

## LEGISLATIVE BILL 768

Approved by the Governor May 25, 1971

Introduced by Herbert J. Duis, 39th District

AN ACT to amend sections 60-1402, 60-1406, 60-1407, 60-1410, 60-1411, 60-1415, 60-1416, 60-1417, and 60-1418, Reissue Revised Statutes of Nebraska, 1943, sections 60-1408, 60-1413, and 60-1414, Revised Statutes Supplement, 1969, and section 60-1403, Reissue Revised Statutes of Nebraska, 1943, as amended by section 6, Legislative Bill 653, Eighty-second Legislature, First Session, 1971, relating to the Motor Vehicle Dealers License Board; to rename the board; to state Legislative findings; to define terms; to provide duties; to reclassify licenses; to generally revise Chapter 60, article 14, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto; to regulate the franchisor-franchisee relationship; to provide procedure; to provide for liability; and to repeal the original sections, and also sections 60-1401 and 60-1412, Revised Statutes Supplement, 1969.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds and declares that the distribution and sales of motor vehicles, motorcycles, and trailers in the State of Nebraska vitally affects the general economy of the state, the public interest, the public welfare, and public safety and that in order to promote the public interest and the public welfare and in the exercise of its police power, it is necessary to regulate motor vehicle, motorcycle, and trailer dealers, manufacturers, distributors, and their representatives doing business in the State of Nebraska.

The Legislature further finds that the sales of motor vehicles, motorcycles, and trailers are involved to a large extent in a franchise system established between manufacturers and dealers and hereby declares that the sale of motor vehicles, motorcycles, and trailers to the public in the state under the franchise system includes more than the mere transfer of title, being a continuing obligation of the manufacturer, distributor and dealer to the buying public affecting the public interest; that the termination or failure of

the established relationship between the manufacturer, distributor and dealer without cause or good faith denies to the general buying public its right to availability of continuing post-sale mechanical and operational services and precludes the relationship, expected and implied at the time of sale, between the buyer and the seller necessary to insure safe operating condition of the vehicle.

The Legislature further finds and declares that the distribution and sale of motor vehicles in the state under the franchise system vitally affects commerce, the general economy of the state and the welfare of the citizens of the state requiring the exercise of its police power to insure the public welfare, to regulate commerce, to establish guidelines for enforcement of a fair and equitable balance between parties to such franchises, and to provide judicial relief from unfair and inequitable practices affecting the public interest.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Person shall mean every natural person, firm, copartnership, association, or corporation:

(2) Motor vehicle dealer shall mean any person engaged in the business of selling or exchanging new or used motor vehicles as defined in this act, and any person who buys, sells or exchanges three or more new or used motor vehicles in any one calendar year shall be deemed to be a motor vehicle dealer and subject to the provisions of this act:

(3) Trailer dealer shall mean any person engaged in the business of selling or exchanging new or used trailers, and any person, who buys, sells or exchanges three or more new or used trailers in any one calendar year shall be deemed to be a trailer dealer and subject to the provisions of this act:

(4) Wrecker or salvage dealer shall mean any person who buys or otherwise acquires three or more motor vehicles, motorcycles, or trailers solely for the purpose of dismantling them and selling or otherwise disposing of the parts and accessories thereof:

(5) Motor vehicle shall mean any vehicle for which evidence of title is required as a condition precedent to registration under the laws of this state but does not include motorcycles or trailers:

(6) Used motor vehicle shall mean every motor vehicle which has been sold, bargained, exchanged, given away, or title transferred from the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer; Provided, that a new motor vehicle shall not be considered as a used motor vehicle until it has been placed in a bona fide consumer use, notwithstanding the number of transfers of such motor vehicle; and bona fide consumer use shall mean actual operation by an owner who acquired the vehicle for use in business or for pleasure purposes and who has been granted a certificate of title on such motor vehicle and has registered such motor vehicle, all in accordance with the laws of the residence of the owner;

(7) New motor vehicle shall mean all motor vehicles which are not included within the definition of a used motor vehicle in subdivision (4) of this section;

(8) Trailer shall mean trailers and semitrailers, as defined in section 60-301, which are required to be licensed as commercial trailers and other vehicles without motive power constructed so as to permit their being used as conveyances upon the public streets and highways and so constructed as not to be attached to real estate and will permit the vehicle to be used for human habitation by one or more persons; Provided, that machinery and equipment to which wheels are attached and designed for being drawn by a motor vehicle shall be excluded from the provisions of this act;

(9) Motorcycle dealer shall mean any person engaged in the business of selling or exchanging new or used motorcycles as defined in this section and any person who buys, sells, or exchanges three or more new or used motorcycles in any one calendar year shall be deemed to be a motorcycle dealer and subject to the provisions of this act;

(10) Motorcycle shall mean every motor vehicle, except a tractor, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground and to which evidence of title is required as a condition precedent to registration under the laws of this state;

(11) Auction shall mean a public sale of motor vehicles, motorcycles, and trailers of types required to be registered in this state sold or offered for sale at which the price offered is increased by the prospective



buyers who bid against one another, the highest bidder becoming the purchaser;

(12) Auction dealer shall mean any person engaged in the business of selling vehicles as defined in subdivision (11) of this section; Provided, that the holding of a farm auction or an occasional motor vehicle, trailer, or motorcycle dealer's auction of not more than two auctions in a calendar year shall not be construed as constituting an auction dealer subject to the provisions of this act;

(13) Supplemental motor vehicle, trailer, motorcycle, or motor vehicle auction dealer shall mean any person holding either a motor vehicle, trailer, motorcycle, or motor vehicle auction dealer's license engaging in the business authorized by such license at a place of business that is more than three hundred feet from any part of the place of business designated in the dealer's original license, but which is located within the city or county described in such original license;

(14) Motor vehicle, motorcycle, or trailer salesman shall mean any person who, for a salary, commission, or compensation of any kind, is employed directly by only one specified licensed Nebraska motor vehicle dealer, motorcycle dealer, or trailer dealer, to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles, motorcycles, or trailers; Provided, a person owning any part of more than one dealership may be a salesman for each of such dealerships;

(15) Manufacturer shall mean any person, resident or nonresident of this state, who is engaged in the business of distributing, manufacturing or assembling new motor vehicles, trailers, or motorcycles, and also shall have the same meaning as the term franchisor as used in this act;

(16) Factory representative shall mean a representative employed by a person who manufactures or assembles motor vehicles, motorcycles, or trailers or by a factory branch for the purpose of promoting the sale of its motor vehicles, motorcycles, or trailers to or for supervising or contacting its dealers or prospective dealers in this state;

