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SENATE BILL 18-030

BY SENATOR(S) Holbert and Kagan, Crowder;
also REPRESENTATIVE(S) Foote and Willett, Buckner, Herod, Lee,
Rosenthal, Wist.

CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED TO
SELF-PROPELLED VEHICLES FROM TITLE 12, COLORADO REVISED
STATUTES, AS PART OF THE ORGANIZATIONAL RECODIFICATION OF
TITLE 12.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** title 44 as follows:

TITLE 44
ACTIVITIES REGULATED BY
THE DEPARTMENT OF REVENUE

ARTICLE 1
Common Provisions

44-1-101. Short title. THE SHORT TITLE OF THIS TITLE 44 IS THE
"DEPARTMENT OF REVENUE ACTIVITIES REGULATION ACT".

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

44-1-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) BEFORE THE ENACTMENT OF THIS TITLE 44, LAWS ADMINISTERED BY THE DEPARTMENT OF REVENUE THAT REGULATE A VARIETY OF ACTIVITIES WERE CODIFIED IN TWO TITLES OF THE COLORADO REVISED STATUTES, MOST PROMINENTLY IN TITLE 12, WHICH GOVERNS PROFESSIONS AND OCCUPATIONS;

(b) MOST PROFESSIONS AND OCCUPATIONS ARE REGULATED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO TITLE 12, BUT, PRIOR TO THE 2017 LEGISLATIVE SESSION, TITLE 12 CONTAINED NUMEROUS LAWS THAT DID NOT PERTAIN TO THE REGULATION OF PROFESSIONS AND OCCUPATIONS AND WERE NOT ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES;

(c) WITH THE ENACTMENT OF SECTION 2-3-510 IN 2016, THE GENERAL ASSEMBLY DIRECTED THE OFFICE OF LEGISLATIVE LEGAL SERVICES TO STUDY AN ORGANIZATIONAL RECODIFICATION OF TITLE 12 OF THE COLORADO REVISED STATUTES, INCLUDING RELOCATING LAWS THAT DO NOT PERTAIN TO PROFESSIONS AND OCCUPATIONS AND ARE NOT ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES;

(d) BASED ON RECOMMENDATIONS FROM THE TITLE 12 RECODIFICATION STUDY, THE GENERAL ASSEMBLY ENACTED SEVERAL BILLS IN THE 2017 LEGISLATIVE SESSION TO RELOCATE OUT OF TITLE 12 MANY LAWS THAT ARE ADMINISTERED BY ENTITIES OTHER THAN THE DEPARTMENT OF REGULATORY AGENCIES;

(e) THE STUDY ALSO RECOMMENDED CREATING A NEW TITLE 44 FOR PURPOSES OF CONSOLIDATING LAWS ADMINISTERED BY THE DEPARTMENT OF REVENUE THAT REGULATE ACTIVITIES INTO A SINGLE TITLE IN ORDER TO FACILITATE BOTH:

(I) THE PUBLIC'S AND REGULATED ENTITIES' UNDERSTANDING OF THE LAWS THAT APPLY TO THEM; AND

(II) THE DEPARTMENT OF REVENUE'S ADMINISTRATION OF THESE LAWS; AND

(f) CREATING A NEW TITLE 44 CONSISTING OF LAWS ADMINISTERED BY THE DEPARTMENT OF REVENUE THAT REGULATE VARIOUS ACTIVITIES IS NECESSARY TO IMPLEMENT THE RECOMMENDATIONS OF THE TITLE 12 RECODIFICATION STUDY AND FACILITATE THE REORGANIZATION OF TITLE 12 PERTAINING TO THE REGULATION OF PROFESSIONS AND OCCUPATIONS.

44-1-103. Definitions. AS USED IN THIS TITLE 44, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE CREATED IN SECTION 24-1-117.

(2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

SECTION 2. In Colorado Revised Statutes, **add with amended and relocated provisions** article 20 to title 44 as follows:

ARTICLE 20
Sale of Self-propelled Vehicles

PART 1
MOTOR VEHICLE DEALERS

44-20-101. [Formerly 12-6-101] Legislative declaration. (1) The general assembly hereby declares that:

(a) The sale and distribution of motor vehicles affects the public interest and a significant factor of inducement in making a sale of a motor vehicle is the trust and confidence of the purchaser in the retail dealer from whom the purchase is made and the expectancy that ~~such~~ THE dealer will remain in business to provide service for the motor vehicle purchased;

(b) Proper motor vehicle service is important to highway safety and the manufacturers and distributors of motor vehicles have an obligation to the public not to terminate or refuse to continue their franchise agreements with retail dealers unless the manufacturer or distributor has first established good cause for termination or noncontinuance of ~~any such~~ THE agreement, to the end that there shall be no diminution of locally available service;

(c) The licensing and supervision of motor vehicle dealers by the motor vehicle dealer board are necessary for the protection of consumers, and therefore, the sale of motor vehicles by unlicensed dealers or salespersons, or by licensed dealers or salespersons who have demonstrated unfitness, should be prevented;

(d) Consumer education concerning the rules ~~and regulations~~ of the motor vehicle industry, the considerations when purchasing a motor vehicle, and the role, functions, and actions of the motor vehicle dealer board are necessary for the protection of the public and for maintaining the trust and confidence of the public in the motor vehicle dealer board; and

(e) Subject to the United States constitution and the Colorado constitution, this ~~article~~ ARTICLE 20 applies to each sales, service, and parts agreement in effect, regardless of when the agreement was adopted.

44-20-102. [Formerly 12-6-102] Definitions. As used in this part 1, and in ~~part 5 of this article 6~~ PART 4 OF THIS ARTICLE 20, unless the context or section ~~12-6-502~~ 44-20-402 otherwise requires:

(1) "Advertise" or "advertisement" means any commercial message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television, or a public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, on a computer display, or in any point-of-transaction literature or price tag that is delivered or made available to a customer or prospective customer in any manner; except that the term does not include materials required to be displayed by federal or state law.

(2) "Board" means the motor vehicle dealer board.

(3) "Business incidental thereto" means a business owned by the motor vehicle dealer or used motor vehicle dealer related to the sale of motor vehicles, including motor vehicle part sales, motor vehicle repair, motor vehicle recycling, motor vehicle security interest assignment, and motor vehicle towing.

(4) (a) "Buyer agent" means any person required to be licensed pursuant to this part 1 who is retained or hired by a consumer for a fee or other thing of value to assist, represent, or act on behalf of the consumer in

connection with the purchase or lease of a motor vehicle.

(b) (I) "Buyer agent" does not include a person whose business includes the purchase of motor vehicles primarily for resale or lease; except that nothing in this subsection (4) prohibits a buyer agent from assisting a consumer regarding the disposal of a trade-in motor vehicle that is incident to the purchase or lease of a vehicle if the buyer agent does not advertise the sale of, or sell, the vehicle to the general public, directs interested dealers and wholesalers to communicate their offers directly to the consumer or to the consumer via the buyer agent, does not handle or transfer titles or funds between the consumer and the purchaser, receives no compensation from a dealer or wholesaler purchasing a consumer's vehicle, and identifies himself or herself as a buyer agent to dealers and wholesalers interested in the consumer's vehicle.

(II) A "buyer agent" licensed under this part 1 shall not be employed by or receive a fee from a person whose business includes the purchase of motor vehicles primarily for resale or lease, a motor vehicle manufacturer, a motor vehicle dealer, or a used motor vehicle dealer.

(5) "Coerce" means to compel or attempt to compel by threatening, retaliating, or exerting economic force or by not performing or complying with any terms or provisions of the franchise or agreement; except that recommendation, exposition, persuasion, urging, or argument do not constitute coercion.

(6) "Consumer" means a purchaser or lessee of a motor vehicle used for business, personal, family, or household purposes. "Consumer" does not include a purchaser of motor vehicles primarily for resale.

(7) (a) "Custom trailer" means any motor vehicle that is not driven or propelled by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and that is uniquely designed and manufactured for a specific purpose or customer.

(b) "Custom trailer" does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

(8) "Director" means the director of the auto industry division

created in section ~~12-6-105~~ 44-20-105.

(9) "Distributor" means a person, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives.

~~(10) "Executive director" means the executive director of the department of revenue charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, manufacturer representatives, and manufacturers.~~

~~(11)~~ (10) "Fire truck" means a vehicle intended for use in the extermination of fires, with features that may include a fire pump, a water tank, an aerial ladder, an elevated platform, or any combination thereof.

~~(12)~~ (11) "Franchise" means the authority to sell or service and repair motor vehicles of a designated line-make granted through a sales, service, and parts agreement with a manufacturer, distributor, or manufacturer representative.

~~(13)~~ (12) "Good faith" means the duty of each party to any franchise and all officers, employees, or agents thereof to act in a fair and equitable manner toward each other so as to guarantee the one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party. Recommendation, endorsement, exposition, persuasion, urging, or argument shall not be deemed to constitute a lack of good faith.

~~(14)~~ (13) "Line-make" means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer's trademark, trade name, or logo.

~~(15)~~ (14) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motor vehicles; except that "manufacturer" does not include:

(a) A person who only manufactures utility trailers that weigh less than two thousand pounds and does not manufacture any other type of motor vehicle; and

(b) A person, other than a manufacturer operating a motor vehicle dealer in accordance with section ~~12-6-120.5~~ 44-20-126, who is a licensed dealer selling motor vehicles that the person has manufactured.

~~(16)~~ (15) "Manufacturer representative" means a representative employed by a person who manufactures or assembles motor vehicles for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers or prospective dealers.

~~(17)~~ (16) "Motor vehicle" means every vehicle intended primarily for use on the public highways that is self-propelled and every vehicle intended primarily for operation on the public highways that is not self-propelled but is designed to be attached to, become a part of, or be drawn by a self-propelled vehicle, not including farm tractors and other machines and tools used in the production, harvesting, and care of farm products. "Motor vehicle" includes a low-power scooter or autocycle as either is defined in section 42-1-102.

~~(18)~~ (17) "Motor vehicle auctioneer" means any person, not otherwise required to be licensed pursuant to this part 1, who is engaged in the business of offering to sell, or selling, used motor vehicles owned by persons other than the auctioneer at public auction only. Any auctioning of motor vehicles by an auctioneer must be incidental to the primary business of auctioning goods.

~~(19)~~ (18) "Motor vehicle dealer" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, leases, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles or who is engaged wholly or in part in the business of selling or leasing new or new and used motor vehicles, whether or not the motor vehicles are owned by the person. The sale or lease of three or more new or new and used motor vehicles or the offering for sale or lease of more than three new or new and used motor vehicles at the same address or telephone number in any one calendar year is prima facie evidence that a person is engaged in the business of selling or leasing new or new and used motor vehicles. "Motor vehicle dealer" includes an owner of real property who allows more than three new or new and used motor vehicles to be offered for sale or lease on the property during one calendar year unless ~~said~~ THE property is leased to a licensed motor vehicle dealer. "Motor vehicle

dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of a motor vehicle dealer when engaged in the specific performance of their duties as employees;

(d) A wholesaler or anyone selling motor vehicles solely to wholesalers;

(e) Any person engaged in the selling of a fire truck; or

(f) A motor vehicle auctioneer.

~~(20)~~ (19) "Motor vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a motor vehicle dealer or used motor vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of motor vehicles.

~~(21)~~ (20) "New motor vehicle" means a motor vehicle that has been transferred on a manufacturer's statement of origin and that has sufficiently low mileage to be considered new, as determined by the board.

~~(22)~~ (21) "Person" means any natural person, estate, trust, limited liability company, partnership, association, corporation, or other legal entity, including a registered limited liability partnership.

~~(23)~~ (22) "Principal place of business" means a site or location devoted exclusively to the business for which the motor vehicle dealer or used motor vehicle dealer is licensed, and businesses incidental thereto, sufficiently designated to admit of definite description, with adequate contiguous space to permit the display of one or more new or used motor vehicles, with a permanent enclosed building or structure large enough to accommodate the office of the dealer and to provide a safe place to keep the books and other records of the business of the dealer, at which site or location the principal portion of the dealer's business shall be conducted and

the books and records thereof kept and maintained; except that a dealer may keep its books and records at an off-site location in Colorado after notifying the board in writing of the location at least thirty days in advance.

~~(24)~~(23) "Recreational vehicle" means a camping trailer, fifth wheel trailer, motor home, recreational park trailer, travel trailer, or truck camper, all as defined in section 24-32-902, or multipurpose trailer, as defined in section 42-1-102.

~~(25)~~(24) "Sales, service, and parts agreement" means an agreement between a manufacturer, distributor, or manufacturer representative and a motor vehicle or powersports dealer authorizing the dealer to sell and service a line-make of motor or powersports vehicles or imposing any duty on the dealer in consideration for the right to have or competitively operate a franchise, including any amendments or additional related agreements thereto. Each amendment, modification, or addendum that materially affects the rights, responsibilities, or obligations of the contracting parties creates a new sales, service, and parts agreement.

~~(26)~~(25) "Site control provision" means an agreement that applies to real property owned or leased by a franchisee and that gives a motor vehicle or powersports vehicle manufacturer, distributor, or manufacturer representative the right to:

- (a) Control the use and development of the real property;
- (b) Require the franchisee to establish or maintain an exclusive dealership facility at the real property; or
- (c) Restrict the franchisee from transferring, selling, leasing, developing, or changing the use of the real property.

~~(27)~~(26) "Used motor vehicle dealer" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used motor vehicles, or attempts to negotiate a sale, exchange, or lease of used motor vehicles, or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not the motor vehicles are owned by the person. The sale of three or more used motor vehicles or the offering for sale of more than three used motor vehicles at the same address or telephone

number in any one calendar year is prima facie evidence that a person is engaged in the business of selling used motor vehicles. "Used motor vehicle dealer" includes an owner of real property who allows more than three used motor vehicles to be offered for sale on the property during one calendar year unless ~~said~~ THE property is leased to a licensed used motor vehicle dealer. "Used motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of a used motor vehicle dealer when engaged in the specific performance of their duties as employees;

(d) A wholesaler or anyone selling motor vehicles solely to wholesalers;

(e) Mortgagees or secured parties as to sales in any one year of not more than twelve motor vehicles constituting collateral on a mortgage or security agreement, if the mortgagees or secured parties do not realize for their own account any money in excess of the outstanding balance secured by the mortgage or security agreement, plus costs of collection;

(f) A person who only sells or exchanges no more than four motor vehicles that are collector's items under part 3 or 4 of article 12 of title 42;

(g) A motor vehicle auctioneer; or

(h) An operator, as defined in section 42-4-2102 (5), who sells a motor vehicle pursuant to section 42-4-2104.

~~(28)~~ (27) "Wholesale motor vehicle auction dealer" means a person or firm that provides auction services in wholesale transactions in which the purchasers are motor vehicle dealers licensed by this state or any other jurisdiction or in consumer transactions of government vehicles at a time and place that does not conflict with a wholesale motor vehicle auction conducted by that licensee.

~~(29)~~ (28) "Wholesaler" means a person who, for commission or with

intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles solely to motor vehicle dealers or used motor vehicle dealers.

