

# SENATE BILL No. 428

May 9, 1989, Introduced by Senators DE GROW, SHINKLE, POSTHUMUS and FAUST and referred to the Committee on Commerce and Technology.

A bill to regulate watercraft and outboard motor manufacturers, distributors, dealers, and their representatives; and to regulate dealings between those manufacturers and distributors and their dealers.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. For the purposes of this act, the words and phrases  
2 defined in sections 2 to 6 have the meanings ascribed to them in  
3 those sections, except where the context clearly indicates a dif-  
4 ferent meaning.

5       Sec. 2. (1) "Dealer agreement" means the agreement or con-  
6 tract in writing between a manufacturer or distributor and a new  
7 watercraft dealer which purports to establish the legal rights  
8 and obligations of the parties to the agreement or contract with  
9 regard to the purchase and sale of new watercraft or new outboard  
10 motors.

1       (2) "Designated successor" means 1 or more persons nominated  
2 by the new watercraft dealer, in a written document filed by the  
3 dealer with the manufacturer or distributor at the time the  
4 dealer agreement is executed, to succeed the dealer in the event  
5 of his or her death or incapacity.

6       (3) "Distributor" means a person, resident or nonresident,  
7 who in whole or in part offers for sale, sells, or distributes a  
8 new watercraft or new outboard motor to a new watercraft dealer  
9 or who maintains a factory representative, resident or nonresi-  
10 dent, or who controls a person, resident or nonresident, who in  
11 whole or in part offers for sale, sells, or distributes a new  
12 watercraft or new outboard motor to a new watercraft dealer.

13       (4) "Manufacturer" means a person who manufactures or assem-  
14 bles new watercraft or new outboard motors, or a distributor,  
15 factory branch, or factory representative.

16       (5) "New watercraft dealer" means a person who holds a  
17 dealer agreement granted by a manufacturer or distributor for the  
18 sale of the manufacturer's or distributor's watercraft or out-  
19 board motors, who is engaged in the business of purchasing, sell-  
20 ing, exchanging, or servicing new watercraft or new outboard  
21 motors, and who has an established place of business.

22       (6) "Person" means a natural person, partnership, corpora-  
23 tion, association, trust, estate, or other legal entity.

24       (7) "Proposed new watercraft dealer" means a person who has  
25 an application pending for a new dealer agreement with a manufac-  
26 turer or distributor. Proposed new watercraft dealer does not

1 include a person whose dealer agreement is being renewed or  
2 continued.

3       Sec. 3. A manufacturer or distributor shall not offer for  
4 sale, and a new or proposed new watercraft dealer shall not offer  
5 to purchase, a new watercraft or a new outboard motor without  
6 first entering into a written dealer agreement and complying with  
7 all other applicable provisions of this act.

8       Sec. 4. Each dealer agreement shall include, but is not  
9 limited to, all of the following:

10       (a) The territory or market area.

11       (b) The period of time covered by the dealer agreement.

12       (c) Performance and marketing standards.

13       (d) Notice provisions for termination, cancellation, or  
14 nonrenewal.

15       (e) Obligations in the preparation and delivery of the prod-  
16 uct and warranty service.

17       (f) Disposal obligations upon termination, cancellation, or  
18 nonrenewal of inventory, equipment, furnishings, special tools,  
19 and required signs acquired within 18 months of the date of ter-  
20 mination, cancellation, or nonrenewal.

21       (g) Dispute resolution procedures.

22       Sec. 5. (1) A manufacturer or distributor shall not unrea-  
23 sonably withhold consent to the sale, transfer, or exchange of a  
24 dealership to a person who meets the criteria set forth in the  
25 dealer agreement.

1       (2) Failure to respond within 60 days of receipt of a  
2 written request for the sale, transfer, or exchange of a  
3 dealership shall be considered consent to the request.

4       (3) Except for a material breach of the lease, a manufac-  
5 turer or distributor shall not terminate, cancel, fail to renew,  
6 or discontinue a lease of a new watercraft dealer's place of  
7 business.

8       Sec. 6. If a designated successor is not able to succeed  
9 the new watercraft dealer because of the designated successor's  
10 death or legal incapacity, the dealer, within 60 days after that  
11 death or incapacity, shall execute a new document nominating a  
12 designated successor.

13       Sec. 7. (1) A designated successor of a deceased or inca-  
14 pacitated new watercraft dealer may succeed the dealer in the  
15 ownership or operation of the dealership under the existing  
16 dealer agreement if the designated successor gives the manufac-  
17 turer or distributor written notice of his or her intention to  
18 succeed to the dealership within 60 days after the dealer's death  
19 or incapacity and agrees to be bound by all of the terms and con-  
20 ditions of the dealer agreement. A manufacturer or distributor  
21 may refuse to honor the existing dealer agreement with the desig-  
22 nated successor for good cause or criteria agreed to in the  
23 existing dealer agreement.

24       (2) The manufacturer or distributor may request from a des-  
25 ignated successor the personal and financial data necessary to  
26 determine whether the existing dealer agreement should be

1 honored. Upon request, the designated successor shall supply the  
2 personal and financial data.

3 (3) Within 60 days after receiving the notice of the desig-  
4 nated successor's intent to succeed the dealer in the ownership  
5 and operation of the dealership or within 60 days after receiving  
6 the requested personal and financial data, whichever last occurs,  
7 if a manufacturer or distributor believes that good cause or  
8 other criteria exist for refusing to honor the succession, the  
9 manufacturer or distributor may serve upon the designated succes-  
10 sor notice of its refusal to approve the succession.