

MOTOR VEHICLE FRANCHISE ACT (EXCERPT)
Act 118 of 1981

445.1567 Cancellation, termination, nonrenewal, or discontinuance of dealer agreement; conditions; existence of good cause; failure to comply with agreement; notification; evidence in writing.

Sec. 7. (1) Notwithstanding any agreement, a manufacturer or distributor shall not cancel, terminate, fail to renew, or refuse to continue any dealer agreement with a new motor vehicle dealer unless the manufacturer or distributor meets all of the following:

- (a) Has satisfied the notice requirement of section 10.
- (b) Has acted in good faith.
- (c) Has good cause for the cancellation, termination, nonrenewal, or discontinuance.

(2) Notwithstanding any agreement, good cause exists for the purposes of a termination, cancellation, nonrenewal, or discontinuance under subsection (1)(c) when both of the following occur:

(a) There is a failure by the new motor vehicle dealer to comply with a provision of the dealer agreement and the provision is both reasonable and of material significance to the relationship between the manufacturer or distributor and the new motor vehicle dealer.

(b) Unless otherwise agreed or if the dealer is participating in a performance improvement plan or program, the manufacturer or distributor provided the required notification under section 10 not more than 2 years after the date on which the manufacturer first acquired actual or constructive knowledge of the failure.

(3) If the failure of a new motor vehicle dealer to comply with a provision of the dealer agreement relates to the performance of the new motor vehicle dealer in sales or service, good cause exists for the purposes of a termination, cancellation, nonrenewal, or discontinuance under subsection (1) when the new motor vehicle dealer fails to effectively carry out the performance provisions of the dealer agreement if all of the following have occurred:

(a) The new motor vehicle dealer was given written notice by the manufacturer or distributor of the failure.

(b) The notification stated that the notice of failure of performance was provided under this act and, if requested in writing by the dealer, the manufacturer provided written information indicating the methodology and data the manufacturer or distributor used to measure the new motor vehicle dealer's performance. However, this subdivision does not require the manufacturer to disclose any proprietary or confidential information or other information if disclosure is prohibited by law.

(c) The new motor vehicle dealer was afforded a reasonable opportunity to exert good faith efforts to carry out the dealer agreement.

(d) The failure continued for more than 180 days after the date notification was given under subdivision (a).

(e) The new motor vehicle dealer was afforded a reasonable opportunity to present evidence to the manufacturer or distributor demonstrating the effect of local market conditions that materially and adversely affected the dealer's performance.

(f) If the manufacturer used a survey or index to measure the performance of a new motor vehicle dealer, the survey or index was based on a reasonable sampling of the measured performance criteria.

(4) Before a final determination by a manufacturer or distributor that a new motor vehicle dealer has failed to achieve any performance criteria that are the basis to cancel, terminate, fail to renew, or refuse to continue any dealer agreement under this section, the manufacturer or distributor must provide the new motor vehicle dealer an opportunity to present, in writing, evidence that demonstrates the effect of local market conditions that materially and adversely affected the dealer's performance.

(5) If a manufacturer makes a final decision to terminate, cancel, nonrenew, or discontinue a dealer agreement without complying with subsection (3)(b) or (e), or does not in good faith evaluate the effect of the local market conditions presented by the dealer in writing, good cause does not exist for purposes of terminating, canceling, nonrenewing, or discontinuing a dealer agreement.

History: 1981, Act 118, Imd. Eff. July 19, 1981;—Am. 2018, Act 668, Eff. Mar. 28, 2019.