44-20-103. [Formerly 12-6-103] Motor vehicle dealer board - creation. (1) There is hereby created and established the motor vehicle dealer board, consisting of nine members who have been residents of this state for at least five years, three of whom shall be licensed motor vehicle dealers, three of whom shall be licensed used motor vehicle dealers, and three of whom shall be members from the public at large. The members representing the public at large shall not have a present or past financial interest in a motor vehicle dealership. ~~The board shall assume its duties July 1, 1992, and all terms of the board members shall commence on that date.~~ The terms of office of the board members shall be three years. Any vacancies shall be filled by appointment for the unexpired term.

(2) All board members shall be appointed by the governor.

(3) Each board member shall be reimbursed for actual and necessary expenses incurred while engaged in the discharge of official duties.

44-20-104. [Formerly 12-6-104] Board - oath - meetings - powers and duties - rules. (1) Each member of the board, before entering on the discharge of ~~such~~ THE member's duties and within thirty days after the effective date of ~~such~~ THE member's appointment, shall subscribe an oath for the faithful performance of ~~such~~ THE member's duties before any officer authorized to administer oaths in this state and shall file the same with the secretary of state.

(2) The board shall annually in the month of July elect from the membership thereof a president, a first vice-president, and a second vice-president. The board shall meet at such times as it deems necessary. A majority of the board shall constitute a quorum at any meeting or hearing.

(3) The board is authorized and empowered:

(a) To promulgate, amend, and repeal rules reasonably necessary to implement this part 1, including the administration, enforcement, issuance, and denial of licenses to motor vehicle dealers, motor vehicle salespersons,

used motor vehicle dealers, wholesale motor vehicle auction dealers, and wholesalers, and the laws of the state of Colorado;

~~(a.5)~~ (b) To delegate to the board's executive secretary, employed pursuant to section ~~12-6-105 (2)(b)~~ 44-20-105 (2)(b), the authority to execute all actions within the power of the board, carry out the directives of the board, and make recommendations to the board on all matters within the authority of the board;

~~(a.7)~~ (c) To issue through the department ~~of revenue~~ a temporary license to any person applying for any license issued by the board. The temporary license shall permit the applicant to operate for a period not to exceed one hundred twenty days while the board is completing its investigation and determination of all facts relative to the qualifications of the applicant for ~~such~~ THE license. A temporary license is terminated when the applicant's license is issued or denied.

~~(b) and (c) (Deleted by amendment, L. 92, p. 1842, § 4, effective July 1, 1992.)~~

(d) (I) To issue through the department ~~of revenue~~ and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under standards established and set forth in this part 1, to refuse to issue to any applicant any license the board is authorized to issue by this part 1;

(II) To permit the executive director or the director to issue licenses pursuant to rules adopted by the board pursuant to subsection (3)(a) of this section;

(e) (I) After due notice and a hearing, to review the findings of an administrative law judge or a hearing officer from a hearing conducted pursuant to this part 1 to revoke and suspend or to order the director to issue or to reinstate, on such terms and conditions and for such period of time as to the board appear fair and just, any license issued under this part 1. The board may direct a letter of admonition for minor violations or may issue a letter of reprimand to any licensee for a violation of this part 1. A letter of admonition does not become a part of the licensee's record with the board. A letter of reprimand is a part of the licensee's record with the board for a period of two years after issuance and may be considered in aggravation of

any subsequent violation by the licensee. When a letter of reprimand is sent to a licensee of the board, the licensee shall be notified in writing regarding the right to request in writing, within twenty days after receipt of ~~such~~ THE letter, that formal disciplinary proceedings be initiated against the licensee to adjudicate the propriety of the conduct upon which the letter of reprimand is based. If a request is made within the twenty-day period, the letter of reprimand is deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.

(II) The findings of the board pursuant to ~~subparagraph (f) of this paragraph (e)~~ SUBSECTION (3)(e)(I) OF THIS SECTION shall be final.

(f) (I) To investigate through the director, on its own motion or upon the written and signed complaint of any person, any suspected or alleged violation by a motor vehicle dealer, motor vehicle salesperson, used motor vehicle dealer, wholesale motor vehicle auction dealer, or wholesaler of any of the terms and provisions of this part 1 or of any rule promulgated by the board under the authority conferred upon it in this section. The board shall order an investigation of all written and signed complaints, may issue subpoenas, and may delegate the authority to issue subpoenas to the director, and the director shall make an investigation of all complaints transmitted by the board pursuant to section ~~12-6-105 (3)~~ 44-20-105 (3). The board may seek to resolve disputes before beginning an investigation or hearing through its own action or by direction to the director.

(II) After an investigation by the director or the director's designee, if the board determines that there is probable cause to believe a violation of this ~~article 6~~ ARTICLE 20 has occurred, it may order that an administrative hearing be held pursuant to section 24-4-105.

~~(f.5)~~ (g) To summarily issue cease-and-desist orders on such terms and conditions and for such period of time as to the board appears fair and just to any person who is licensed by the board pursuant to this part 1 if ~~such~~ THE orders are followed by notice and a hearing pursuant to section ~~12-6-119~~ 44-20-122;

~~(g)~~ (h) To prescribe the forms to be used for applications for motor vehicle dealers', motor vehicle salespersons', used motor vehicle dealers', wholesale motor vehicle auction dealers', and wholesalers' licenses to be issued and to require of ~~such~~ THE applicants, as a condition precedent to the

issuance of ~~such~~ THE licenses, such information concerning their fitness to be licensed under this part 1 as it may consider necessary. Every application for a motor vehicle dealer's license or used motor vehicle dealer's license shall contain, in addition to such information as the board may require, a statement of the following facts:

(I) The name and residence address of the applicant and the trade name, if any, under which ~~such~~ THE applicant intends to conduct ~~such~~ THE applicant's business and, if the applicant is a copartnership, the name and residence address of each member thereof, whether a limited or general partner, and the name under which the partnership business is to be conducted and, if the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors;

(II) A complete description, including the city, town, or village, the street and number, if any, of the principal place of business, and such other and additional places of business as shall be operated and maintained by the applicant in conjunction with the principal place of business;

(III) If the application is for a motor vehicle dealer's license, the names of the new motor vehicles that the applicant has been enfranchised to sell or exchange and the name and address of the manufacturer or distributor who has enfranchised the applicant;

(IV) The names and addresses of the persons who shall act as salespersons under the authority of the license, if issued.

~~(h)~~ (i) To adopt a seal with the words "motor vehicle dealer board" and such other devices as the board may desire engraved thereon by which it shall authenticate the acts of its office;

~~(i)~~ (j) To require that a motor vehicle dealer's or used motor vehicle dealer's principal place of business and such other sites or locations as may be operated and maintained by ~~such~~ THE dealers in conjunction with their principal place of business have erected or posted thereon ~~such~~ THE signs or devices providing information relating to the dealer's name, the location and address of ~~such~~ THE dealer's principal place of business, the type of license held by the dealer, and the number thereof, as the board shall consider necessary to enable any person doing business with ~~such~~ THE dealer to identify ~~such~~ THE dealer properly, and for this purpose to

determine the size and shape of ~~such~~ THE signs or devices, the lettering thereon, and other details thereof and to prescribe rules ~~and regulations~~ for the location thereof;

~~(j)~~ (k) To conduct or cause to be conducted written examinations as prescribed by the board testing the competency of all first-time applicants for a motor vehicle dealer's license, motor vehicle salesperson's license, used motor vehicle dealer's license, wholesale motor vehicle auction dealer's license, or wholesaler's license;

~~(H) and (HH) (Deleted by amendment, L. 98, p. 592, § 4, effective July 1, 1998.)~~

~~(k)~~ (l) (I) To prescribe a form or forms to be used as a part of a contract for the sale of a motor vehicle by any motor vehicle dealer or motor vehicle salesperson, other than a retail installment sales contract subject to the provisions of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5, ~~C.R.S.~~, which shall include the following information in addition to any other disclosures or information required by state or federal law:

(A) In twelve-point bold-faced type or a size at least three points larger than the smallest type appearing in the contract, an instruction that the form is a legal instrument and that, if the purchaser of the motor vehicle does not understand the form, ~~such~~ THE purchaser should seek legal assistance;

(B) In bold-faced type, of the size specified in ~~sub-subparagraph (A) of this subparagraph~~ ~~(I)~~ SUBSECTION (3)(l)(I)(A) OF THIS SECTION, an instruction that only those terms in written form embody the contract for sale of a motor vehicle and that any conflicting oral representations made to the purchaser are void;

(C) In bold-faced type, of the size specified in ~~sub-subparagraph (A) of this subparagraph~~ ~~(I)~~ SUBSECTION (3)(l)(I)(A) OF THIS SECTION, a notice that fraud or misrepresentation in the sale of a motor vehicle is punishable under the laws of this state;

(D) In bold-faced type, of the size specified in ~~sub-subparagraph (A) of this subparagraph~~ ~~(I)~~ SUBSECTION (3)(l)(I)(A) OF THIS SECTION, if the contract for the sale of a motor vehicle requires a single lump sum payment

of the purchase price, a clear disclosure to the purchaser of that fact or, if the contract is contingent upon the approval of credit financing for the purchaser arranged by or through the motor vehicle dealer, in bold-faced type, a statement that the purchaser shall agree to purchase the motor vehicle ~~which~~ THAT is the subject of the sale from the motor vehicle dealer at not greater than a certain annual percentage rate of financing, which annual percentage rate of financing shall be agreed upon by the parties and entered in writing on the contract;

(E) Except as otherwise provided under part 1 of article 1 of title 6, C.R.S., where the purchase price of the motor vehicle is not paid to the motor vehicle dealer in full at the time of consummation of the sale and the purchaser and motor vehicle dealer elect that the motor vehicle dealer shall deliver and the purchaser shall take possession of ~~such~~ THE motor vehicle at such time, in bold-faced type, a statement that in the event financing cannot be arranged in accordance with the provisions stated in the contract, and the sale is not consummated, the purchaser shall agree to pay a daily rate and a mileage rate for use of the motor vehicle until such time as financing of the purchase price of ~~such~~ THE motor vehicle is arranged for the obligor by or through the authorized motor vehicle dealer or until the purchase price is paid to the authorized motor vehicle dealer in full by or through the obligor, which daily rate and mileage rate shall be specified and agreed upon by the parties and entered in writing on the contract.

(II) The information required by ~~subparagraph (f) of this paragraph~~ ~~(k)~~ SUBSECTION (3)(1)(I) OF THIS SECTION shall be read and initialed by both parties at the time of the consummation of the sale of a motor vehicle.

(III) The use of the contract form required by ~~subparagraph (f) of this paragraph~~ ~~(k)~~ SUBSECTION (3)(1)(I) OF THIS SECTION shall be mandatory for the sale of any motor vehicle.

(IV) The board may require a licensee to include with a consumer sales contract a written notice that provides to the consumer the contact information of the board and information about the board's authority over consumer motor vehicle sales.

~~(f) (Deleted by amendment, L. 98, p. 592, § 4, effective July 1, 1998.)~~

(m) (I) (A) After final action is taken on a hearing held before an administrative law judge or a hearing officer, to review the findings of law and fact and the fairness of any fine imposed and to uphold the fine, to impose an administrative fine upon its own initiative, not to exceed ten thousand dollars for each offense by any licensee, or to vacate the fine imposed by the judge or hearing officer; except that, for motor vehicle dealers who sell primarily motor vehicles that weigh under one thousand five hundred pounds, the fine for each offense must not exceed one thousand dollars. Whenever a hearing is heard by an administrative law judge, the maximum fine that may be imposed is ten thousand dollars for each offense by any person licensed by the board under this part 1; except that, for motor vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred pounds, the fine for each offense must not exceed one thousand dollars. Whenever a licensing hearing is conducted by a hearing officer, the sanctions that may be recommended by the hearing officer are limited to the denial or grant of an unrestricted license or a restricted license under such terms as the hearing officer deems appropriate. Whenever a disciplinary hearing is conducted by a hearing officer, the hearing officer may only recommend a probationary period of no more than twelve months, a fine of no more than five hundred dollars, or both a probationary period and fine for each violation committed by a person licensed by the board.

(B) The board shall promulgate rules regarding circumstances in which a board member should not act as a hearing officer in a particular matter before the board because of business competition issues connected with the parties involved in ~~such~~ THE matter.

(II) The findings of the board pursuant to ~~subparagraph (I) of this paragraph (m)~~ SUBSECTION (3)(m)(I) OF THIS SECTION shall be final.

~~(n) (Deleted by amendment, L. 2007, p. 1578, § 4, effective July 1, 2007.)~~

~~(n) (I)~~ (n) (I) To impose a fine of up to one thousand dollars per day per violation for any person found, after notice and hearing pursuant to section 24-4-105, C.R.S., to have violated the provisions of section ~~12-6-120 (2)~~ 44-20-124 (2). For the purposes of this ~~paragraph (n)~~ SUBSECTION (3)(n), the address for the notice to be given under section 24-4-105 C.R.S., is the last-known address for the person as indicated in the state motor vehicle

records; the last-known address for the owner of the real property upon which motor vehicles are displayed in violation of section ~~12-6-120 (2)~~ 44-20-124 (2) as indicated in the records of the county assessor's office; or an address for service of process in accordance with rule 4 of the Colorado rules of civil procedure.

(II) Any person who fails to pay a fine ordered by the board for a violation of section ~~12-6-120 (2)~~ 44-20-124 (2) under this ~~paragraph (o)~~ SUBSECTION (3)(n) shall be subject to enforcement proceedings, by the board through the attorney general, in the county or district court pursuant to the Colorado rules of civil procedure. Any fines collected under the provisions of this ~~paragraph (o)~~ SUBSECTION (3)(n) shall be disposed of pursuant to section ~~12-6-123~~ 44-20-133.

(4) The board shall promulgate rules by January 1, 2008, establishing enforcement and compliance standards to ensure that administrative penalties are equitably assessed and commensurate with the seriousness of the violation.

44-20-105. [Formerly 12-6-105] Auto industry division - creation - powers and duties of executive director and director. (1) There is hereby created in the department of revenue the auto industry division, the head of which is the director of the division. The director is appointed by the executive director of the department and serves at the pleasure of the executive director. The division shall exercise its powers and perform its duties and functions under the department as if the division were transferred to the department by a **type 2** transfer as described in section 24-1-105.