(17) Distributor shall mean a person, resident or nonresident of this state, who in whole or in part sells or distributes new motor vehicles, trailers, or motorcycles to dealers or who maintains distributors or

representatives who sell or distribute motor vehicles, trailers, or motorcycles to dealers:

(18) Finance company shall mean any person engaged in the business of financing sales of motor vehicles, motorcycles, or trailers, or purchasing or acquiring promissory notes, secured instruments, or other documents whereby such motor vehicles, motorcycles, or trailers are pledged as security for payment of obligations arising from such sales, and who may find it necessary to engage in the activity of repossession and the sale of the motor vehicles, motorcycles, or trailers so pledged:

(19) Franchise shall mean a contract between two or more persons when all of the following conditions are included:

(a) A commercial relationship of definite duration or continuing indefinite duration is involved:

(b) The franchisee is granted the right to offer and sell motor vehicles manufactured or distributed by the franchisor:

(c) The franchisee, as an independent business, constitutes a component of franchisor's distribution system:

(d) The operation of franchisee's business is substantially associated with the franchisor's trade-mark, service mark, trade name, advertising, or other commercial symbol designating the franchisor: and

(e) The operation of the franchisee's business is substantially reliant on franchisor for the continued supply of motor vehicles, parts, and accessories:

(20) Franchisee shall mean a person who receives motor vehicles from the franchisor under a franchise and who offers and sells such motor vehicles to the general public:

(21) Franchisor shall mean a person who manufactures or distributes motor vehicles and who may enter into a franchise:

(22) Community shall mean the franchisee's area of responsibility as stipulated in the franchise:

(23) Consumer care shall mean the performance, for the public, of necessary maintenance and repairs to



motor vehicles:

(24) Sale, selling, and equivalent expressions shall mean the attempted act or acts either as principal, agent, salesman, or in any capacity whatsoever, of selling, bartering, exchanging, or otherwise disposing of, or negotiating, or offering or attempting to negotiate the sale, purchase, or exchange of or interest in any motor vehicle, trailer, or motorcycle, including the leasing thereof with a right of option to purchase under the terms of the lease;

(25) Established place of business shall mean a permanent and enclosed commercial building, including a cabin trailer or mobile home, owned or leased by the applicant for a license or a licensee for at least the term of the license year, and located within this state and which has the following facilities: (a) Office space within the building where the licensed business can be conducted under conditions favorable to health and safety, meaning clean air, dry and safe flooring, and well lighted; (b) a sign displayed with letters not less than twelve inches in height and one contiguous area to display ten or more motor vehicles, motorcycles, or trailers in a presentable manner; (c) adequate repair facilities and tools to properly and actually service warranties on motor vehicles, motorcycles, or trailers sold at such place of business and other repairs arising out of the conduct of the licensee's business, or a written statement shall be furnished each buyer stating where such facilities will be provided and maintained; (d) the place of business shall be actually occupied by a licensee, easily accessible to the public, where the public and representatives of the board may contact such licensee or one of his employees at all reasonable times; (e) all of the books, records, and files concerning the business authorized to be conducted by the licensee shall be kept separate and apart from all other business records of the licensee and shall be maintained in such place of business of the licensee and available for inspection by the board's representatives at all reasonable business hours: Provided, that a mobile truck equipped with repair facilities to properly perform warranty functions and other repairs shall be deemed adequate repair facilities for trailers, as defined in this act; provided further, that the above requirements shall not apply to the place of business authorized under a supplemental motor vehicle, motorcycle, or trailer dealer's license, except that such place of business shall have a sign with letters of not less than twelve inches in height identifying such supplemental place of business; and provided further,

that where one corporation controls one or more other corporations doing business and licensed under the provisions of this act, only the controlling corporation must comply with the requirements of an established place of business pertaining to record keeping as set forth in this subdivision:

(26) Wholesaler shall mean a person in this state who sells at wholesale used motor vehicles or used trailers to motor vehicle dealers or trailer dealers:

(27) Factory branch shall mean a branch office maintained in this state, by a person who manufactures or assembles motor vehicles, motorcycles, or trailers for the sale of such motor vehicles, motorcycles, or trailers to distributors or dealers or for directing or supervising, in whole or in part, its representatives in this state:

(28) Distributor representative shall mean a representative employed by a distributor or distributor branch for the same purpose as set forth in subdivision (16) of this section:

(29) Board shall mean the Nebraska Motor Vehicle Industry Licensing Board; and

(30) This act shall mean sections 60-1402 to 60-1419 and the new sections of this act.

Nothing in this act shall apply to the State of Nebraska, any of its agencies or subdivisions, any insurance company, finance company, public utility company, fleet owner, or other person coming into possession of any motor vehicle, motorcycle, or trailer and owning the same for at least ninety days.

Sec. 3. That section 60-1402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1402. (1) There is hereby established the Nebraska Motor Vehicle Dealers---License Industry Licensing Board which shall consist of the Director of Motor Vehicles, who shall be chairman of the board, and six eight members appointed by the Governor as follows: One factory representative and one member of the general public, both being appointed from the state at large, one one new motor vehicle dealer from each of the three congressional districts of the state as the districts are constituted on October 19, 1963, and two used motor vehicle dealers and one trailer dealer or combination

motor vehicle or trailer dealer, not more than one used motor vehicle dealer being appointed from the same congressional district as they are constituted on October 19, 1963, and the trailer dealer or combination motor vehicle or trailer dealer being appointed from the state at large; Provided, that no member of the board shall participate in any manner in a proceeding before the board involving his licensed business.

(2) On October 19, 1963, the Governor shall appoint a new motor vehicle dealer and a trailer dealer or combination motor vehicle or trailer dealer to the board. In making the appointments, the Governor shall appoint one of the new members for one year and one for two years as designated by him in making the appointments. On the effective date of this act, the Governor shall appoint one factory representative and one member of the general public to the board, designating one to serve for a term of one year and one for a term of two years. At the expiration of the term of any appointed member of the board, the Governor shall appoint a successor for a term of three years. In the event of a vacancy on the board, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. The action of the majority of the members of the board shall be deemed the action of the board. All appointments made to the board, except the Director of Motor Vehicles, shall be confirmed by the Legislature if in session. In the event the Legislature is not in session all appointments including appointments to fill a vacancy shall be temporary appointments until the next meeting of the Legislature when the Governor shall nominate some person to fill the office. Any person so nominated who is confirmed by the Legislature shall hold his office during the remainder of the term. No appointed person may act as a member of the board while holding any other elective or appointive state or federal office except the Director of Motor Vehicles. All appointed members of the board shall serve without compensation but shall be entitled to their reasonable traveling expenses in the performance of their duties.

