

Effective 10/1/2024

13-35-102 Definitions.

As used in this chapter:

- (1) "Dealership" means a site or location in this state:
 - (a) at which a franchisee conducts the business of a new powersport vehicle dealer; and
 - (b) that is identified as a new powersport vehicle dealer's principal place of business for registration purposes under Section 13-35-105.
- (2) "Department" means the Department of Commerce.
- (3) "Executive director" means the executive director of the Department of Commerce.
- (4) "Franchise" or "franchise agreement" means a written agreement, for a definite or indefinite period, in which:
 - (a) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and
 - (b) a community of interest exists in the marketing of new powersport vehicles, new powersport vehicle parts, and services related to the sale or lease of new powersport vehicles at wholesale or retail.
- (5) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new powersport vehicles manufactured, produced, represented, or distributed by the franchisor.
- (6)
 - (a) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new powersport vehicles manufactured, produced, represented, or distributed by the franchisor, and includes:
 - (i) the manufacturer or distributor of the new powersport vehicles;
 - (ii) an intermediate distributor;
 - (iii) an agent, officer, or field or area representative of the franchisor; and
 - (iv) a person who is affiliated with a manufacturer or a representative or who directly or indirectly through an intermediary is controlled by, or is under common control with the manufacturer.
 - (b) For purposes of Subsection (6)(a)(iv), a person is controlled by a manufacturer if the manufacturer has the authority directly or indirectly by law or by an agreement of the parties, to direct or influence the management and policies of the person.
- (7) "Lead" means the referral by a franchisor to a franchisee of an actual or potential customer for the purchase or lease of a new powersport vehicle, or for service work related to the franchisor's vehicles.
- (8) "Line-make" means the powersport vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor, or manufacturer of the powersport vehicle.
- (9) "New powersport vehicle dealer" means a person who is engaged in the business of buying, selling, offering for sale, or exchanging new powersport vehicles either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise who has established a place of business for the sale, lease, trade, or display of powersport vehicles.
- (10) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.
- (11)
 - (a) "Powersport vehicle" means:
 - (i) an all-terrain type I, type II, or type III vehicle "ATV" defined in Section 41-22-2;
 - (ii) a snowmobile as defined in Section 41-22-2;

- (iii) a motorcycle as defined in Section 41-1a-102;
 - (iv) a personal watercraft as defined in Section 73-18-2;
 - (v) except as provided in Subsection (11)(b), a motor-driven cycle as defined in Section 41-6a-102; or
 - (vi) a moped as defined in Section 41-6a-102.
- (b) "Powersport vehicle" does not include:
- (i) an electric assisted bicycle defined in Section 41-6a-102;
 - (ii) a motor assisted scooter as defined in Section 41-6a-102; or
 - (iii) an electric personal assistive mobility device as defined in Section 41-6a-102.
- (12) "Relevant market area" means:
- (a) for a powersport dealership in a county that has a population of less than 225,000:
 - (i) the county in which the powersport dealership exists or is to be established or relocated; and
 - (ii) in addition to the county described in Subsection (12)(a)(i), the area within a 15-mile radius from the site of the existing, new, or relocated dealership; or
 - (b) for a powersport dealership in a county that has a population of 225,000 or more, the area within a 10-mile radius from the site of the existing, new, or relocated dealership.
- (13) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.
- (14) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.
- (15) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

Amended by Chapter 507, 2024 General Session