(2) The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, manufacturer representatives, and manufacturers, and has the following powers and duties:

(a) To promulgate, amend, and repeal reasonable rules relating to those functions the executive director is mandated to carry out pursuant to this part 1 and the laws of the state of Colorado that the executive director deems necessary to implement this part 1;

(b) To employ, subject to the laws of the state of Colorado and after consultation with the board, an executive secretary for the board, who is

accountable to the board and shall, pursuant to delegation by the board, discharge the responsibilities of the board under this part 1;

(c) To issue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under standards established and set forth in this part 1, to refuse to issue to any applicant any license the executive director is authorized to issue by this part 1;

(d) To prescribe the forms to be used for applications for licenses to be issued by the executive director under this part 1 and to require of ~~such~~ THE applicants, as a condition precedent to the issuance of ~~such~~ THE licenses, such information concerning the applicant's fitness to be licensed under this part 1 as the executive director considers necessary;

(e) (I) To summarily issue cease-and-desist orders on such terms and conditions and for such period of time as to the executive director appears fair and just to any person who is licensed by the executive director pursuant to this part 1 if ~~such~~ THE orders are followed by notice and a hearing pursuant to section ~~12-6-104(3)(e)(I)~~ 44-20-104 (3)(e)(I);

(II) To issue cease-and-desist orders to persons acting as manufacturers without the manufacturer's license required by this part 1; and

(III) To impose a fine, not to exceed one thousand dollars per day, for each violation of section ~~12-6-120(1)~~ 44-20-124 (1) after a notice and hearing subject to section 24-4-105.

(3) (a) The director may:

(I) Employ such clerks, deputies, and assistants as the director considers necessary to discharge the duties imposed upon the director or executive director by this part 1 and to designate the duties of ~~such~~ THE clerks, deputies, and assistants;

(II) Investigate, upon the director's own initiative, upon the written and signed complaint of any person, or upon request by the board under section ~~12-6-104(3)(f)(I)~~ 44-20-104 (3)(f)(I), any suspected or alleged violation by a person licensed under this part 1 or of any rule promulgated under this ~~article 6~~ ARTICLE 20.

(b) The investigators and their supervisors utilized by the director, while actually engaged in performing their duties, have the authority as delegated by the director to issue subpoenas in relation to performance of their duties enforcing this part 1 and the authority as delegated by the director to issue summonses for violations of sections ~~12-6-120 (2)~~ 44-20-124 (2) and 42-6-142, to issue misdemeanor summonses for violations of section ~~12-6-119.5 (1)(a)~~ 44-20-123 (1)(a), and to procure criminal records during an investigation.

(4) If any person fails to comply with a cease-and-desist order issued pursuant to this section, the executive director may bring a suit for injunction to prevent any further and continued violation of ~~such~~ THE order. In any such suit, the final proceedings of the executive director, based upon evidence in record, are prima facie evidence of the facts found therein.

~~(5) Repealed.~~

44-20-106. [Formerly 12-6-106] Records as evidence. Copies of all records and papers in the office of the board, director, or executive director, duly authenticated under the hand and seal of the board, director, or executive director, shall be received in evidence in all cases equally and with like effect as the original thereof.

44-20-107. [Formerly 12-6-107] Attorney general to advise and represent. (1) The attorney general of this state shall represent the board, director, and executive director and shall give opinions on all questions of law relating to the interpretation of this part 1 or arising out of the administration thereof and shall appear for and in behalf of the board, director, and executive director in all actions brought by or against them, whether under this part 1 or otherwise.

(2) The board may request the attorney general to make civil investigations and enforce rules ~~and regulations~~ of the board in cases of civil violations and to bring and defend civil suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the board.

44-20-108. [Formerly 12-6-108] Classes of licenses. (1) The following classes of licenses are issued under this part 1:

(a) Motor vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering new and used motor vehicles, and this form of license shall permit not more than two persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salespersons.

(b) Used motor vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering used motor vehicles only. ~~Such~~ THE license shall also permit a licensee to negotiate for a consumer the sale, exchange, or lease of used and new motor vehicles not owned by the licensee, except those vehicles defined in section 42-1-102 (55) ~~C.R.S.~~, as motorcycles and section 33-14.5-101 (3) ~~C.R.S.~~, as off-highway vehicles; however, prior to completion of ~~such~~ THE sale, exchange, or lease of a motor vehicle not owned by the licensee, the licensee shall disclose in writing to the consumer whether the licensee will receive any compensation from the consumer and whether the licensee will receive any compensation from the owner of the motor vehicle as a result of ~~such~~ THE transaction. If the licensee receives compensation from the owner of the motor vehicle as a result of the transaction, the licensee shall include in the written disclosure the name of ~~such~~ THE owner from whom the licensee will receive compensation. This form of license shall permit not more than two persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salespersons.

(c) A motor vehicle salesperson's license permits the licensee to engage in the activities of a motor vehicle salesperson while employed by a licensed motor vehicle dealer or used motor vehicle dealer.

~~(c.1) (Deleted by amendment, L. 92, p. 1849, § 8, effective July 1, 1992.)~~

(d) Manufacturer's or distributor's license shall permit the licensee to engage in the activities of a manufacturer, distributor, factory branch, or distributor branch and to sell fire trucks.

(e) Wholesaler's license shall permit the licensee to engage in the activities of a wholesaler.

(f) Manufacturer representative's license shall permit the licensee to engage in the activities of a manufacturer representative.

(g) Buyer agent's license shall permit the licensee to engage in the activities of a buyer agent.

(h) (I) Wholesale motor vehicle auction dealer's license shall permit a licensee to engage in the activities of a wholesale motor vehicle auction dealer if the licensee provides auction services solely in connection with wholesale transactions in which the purchasers are motor vehicle dealers licensed by this state or any other jurisdiction or in connection with the sale of government vehicles to consumers at a time and place that does not conflict with a wholesale motor vehicle auction conducted by that licensee. A wholesale motor vehicle auction dealer shall abide by all laws and rules of the state of Colorado.

(II) A wholesale motor vehicle auction dealer shall maintain a check and title insurance policy for the benefit of ~~such~~ THE dealer's customers or, alternatively, a wholesale motor vehicle auction dealer shall provide written guarantees of title to ~~such~~ THE dealer's purchasing customers and written guarantees of payment to ~~such~~ THE dealer's selling dealers with coverage and exclusions that are customary in check and title insurance policies available to wholesale motor vehicle auction dealers.

(2) Any license issued by the executive director pursuant to law in effect prior to July 1, 1992, shall be valid for the period for which issued.

(3) The licensing requirements of this part 1 do not apply to banks, savings banks, savings and loan associations, building and loan associations, or credit unions or an affiliate or subsidiary of ~~such~~ THE entities in offering to sell, or in the sale of, a motor vehicle that was subject to a lease or that has been repossessed or foreclosed upon if the repossession or foreclosure is in connection with a loan made or originated in Colorado.

(4) The licensing requirements of this part 1 shall not apply to an insurance company selling or offering to sell a motor vehicle through a motor vehicle dealer or used motor vehicle dealer if the vehicle is obtained by the company as a result of an insurance claim.

44-20-109. [Formerly 12-6-108.5] Temporary motor vehicle dealer license. (1) (a) If a licensed motor vehicle dealer has entered into a written agreement to sell a dealership to a purchaser and the purchaser has

been awarded a new dealership franchise, the board may issue a temporary motor vehicle dealer's license to the purchaser or prospective purchaser. The director shall issue the temporary license only after the board has received the applications for both a temporary motor vehicle dealer's license and a motor vehicle dealer's license, the appropriate application fee for the motor vehicle dealer's application, evidence of a passing test score, and evidence that the franchise has been awarded to the applicant by the manufacturer.

(b) A temporary motor vehicle dealer's license authorizes the licensee to act as a motor vehicle dealer. Temporary licensees are subject to this ~~article 6~~ ARTICLE 20 and to all applicable rules adopted by the executive director or the board. A temporary motor vehicle dealer's license is effective for up to sixty days or until the board acts on the licensee's application for a motor vehicle dealer's license, whichever is sooner.

(2) For the purpose of enabling an out-of-state dealer to sell vehicles on a temporary basis during specifically identified events, the director may issue, upon direction by the board, a temporary motor vehicle dealer's license, which is effective for thirty days. The temporary licensee is subject to the rules adopted by the executive director or the board.

44-20-110. [Formerly 12-6-109] Display, form, custody, and use of licenses. (1) The board and the executive director shall prescribe the form of the license to be issued by the executive director and shall imprint on each license the seal of their offices. The executive director shall mail the license to the business address where the motor vehicle salesperson is licensed. Each motor vehicle salesperson shall keep a copy of the license at the salesperson's place of employment for inspection by employers, consumers, the director, the executive director, or the board. Each motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, wholesale motor vehicle auction dealer, or used motor vehicle dealer shall display conspicuously each person's license at the place of business for which the license was issued.

(2) Each license issued under this part 1 is separate and distinct. It is a violation of this part 1 for a person to exercise any of the privileges granted under a license that the person does not hold, or for a licensee to knowingly allow such an exercise of privileges.

44-20-111. [Formerly 12-6-110] Fees - disposition - expenses -

expiration of licenses. (1) There shall be collected with each application the fee established pursuant to subsection (5) of this section for each of the following licenses:

(a) (I) Motor vehicle dealer's or used motor vehicle dealer's license;

(II) Motor vehicle dealer's or used motor vehicle dealer's license, for each place of business in addition to the principal place of business;

(III) Renewal or reissue of motor vehicle dealer's or used motor vehicle dealer's license after change in location or lapse in principal place of business;

(b) Manufacturer's license;

(c) Distributor's license;

(d) Wholesaler's license;

~~(e) (Deleted by amendment, L. 2003, p. 1302, § 5, effective April 22, 2003.)~~

~~(f) (e) Manufacturer representative's license;~~

~~(g) (f) Motor vehicle salesperson's license including, but not limited to, reissuing a license;~~

~~(h) (Deleted by amendment, L. 92, p. 1851, § 11, effective July 1, 1992.)~~

~~(i) (g) Buyer agent's license;~~

~~(j) (h) Wholesale motor vehicle auction dealer's license.~~

(2) All fees shall be paid to the state treasurer, who shall credit the fees to the auto dealers license fund created in section ~~12-6-123~~ 44-20-133.

~~(2.5)~~ (3) If an application for a buyer agent's, motor vehicle dealer's, used motor vehicle dealer's, wholesaler's, or motor vehicle salesperson's license is withdrawn by the applicant prior to issuance of the license, the

director shall refund one-half of the license fee.

~~(3)~~ (4) (a) ~~Such~~ Licenses, if the same have not been suspended or revoked as provided in this part 1, shall be valid until one year following the month of issuance thereof and shall then expire; except that any license issued under this part 1 shall expire upon the voluntary surrender thereof or upon the abandonment of the licensee's place of business for a period of more than thirty days.

(b) Thirty days before the expiration of a license, the director shall mail to the licensee's business address of record a notice stating when the person's license is due to expire and the fee necessary to renew the license. For a salesperson or manufacturer representative, the notice shall be mailed to the address of the dealer or manufacturer where the person is licensed.

(c) Upon the expiration of ~~such~~ THE license, unless suspended or revoked, the same may be renewed upon the payment of the fees specified in this section, which shall accompany applications, and ~~such~~ THE renewal shall be made from year to year as a matter of right; except that, if a motor vehicle dealer, used motor vehicle dealer, or wholesaler voluntarily surrenders its license or abandons its place of business for a period of more than thirty days, the licensee is required to file a new application to renew its license.

~~(d) Repealed.~~

~~(e)~~ (d) Notwithstanding ~~paragraph (a) of this subsection (3)~~ SUBSECTION (4)(a) OF THIS SECTION, a person has a thirty-day grace period after his or her license expires, and the person may renew the license within ~~such~~ thirty days pursuant to ~~paragraph (c) of this subsection (3)~~ SUBSECTION (4)(c) OF THIS SECTION, so long as the person has a bond in full force and effect that complies with the applicable bonding requirements of section ~~12-6-111, 12-6-112, or 12-6-112.2~~ 44-20-112, 44-20-113, OR 44-20-114 during ~~such~~ THE thirty-day period. A person applying during the thirty-day grace period shall pay a late fee established pursuant to subsection (5) of this section.

~~(4) (Deleted by amendment, L. 92, p. 1851, § 11, effective July 1, 1992.)~~

(5) (a) The board shall propose, as part of its annual budget request, an adjustment in the amount of each fee ~~which~~ THAT the board is authorized by law to collect. The budget request and the adjusted fees for the board shall reflect direct and indirect costs.

(b) Based upon the appropriation made and subject to the approval of the executive director, the board shall adjust the fees collected by the executive director so that the revenue generated from ~~said~~ THE fees covers the direct and indirect costs of administering this ~~article~~. ~~Such~~ ARTICLE 20. THE fees shall remain in effect for the fiscal year for which the appropriation is made.

(c) Whenever ~~moneys~~ MONEY appropriated to the board for its activities for the prior fiscal year are unexpended, ~~said moneys~~ THE MONEY shall be made a part of the appropriation to the board for the next fiscal year, and ~~such~~ THE amount shall not be raised from fees collected by the board or the executive director. If a supplemental appropriation is made to the board for its activities, the fees of the board and the executive director, when adjusted for the fiscal year next following that in which the supplemental appropriation was made, shall be adjusted by an additional amount ~~which~~ THAT is sufficient to compensate for ~~such~~ THE supplemental appropriation. ~~Moneys~~ MONEY appropriated to the board in the annual general appropriation bill shall be from the fund provided in section ~~12-6-123~~ 44-20-133.

44-20-112. [Formerly 12-6-111] Bond of licensee. (1) Before any motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, or used motor vehicle dealer's license shall be issued by the board through the executive director to any applicant therefor, the ~~said~~ applicant shall procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 ~~C.R.S.~~, or a good and sufficient bond with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that ~~said~~ THE applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this part 1 that are designated by the board by rule in the conduct of the business for which ~~such~~ THE applicant is licensed. A motor vehicle dealer or used motor vehicle dealer shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if ~~such~~ THE dealer furnishes a bond, savings account, deposit,

or certificate of deposit under section ~~12-6-512~~ 44-20-412.

(2) (a) The purpose of the bond procured by the applicant pursuant to subsection (1) of this section and section ~~12-6-112.2(1)~~ 44-20-114 (1) is to provide for the reimbursement for any loss or damage suffered by any retail consumer caused by violation of this part 1 by a motor vehicle dealer, used motor vehicle dealer, wholesale motor vehicle auction dealer, or wholesaler. For a wholesale transaction, the bond is available to each party to the transaction; except that, if a retail consumer is involved, ~~such~~ THE consumer shall have priority to recover from the bond. The amount of the bond shall be fifty thousand dollars for a motor vehicle dealer applicant, used motor vehicle dealer applicant, wholesale motor vehicle auction dealer applicant, or wholesaler applicant except the amount of the bond shall be five thousand dollars for those dealers who sell only small utility trailers that weigh less than two thousand pounds. The aggregate liability of the surety for all transactions shall not exceed the amount of the bond, regardless of the number of claims or claimants.

(b) No corporate surety shall be required to make any payment to any person claiming under ~~such~~ THE bond until a final determination of fraud or fraudulent representation has been made by the board or by a court of competent jurisdiction.

(3) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. ~~Such~~ THE renewal may be done through a continuation certificate issued by the surety.

(4) Nothing in this part 1 shall interfere with the authority of the courts to administer and conduct an interpleader action for claims against a licensee's bond.