Sec. 4. That section 60-1403, Reissue Revised Statutes of Nebraska, 1943, as amended by section 6, Legislative Bill 653, Eighty-second Legislature, First Session, 1971, be amended to read as follows:

60-1403. The board shall have full power to regulate the issuance and revocation of licenses in accordance with and subject to the provisions of this act, to perform all acts and duties provided for herein



necessary to the administration and enforcement of this act, and to make and enforce rules and regulations relating to the administration of but not inconsistent with the provisions of this act. The board shall adopt a seal, which may be either an engraved or ink stamp seal, with the words Nebraska Motor Vehicle Dealers License Industry Licensing Board and such other devices as the board may desire included thereon by which it shall authenticate the acts of its office. Copies of all records and papers in the office of the board, under the hand and seal of its office, shall be received in evidence in all cases equally and with like effect as the original.

Investigators employed by the board are hereby given authority to inspect any ~~vehicle--or~~ vehicles, ~~trailers, or motorcycles~~ found in any licensed motor vehicle, motorcycle, or trailer dealer's established place or places of business.

Sec. 5. No person shall engage in the business as or serve in the capacity of, or act as a motor vehicle, trailer, or motorcycle dealer, salesman, auction dealer, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in this state without being licensed by the board under the provisions of this act. A license issued under this act shall authorize the holder thereof to engage in the business or activities permitted by the license.

Sec. 6. That section 60-1406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1406. Licenses issued by the board under the provisions of sections 60-1401 to 60-1419 shall be of the classes hereinafter set out and shall permit the following described business activities:

(1) Motor vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new, used, or new and used motor vehicles as defined in section 60-1404 2 of this act, at the established place of business designated in such license and another place or places of business located within three hundred feet of such designated place of business, and within the city or county described in such original license. This form of license shall permit one person named thereon to act--as a motor vehicle salesman for the--motor--vehicle--dealer specified thereon; This license shall permit one person,

either the licensee, if he is the individual owner of such licensed business or a stockholder, officer, or copartner of such licensee to act as a motor vehicle salesman and the name of such authorized person shall appear on the license:

~~{2}~~ ~~Used-motor-vehicle-dealer's--license---~~ This license shall permit the licensee to engage in the business of selling or exchanging used motor vehicles only, as defined in section 60-1401. ~~This form of license shall permit one person named thereon to act as a motor vehicle salesman;~~

~~{3}~~ {2} Motor vehicle, motorcycle, or trailer salesman license. This license shall permit the licensee to engage in the activities of a motor vehicle or trailer salesman as defined in section 60-1401 2 of this act. This license shall permit the one person named thereon to act as a salesman:

~~{4}~~ {3} Manufacturer license. This license shall permit the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer manufacturer, or manufacturer's factory branch as defined in section 60-1401 2 of this act:

~~{5}~~ {4} Distributor license. This license shall permit the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer distributor as defined in section 60-1401 2 of this act:

~~{6}~~ {5} Factory representative license. This license shall permit the licensee to engage in the activities of a factory branch representative as defined in section 60-1401 2 of this act:

~~{7}~~ {6} Factory branch license. This license shall permit the licensee to maintain a branch office, as defined in section 60-1401 2 of this act. in this state;

~~{8}~~ {7} Distributor representative license. This license shall permit the licensee to engage in the activities of a distributor representative as defined in section 60-1401;

~~{9}~~ {8} Finance company license. This license, as defined in section 60-1401 2 of this act, shall permit the licensee to engage in the activities of repossession of motor vehicles or trailers and the sale of such motor vehicles or trailers so repossessed;

~~{40}~~ (9) Wholesale license. This license shall permit the licensee to sell at wholesale, as defined in section 60-4404 2 of this act:

~~{41}~~ (10) Trailer dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new, used or new and used trailers, as defined in section 60-4404 2 of this act. This form of license shall permit the one person named thereon to act as a trailer salesman; This license shall permit one person, either the licensee, if he is the individual owner of such licensed business or a stockholder, officer or copartner of such licensee to act as a trailer salesman and the name of such authorized person shall appear on the license;

~~{42}~~ (11) Wrecker or salvage dealer license. This license shall permit the licensee to engage in the business of acquiring motor vehicles or trailers solely for the purpose of dismantling the motor vehicles or trailers and selling or otherwise disposing of the parts and accessories thereof as defined in section 2 of this act;

~~{43}~~ (12) Supplemental motor vehicle, motorcycle, or trailer dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging motor vehicles or trailers of the type designated in his principal dealer's license at a specified place of business which is not--contiguous--to other premises for which a license is issued,--but--is either in the city limits or in the county for which the original license is issued; located more than three hundred feet from any part of the place of business designated in the original motor vehicle, motorcycle or trailer dealer's license but which is located within the city or county described in such original license;

~~{44}~~ (13) Combination motor vehicle and trailer dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new, used, or new and used motor vehicles and trailers, as defined in section 60-4404 2 of this act. This form of license shall permit one person named thereon, either the licensee, if he is the individual owner of such licensed business, or a stockholder, officer, or copartner of such licensee, to act as a motor vehicle and trailer salesman and the name of the authorized person shall appear on the license;

~~{45}~~ (14) Motorcycle dealer's license. This license shall permit the licensee to engage in the



business of selling or exchanging new, used or new and used motorcycles, as defined in section 60-1404 2 of this act. This form of license shall permit one person named thereon, either the licensee, if he is the individual owner of such licensed business, or a stockholder, officer, or copartner of such licensee, to act as a motorcycle salesman and the name of such authorized person shall appear on the license; and

~~(16)~~ (15) Motor vehicle auction dealer's license. This license shall permit the licensee to engage in the business of selling vehicles as defined in section 60-1404 2 of this act. This form of license shall permit one person named thereon, to act as a motor vehicle salesman either the licensee, if he is the individual owner of such licensed business, or a stockholder or officer or copartner of such licensee, to act as a motor auction dealer's salesman and the name of the authorized person shall appear on the license.

