor vehicles within this state and ~~[who]~~ that in whole or in
514 part sells or distributes new motor vehicles to dealers or ~~[who]~~ that maintains distributor
515 representatives.

516 ~~[(13)]~~ (14) "Distributor branch" means a branch office similarly maintained by a distributor
517 for the same purposes a factory branch is maintained.

518 ~~[(14)]~~ (15) "Distributor representative" means a person and each officer and employee of the
519 person engaged as a representative of a distributor or distributor branch of motor
520 vehicles to make or promote the sale of the distributor or the distributor branch's motor
521 vehicles, or for supervising or contacting dealers or prospective dealers of the distributor
522 or the distributor branch.

523 ~~[(15)]~~ (16) "Division" means the Motor Vehicle Enforcement Division created in Section
524 41-3-104.

525 ~~[(16)]~~ (17) "Electric vehicle manufacturer" means a person that, in this state, sells, displays
526 for sale, or offers for sale or exchange only new motor vehicles of the person's own
527 line-make that are:

528 (a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another
529 non-fossil fuel source;

530 (b)(i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;
531 or

532 (ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

533 (c) manufactured by the person.

534 ~~[(17)]~~ (18) "Factory branch" means a branch office maintained by a person ~~[who]~~ that
535 manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers,

or ~~[who]~~ that directs or supervises the factory branch's representatives.

~~[(18)]~~ (19) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

~~[(19)]~~ (20) "Fleet transaction" means a licensee's sale of one or more motor vehicles to a manufacturer-approved current fleet customer under the manufacturer's fleet program.

~~[(20)]~~ (21)(a) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(b) "Franchise" includes a contract or agreement described in Subsection ~~[(20)(a)]~~ (21)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

~~[(21)]~~ (22)(a) "Franchise holder" means a manufacturer ~~[who]~~ that:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer ~~[who]~~ that previously had or currently has a franchised dealer in the United States;

(iv) ~~[is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;]~~ that is a material owner of, is an affiliate of, or has any ownership by:

(A) another manufacturer that previously or currently has a franchised dealer; or

(B) another franchise holder;

(v) is under legal or common ownership, or practical control, with another manufacturer ~~[who]~~ that previously had or currently has a franchised dealer in the United States;~~[-or]~~

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer ~~[who]~~ that previously had or currently has a franchised dealer in the United States~~[-]~~ ; or

(vii) is a manufacturer otherwise described in Subsection (22)(b) if, after July 1, 2018, the manufacturer, or the manufacturer through an affiliate, acquires or

- 570 expands an interest in:
- 571 (A) any other manufacturer that is not exclusively an electric vehicle
- 572 manufacturer; or
- 573 (B) a dealership that deals exclusively in electric vehicles manufactured by any
- 574 other manufacturer.
- 575 (b) "Franchise holder" does not include a manufacturer described in Subsection [(21)(a),
- 576 ~~if at all times during the franchised dealer's existence,~~] (22)(a), if as of July 1, 2018,
- 577 the manufacturer had legal or practical common ownership or common control of:
- 578 (i) a dealership of the manufacturer's line-make in this state; or
- 579 (ii) [-with the] a franchised dealer[-] of the manufacturer's line-make in this state.
- 580 [(22)] (23) "Low-volume manufacturer" means a manufacturer who:
- 581 (a) in this state, sells, displays for sale, or offers for sale or exchange only new motor
- 582 vehicles of the person's own line make that are:
- 583 (i)(A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or
- 584 less; or
- 585 (B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and
- 586 (ii) manufactured by the person; and
- 587 (b) constructs no more than 325 new motor vehicles in any 12-month period.
- 588 [(23)] (24) "Line-make" means motor vehicles that are offered for sale, lease, or distribution
- 589 under a common name, trademark, service mark, or brand name of the manufacturer.
- 590 [(24)] (25) "Manufacturer" means a person engaged in the business of constructing or
- 591 assembling new motor vehicles, ownership of which is customarily transferred by a
- 592 manufacturer's statement or certificate of origin, or a person [who] that constructs three
- 593 or more new motor vehicles in any 12-month period.
- 594 [(25)] (26) "Material owner" means a person [who] that possesses, directly or indirectly, the
- 595 power to direct, or cause the direction of, the management, policies, or activities of
- 596 another person:
- 597 (a) through ownership of voting securities;
- 598 (b) by contract or credit arrangement; or
- 599 (c) in another way not described in Subsections [(25)(a)] (26)(a) and (b).
- 600 [(26)] (27)(a) "Motor vehicle" means a vehicle that is:
- 601 (i) self-propelled;
- 602 (ii) a trailer;
- 603 (iii) a travel trailer;

(iv) a semitrailer;

(v) an off-highway vehicle; or

(vi) a small trailer.

(b) "Motor vehicle" does not include:

(i) mobile homes as defined in Section 41-1a-102;

(ii) trailers of 750 pounds or less unladen weight;

(iii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

~~[(27)]~~ (28) "Motorcycle" means the same as that term is defined in Section 41-1a-102.

~~[(28)]~~ (29) "New motor vehicle" means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

~~[(29)]~~ (30) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

~~[(30)]~~ (31) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with ~~[him]~~ the pawnbroker.

~~[(31)]~~ (32)(a) "Principal place of business" means a site or location in this state:

(i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to ~~[them]~~ the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop;

(ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

(iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(b) "Principal place of business" means, with respect to a direct-sale manufacturer, the direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection ~~[(31)(a)]~~ (32)(a).

~~[(32)]~~ (33) "Remanufacturer" means a person ~~[who]~~ that:

(a) reconstructs used motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle~~[-or who-]~~ ;

(b) constructs or assembles motor vehicles from used or new and used motor vehicle parts~~[-]~~ ; or~~[-who-]~~

(c) reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

~~[(33)]~~ (34) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

~~[(34)]~~ (35) "Semitrailer" means the same as that term is defined in Section 41-1a-102.

~~[(35)]~~ (36) "Showroom" means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer's business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

~~[(36)]~~ (37) "Small trailer" means a trailer that has an unladen weight of:

(a) more than 750 pounds; and

(b) less than 2,000 pounds.

~~[(37)]~~ (38) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

~~[(38)]~~ (39) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

~~[(39)]~~ (40) "Trailer" means the same as that term is defined in Section 41-1a-102.

~~[(40)]~~ (41) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

~~[(41)]~~ (42) "Travel trailer" means the same as that term is defined in Section 41-1a-102.

~~[(42)]~~ (43) "Used motor vehicle" means a vehicle that:

(a) has been titled and registered to a purchaser other than a dealer; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

~~[(43)]~~ (44) "Wholesale motor vehicle auction" means a dealer primarily engaged in the

672 business of auctioning consigned motor vehicles to dealers or dismantlers [~~who~~] that are
673 licensed by this or any other jurisdiction.

674 Section 3. **Effective Date.**

675 This bill takes effect on May 7, 2025.