44-20-113. [Formerly 12-6-112] Motor vehicle salesperson's bond. (1) Before any motor vehicle salesperson's license is issued by the board through the executive director to any applicant therefor, the applicant shall procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, ~~C.R.S.~~, or a good and sufficient bond in the amount of fifteen thousand dollars with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that ~~said~~ THE applicant shall perform in good faith as a motor

vehicle salesperson without fraud or fraudulent representation and without the violation of any of the provisions of this part 1 that are designated by the board by rule. A motor vehicle salesperson shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if ~~such~~ THE dealer furnishes a bond, savings account, deposit, or certificate of deposit under section ~~12-6-513~~ 44-20-413.

(2) No corporate surety shall be required to make any payment to any person claiming under ~~such~~ THE bond until a final determination of fraud or fraudulent representation has been made by the board or by a court of competent jurisdiction.

(3) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. ~~Such~~ THE renewal may be done through a continuation certificate issued by the surety.

44-20-114. [Formerly 12-6-112.2] Buyer agent bonds. (1) A buyer agent's license shall not be issued by the executive director to any applicant therefor until ~~said~~ THE applicant procures and files with the executive director evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, ~~C.R.S.~~, or a good and sufficient bond in the amount of five thousand dollars with a corporate surety duly licensed to do business within the state and approved as to form by the attorney general. The bond shall be available to ensure that ~~said~~ THE applicant shall perform in good faith as a buyer agent without fraud or fraudulent representation and without violating any of the provisions of this part 1 that are designated by the executive director by rule.

(2) All bonds required pursuant to this section shall be renewed annually at such time as the bondholder's license is renewed. ~~Such~~ THE renewal may be done through a continuation certificate issued by the surety.

(3) No corporate surety shall be required to make any payment to any person claiming under ~~such~~ THE bond until a final determination of fraud or fraudulent representation has been made by the executive director or by a court of competent jurisdiction.

44-20-115. [Formerly 12-6-112.7] Notice of claims honored against bond. (1) A corporate surety that has provided a bond to a licensee pursuant to section ~~12-6-111, 12-6-112, or 12-6-112.2~~ 44-20-112,

44-20-113, OR 44-20-114 shall provide notice to the board and executive director of any claim that is honored against the bond within thirty days after the claim is honored.

(2) A notice provided by a corporate surety pursuant to subsection (1) of this section must be in the form required by the director, subject to approval by the board, and must include the name of the licensee, the name and address of the claimant, the amount of the honored claim, and the nature of the claim against the licensee.

44-20-116. [Formerly 12-6-113] Testing licensees. Persons applying for a motor vehicle dealer's, used motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, or motor vehicle salesperson's license under this part 1 shall be examined for their knowledge of the motor vehicle laws of the state of Colorado and the rules promulgated pursuant to this part 1. If the applicant is a corporation, the managing officer shall take ~~such~~ THE examination, and, if the applicant is a partnership, all the general partners shall take ~~such~~ THE examination. No license shall be issued except upon successful passing of the examination. The board shall implement by January 1, 2008, a psychometrically valid and reliable salesperson examination that measures the minimum level of competence necessary to practice. This section shall not apply to a powersports vehicle dealer, used powersports vehicle dealer, or powersports salesperson licensed pursuant to ~~part 5~~ PART 4 of this ~~article~~ ARTICLE 20.

44-20-117. [Formerly 12-6-114] Filing of written warranties. Each licensed manufacturer shall file with the director all written warranties and changes in written warranties that the manufacturer makes on any motor vehicle or parts thereof. Each licensed manufacturer shall file with the director a copy of the delivery and preparation obligations of its dealers, and these warranties and obligations constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from any express or implied warranties of the manufacturer constitute the manufacturer's product or warranty liability, and the manufacturer shall reasonably compensate any authorized dealer who performs work to rectify the manufacturer's product or warranty defects.

44-20-118. [Formerly 12-6-115] Application - prelicensing education - fingerprint-based background check - rules. (1) Application

for a motor vehicle dealer's, motor vehicle salesperson's, used motor vehicle dealer's, wholesale motor vehicle auction dealer's, or wholesaler's license shall be made to the board.

(2) Application for distributor's, manufacturer representative's, or manufacturer's licenses shall be made to the executive director.

(3) All fees for licenses shall be paid at the time of the filing of application for license.

(4) To be licensed as a motor vehicle dealer, a person must file with the board a certified copy of a certificate of appointment as a dealer from a manufacturer.

(5) (a) Each person applying for a manufacturer's or distributor's license must:

(I) File with the director a certified copy of a typical sales, service, and parts agreement with all motor vehicle dealers; and

(II) File evidence of the appointment of an agent for process in the state of Colorado.

(b) Within sixty days after amending or modifying or adding an addendum to the sales, service, or parts agreement of more than one motor vehicle dealer, a licensed manufacturer or distributor shall file a certified copy of the new sales, service, and parts agreement, including the changes, with the director if the amendment, modification, or addendum materially alters the rights and obligations of the contracting parties.

(6) All persons applying for a motor vehicle dealer's license, a used motor vehicle dealer's license, a wholesaler's license, a motor vehicle auctioneer's license, or a motor vehicle ~~salesman's~~ SALESPERSON'S license shall file with the board a good and sufficient instrument in writing in which ~~he~~ THE APPLICANT shall appoint the secretary of the board as the true and lawful agent of ~~said~~ THE applicant upon whom all process may be served in any action which may thereafter be commenced against ~~said~~ THE applicant arising out of any claim for damages suffered by any firm, person, association, or corporation by reason of the violation of ~~said~~ THE applicant of any of the terms and provisions of this part 1 or any condition of the

applicant's bond.

(7) (a) A person applying for a used motor vehicle dealer's license, a wholesale motor vehicle auction dealer's license, or a wholesaler's license shall file with the board a certification that the applicant has met the educational requirements for licensure under this subsection (7). This subsection (7) shall not apply to a person who has held a license within the last three years as a motor vehicle dealer, used motor vehicle dealer, wholesaler, wholesale motor vehicle auction dealer, powersports vehicle dealer, or used powersports vehicle dealer under this part 1 or ~~part 5~~ PART 4 of this ~~article~~ ARTICLE 20.

(b) An applicant for a used motor vehicle dealer's license, a wholesale motor vehicle auction dealer's license, or a wholesaler's license shall not be licensed unless one of the following persons has completed an eight-hour preclicensing education program:

(I) The managing officer if the applicant is a corporation or limited liability company;

(II) All of the general partners if the applicant is any form of partnership; or

(III) The owner or managing officer if the applicant is a sole proprietorship.

(c) The preclicensing education program shall include, without limitation, state and federal statutes and rules governing the sale of motor vehicles.

(d) A preclicensing education program shall not fulfill the requirements of this section unless approved by the board. The board shall approve any program with a curriculum that reasonably covers the material required by this section within eight hours.

(e) The board may adopt rules establishing reasonable fees to be charged for the preclicensing education program.

(f) The board may adopt reasonable rules to implement this section, including, without limitation, rules that govern:

(I) The content and subject matter of education;

(II) The criteria, standards, and procedures for the approval of courses and course instructors;

(III) The training facility requirements; and

(IV) The methods of instruction.

(g) An approved prelicensing program provider shall issue a certificate to a person who successfully completes the approved prelicensing education program. The current certificate of completion, or a copy of the certificate, shall be posted conspicuously at the dealership's principal place of business.

(h) An approved prelicensing program provider shall submit a certificate to the director for each person who successfully completes the prelicensing education program. The certificate may be transmitted electronically.

(8) (a) With the submission of an application for any license issued under this part 1, each applicant shall submit a complete set of fingerprints to the Colorado bureau of investigation or the auto industry division for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The board or the executive director shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to be licensed. The board or the executive director may verify the information an applicant is required to submit. The applicant shall pay the costs associated with the fingerprint-based criminal history record check to the Colorado bureau of investigation.

(b) This subsection (8) does not apply to a publicly traded company or the company's subsidiary.

44-20-119. [Formerly 12-6-116] Notice of change of address or status. (1) The board, through the executive director, shall not issue a motor vehicle dealer's license or used motor vehicle dealer's license to any

applicant therefor who has no principal place of business as is defined in this part 1. Should the motor vehicle dealer or used motor vehicle dealer change the site or location of ~~such~~ THE dealer's principal place of business, ~~such~~ THE dealer shall immediately upon making ~~such~~ THE change so notify the board in writing, and thereupon a new license shall be granted for the unexpired portion of the term of ~~such~~ THE license at a fee established pursuant to section ~~12-6-110~~ 44-20-111. Should a motor vehicle dealer or used motor vehicle dealer, for any reason whatsoever, cease to possess a principal place of business, as defined in this part 1, from and on which ~~such~~ THE dealer conducts the business for which ~~such~~ THE dealer is licensed, ~~such~~ THE dealer shall immediately so notify in writing the board and, upon demand therefor by the board, shall deliver to it ~~such~~ THE dealer's license, which shall be held and retained until it appears to the board that ~~such~~ THE licensee again possesses a principal place of business; whereupon, ~~such~~ THE dealer's license shall be reissued. Nothing in this part 1 shall be construed to prevent a motor vehicle dealer or used motor vehicle dealer from conducting the business for which ~~such~~ THE dealer is licensed at one or more sites or locations not contiguous to ~~such~~ THE dealer's principal place of business but operated and maintained in conjunction therewith.

(2) (a) If a motor vehicle dealer changes to a new line-make of motor vehicles, adds another franchise for the sale of new motor vehicles, or cancels or, for any cause whatever, otherwise loses a franchise for the sale of new motor vehicles, the dealer shall immediately so notify the board. In the case of a cancellation or loss of franchise, the board shall determine whether the dealer who lost the franchise should be licensed as a used motor vehicle dealer.

(b) If the motor vehicle dealer no longer possesses a franchise to sell new motor vehicles, the board shall take up, and the motor vehicle dealer shall deliver to the board, the dealer's license, and the board shall direct the director to issue the dealer a used motor vehicle dealer's license.

(c) Upon the cancellation or loss of a franchise to sell new motor vehicles and the relicensing of a dealer as a used motor vehicle dealer, the dealer may continue in the business of a motor vehicle dealer for a time, not exceeding six months after the date of the relicensing of the dealer, to enable the dealer to dispose of the stock of new motor vehicles on hand at the time of relicensing, but not otherwise.

(3) If a motor vehicle salesperson is discharged, leaves an employer, or changes a place of employment, the motor vehicle dealer or used motor vehicle dealer who last employed the salesperson shall confiscate and return ~~such~~ THE salesperson's license to the board. Upon being reemployed as a motor vehicle salesperson, the motor vehicle salesperson shall notify the board. Upon receiving ~~such~~ THE notification, the board shall issue a new license for the unexpired portion of ~~such~~ THE returned license after collecting a fee set pursuant to section ~~12-6-110(5)~~ 44-20-111 (5). It shall be unlawful for ~~such~~ THE salesperson to act as a motor vehicle salesperson until a new license is procured.

(4) Should a wholesaler, for any reason whatsoever, change ~~such~~ THE wholesaler's place of business or business address during any license year, ~~such~~ THE wholesaler shall immediately so notify the board.

(5) Any wholesale motor vehicle auction dealer who changes a place of business or business address during any license year shall notify the board immediately of ~~such~~ THE dealer's new business address.

(6) (a) Except as specified in subsection (6)(d) of this section:

(I) A person holding an ownership interest in a licensed corporation, limited liability company, limited liability partnership, or other business entity shall not sell the interest to a person who does not already own an interest in the business entity until the owner applies to the board to be approved to hold an ownership interest in the business entity and the board approves the person to hold the interest.

(II) A licensed corporation, limited liability company, limited liability partnership, or other business entity shall notify the board within ten days after a transfer, other than a sale, of any ownership that results in a new person holding an interest in the business entity. To continue to hold ownership in the business, the transferee shall apply to the board for approval to continue holding an ownership interest in the business entity.

(b) To be approved by the board to hold an ownership interest in a licensed business entity, the new owner must demonstrate the qualifications necessary for licensing, including a fingerprint-based criminal history record check, in accordance with this part 1.

(c) (I) If the board does not approve a person to hold an ownership interest in a licensed business entity, the person shall transfer the interest within six months after acquiring the ownership interest.

(II) This subsection (6)(c) does not authorize a person to hold an interest in a licensed business entity when the person acquired the interest as the result of a sale that violates subsection (6)(a)(I) of this section.

(d) (I) This subsection (6) does not apply to the sale or transfer of an interest in a publicly traded company.

(II) This subsection (6) does not apply to the sale of an interest to an institutional investor of a business entity that is subject to the reporting requirements of the "Securities Exchange Act of 1934", 15 U.S.C. sec. 78a et seq., as amended. For the purposes of this subsection (6)(d)(II), "institutional investor" means an entity, such as a pension fund, endowment fund, insurance company, commercial bank, or mutual fund, that invests money on behalf of its members or clients and that is required by the United States securities and exchange commission to file a form 13F, or its successor form, to report quarterly holdings.

44-20-120. [Formerly 12-6-117] Principal place of business - requirements. (1) The building or structure required to be located on a principal place of business shall have electrical service and adequate sanitary facilities.

(2) (a) In no event shall a room in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this part 1, unless the entire ground floor of ~~such~~ THE hotel, apartment house, or rooming house building or ~~such~~ THE dwelling house is devoted principally to and occupied for commercial purposes and the office of the dealer is located on the ground floor thereof.

(b) A motor vehicle dealer who operates ~~such~~ THE motor vehicle dealer's business from his or her primary residence and who has been a resident of Colorado for the immediately preceding twelve-month period and is a motor vehicle dealer only because ~~such~~ THE dealer sells custom trailers for one or more manufacturers and maintains an inventory of fewer than four vehicles at all times shall be exempt from ~~paragraph (a) of this~~

~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION. Any motor vehicle dealer who is issued dealer plates in accordance with ~~this paragraph (b)~~ pursuant to THIS SUBSECTION (2)(b) AND section 42-3-116 C.R.S., shall only use ~~such~~ THE plates on trailers.

~~(3) Repealed.~~

~~(4)~~ (3) Nothing in this section shall be construed to exempt a motor vehicle dealer from local zoning ordinances.

44-20-121. [Formerly 12-6-118] Licenses - grounds for denial, suspension, or revocation. (1) A manufacturer's or distributor's license may be denied, suspended, or revoked on the following grounds:

~~(a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)~~

~~(b)~~ (a) Material misstatement in an application for a license;

~~(c)~~ (b) Willful failure to comply with this part 1 or any rule promulgated by the executive director;

~~(d)~~ (c) Engaging, in the past or present, in any illegal business practice.