Sec. 7. That section 60-1407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1407. Any person, ~~desiring to act as a motor vehicle dealer, used motor vehicle dealer, combination motor vehicle and trailer dealer, trailer dealer, wrecker or salvage dealer, motor vehicle or trailer salesman, manufacturer, distributor, wholesaler, factory representative, factory branch, distributor representative, finance company, supplemental motor vehicle dealer, motorcycle dealer, or motor vehicle auction dealer must file with the board an application for a license under oath. The application shall be in such form and detail as the board shall prescribe, setting forth the following information: desiring to apply for one or more of the types of licenses described in this act, shall submit to the board, in writing, the following required information:~~ (1) The name and address of the applicant and the name under which he intends to conduct business; Provided, that if the applicant is a copartnership, it shall set forth the name and address of each member thereof and the name under which the copartnership business is to be conducted; and provided further, that if the applicant is a corporation, it shall set forth the name of the corporation and the name and address of each of its principal officers; (2) the place or places, including the city or village and the street and street number, if any, where the business is to be conducted or the salesman employed; (3) if the application is for a motor vehicle dealer's license, trailer dealer's license,

combination motor vehicle and trailer dealer's license, or motorcycle dealer's license the name or names of the new motor vehicle or vehicles, new trailer or trailers, new motorcycle or motorcycles which the applicant has been enfranchised to sell or exchange and the name or names and address or addresses of the manufacturer or distributor who has enfranchised the applicant and a correct copy of each existing franchise: and (4) if the application is for any of the above named classes of dealer's licenses, the name and address of the person who is to act as a motor vehicle, trailer, or motorcycle salesman under such license if issued; and (5) a description of the proposed place or places of business proposed to be operated in the event a license is granted together with (a) a statement whether the applicant owns or leases the proposed established place of business, as defined in section 2 of this act and, if the proposed established place of business is leased, the applicant shall file a true and correct copy of the lease agreement, and (b) a description of the facilities for the display of motor vehicles, trailers, and motorcycles.

Sec. 8. Upon the filing of any application, a staff member of the board shall endorse on it the date of filing. If no patent disqualification of the applicant is disclosed or if no valid objection to the granting of the application is apparent and if all requirements relative to the filing of the application appear to have been complied with, the chairman of the board or executive secretary shall refer the application to a staff member for investigation and report. The report shall include:

(1) A statement as to whether or not the applicant or any person holding any financial interest in the applicant is for any reason disqualified by this act from obtaining or exercising a license and whether or not the applicant has complied with all the requirements of this act relative to the making and filing of his application;

(2) Information relating to any and all other matters and things which in the judgment of the staff member pertain to or affect the matter of the application or the issuance or exercise of the license applied for; and

(3) In the case of an application for a dealer's license, in addition to the foregoing:

(a) A description of the premises intended to become the licensed premises, and the equipment and surrounding conditions;

(b) If the applicant has held a prior dealer's license for the same or any other premises within two years past, a statement as to the manner in which the premises have been operated and the business conducted under the previous license; and

(c) If the applicant proposes to engage in the business of selling new motor vehicles, motorcycles, or trailers a written statement from the applicable manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or such other evidence as prescribed by the board, that the applicant is authorized to sell or distribute such new motor vehicles.

After the filing of the report, the board may interview the applicant and notice of such interview must be given at least ten days prior to the interview.

Sec. 9. That section 60-1410, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1410. The board shall prescribe the form of the license and each license shall have printed thereon the seal of its office. All licenses shall be mailed to each licensee except the license of each motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer salesman which shall be delivered or mailed to the motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealer by whom the motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer salesman is employed and be kept in the custody and control of such dealer. It shall be the duty of each dealer to conspicuously display his own license or licenses in his place or places of business. The board shall prepare and deliver a pocket card for salesmen, factory representatives and distributor representatives. Such card shall certify that the person whose name appears thereon is a licensed motor vehicle, motorcycle, or trailer salesman, factory representative, or distributor representative, as the case may be. Such motor vehicle or trailer salesman's card shall also contain the name and address of the dealer employing him.

Sec. 10. That section 60-1411, Reissue Revised Statutes of Nebraska, 1943, be amended to read as



follows:

60-1411. Should the a motor vehicle dealer, the ~~used-motor-vehicle--dealer~~ motorcycle dealer, trailer dealer or combination motor vehicle and trailer dealer change the address of his place of business, change franchise, add another franchise, or lose a franchise for sale of new motor vehicles, ~~motorcycles~~, or trailers, he must notify the board of such change within ten days ~~after~~ prior to such change. Thereupon the license shall be corrected for the unexpired portion of the term at no additional fee except as provided in section 60-1408. Should any motor vehicle, ~~trailer, combination motor vehicle and trailer, or motorcycle salesman or trailer-salesman~~ be discharged, leave his employer, or change his place of employment, ~~the--motor vehicle--dealer,--used--motor--vehicle--dealer,--trailer dealer,--or--combination--motor--vehicle--and--trailer--dealer~~ the employer who last employed such salesman shall forthwith return the license to the board. The salesman's pocket card shall thereupon be returned by the salesman. The salesman shall be notified at his last known place of residence that his license has been returned to the board. It shall be unlawful for him to act as a motor vehicle or trailer salesman until a new license is secured.

Sec. 11. That section 60-1408, Revised Statutes Supplement, 1969, be amended to read as follows:

~~60-1408.~~ To pay the expenses of the administration, operation, maintenance, and enforcement of ~~sections-60-1404-to-60-1419~~ this act, the board shall collect with each application for each class of license fees not exceeding the following amounts: (1) Motor vehicle dealer's license, thirty-five dollars; ~~(2)--used motor-vehicle-dealer's-license,--thirty-five-dollars,--(3)~~ (2) supplemental motor vehicle dealer's license, ten dollars; ~~(4)~~ (3) trailer dealer's license, thirty-five dollars; ~~(5)~~ (4) motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer salesman's license, two three dollars; ~~(6)~~ (5) motor vehicle, motorcycle, or trailer manufacturer's license, one two hundred dollars; ~~(7)~~ (6) distributor's or wholesaler's license, one two hundred dollars; ~~(8)~~ (7) factory representative's license, ten dollars; ~~(9)~~ (8) distributor representative's license, ten dollars; ~~(10)~~ (9) finance company's license, ten thirty-five dollars; ~~(11)~~ (10) wrecker or salvage dealer's license, thirty-five dollars; ~~(12)~~ (11) factory branch license, thirty-five dollars; ~~(13)~~ (12) combination motor vehicle

and trailer dealer's license, thirty-five dollars; ~~(14)~~ (13) motorcycle dealer's license, thirty-five dollars; and ~~(15)~~ (14) motor vehicle auction dealer's license, thirty-five dollars; which fees shall be fixed by the board and shall not exceed the amount actually necessary to sustain the administration, operation, maintenance, and enforcement of ~~sections-60-1404-to-60-1419~~ this act. Such licenses, if issued, shall expire on December 31 next following the date of the issuance thereof. Any motor vehicle, combination motor vehicle and trailer, motorcycle or trailer dealer changing its location shall not be required to obtain a new license if the new location is within the same city limits or county provided the all requirements of section-60-1404 law are complied with and a fee of five dollars is paid, but a any change of ownership of any licensee shall require a new application for a license and a new license. Change of name of licensee without change of ownership shall require the licensee to obtain a new license and pay a fee of five dollars. Applications shall be made each year for a new or renewal license.