(2) A manufacturer representative's license may be denied, suspended, or revoked on the following grounds:

~~(a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)~~

~~(b)~~ (a) Material misstatement in an application for a license;

~~(c)~~ (b) Willful failure to comply with any provision of this part 1 or any rule ~~or regulation~~ promulgated by the executive director under this part 1;

~~(d)~~ (c) Having indulged in any unconscionable business practice pursuant to title 4; ~~C.R.S.~~;

~~(e)~~ (d) Having coerced or attempted to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefor, or any other commodities or services ~~which~~ THAT have not been ordered by ~~said~~ THE dealer;

~~(f)~~ (e) Having coerced or attempted to coerce any motor vehicle dealer to enter into any agreement to do any act unfair to ~~said~~ THE dealer by threatening to cause the cancellation of the franchise of ~~said~~ THE dealer;

~~(g)~~ (f) Having withheld, threatened to withhold, reduced, or delayed without just cause an order for motor vehicles, parts or accessories therefor, or any other commodities or services ~~which~~ THAT have been ordered by a motor vehicle dealer;

~~(h)~~ (g) Engaging, in the past or present, in any illegal business practice.

(3) A motor vehicle dealer's, wholesale motor vehicle auction dealer's, wholesaler's, buyer agent's, or used motor vehicle dealer's license may be denied, suspended, or revoked on the following grounds:

~~(a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)~~

~~(b)~~ (a) Material misstatement in an application for a license;

~~(c)~~ (b) Violation of any of the terms and provisions of this part 1 or any rule ~~or regulation~~ promulgated by the board under this part 1;

~~(d)~~ (c) Having been convicted of or pled nolo contendere to any felony, or any crime pursuant to article 3, 4, or 5 of title 18, ~~C.R.S.~~, or any like crime pursuant to federal law or the law of any other state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of ~~such~~ THE conviction in any hearing held pursuant to this ~~article~~ ARTICLE 20.

~~(e)~~ (d) Defrauding any buyer, seller, motor vehicle salesperson, or financial institution to ~~such~~ THE person's damage;

~~(f)~~ (e) Intentional or negligent failure to perform any written

agreement with any buyer or seller;

~~(g)~~ (f) Failure or refusal to furnish and keep in force any bond required under this part 1;

~~(h)~~ (g) Having made a fraudulent or illegal sale, transaction, or repossession;

~~(i)~~ (h) Willful misrepresentation, circumvention, or concealment of or failure to disclose, through whatsoever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer;

~~(j)~~ Repealed.

~~(k)~~ (i) To intentionally publish or circulate any advertising ~~which~~ THAT is misleading or inaccurate in any material particular or ~~which~~ THAT misrepresents any of the products sold or furnished by a licensed dealer;

~~(l)~~ (j) To knowingly purchase, sell, or otherwise acquire or dispose of a stolen motor vehicle;

~~(m)~~ (k) For any licensed motor vehicle dealer or used motor vehicle dealer, to engage in the business for which ~~such~~ THE dealer is licensed without at all times maintaining a principal place of business as required by this part 1 during reasonable business hours;

~~(n)~~ (l) Engaging in ~~such~~ THE business through employment of an unlicensed motor vehicle salesperson;

~~(o)~~ (m) To willfully violate any state or federal law respecting commerce or motor vehicles, or any lawful rule ~~or regulation~~ respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles;

~~(p)~~ (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)

~~(q) Repealed.~~

~~(r)~~ (n) Representing or selling as a new and unused motor vehicle any motor vehicle ~~which~~ THAT the dealer or salesperson knows has been used and operated for demonstration purposes or which the dealer or salesperson knows is otherwise a used motor vehicle;

~~(s)~~ (o) Violating any state or federal statute or regulation issued thereunder dealing with odometers;

~~(t)~~ (p) Selling to a retail customer a motor vehicle ~~which~~ THAT is not equipped or in proper condition and adjustment as required by part 2 of article 4 of title 42 ~~C.R.S.~~, unless ~~such~~ THE vehicle is sold as a tow away, not to be driven;

~~(H) Repealed.~~

~~(t.1) Repealed.~~

~~(u)~~ (q) Committing a fraudulent insurance act pursuant to section 10-1-128; ~~C.R.S.~~;

~~(v)~~ (r) Failure to give notice to a prospective buyer of the acceptance or rejection of a motor vehicle purchase order agreement within a reasonable time period, as determined by the board, when the licensee is working with the prospective buyer on a finance sale or a consignment sale.

(4) A wholesaler's or wholesale motor vehicle auction dealer's license may be denied, suspended, or revoked for the selling, leasing, or offering or attempting to negotiate the sale, lease, or exchange of an interest in motor vehicles by ~~such~~ THE wholesaler or wholesale motor vehicle auction dealer to persons other than motor vehicle dealers, used motor vehicle dealers, or other wholesalers or wholesale motor vehicle auction dealers.

~~(4.5)~~ (5) The license of a motor vehicle dealer may be denied, revoked, suspended, or otherwise subject to discipline imposed under this part 1 if an owner is acting as a salesperson without a motor vehicle salesperson license and the owner commits any of the acts or omissions that subject a salesperson's license to denial, revocation, or suspension under

~~subsection (5)~~ SUBSECTION (6) of this section.

~~(5)~~ (6) The license of a motor vehicle salesperson may be denied, revoked, or suspended on the following grounds:

~~(a)~~ ~~(Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)~~

~~(b)~~ (a) Material misstatement in an application for a license;

~~(c)~~ (b) Failure to comply with any provision of this part 1 or any rule or regulation promulgated by the board or executive director under this part 1;

~~(d)~~ (c) To engage in the business for which ~~such~~ THE licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as provided in this part 1;

~~(e)~~ (d) To intentionally publish or circulate any advertising ~~which~~ THAT is misleading or inaccurate in any material particular or ~~which~~ THAT misrepresents any motor vehicle products sold or attempted to be sold by ~~such~~ THE salesperson;

~~(f)~~ (e) Having indulged in any fraudulent business practice;

~~(g)~~ (f) Selling, offering, or attempting to negotiate the sale, exchange, or lease of motor vehicles for any motor vehicle dealer or used motor vehicle dealer for which ~~such~~ THE salesperson is not licensed; except that negotiation with a motor vehicle dealer for the sale, exchange, or lease of new and used motor vehicles, except those vehicles defined in section 42-1-102 (55) ~~C.R.S.~~, as motorcycles and section 33-14.5-101 (3) ~~C.R.S.~~, as off-highway vehicles, by a salesperson compensated for ~~said~~ THE negotiation by the used motor vehicle dealer for which ~~such~~ THE salesperson is licensed shall not be grounds for denial, revocation, or suspension;

~~(h)~~ (g) Representing oneself as a salesperson for any motor vehicle dealer or used motor vehicle dealer when ~~such~~ THE salesperson is not so employed and licensed;

~~(i) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1, 1992.)~~

~~(j) (h)~~ Having been convicted of or pled nolo contendere to any felony, or any crime pursuant to article 3, 4, or 5 of title 18, ~~C.R.S.~~, or any like crime pursuant to federal law or the law of any other state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of ~~such~~ THE conviction in any hearing held pursuant to this ~~article~~ ARTICLE 20.

~~(k) (i)~~ Having knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle;

~~(l) (j)~~ Employing an unlicensed motor vehicle salesperson;

~~(m) (k)~~ Violating any state or federal statute or regulation issued thereunder dealing with odometers;

~~(n) (l)~~ Defrauding any retail buyer to ~~such~~ THE person's damage;

~~(o) (m)~~ Representing or selling as a new and unused motor vehicle any motor vehicle ~~which~~ THAT the salesperson knows has been used and operated for demonstration purposes or ~~which~~ THAT the salesperson knows is otherwise a used motor vehicle;

~~(p) (n)~~ Selling to a retail customer a motor vehicle ~~which~~ THAT is not equipped or in proper condition and adjustment as required by part 2 of article 4 of title 42 ~~C.R.S.~~; unless ~~such~~ THE vehicle is sold as a tow away, not to be driven;

~~(H) Repealed.~~

~~(p.1) Repealed.~~

~~(q) (o)~~ Willfully violating any state or federal law respecting commerce or motor vehicles, or any lawful rule ~~or regulation~~ respecting commerce or motor vehicles promulgated by any licensing or regulating authority pertaining to motor vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or motor vehicles;

~~(r)~~ (p) Improperly withholding, misappropriating, or converting to ~~such~~ THE salesperson's own use any money belonging to customers or other persons, received in the course of employment as a motor vehicle salesperson.

~~(6)~~ (7) Any license issued pursuant to this part 1 may be denied, revoked, or suspended if unfitness of ~~such~~ THE licensee or licensee applicant is shown in the following:

(a) The licensing character or record of the licensee or licensee applicant;

(b) The criminal character or record of the licensee or licensee applicant;

(c) The financial character or record of the licensee or licensee applicant;

(d) Violation of any lawful order of the board.

~~(7)~~ (8) (a) Any license issued or for which an application has been made pursuant to this part 1 shall be revoked or denied if the licensee or applicant has been convicted of or pleaded no contest to any of the following offenses in this state or any other jurisdiction during the previous ten years:

(I) A felony in violation of article 3, 4, or 5 of title 18 ~~C.R.S.~~, or any similar crime under federal law or the law of any other state; or

(II) A crime involving odometer fraud, salvage fraud, motor vehicle title fraud, or the defrauding of a retail consumer in a motor vehicle sale or lease transaction.

(b) A certified copy of a judgment of conviction by a court of competent jurisdiction of an offense under ~~paragraph (a) of this subsection~~ ~~(7)~~ SUBSECTION (8)(a) OF THIS SECTION is conclusive evidence of ~~such~~ THE conviction in any hearing held pursuant to this ~~article~~ ARTICLE 20.

~~(8)~~ (9) In any disciplinary hearing, action, or order of the board involving a violation of section 42-6-112 or 42-6-119 (3), ~~C.R.S.~~, it is an

affirmative defense that the dealer has taken every reasonable action necessary to deliver or facilitate the delivery of the certificate of title within thirty days. To qualify as having taken every reasonable action to deliver or facilitate the delivery of the certificate of title, the dealer must have, at a minimum:

(a) Processed and mailed any required loan payoffs in a reasonable amount of time;

(b) Contacted the prior lender and taken any actions necessary to obtain a certificate of title or duplicate certificate of title, either of which must be free of liens;

(c) Taken any action necessary to obtain information or signatures from the prior owner necessary to have a new certificate of title issued for the motor vehicle;

(d) Submitted all paperwork that the dealer has obtained to the authorized agent and that is necessary to have a new certificate of title issued for the motor vehicle; and

(e) Corrected any errors in any filings with the department in a reasonable amount of time.

(9) (10) A person whose license issued under this part 1 is revoked or who surrenders a license to avoid discipline is ineligible to apply for a new license under this part 1 for one year after the date of revocation or surrender of the license.

44-20-122. [Formerly 12-6-119] Procedure for denial, suspension, or revocation of license - judicial review. (1) The denial, suspension, or revocation of licenses issued under this part 1 shall be in accordance with the provisions of sections 24-4-104 and 24-4-105; ~~C.R.S.~~; except that the discovery available under rule 26 (b)(2) of the Colorado rules of civil procedure is available in any proceeding.

(2) (a) (I) The board shall appoint an administrative law judge pursuant to part 10 of article 30 of title 24 ~~C.R.S.~~, to conduct any hearing concerning the licensing or discipline of a motor vehicle dealer, used motor vehicle dealer, wholesaler, buyer's agent, or wholesale motor vehicle

auction dealer; except that the board may, upon a unanimous vote of the members present when the vote is taken, conduct the hearing in lieu of appointing an administrative law judge.

(II) Beginning July 1, 2008, the board shall issue an annual report to the executive director detailing the number of hearings held pursuant to this ~~paragraph (a)~~ SUBSECTION (2)(a) and the number of ~~such~~ THE hearings conducted by the board. If the board conducts greater than forty percent of the hearings, the executive director shall analyze the hearing procedures and acts and issue a report to the general assembly, which shall include any recommendations of the executive director.

(b) The board shall assign a hearing concerning the licensing or discipline of a motor vehicle salesperson to the executive director who shall appoint an officer to conduct a hearing.

(3) Hearings conducted before an administrative law judge shall be in accordance with the rules of procedure of the office of administrative courts. Hearings conducted before an officer appointed by the executive director shall be in accordance with the rules of procedure established by the executive director.

(4) The board may summarily suspend a licensee required to post a bond under this ~~article~~ ARTICLE 20 if ~~such~~ THE licensee does not have a bond in full force and effect as required by this ~~article~~ ARTICLE 20. The suspension shall become effective upon the earlier of the licensee receiving notice of the suspension or within three days after the notice of suspension is mailed to a licensee's last-known address on file with the board. The notice may be effected by certified mail or personal delivery.

(5) The court of appeals shall have initial jurisdiction to review all final actions and orders that are subject to judicial review of the board. ~~Such~~ THE proceedings shall be conducted in accordance with section 24-4-106 (11). ~~C.R.S.~~

44-20-123. [Formerly 12-6-119.5] Sales activity following license denial, suspension, or revocation - unlawful act - penalty. (1) (a) It shall be unlawful and a violation of this part 1 for any person whose motor vehicle dealer's, used motor vehicle dealer's, motor vehicle wholesaler's, or motor vehicle salesperson's license has been denied, suspended, or revoked

to exercise any of the privileges of the license that was denied, suspended, or revoked.

(b) A violation of ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION shall be punishable in accordance with section ~~12-6-121~~ 44-20-128; except that a second or subsequent violation of ~~said paragraph (a)~~ SUBSECTION (1)(a) OF THIS SECTION shall be a class 6 felony.

(c) In any trial for a violation of ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION:

(I) A duly authenticated copy of the board's order of denial, suspension, or revocation shall constitute prima facie evidence of ~~such~~ THE denial, suspension, or revocation;

(II) A duly authenticated invoice, buyer's order, or other customary, written sales or purchase document or instrument proven to be signed by the defendant and indicating the defendant's role in the purchase or sale of a motor vehicle at any motor vehicle auction, wholesale motor vehicle sales location, or retail motor vehicle sales location, as applicable, shall constitute prima facie evidence of the defendant's exercise of a privilege of licensure;

(III) It shall be an affirmative defense that the defendant bought or sold a motor vehicle that was, at all relevant times, intended for the defendant's own use and not bought or sold for the purpose of profit or gain; and

(IV) The fact that the defendant has a motor vehicle dealer's, used motor vehicle dealer's, motor vehicle wholesaler's, or motor vehicle salesperson's license, or any other license to buy and sell motor vehicles, that is issued by a state or jurisdiction other than Colorado shall not constitute a defense.

(2) Upon the defendant's conviction by entry of a plea of guilty or nolo contendere or judgment or verdict of guilt in connection with a violation of ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this section or of section ~~12-6-120 (2)~~ 44-20-124 (2) or 42-6-142 (1), C.R.S., the court shall immediately give the executive director written notice of ~~such~~ THE conviction. In addition, the court shall forward to the executive director copies of documentation of any conviction on a lesser included offense and

any amended charge, plea bargain, deferred prosecution, deferred sentence, or deferred judgment in connection with the original charge.

(3) Upon receiving notice of a conviction or other disposition pursuant to subsection (2) of this section, the executive director or his or her designee shall forward ~~such~~ THE notice to the ~~motor vehicle dealer~~ board, which shall immediately examine its files to determine whether in fact the defendant's license was denied, suspended, or revoked at the time of the offense to which the conviction or other disposition relates. If in fact the defendant's license was denied, suspended, or revoked at the time of ~~such~~ THE offense, the board:

(a) Shall not issue or reinstate any license to the defendant until one year after the time the defendant would otherwise have been eligible to receive a new or reinstated license; and

(b) Shall revoke or suspend any other licenses held by the defendant until at least one year after the date of the conviction or other disposition.

44-20-124. [Formerly 12-6-120] Unlawful acts. (1) It is unlawful and a violation of this part 1 for any manufacturer, distributor, or manufacturer representative:

(a) To willfully fail to perform or cause to be performed any written warranties made with respect to any motor vehicle or parts thereof;

(b) To coerce or attempt to coerce any motor vehicle dealer to perform or allow to be performed any act that could be financially detrimental to the dealer or that would impair the dealer's goodwill or to enter into any agreement with a manufacturer or distributor that would be financially detrimental to the dealer or impair the dealer's goodwill, by threatening to cancel or not renew any franchise between a manufacturer or distributor and ~~said~~ THE dealer;

(c) To coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefor, or any commodities or services ~~which~~ THAT have not been ordered by ~~said~~ THE dealer;

(d) (I) To cancel or cause to be canceled, directly or indirectly,

without just cause, the franchise of any motor vehicle dealer, and the nonrenewal of a franchise or selling agreement without just cause is a violation of this ~~paragraph (d)~~ SUBSECTION (1)(d) and shall constitute an unfair cancellation.

(II) As used in this ~~paragraph (d)~~ SUBSECTION (1)(d), "just cause" shall be determined in the context of all circumstances surrounding the cancellation or nonrenewal, including but not limited to:

(A) The amount of business transacted by the motor vehicle dealer;

(B) The investments necessarily made and obligations incurred by the motor vehicle dealer, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of ~~such~~ THE investments and obligations;

(C) The potential for harm to consumers as a result of disruption of the business of the motor vehicle dealer;

(D) The motor vehicle dealer's failure to provide adequate service of facilities, equipment, parts, and qualified service personnel;

(E) The motor vehicle dealer's failure to perform warranty work on behalf of the manufacturer, subject to reimbursement by the manufacturer; and

(F) The motor vehicle dealer's failure to substantially comply, in good faith, with requirements of the franchise that are determined to be reasonable and material.

(III) The following conduct by a motor vehicle dealer shall constitute just cause for termination without consideration of other factors:

(A) Conviction of, or a plea of guilty or nolo contendere to, a felony;

(B) A continuing pattern of fraudulent conduct against the manufacturer or consumers; or

(C) Continuing failure to operate for ten days or longer.

(e) To withhold, reduce, or delay unreasonably or without just cause delivery of motor vehicles, motor vehicle parts and accessories, commodities, or ~~moneys~~ MONEY due motor vehicle dealers for warranty work done by any motor vehicle dealer;

(f) To withhold, reduce, or delay unreasonably or without just cause services contracted for by motor vehicle dealers;

(g) To coerce any motor vehicle dealer to provide installment financing with a specified financial institution;

(h) To violate any duty imposed by, or fail to comply with, any provision of section ~~12-6-120.3, 12-6-120.5, or 12-6-120.7~~ 44-20-125, 44-20-126, OR 44-20-127;

(i) (I) To fail to provide to the motor vehicle dealer, within twenty days after receipt of a notice of intent from a motor vehicle dealer, the list of documents and information necessary to approve the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or the change in executive management of the dealership;

(II) To fail to confirm within twenty days after receipt of all documents and information listed in ~~subparagraph (I) of this paragraph (i)~~ SUBSECTION (1)(i)(I) OF THIS SECTION that ~~such~~ THE documentation and information has been received;

(III) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer within sixty days after the manufacturer has received all documents and information necessary to approve the sale or transfer of ownership, or to refuse to approve, unreasonably, the change in executive management of the dealership within sixty days after the manufacturer has received all information necessary to approve the change in management; except that nothing in this part 1 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the manufacturer or distributor unless the manufacturer or distributor fails to send notice of the disapproval within sixty days after receiving all documents and information necessary to approve the sale or transfer of ownership; or

(IV) To condition the sale, transfer, relocation, or renewal of a franchise agreement, or to condition sales, services, parts, or finance incentives, upon site control or an agreement to renovate or make improvements to a facility; except that voluntary acceptance of ~~such~~ THE conditions by the dealer shall not constitute a violation;

(j) (I) (A) To fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make except as a result of a strike or labor difficulty, lack of manufacturing capacity, shortage of materials, freight embargo, or other cause over which the manufacturer has no control; or

~~(H)~~ (B) To require a dealer to pay an unreasonable fee, purchase unreasonable advertising displays or other materials, or comply with unreasonable training or facilities requirements as a prerequisite to receiving any particular model of that same line-make. For purposes of this ~~subparagraph~~ ~~(H)~~ SUBSECTION (1)(j)(I)(B), reasonableness shall be judged based on the circumstances of the individual dealer and the conditions of the market served by the dealer.

~~(H)~~ (II) This ~~paragraph~~ ~~(j)~~ SUBSECTION (1)(j) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.

(k) To require, coerce, or attempt to coerce any motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other line-make of new motor vehicles or related products; except that this ~~paragraph~~ ~~(k)~~ SUBSECTION (1)(k) shall not apply unless the motor vehicle dealer:

(I) Maintains a reasonable line of credit for each make or line of new motor vehicle;

(II) Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the manufacturer; except that "reasonable facilities requirements" shall not include a requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space; and

(III) Provides written notice to the manufacturer, distributor, or

manufacturer's representative, no less than ninety days prior to the dealer's intent to participate in the management of, investment in, or acquisition of another line-make of new motor vehicles or related products;

(l) (I) To fail to pay to a motor vehicle dealer, within ninety days after the termination, cancellation, or nonrenewal of a franchise, all of the following:

(A) The dealer cost, plus any charges made by the manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, of unused, undamaged, and unsold motor vehicles in the motor vehicle dealer's inventory that were acquired from the manufacturer or from another motor vehicle dealer of the same line-make in the ordinary course of business within the previous twelve months;

(B) The dealer cost, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging and listed in the manufacturer's current parts catalog;

(C) The fair market value of each undamaged sign owned by the motor vehicle dealer and bearing a common name, trade name, or trademark of the manufacturer if acquisition of ~~such~~ THE sign was required by the manufacturer;

(D) The fair market value of all special tools and equipment that were acquired from the manufacturer or from sources approved and required by the manufacturer and that are in good and usable condition, excluding normal wear and tear; and

(E) The cost of transporting, handling, packing, and loading the motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings described in this ~~paragraph (l)~~ SUBSECTION (1)(l).

(II) This ~~paragraph (l)~~ SUBSECTION (1)(l) shall only apply to manufacturers of recreational vehicles in cases where the manufacturer terminates, cancels, or fails to renew the recreational vehicle dealer franchise; and this ~~paragraph (l)~~ SUBSECTION (1)(l) shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

(m) To require, coerce, or attempt to coerce any motor vehicle dealer to close or change the location of the motor vehicle dealer, or to make any substantial alterations to the dealer premises or facilities when doing so would be unreasonable or without written assurance of a sufficient supply of motor vehicles so as to justify ~~such~~ THE changes, in light of the current market and economic conditions;

(n) (I) To authorize or permit a person to perform warranty service repairs on motor vehicles unless the person is:

(A) A motor vehicle dealer with whom the manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's motor vehicles; or

(B) A person or government entity that has purchased new motor vehicles pursuant to a manufacturer's fleet discount program and is performing the warranty service repairs only on vehicles owned by ~~such~~ THE person or entity.

(II) This ~~paragraph (n)~~ SUBSECTION (1)(n) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.

(o) To require, coerce, or attempt to coerce any motor vehicle dealer to prospectively agree to a release, assignment, novation, waiver, or estoppel that would relieve any person of a duty or liability imposed under this ~~article~~ ARTICLE 20 except in settlement of a bona fide dispute;

(p) To discriminate between or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make based upon unreasonable sales and service standards;

(q) To fail to make practically available any incentive, rebate, bonus, or other similar benefit to a motor vehicle dealer that is offered to another motor vehicle dealer of the same line-make within this state;

(r) To fail to pay to a motor vehicle dealer:

(I) Within ninety days after the termination, cancellation, or nonrenewal of a franchise for the failure of a dealer to meet performance

sales and service obligations or after the termination, elimination, or cessation of a line-make, the cost of the lease for the facilities used for the franchise or line-make for the unexpired term of the lease, not to exceed one year; except that:

(A) If the motor vehicle dealer owns the facilities, the value of renting ~~such~~ THE facilities for one year, prorated for each line-make based upon total sales volume for the previous twelve months before the involuntary termination;

(B) If the dealer sells recreational vehicles and a subsequent manufacturer or distributor that manufactures or distributes recreational vehicles replaces any portion of the vacated facilities, the lease or rental value shall be prorated on a monthly basis unless the dealer sells motor vehicles that are not recreational vehicles;

(C) Nothing in this ~~subparagraph (f)~~ SUBSECTION (1)(r)(I) shall be construed to limit the application of ~~paragraph (d) of this subsection (f)~~ SUBSECTION (1)(d) OF THIS SECTION;

(II) Within ninety days after the termination, elimination, or cessation of a line-make or the termination of a franchise due to the insolvency of the manufacturer or distributor, the fair market value of the motor vehicle dealer's goodwill for the line-make as of the date the manufacturer or distributor announces the action that results in the termination, elimination, or cessation, not including any amounts paid under ~~sub-subparagraphs (A) to (E) of subparagraph (f) of paragraph (f) of this subsection (f)~~ SUBSECTIONS (1)(l)(I)(A) TO (1)(l)(I)(E) OF THIS SECTION;

(s) To condition a franchise agreement on improvements to a facility unless reasonably required by the technology of a motor vehicle being sold at the facility;

(t) To sell or offer for sale a low-speed electric vehicle, as defined by section 42-1-102, ~~C.R.S.~~, for use on a roadway unless the vehicle complies with part 2 of article 4 of title 42; ~~C.R.S.~~;

(u) To charge back, deny motor vehicle allocation, withhold payments, or take other actions against a motor vehicle dealer if a motor vehicle sold by the motor vehicle dealer is exported from Colorado unless

the manufacturer, distributor, or manufacturer representative proves that the motor vehicle dealer knew or reasonably should have known a motor vehicle was intended to be exported, which shall operate as a rebuttable presumption that the motor vehicle dealer did not have ~~such~~ THE knowledge;

(v) Within ninety days after the termination, elimination, or cessation of a line-make or the termination, cancellation, or nonrenewal of a franchise by the manufacturer, distributor, or manufacturer representative, for any reason other than that the motor vehicle dealer commits fraud, makes a misrepresentation, or commits any other crime within the scope of the franchise agreement or in the operation of the dealership, to fail to reimburse a motor vehicle dealer for the cost depreciated by five percent per year of any upgrades or alterations to the motor vehicle dealer's facilities required by the manufacturer, distributor, or manufacturer representative within the previous five years;

(w) To fail to notify a motor vehicle dealer at least ninety days before the following and to provide the specific reasons for the following:

(I) Directly or indirectly terminating, cancelling, or not renewing a franchise agreement; or

(II) Modifying, replacing, or attempting to modify or replace the franchise or selling agreement of a motor vehicle dealer, including a change in the dealer's geographic area upon which sales or service performance is measured, if the modification would substantially and adversely alter the rights or obligations of the dealer under the current franchise or selling agreement or would substantially impair the sales or service obligations or the dealer's investment; ~~and~~

(x) To require, coerce, or attempt to coerce a motor vehicle dealer to substantially alter a facility or premises if:

(I) The facility or premises has been altered within the last ten years at a cost of more than two hundred fifty thousand dollars and the alteration was required and approved by the manufacturer, distributor, or manufacturer representative unless subsection (1)(x)(II) of this section applies to the dealer; except that this subsection (1)(x) does not apply to improvements made to comply with health or safety laws, to improvements

made to accommodate the technology requirements necessary to sell or service a line-make, to technological improvements related to electric, automated, compressed natural gas, and fuel-cell motor vehicles, or to improvements made to install or upgrade electric vehicle charging equipment; or

(II) The motor vehicle dealer sells only motorcycles or motorcycles and powersports vehicles, the facility or premises has been altered within the last ten years at a cost of more than twenty-five thousand dollars, and the alteration was required and approved by the manufacturer, distributor, or manufacturer representative; except that this subsection (1)(x) does not apply to improvements made to comply with health or safety laws, to improvements made to accommodate the technology requirements necessary to sell or service a line-make, to technological improvements related to electric, automated, compressed natural gas, and fuel-cell motor motorcycles and powersports vehicles, or to improvements made to install or upgrade electric vehicle charging equipment;

(y) (I) To sell or offer to sell new motor vehicles to a franchised motor vehicle dealer with whom the manufacturer has a franchise agreement at a lower actual price than the actual price offered to any other motor vehicle dealer with whom the manufacturer has a franchise agreement for the same motor vehicle similarly equipped; except that this subsection (1)(y) does not apply to:

(A) Resale to any government;

(B) Donation or use by the dealer in a driver education program; or

(C) A price change made in the ordinary course of business if made available to all motor vehicle dealers when the price changes.

(II) This subsection (1)(y) does not prohibit a manufacturer, distributor, or manufacturer representative from offering incentive programs, sales-promotion plans, or other discounts if the incentives or discounts are reasonably available to all motor vehicle dealers with whom the manufacturer has a franchise agreement.

(z) To require a motor vehicle dealer to grant a manufacturer, distributor, or manufacturer representative the following or to enforce the

following if the exercise of the contractual right would stop the transfer of the motor vehicle dealer ownership from an owner to an immediate family member of the owner:

(I) A right of first refusal to purchase the motor vehicle dealer; or

(II) An option to purchase the motor vehicle dealer; AND

(aa) (I) To use an unreasonable, arbitrary, or unfair performance standard in determining a motor vehicle dealer's compliance with a franchise agreement;

(II) To fail to communicate, upon the request of the dealer, any performance standard in a clear and concise writing to a motor vehicle dealer before applying the standard to the motor vehicle dealer.

(2) It is unlawful for any person to act as a motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, or motor vehicle salesperson unless the person has been duly licensed under this part 1, except for:

(a) Persons exempt from licensure as a manufacturer under section ~~12-6-102~~ (15) 44-20-102 (14); however, manufacturers exempt from licensing shall comply with all other applicable requirements for manufacturers, including those pertaining to vehicle identification numbers and manufacturers' statements of origin; and

(b) Business owners selling a vehicle if the vehicle has been owned for more than one year, the vehicle has been used exclusively for business purposes, the vehicle is titled in the name of the business, all applicable taxes related to the vehicle have been paid, and the total number of vehicles sold by a business owner over a two-year period does not exceed twenty vehicles.