Sec. 12. The board may, upon its own motion, and shall, upon a sworn complaint in writing of any person, investigate the actions of any person licensed as a motor vehicle dealer, trailer dealer, combination motor vehicle and trailer dealer, motor vehicle or trailer salesman, manufacturer, factory branch, distributor, wholesaler, factory representative, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, finance company, motorcycle dealer or motor vehicle auction dealer. It shall have the power to deny any application for a license or to revoke or suspend any license issued under the provisions of this act when the applicant or licensee including any officer, stockholder, partner, or any person having any financial interest in the applicant or licensee;

(1) Has had any license, issued to him under the provisions of this act, revoked or suspended and, if the license has been suspended, has not complied with the terms of suspension;

(2) Has knowingly purchased, sold or did business in stolen motor vehicles, motorcycles, or trailers or parts therefor;

(3) Has failed to provide and maintain an established place of business as defined in section 2 of this act;

(4) Has been found guilty of any felony which has not been pardoned, has been found guilty of any misdemeanor concerning fraud or conversion, or has suffered any judgment in any civil action involving fraud, misrepresentation or conversion; or, in the event felony charges are pending against an applicant, then no license shall be issued to an applicant until there has been a final determination of the charges;

(5) Has made a false material statement in his application or any data attached thereto;

(6) Has willfully failed to perform any written agreement with any consumer or retail buyer;

(7) Has made a fraudulent sale, transaction, or repossession, or created a fraudulent security interest, as defined in the Uniform Commercial Code, in a motor vehicle, trailer, or motorcycle;

(8) Has failed to notify the board of a change in the address of his established place or places of business and in the case of a salesman has failed to notify the board of any change in his employment;

(9) Has willfully failed to deliver to a purchaser a certificate of ownership or a motor vehicle, trailer, or motorcycle sold by the licensee;

(10) Has forged the signature of the registered or legal owner on a certificate of title;

(11) Has failed to comply with the provisions of this act and any orders, rules or regulations of the board promulgated under the act;

(12) Has failed to comply with the advertising and selling standards established in section 13 of this act; or

(13) Has failed to comply with the provisions of section 60-320, the provisions of this act or rules or regulations promulgated by the board under the provisions thereof.

Sec. 13. It shall be unlawful for any licensee to engage, directly or indirectly, in the following acts;

(1) To advertise and offer any year, make, engine size, model, type, equipment, price, trade-in allowance, terms, or make other claims or conditions



pertaining to the sale, leasing or rental of motor vehicles, motorcycles and trailers which are not truthful and clearly set forth:

(2) To advertise for sale, lease or rental a specific motor vehicle, motorcycle or trailer which is not in possession of the dealer, owner or advertiser and willingly shown and sold, as advertised, illustrated, or described, at advertised price and terms, at the advertised address: Provided, that unless otherwise specified, a motor vehicle, motorcycle or trailer advertised for sale shall be in operable condition and on request, the advertiser thereof shall show records to substantiate an advertised offer:

(3) To advertise a new motor vehicle, motorcycle or trailer at a price which does not include standard equipment with which it is fitted or is ordinarily fitted, without disclosing such fact, or eliminating any such equipment for the purpose of advertising a low price:

(4) To advertise (a) that the advertiser's prices are always or generally lower than competitive prices and not met or equalled by others or that the advertiser always or generally undersells competitors; (b) that the advertiser's prices are always or generally the lowest or that no other dealer has lower prices; (c) that the advertiser is never undersold; or (d) that no other advertiser or dealer will have a lower price:

(5) To advertise and make statements such as, Write Your Own Deal, Name Your Own Price, Name Your Own Monthly Payments, and other statements of a similar nature:

(6) To advertise by making disparaging comparisons with competitors' services, quality, price, products, or business methods:

(7) To advertise by making the layout, headlines, illustrations and type size of an advertisement so as to convey or permit an erroneous impression as to which motor vehicle, motorcycle or trailer or motor vehicles, motorcycles or trailers are offered at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference or savings, shall be misleading by itself, and any qualification to such offer, expression, or display shall be clearly and conspicuously set forth in comparative type size and style, location, layout, to prevent deception:

(8) To advertise the price of a motor vehicle, motorcycle or trailer without including all charges which the customer must pay for the motor vehicle, motorcycle or trailer, excepting state and local tax, license and title fees: Provided, that it shall be unlawful to advertise prices described as unpaid balance, unless they are the full cash selling price and to advertise price which is not the full selling price even though qualified with expressions such as with trade, with acceptable trade, or other similar words:

(9) To advertise as at cost, below cost, below invoice, or wholesale, unless the term used shall be strictly construed that the word cost, as used above or in a similar meaning, shall be the actual price paid by the advertiser to the manufacturer for the motor vehicle, motorcycle or trailer so advertised:

(10) To advertise claims that Everybody Financed, No Credit Rejected, We Finance Anyone, and other similar affirmative statements:

(11) To advertise a specific trade-in amount, or range of amounts:

(12) To advertise the words Finance, Loan, Discounts, or others of similar import, in the firm name or trade style of a person offering motor vehicles, motorcycles and trailers for sale, unless such person is actually engaged in the finance business and offering only bona fide repossessed motor vehicles, motorcycles and trailers: Provided, that it is unlawful to use the word Repossessed in the name or trade style of a firm in the advertising of motor vehicles, motorcycles and trailers sold by such a company unless they are bona fide repossessions sold for unpaid balances due only: and provided further, that advertisers offering repossessed automobiles for sale must be able to offer proof of repossession:

(13) To advertise the term Authorized Dealer in any way as to mislead as to the make or makes of motor vehicles, motorcycles or trailers for which a dealer is franchised to sell at retail:

(14) To advertise or sell new motor vehicles, motorcycles and trailers by any person not enfranchised by the manufacturer of the motor vehicle, motorcycle or trailer offered. Misleading terms such as Factory Fresh, and Paper on the Doors, shall not be used unless such motor vehicles, motorcycles and trailers are new:



(15) To advertise used motor vehicles, motorcycles or trailers so as to create the impression that they are new; Provided, that (a) used motor vehicles, motorcycles and trailers of the current and preceding model year must be clearly identified as Used, Executive Driven, or Demonstrator, or Driver Training, and lease cars, taxicabs, fleet vehicles, police motor vehicles or motorcycles as may be the case and descriptions such as Low Mileage, Slightly Driven may also be applied only when correct; (b) the terms demonstrator's, executive's and official's motor vehicles, motorcycles, or trailers shall not be used unless they have never been sold to a member of the public and unless such terms describe motor vehicles, motorcycles or trailers used by new motor vehicle, motorcycle or trailer dealers or their employees for demonstrating performance ability and unless such vehicles are advertised for sale as such only by an authorized dealer in the same make of motor vehicle, motorcycle or trailer; (c) phrases such as Last of the Remaining, Close out, Final Clearance and others of similar import shall not be used in advertising used motor vehicles, motorcycles and trailers so as to convey the impression that the motor vehicles, motorcycles and trailers offered are holdover new motor vehicles, motorcycles and trailers; and (d) when new and used motor vehicles, motorcycles and trailers of the current and preceding model year are offered in the same advertisement, such offers shall be clearly separated by description, layout and art treatment;

(16) To advertise executives' or officials' motor vehicles, motorcycles or trailers unless they have been used exclusively by the personnel or executive of the motor vehicle, motorcycle or trailer manufacturer or by an executive of any authorized dealer of the same make thereof and such motor vehicles, motorcycles and trailers have not been sold to a member of the public prior to the appearance of the advertisement;

(17) To advertise motor vehicles, motorcycles and trailers, owned by or in the possession of dealers, without the name of the dealer or the word dealer, or in any other manner so as to convey the impression that they are being offered by private parties;

(18) To advertise specific or supposed mileage to odometer reading unless such mileage representation can be substantiated by the records of the dealer;

(19) To advertise the term wholesale in connection with the retail offering of used motor



vehicles, motorcycles and trailers:

(20) To advertise terms auction or auction special and other terms of similar import unless such terms shall be used in connection with motor vehicles, motorcycles and trailers offered or sold at a bona fide auction; to the highest bidder and under such other specific conditions as may be required in this act:

(21) To advertise equipment, accessory, or other merchandise as free if its cost, or any part of its cost, is included in the price of the motor vehicle, motorcycle or trailer, or if the motor vehicle, motorcycle or trailer can be purchased for a lesser price without such equipment, accessory or merchandise:

(22) To advertise free driving trial, unless it means a trial without obligation of any kind and that the motor vehicle, motorcycle or trailer may be returned in the period specified, without obligation or cost; Provided, that a driving trial on a money back basis, or with privilege of exchange or applying money paid on another motor vehicle, motorcycle or trailer, shall be so explained. Terms and conditions of driving trials, free or otherwise, shall be set forth in writing for the customer:

(23) To advertise (a) the term Manufacturer's Warranty, unless it is used in advertising only in reference to cars covered by a bona fide factory warranty for that particular make of motor vehicle, motorcycle or trailer; Provided, that in the event only a portion of such warranty is remaining, then reference to a warranty may be used only if stated that that unused portion of the warranty is still in effect: (b) the term New Car Guarantee, except in connection with new motor vehicles, motorcycles and trailers; and (c) the terms Ninety-day Warranty, Fifty-fifty Guarantee, Three hundred mile Guarantee, and Six-month Warranty, unless all of the terms thereof are described in the advertisement: and

(24) To advertise representations inconsistent with or contrary to the fact that a motor vehicle, motorcycle or trailer is sold as is and without a guarantee; Provided, that the customer contract shall clearly indicate when a car will be sold with a guarantee and what that guarantee is, and similarly shall clearly indicate when a car is sold as is and without a guarantee.

Sec. 14. The use, employment, or publication by any person, including any advertising media, of advertisement which does not comply with the provisions of section 13 of this act is hereby declared to be an unlawful act and any person violating the provisions thereof shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each violation.

Sec. 15. That section 60-1413, Revised Statutes Supplement, 1969, be amended to read as follows:

60-1413. Before the board shall deny any application for a license or before revoking or suspending any license issued hereunder it shall give the applicant or holder of the license a hearing on the matter. It shall, at least ten days prior to the date set for the hearing, notify the applicant or license holder of the license in writing. Such notice in writing shall contain an exact statement of the charges against him and the date and place of hearing. The applicant or license holder shall have full authority to be heard in person or by counsel before the board in reference to such charges. The written notice may be served by delivery personally to the applicant or holder of license, or by mailing such notice by registered or certified mail to the last-known business address of such applicant or license holder. If the applicant is a salesman, the board shall also notify the dealer employing him or whose employ he seeks to enter by mailing such notice to the dealer's last-known business address. A stenographic record of all testimony presented at such hearings shall be made and preserved pending final disposition of the complaint. Where the licensee fails to maintain a bond as provided in section 60-1419, the license shall expire forthwith. The executive secretary shall notify the licensee personally or by mailing the notice by registered or certified mail to the last-known address of such license holder that his license is revoked until a bond as required by the provisions of section 60-1419 is furnished and approved in which event the license may be reinstated. Upon notice of the revocation or suspension of the license, the licensee shall immediately surrender the expired license to the executive secretary or his representative. If the license is suspended, the executive secretary or his representative shall return the license to the licensee at the time of the conclusion of the period of suspension. Failure to surrender the license as required in this section shall

subject the licensee to the penalties as provided in section 60-1416.

Sec. 16. That section 60-1414, Revised Statutes Supplement, 1969, be amended to read as follows:

60-1414. In the preparation and conduct of such hearings, the members of the board and executive secretary shall have the power to require the attendance and testimony of any witness and the production of any papers or books documents in order to assure a fair trial. They may sign and issue subpoenas therefor and administer oaths and examine witnesses, and take any evidence they deem pertinent to the determination of the charges. Any witnesses so subpoenaed shall be entitled to the same fees and mileage as prescribed by law in judicial proceedings in the district court of this state in a civil action. The payment of such fees and mileage must be out of and kept within the limits of the funds created--from--such--license--fees provided for the administration of the board. The party against whom such charges may be filed shall have the right to obtain from the executive secretary a subpoena for any witnesses which he may desire at such hearing and depositions may be taken as in civil court cases in the district court. Any information obtained from the books and records of the person complained against may not be used against the person complained against as the basis for a criminal prosecution under the laws of this state.