(3) It is unlawful and a violation of this part 1 for a buyer's agent to engage in the following:

(a) To make a material misstatement in an application for a license;

(b) To willfully fail to perform or cause to be performed any written agreement with respect to any motor vehicle or parts thereof;

(c) To defraud any buyer, seller, motor vehicle salesperson, or financial institution;

(d) To intentionally enter into a financial agreement with a seller of a motor vehicle for the buyer agent's own benefit;

(e) To coerce any motor vehicle dealer into providing installment financing with a specified financial institution.

44-20-125. [Formerly 12-6-120.3] New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (1) No manufacturer shall establish an additional motor vehicle dealer, reopen a previously existing motor vehicle dealer, or authorize an existing motor vehicle dealer to relocate without first providing at least sixty days' notice to all of its franchised dealers within whose relevant market area the new, reopened, or relocated dealer would be located. The notice must state:

(a) The specific location at which the additional, reopened, or relocated motor vehicle dealer will be established;

(b) The date on or after which the manufacturer intends to be engaged in business with the additional, reopened, or relocated motor vehicle dealer at the proposed location; and

(c) The identity of all motor vehicle dealers who are franchised to sell the same line-make of vehicles with licensed locations in the relevant market area where the additional, reopened, or relocated motor vehicle dealer is proposed to be located.

~~(d) Repealed.~~

~~(1.5)~~ (2) A manufacturer shall approve or disapprove of a motor vehicle dealer facility initial site location, relocation, or reopening request within sixty days after the request or after sending the notice required by subsection (1) of this section to all of its franchised dealers, whichever is later.

~~(2)~~ (3) Subsection (1) of this section shall not apply to:

(a) The relocation of an existing dealer within two miles of its current location; or

(b) The establishment of a replacement dealer, within two years, either at the former location or within two miles of the former location.

~~(3)~~ (4) As used in this section:

(a) "Manufacturer" means a motor vehicle manufacturer, distributor, or manufacturer representative.

(b) "Relevant market area" means the greater of the following:

(I) The geographic area of responsibility defined in the franchise agreement of an existing dealer; or

(II) The geographic area within a radius of ten miles of any existing dealer of the same line-make of vehicle as the proposed additional motor vehicle dealer.

~~(c) Repealed.~~

~~(4) and (5) Repealed.~~

~~(6)~~ (5) (a) An existing motor vehicle dealer adversely affected by a reopening or relocation of an existing same line-make motor vehicle dealer or the addition of a same line-make motor vehicle dealer may, within ninety days after receipt of the notice required in subsection (1) of this section, file a legal action in a district court of competent jurisdiction or file an administrative complaint with the executive director to prevent or enjoin the relocation, reopening, or addition of the proposed motor vehicle dealer. An existing motor vehicle dealer is adversely impacted if:

(I) The dealer is located within the relevant market area of the proposed relocated, reopened, or additional dealership described in the notice required in subsection (1) of this section; or

(II) The existing dealer or dealers of the same line-make show that,

during any twelve-month period of the thirty-six months preceding the receipt of the notice required in subsection (1) of this section, the dealer or dealers, or a dealer's predecessor, made at least twenty-five percent of the dealer's retail sales of new motor vehicles to persons whose addresses are located within ten miles of the location of the proposed relocated, reopened, or additional dealership.

(b) The executive director shall refer a complaint filed under this section to an administrative law judge with the office of administrative courts for final agency action.

(c) In any court or administrative action, the manufacturer has the burden of proof on each of the following issues:

(I) The change in population;

(II) The relevant vehicle buyer profiles;

(III) The relevant historical new motor vehicle registrations for the line-make of vehicles versus the manufacturer's actual competitors in the relevant market area;

(IV) Whether the opening of the proposed additional, reopened, or relocated motor vehicle dealer is materially beneficial to the public interest or the consumers in the relevant market area;

(V) Whether the motor vehicle dealers of the same line-make in the relevant market area are providing adequate representation and convenient customer care, including the adequacy of sales and service facilities, equipment, parts, and qualified service personnel, for motor vehicles of the same line-make in the relevant market area;

(VI) The reasonably expected market penetration of the line-make, given the factors affecting penetration; and

(VII) Whether the additional, reopened, or relocated dealership is reasonable and justifiable based on expected economic and market conditions within the relevant market area.

(d) In any court or administrative action, the motor vehicle dealer

has the burden of proof on each of the following issues:

(I) Whether the manufacturer has engaged in any action or omission that, directly or indirectly, denied the existing motor vehicle dealer of the same line-make the opportunity for reasonable growth or market expansion;

(II) Whether the manufacturer has coerced or attempted to coerce any existing motor vehicle dealer or dealers into consenting to additional or relocated franchises of the same line-make in the community or territory or relevant market area; and

(III) The size and permanency of the investment of and obligations incurred by the existing motor vehicle dealers of the same line-make located in the relevant market area.

(e) (I) In a legal or administrative action challenging the relocating, reopening, or addition of a motor vehicle dealer, the district court or administrative law judge shall make a determination of whether the relocation, reopening, or addition of a motor vehicle dealer is, based on the factors identified in ~~subsections (6)(c) and (6)(d)~~ SUBSECTIONS (5)(c) AND (5)(d) of this section:

(A) In the public interest; and

(B) Fair and equitable to the existing motor vehicle dealers.

(II) The district court or the executive director shall deny any proposed relocating, reopening, or addition of a motor vehicle dealer unless the manufacturer shows by a preponderance of the evidence that the existing motor vehicle dealer or dealers of the same line-make in the relevant market area of the proposed dealership are not providing adequate representation of the line-make motor vehicles. A determination to deny, prevent, or enjoin the relocating, reopening, or addition of a motor vehicle dealer is effective for at least eighteen months.

44-20-126. [Formerly 12-6-120.5] Independent control of dealer - definitions. (1) Except as otherwise provided in this section, no manufacturer shall own, operate, or control any motor vehicle dealer or used motor vehicle dealer in Colorado.

(2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:

(a) (I) Except as provided in ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION (2)(a)(II) OF THIS SECTION, operation of a dealer for a temporary period, not to exceed twelve months, during the transition from one owner or operator to another independent owner or operator; except that the executive director may extend the period, not to exceed twenty-four months, upon showing by the manufacturer or distributor of the need to operate the dealership for such time to achieve a transition from an owner or operator to another independent third-party owner or operator;

(II) Operation of a dealer that sells recreational vehicles for not more than eighteen months during the transition from one owner or operator to another independent owner or operator;

(b) Ownership or control of a dealer while the dealer is being sold under a bona fide contract or purchase option to the operator of the dealer;

(c) Participation in the ownership of the dealer solely for the purpose of providing financing or a capital loan that will enable the dealer to become the majority owner of the dealer in less than seven years;

(d) Operation of a motor vehicle dealer if the manufacturer has no other dealers of the same line-make in this state;

(e) Ownership, operation, or control of a used motor vehicle dealer if the manufacturer owned, operated, or controlled the used motor vehicle dealer on January 1, 2009, and has continuously operated or controlled the used motor vehicle facilities after January 1, 2009; and

(f) Operation of a motor vehicle dealer if the manufacturer was operating the dealer on January 1, 2009, so long as the dealer is in continuous operation after January 1, 2009.

(3) As used in this section:

(a) "Control" means to possess, directly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that

"control" does not include the relationship between a manufacturer and a motor vehicle dealer under a franchise agreement.

(b) "Manufacturer" means a motor vehicle manufacturer, distributor, or manufacturer representative.

(c) "Operate" means to directly or indirectly manage a motor vehicle dealer.

(d) "Own" means to hold any beneficial ownership interest of one percent or more of any class of equity interest in a dealer, whether as a shareholder, partner, limited liability company member, or otherwise. To "hold" an ownership interest means to have possession of, title to, or control of the ownership interest, either directly or through a fiduciary or agent.

(4) This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

44-20-127. [Formerly 12-6-120.7] Successor under existing franchise agreement - duties of manufacturer. (1) If a licensed motor vehicle dealer under franchise by a manufacturer dies or becomes incapacitated, the manufacturer shall act in good faith to allow a successor, which may include a family member, designated by the deceased or incapacitated motor vehicle dealer to succeed to ownership and operation of the dealer under the existing franchise agreement if:

(a) Within ninety days after the motor vehicle dealer's death or incapacity, the designated successor gives the manufacturer written notice of an intent to succeed to the rights of the deceased or incapacitated motor vehicle dealer in the franchise agreement;

(b) The designated successor agrees to be bound by all of the terms and conditions of the existing franchise agreement; and

(c) The designated successor meets the criteria generally applied by the manufacturer in qualifying motor vehicle dealers.

(2) A manufacturer may refuse to honor the existing franchise agreement with the designated successor only for good cause. The manufacturer may request in writing from a designated successor the

personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored, and the designated successor shall supply ~~such~~ THE data promptly upon request.

(3) (a) If a manufacturer believes that good cause exists for refusing to honor the requested succession, the manufacturer shall send the designated successor, by certified or overnight mail, notice of its refusal to approve the succession within sixty days after the later of:

(I) Receipt of the notice of the designated successor's intent to succeed the motor vehicle dealer in the ownership and operation of the dealer; or

(II) The receipt of the requested personal and financial data.

(b) Failure to serve the notice pursuant to ~~paragraph (a) of this subsection~~ (3) SUBSECTION (3)(a) OF THIS SECTION shall be considered approval of the designated successor, and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day of the notice period specified in ~~said paragraph (a)~~ SUBSECTION (3)(a) OF THIS SECTION.

(c) If the manufacturer gives notice of refusal to approve the succession, ~~such~~ THE notice shall state the specific grounds for the refusal and shall state that the franchise agreement shall be discontinued not less than ninety days after the date the notice of refusal is served unless the proposed successor files an action in the district court to enjoin ~~such~~ THE action.

(4) This section shall not be construed to prohibit a motor vehicle dealer from designating a person as the successor in advance, by written instrument filed with the manufacturer. If the motor vehicle dealer files such an instrument, that instrument governs the succession rights to the management and operation of the dealer subject to the designated successor satisfying the manufacturer's qualification requirements as described in this section.

(5) This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

44-20-128. [Formerly 12-6-121] Penalty. (1) Except as provided in subsection (2) of this section, any person who willfully violates this part 1 or who willfully commits any offense in this part 1 declared to be unlawful commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) (a) Any person who willfully violates section ~~12-6-120~~ (2) 44-20-124 (2) by acting as a manufacturer, distributor, or manufacturer representative without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars for each separate offense; except that, if the violator is a corporation, the fine shall be not less than five hundred dollars or more than two thousand five hundred dollars for each separate offense. A second conviction shall be punished by a fine of two thousand five hundred dollars.

(b) Any person who willfully violates section ~~12-6-120~~ (2) 44-20-124 (2) by acting as a motor vehicle dealer, wholesaler, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, or motor vehicle salesperson without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars and a penalty of twenty-five hours of useful public service, neither of which the court may suspend, for each separate offense; except that, if the violator is a corporation, the corporation shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense. A second conviction for an individual shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense, which the court may not suspend.

44-20-129. [Formerly 12-6-121.5] Fines - disposition - unlicensed sales. Of any fine collected for a violation of section ~~12-6-120~~ (2) 44-20-124 (2), half shall be awarded to the law enforcement agency that investigated and issued the citation for the violation and half shall be credited to the auto dealers license fund created in section ~~12-6-123~~ 44-20-133.

44-20-130. [Formerly 12-6-121.6] Drafts not honored for payment - penalties. (1) If a motor vehicle dealer, wholesaler, or used motor vehicle dealer issues a draft or check to a motor vehicle dealer,

wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and fails to honor ~~such~~ THE draft or check, then the license of ~~such~~ THE licensee shall be subject to suspension pursuant to section ~~12-6-104 (3)(e)(f)~~ 44-20-104 (3)(e)(I). The license suspension shall be effective upon the date of any final decision against ~~such~~ THE licensee based upon the unpaid draft or check. A licensee whose license has been suspended pursuant to the provisions of this subsection (1) shall not be eligible for reinstatement of ~~such~~ THE license and shall not be eligible to apply for any other license issued under this part 1 unless it is demonstrated to the board that the unpaid draft or check has been paid in full and that any fine imposed on the licensee pursuant to subsection (2) of this section has been paid in full.

(2) Any motor vehicle dealer, wholesaler, or used motor vehicle dealer ~~which~~ THAT issues a draft or check to a motor vehicle dealer, wholesaler, used motor vehicle dealer, motor vehicle auction house, or consignor and who fails to honor ~~such~~ THE draft or check, causing loss to a third party, commits a misdemeanor and shall be punished by a fine of two thousand five hundred dollars. Any fine collected for a violation of this subsection (2) shall be awarded to the law enforcement agency ~~which~~ THAT investigated and issued the citation for ~~said~~ THE violation.

44-20-131. [Formerly 12-6-122] Right of action for loss. (1) If any person suffers loss or damage by reason of any fraud practiced on ~~such~~ THE person or fraudulent representation made to ~~such~~ THE person by a licensed dealer or one of the dealer's salespersons acting for the dealer on ~~such~~ THE dealer's behalf or within the scope of the employment of the salesperson or suffers any loss or damage by reason of the violation by ~~such~~ THE dealer or salesperson of any of the provisions of this part 1 that are designated by the board by rule, whether or not ~~such~~ THE violation is the basis for denial, suspension, or revocation of a license, ~~such~~ THE person shall have a right of action against the dealer, ~~such~~ THE dealer's motor vehicle salespersons, and the sureties upon their respective bonds. The right of a person to recover for loss or damage as provided in this subsection (1) against the dealer or salesperson shall not be limited to the amount of their respective bonds.

(2) If any person suffers any loss or damage by reason of any unlawful act as provided in section ~~12-6-120 (1)(a)~~, ~~such~~ 44-20-124 (1)(a), THE person shall have a right of action against the manufacturer, distributor,

or manufacturer representative. In any court action wherein a manufacturer, distributor, or manufacturer representative has been found liable in damages to any person under this part 1, the amount of damages so determined shall be trebled and shall be recoverable by the person so damaged. Any person so damaged shall also be entitled to recover reasonable attorney fees as part of his or her damages.

(3) If any licensee suffers any loss or damage because of a violation of section ~~12-6-120~~ ~~(1)~~ 44-20-124 (1), the licensee shall have a right of action against the manufacturer, distributor, or manufacturer representative. In any court action wherein a manufacturer, distributor, or manufacturer representative has been found liable in damages to any licensee under this part 1, any licensee so damaged shall also be entitled to recover reasonable attorney fees and costs as part of his or her damages.

44-20-132. [Formerly 12-6-122.5] Contract disputes - venue - choice of law. (1) In the event of a dispute between a motor vehicle dealer and a manufacturer under a franchise agreement, notwithstanding any provision of the agreement to the contrary:

(a) At the option of the motor vehicle dealer, venue shall be proper in the county or judicial district where the dealer resides or has its principal place of business; and

(b) Colorado law shall govern, both substantively and procedurally.