Sec. 17. That section 60-1415, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1415. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that an applicant is not qualified to receive a license, no license shall be granted. If the board shall determine that the license holder has willfully or through undue negligence been guilty of any violation of the provisions of ~~Chapter 60, article 1, section 60-320; sections 60-1401 to 60-1419~~ this act, or any rule or regulation adopted or made by the board under authority of the provisions of sections ~~60-1401 to 60-1419~~ this act, his license may be suspended or revoked. Should the applicant for a license or a license holder desire to appeal from the decision of the board, he shall, within ten days, file an appeal bond with the board in the sum of five hundred dollars and file an original



action in the district court. Pending the final determination of such action, he shall not, except as permitted by the court to which appeal is taken, be permitted to do business as a motor vehicle dealer, used motor vehicle dealer, combination motor vehicle and trailer dealer, trailer dealer, motorcycle dealer, motor vehicle auction dealer, motor vehicle or trailer salesman, manufacturer, wholesaler, distributor, factory representative, factory branch, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, or finance company.

Sec. 18. Whenever the board shall believe from evidence satisfactory to it that any person has violated or is violating any provisions of this act, the board may, in addition to any other remedy, bring an action in the name and on behalf of the State of Nebraska against such person and any other person concerned in or in any way participating in or about to participate in practices or acts in violation of this act, to enjoin such person and such other person from continuing the same. In any such action, the board may apply for and on due showing be entitled to have issued the court's subpoena, requiring forthwith the appearance of any defendant, his agent and employees and the production of documents, books, and records as may appear necessary for the hearing of such petition to testify and give evidence concerning the acts or conduct of practices or things complained of in such application for injunction. In such action an order or judgment may be entered awarding such preliminary or final injunctions as may be proper.

Sec. 19. That section 60-1416, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1416. Any person acting as a motor vehicle or trailer dealer, ~~used-motor-vehicle-or-trailer-dealer,~~ motor vehicle or trailer salesman, manufacturer, distributor, factory representative, wholesaler, wrecker or salvage dealer, or distributor representative as defined in section ~~60-1404~~ 2 of this act without having first obtained the license provided in section 60-1406, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not to exceed five hundred dollars or not to exceed six months' imprisonment, or both such a fine and imprisonment.

Sec. 20. Notwithstanding the terms, provisions or conditions of any agreement or franchise, no franchisor shall terminate or refuse to continue any

franchise unless the franchisor has first established, in a hearing held under the provisions of this act, that:

(1) The franchisor has good cause for termination or noncontinuance: and

(2) Upon termination or noncontinuance, another franchise in the same line-make will become effective in the same community, without diminution of the franchisee's service formerly provided, or that the community cannot be reasonably expected to support such a dealership, except that a franchisor may terminate a franchise for a particular line-make if the franchisor discontinues that line-make and a franchisor may terminate a franchise if the franchisee's license as a motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealer is revoked pursuant to the provisions of this act.

Sec. 21. If franchisor is permitted to terminate or not continue a franchise, and is further permitted not to enter into a franchise, for the line-make in the community, no franchise shall thereafter be entered into for the sale of a motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealer of that line-make in the community, unless the franchisor has first established, in a hearing held under the provisions of this act, that there has been a change of circumstances so that the community at that time can be reasonably expected to support the dealership.

Sec. 22. No franchisor shall enter into any franchise for the purpose of establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership in any community in which the same line-make is then represented, unless the franchisor has first established in a hearing held under the provisions of this act that there is good cause for such additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership under such franchise, and that it is in the public interest.

Sec. 23. Every franchisor and franchisee shall fulfill the terms of any express or implied warranty concerning the sale of a motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer to the public of the line-make which is the subject of a contract or franchise agreement between the parties. If it is determined by the district court that either the franchisor or franchisee, or both, have violated an

express or implied warranty, the court shall add to any award or relief granted an additional award for reasonable attorney fees and other necessary expenses for maintaining the litigation.

Sec. 24. If a franchisor seeks to terminate or not continue any franchise, or seeks to enter into a franchise establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle or trailer dealership of the same line-make, the franchisor shall file an application with the board for permission to terminate or not continue the franchise, or for permission to enter into a franchise for additional representation of the same line-make in that community.

Sec. 25. Upon receiving an application under the provisions of section 24 of this act, the board shall enter an order fixing a time, which shall be within ninety days of the date of such order, and place of hearing, and shall send by certified or registered mail, with return receipt requested, a copy of the order to the franchisee whose franchise the franchisor seeks to terminate or not continue. If the application requests permission to establish an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership, a copy of the order shall be sent to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. Copies of orders shall be addressed to the franchisee at the place where the business is conducted. The board may also give notice of franchisor's application to any other parties whom the board may deem interested persons, such notice to be in the form and substance and given in the manner the board deems appropriate. Any person who can show an interest in the application may become a party to the hearing, whether or not he receives notice, but a party not receiving notice shall be limited to participation at the hearing on the question of the public interest in the termination or continuation of the franchise or in the establishment of an additional motor vehicle dealership.

Sec. 26. If the board finds it desirable it may upon request continue the date of hearing for a period of ninety days, and may upon application, but not ex parte, continue the date of hearing for an additional period of ninety days.

Sec. 27. Upon hearing, the franchisor shall have the burden of proof to establish that under the provisions of this act he should be granted permission



to terminate or not continue the franchise, or to enter into a franchise establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership.

Nothing contained in this act shall be construed to require or authorize any investigation by the board of any matter before the board under this act. Upon hearing, the board shall hear the evidence introduced by the parties and shall make its decision solely upon the record so made.

Sec. 28. The rules of civil procedure relating to discovery and inspection shall apply to hearings held under the provisions of this act, and the board may issue orders to give effect to such rules.

If issues are raised which would involve violations of any state or federal antitrust or price-fixing law, all discovery and inspection proceedings which would be available under such issues in a state or federal court action shall be available to the parties to the hearing, and the board may issue orders to give effect to such proceedings.

Evidence which would be admissible under the issues in a state or federal court action shall be admissible in a hearing held by the board. The board shall apportion all costs between the parties.

Sec. 29. Notwithstanding the terms, provisions or conditions of any agreement or franchise, the following shall not constitute good cause for the termination or noncontinuation of a franchise, or for entering into a franchise for the establishment of an additional dealership in a community for the same line-make:

(1) The sole fact that franchisor desires further penetration of the market:

(2) The change of ownership of the franchisee's dealership or the change of executive management of the franchisee's dealership, unless the franchisor, having the burden of proof, proves that such change of ownership or executive management will be substantially detrimental to the distribution of franchisor's motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer products in the community; or

(3) The fact that the franchisee refused to purchase or accept delivery of any motor vehicle,

combination motor vehicle and trailer, motorcycle, or trailer or vehicles, parts, accessories or any other commodity or service not ordered by the franchisee.

Sec. 30. Notwithstanding the terms, provisions or conditions or any agreement or franchise, subject to the provisions of subdivision (2) of section 29 of this act, in the event of the sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business or by stock transfer or in the event of change in the executive management of the franchisee's dealership the franchisor shall give effect to such a change in the franchise unless the transfer of the franchisee's license under this act is denied or the new owner is unable to obtain a license under this act as the case may be.

Sec. 31. The board may issue subpoenas, administer oaths, compel the attendance of witnesses and production of books, papers, documents, and all other evidence. The board may apply to the district court of the county wherein the hearing is being held for a court order enforcing this section.

Sec. 32. If a franchisor enters into or attempts to enter into a franchise, whether upon termination or refusal to continue another franchise or upon the establishment of an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership in a community where the same line-make is then represented, without first complying with the provisions of this act, no license under this act shall be issued to that franchisee or proposed franchisee to engage in the business of selling motor vehicles, combination motor vehicles and trailers, motorcycles, or trailers manufactured or distributed by that franchisor.

Sec. 33. In determining whether good cause has been established for terminating or not continuing a franchise, the board shall take into consideration the existing circumstances, including, but not limited to:

(1) Amount of business transacted by the franchisee;

(2) Investment necessarily made and obligations incurred by the franchisee in the performance of his part of the franchise;

(3) Permanency of the investment;

(4) Whether it is injurious to the public welfare for the business of the franchisee to be disrupted:

(5) Whether the franchisee has adequate motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer service facilities, equipment, parts and qualified service personnel to reasonably provide consumer care for the motor vehicles, combination motor vehicles and trailers, motorcycles, or trailers sold at retail by the franchisee and any other motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer of the same line-make:

(6) Whether the franchisee refuses to honor warranties of the franchisor to be performed by the franchisee if the franchisor reimburses the franchisee for such warranty work performed by the franchisee:

(7) Except as provided in section 29 of this act, failure by the franchisee to substantially comply with those requirements of the franchise which are determined by the board to be reasonable and material; and

(8) Except as provided in section 29 of this act, bad faith by the franchisee in complying with those terms of the franchise which are determined by the board to be reasonable and material.

Sec. 34. In determining whether good cause has been established for entering into an additional franchise for the same line-make, the board shall take into consideration the existing circumstances, including, but not limited to:

(1) Amount of business transacted by other franchisees of the same line-make in that community:

(2) Investment necessarily made and obligations incurred by other franchisees of the same line-make, in that community, in the performance of their part of their franchises:

(3) Permanency of the investment:

(4) Effect on the retail motor vehicle business as a whole in that community:

(5) Whether it is injurious to the public welfare for an additional franchise to be established; and



(6) Whether the franchisees of the same line-make in that community are providing adequate consumer care for the motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer products of the line-make which shall include the adequacy of motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealer service facilities equipment, supply of parts and qualified service personnel.

Sec. 35. Any party to a hearing before the board may take an appeal from any final order entered in such hearing in the manner provided for appeals in this act.

Sec. 36. That section 60-1417, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1417. Every motor vehicle, motorcycle, or trailer sale, except between a manufacturer, a distributor or a dealer, shall be evidenced by an instrument in writing upon a form that may be promulgated by the board and approved by the Attorney General which shall contain all the agreements of the parties and shall be signed by the buyer and seller or a duly acknowledged agent of the seller. Prior to or concurrent with any such motor vehicle, motorcycle, or trailer sale, the seller shall deliver to the buyer one instrument which shall contain the following information: (1) Name of seller; (2) name of buyer; (3) year of model and motor identification number; (4) cash sale price; (5) year and model of trailer and serial number, if any; ~~(6)-cash-paid-down-by-the-buyer;--(7) amount-credited-to-the-buyer-for-any-trade-in-with provisions-of-paying-off;--if-any;--and-a-description-of the-motor-vehicle,-motorcycle,-or-trailer;--(8)-amount-of time-differential-charge-stating-provisions-for-refund of-such-charges--in--event--of--prepayment;--(9)--amount charged-for-insurance-and-a-concise-description-of-the insurance-coverage--including--expiration--dates--of policies;--(10)-amount-of-any-other-charge-specifying-its purpose;--and--(11)-net-balance-due--from--the--buyer--and terms-of--payment;~~ (6) the amount of buyer's down payment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of any goods traded in; (7) the difference between subdivisions (4) and (6) of this section; (8) the amount included for insurance if a separate charge is made therefor, specifying the types of coverages; (9) the basic time price, which is the sum of subdivisions (7) and (8) of this section; (10) the time price

differential: (11) the amount of the time price balance, which is the sum of subdivisions (9) and (10) of this section payable in installments by the buyer to the seller; (12) the number, amount, and due date or period of each installment payment; and (13) the time sales price. A copy of all such instruments shall be retained in the file of the dealer.

Sec. 37. That section 60-1418, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1418. Any person guilty of violating any of the provisions of section 60-1417 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period not to exceed ninety days, or ~~both--such--a fine-and-imprisonment~~ be both so fined and imprisoned.

Sec. 38. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.

Sec. 39. This act shall become operative on January 1, 1972.

Sec. 40. That original sections 60-1402, 60-1406, 60-1407, 60-1410, 60-1411, 60-1415, 60-1416, 60-1417, and 60-1418, Reissue Revised Statutes of Nebraska, 1943, sections 60-1408, 60-1413, and 60-1414, Revised Statutes Supplement, 1969, and section 60-1403, Reissue Revised Statutes of Nebraska, 1943, as amended by section 6, Legislative Bill 653, Eighty-second Legislature, First Session, 1971, and also sections 60-1401 and 60-1412, Revised Statutes Supplement, 1969, are repealed.