44-20-133. [Formerly 12-6-123] Disposition of fees - auto dealers license fund - created. (1) All money received under this part 1, except fines awarded pursuant to sections ~~12-6-121.5~~ and ~~12-6-121.6~~ ~~(2)~~ 44-20-129 AND 44-20-130 (2), shall be deposited with the state treasurer by the department, ~~of revenue~~, subject to section 24-35-101, together with a detailed statement of ~~such~~ THE receipts, and the money deposited with the state treasurer constitutes a fund to be known as the auto dealers license fund, which fund is hereby created. The fund shall be used under the direction of the board in the following manner:

~~(a) Repealed.~~

~~(b)~~ (a) (I) For the payment of the expenses of the administration of the board as the general assembly deems necessary by making an

appropriation therefor on an annual fiscal-year basis commencing July 1, 1971, and thereafter.

(II) Any money remaining in ~~said~~ THE fund on December 31, 1971, and at the close of each calendar year thereafter, after costs of administration of the law as provided in this part 1, shall remain in the auto dealers license fund to be used for educational and enforcement purposes as appropriated by the general assembly.

~~(c)~~ (b) To pay the department ~~of revenue~~ for the administration of actions or proceedings brought before the executive director pursuant to section ~~12-6-120~~ 44-20-124.

~~(d)~~ (c) To enforce section ~~12-6-120~~ (2) 44-20-124 (2).

~~(2) Repealed.~~

44-20-134. [Formerly 12-6-125] Advertisement - inclusion of dealer name. A motor vehicle dealer or used motor vehicle dealer or any agent of the dealers shall not advertise any offer for the sale, lease, or purchase of a motor vehicle or a used motor vehicle that creates the false impression that the vehicle is being offered by a private party or by a buyer's agent or that does not contain the name of the dealer or the word "dealer" or, if the name is contained in the offer and does not clearly reflect that the business is a dealer, both the name of the dealer and the word "dealer".

44-20-135. [Formerly 12-6-126] Audit reimbursement limitations - dealer claims. (1) (a) A manufacturer, distributor, or manufacturer representative shall have the right to audit warranty, sales, or incentive claims of a motor vehicle dealer for nine months after the date the claim was submitted.

(b) A manufacturer, distributor, or manufacturer representative shall not require documentation for warranty, sales, or incentive claims or audit warranty, sales, or incentive claims of a motor vehicle dealer more than fifteen months after the date the claim was submitted, nor shall the manufacturer require a charge back, reimbursement, or credit against a future transaction arising out of an audit or request for documentation arising more than nine months after the date the claim was submitted.

(2) The motor vehicle dealer shall have nine months after making a sale or providing service to submit warranty, sales, or incentive claims to the manufacturer, distributor, or manufacturer representative.

(3) Subsection (1) of this section shall not limit any action for fraud instituted in a court of competent jurisdiction.

(4) A motor vehicle dealer may request a determination from the executive director, within thirty days, that a charge back, reimbursement, or credit required violates subsection (1) of this section. If a determination is requested within the thirty-day period, then the charge back, reimbursement, or credit shall be stayed pending the decision of the executive director. If the executive director determines after a hearing that the charge back, reimbursement, or credit violates subsection (1) of this section, the charge back, reimbursement, or credit shall be void.

44-20-136. [Formerly 12-6-127] Reimbursement for right of first refusal. A manufacturer or distributor shall pay reasonable attorney fees, not to exceed the usual and customary fees charged for the transfer of a franchise, and reasonable expenses that are incurred by the proposed owner or transferee before the manufacturer or distributor exercised its right of first refusal in negotiating and implementing the contract for the proposed change of ownership or the transfer of assets. Payment of attorney fees and expenses is not required if the claimant has failed to submit an accounting of attorney fees and expenses within twenty days after the receipt of the manufacturer's or dealer's written request for an accounting. An expense accounting may be requested by the manufacturer or distributor before exercising its right of first refusal.

44-20-137. [Formerly 12-6-128] Payout exemption to execution. A motor vehicle dealer's right to receive payments from a manufacturer or distributor required by section ~~12-6-120 (1)(l) and (1)(r)~~ 44-20-124 (1)(l) AND (1)(r) is not liable to attachment or execution and may not otherwise be seized, taken, appropriated, or applied in a legal or equitable process or by operation of law to pay the debts or liabilities of the manufacturer or distributor. This section shall not prohibit a secured creditor from exercising rights accrued pursuant to a security agreement if the right arose as a result of the manufacturer or distributor voluntarily creating a security interest before paying existing debts or liabilities of the manufacturer or distributor. This section shall not prohibit a manufacturer or distributor from

withholding a portion of ~~such~~ THE payments necessary to cover an amount of money owed to the manufacturer or distributor as an offset to ~~such~~ THE payments if the manufacturer or distributor provides the motor vehicle dealer written notice thereof.

44-20-138. [Formerly 12-6-129] Site control extinguishes. If a manufacturer, distributor, or manufacturer representative has terminated, eliminated, or not renewed a franchise agreement containing a site control provision, the motor vehicle dealer may void a site control provision of a franchise agreement by returning any money the dealer has accepted in exchange for site control prorated by the time remaining before the agreement expires over the time period between the agreement being signed and the agreement expiring. This section does not apply if the termination, elimination, or nonrenewal is for just cause in accordance with section ~~12-6-120 (1)(d)~~ 44-20-124 (1)(d).

44-20-139. [Formerly 12-6-130] Modification voidable. If a manufacturer, distributor, or manufacturer representative fails to comply with section ~~12-6-120 (1)(w)(H)~~ 44-20-124 (1)(w)(II), the motor vehicle dealer may void the modification or replacement of the franchise agreement.

44-20-140. [Formerly 12-6-131] Termination appeal. (1) A motor vehicle dealer who has reason to believe that a manufacturer, distributor, or manufacturer representative has violated section ~~12-6-120 (1)(d) or (1)(w)~~ 44-20-124 (1)(d) OR (1)(w) may appeal to the board by filing a complaint with:

(a) The executive director; or

(b) A district court if neither the executive director nor the administrative law judge, appointed in accordance with this section, holds a hearing concerning the complaint within sixty days after the complaint was filed.

(2) Upon filing of a verified complaint alleging with specific facts that a violation has occurred under this section, the termination, elimination, modification, or nonrenewal of the franchise agreement is automatically stayed, without the motor vehicle dealer posting a bond, until a final determination is made on each issue raised in the complaint; except that the

executive director, administrative law judge, or court may cancel the stay upon finding that the cancellation, termination, or nonrenewal of the franchise agreement was for any of the reasons specified in section ~~12-6-120(1)(d)(H)~~ 44-20-124 (1)(d)(III). The automatic stay maintains all rights under the franchise agreement until the final determination of the issues raised in the verified complaint. The manufacturer, distributor, or manufacturer representative shall not name a replacement motor vehicle dealer for the market or location until a final order is entered.

(3) If a verified complaint is filed with the executive director, the executive director shall refer the complaint to an administrative law judge with the office of administrative courts for final agency action.

(4) In resolving a termination complaint, the manufacturer, distributor, or manufacturer representative has the burden of proving any claim made that the factors listed in section ~~12-6-120(1)(d)(H)~~ 44-20-124 (1)(d)(II) apply to the termination, cancellation, or nonrenewal.

(5) The prevailing party in a claim that a termination, cancellation, or nonrenewal violates section ~~12-6-120(1)(d) or (1)(w)~~ 44-20-124 (1)(d) OR (1)(w) is entitled to recover attorney fees and costs, including expert witness fees, incurred in the termination protest.

44-20-141. [Formerly 12-6-132] Stop-sale directives - used motor vehicles - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Average trade-in value" means the value of a used motor vehicle as established by a generally accepted, published, third-party used vehicle resource.

(b) "Stop-sale directive" means an unconditional directive from a manufacturer or distributor to a motor vehicle dealer to stop selling a type of motor vehicle manufactured by the manufacturer or distributed by the distributor because of a safety defect.

(2) A manufacturer or distributor shall reimburse a motor vehicle dealer in accordance with subsection (3) of this section if:

(a) The manufacturer or distributor issues a stop-sale directive for

a motor vehicle manufactured or distributed by the issuer of the stop-sale directive;

(b) The motor vehicle dealer holds an active sales, service, and parts agreement with the manufacturer or distributor for the line-make of the used motor vehicle covered by the stop-sale directive;

(c) The used motor vehicle covered by the stop-sale directive is held in the inventory of the motor vehicle dealer on the date the stop-sale directive is issued or taken by the dealer as a trade-in vehicle on a consumer purchase of the same line-make; and

(d) The manufacturer or distributor has not provided a remedy procedure or made parts available to repair the used motor vehicle for more than thirty days after the stop-sale directive is issued.

(3) If the conditions in subsection (2) of this section are met, the manufacturer or distributor shall, upon application by the motor vehicle dealer, pay or credit the dealer one and one-half percent per month of the average trade-in value of the used motor vehicle's model prorated from thirty days after the stop-sale directive was issued to the earlier of:

(a) The date when the manufacturer or distributor provides the motor vehicle dealer with a remedy procedure and any necessary parts for ordering to repair the used motor vehicle; or

(b) The date the motor vehicle dealer transfers the motor vehicle.

(4) A manufacturer or distributor may determine a reasonable manner and method required for a motor vehicle dealer to demonstrate the inventory status of a used motor vehicle to determine eligibility for reimbursement.

(5) (a) This section applies only to used motor vehicles.

(b) This section is not intended to prevent a manufacturer or distributor from requiring that a motor vehicle not be subject to an open recall or stop-sale directive for the motor vehicle to be qualified or sold as a certified preowned vehicle or substantially similar designation.

(c) This section does not require a manufacturer or distributor to provide total compensation to a motor vehicle dealer that would exceed the total average trade-in valuation of the affected used motor vehicle.

(d) This section does not preclude a motor vehicle dealer and a manufacturer or distributor from agreeing to reimbursement terms that differ from those specified in this section.

(e) Compensation provided to a motor vehicle dealer under this section is exclusive and may not be combined with any other remedy under state or federal law.

44-20-142. [Formerly 12-6-133] Repeal of part. This part 1 is repealed, effective September 1, 2027. Before its repeal, this part 1 is scheduled for review in accordance with section 24-34-104.

PART 2 ANTIMONOPOLY FINANCING LAW

44-20-201. [Formerly 12-6-201] Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Person" means any individual, firm, corporation, partnership, association, trustee, receiver, or assignee for the benefit of creditors.

(2) "Sell", "sold", "buy", and "purchase" include exchange, barter, gift, and offer or contract to sell or buy.

44-20-202. [Formerly 12-6-202] Exclusive finance agreements void - when. It is unlawful for any person who is engaged, either directly or indirectly, in the manufacture or distribution of motor vehicles, to sell or enter into contract to sell motor vehicles, whether patented or unpatented, to any person who is engaged or intends to engage in the business of selling ~~such~~ THE motor vehicles at retail in this state, on the condition or with an agreement or understanding, either express or implied, that ~~such~~ THE person so engaged in selling motor vehicles at retail in any manner shall finance the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or shall sell and assign the conditional sales contracts, chattel mortgages, or leases arising from the sale of motor vehicles or any one or number thereof only to a designated person

or class of persons, when the effect of the condition, agreement, or understanding so entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the person or class of persons who are designated, by virtue of ~~such~~ THE condition, agreement, or understanding to finance the purchase or sale of motor vehicles or to purchase ~~such~~ conditional sales contracts, chattel mortgages, or leases. Any such condition, agreement, or understanding is declared to be void and against the public policy of this state.

44-20-203. [Formerly 12-6-203] Threat prima facie evidence of violation. Any threat, expressed or implied, made directly or indirectly to any person engaged in the business of selling motor vehicles at retail in this state by any person engaged, either directly or indirectly, in the manufacture or distribution of motor vehicles, that ~~such~~ THE person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, whether patented or unpatented, to ~~such~~ THE person who is so engaged in the business of selling motor vehicles at retail, unless ~~such~~ THE person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his OR HER retail sales of motor vehicles or any one or number thereof only to a designated person or class of persons shall be prima facie evidence of the fact that ~~such~~ THE person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section ~~12-6-202~~ 44-20-202.

44-20-204. [Formerly 12-6-204] Threat by agent as evidence of violation. Any threat, expressed or implied, made directly or indirectly to any person engaged in the business of selling motor vehicles at retail in this state by any person, or any agent of ~~any such~~ THE person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles in this state and is affiliated with or controlled by any person engaged, directly or indirectly, in the manufacture or distribution of motor vehicles, that ~~such~~ THE person so engaged in ~~such~~ THE manufacture or distribution shall terminate his OR HER contract with or cease to sell motor vehicles to ~~such~~ THE person engaged in the sale of motor vehicles at retail in this state unless ~~such~~ THE person finances the purchase or sale of any one or number of motor vehicles only or through a designated person or class

of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his OR HER retail sale of motor vehicles or any one or any number thereof only to ~~such~~ THE person so engaged in financing the purchase or sale of motor vehicles or in buying conditional sales contracts, chattel mortgages, or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of ~~such~~ THE person so engaged in ~~such~~ THE manufacture or distribution of motor vehicles, and shall be prima facie evidence of the fact that ~~such~~ THE person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section ~~12-6-202~~ 44-20-202.

44-20-205. [Formerly 12-6-205] Offering consideration to eliminate competition. It is unlawful for any person who is engaged, directly or indirectly, in the manufacture or wholesale distribution only of motor vehicles, whether patented or unpatented, to pay or give, or contract to pay or give, any thing or service of value to any person who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within this state if the effect of any such payment or the giving of any such thing or service of value may be to lessen or eliminate competition, or tend to create or create a monopoly in the person or class of persons who receive or accept ~~such~~ THE thing or service of value.

44-20-206. [Formerly 12-6-206] Accepting consideration to eliminate competition. It is unlawful for any person who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within this state to accept or receive, or contract or agree to accept or receive, either directly or indirectly, any payment, thing, or service of value from any person who is engaged, either directly or indirectly, in the manufacture of or wholesale distribution only of motor vehicles, whether patented or unpatented, if the effect of the acceptance or receipt of any such payment, thing, or service of value may be to lessen or eliminate competition, or to create or tend to create a monopoly in the person who accepts or receives such payment, thing, or service of value or contracts or agrees to accept or receive the same.

44-20-207. [Formerly 12-6-207] Recipient of consideration shall not buy mortgages. It is unlawful for any person who hereafter so accepts

or receives, either directly or indirectly, any payment, thing, or service of value, as set forth in section ~~12-6-206~~ 44-20-206, or contracts, either directly or indirectly, to receive any such payment, or thing, or service of value to thereafter finance or attempt to finance the purchase or sale of any motor vehicle or buy or attempt to buy any conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail in this state.

44-20-208. [Formerly 12-6-208] Quo warranto action. For a violation of any of the provisions of this part 2 by any corporation or association mentioned in this part 2, it is the duty of the attorney general or the district attorney of the proper county to institute proper suits or an action in the nature of quo warranto in any court of competent jurisdiction for the forfeiture of its charter rights, franchises, or privileges and powers exercised by such corporation or association, and for the dissolution of the same under the general statutes of the state.

44-20-209. [Formerly 12-6-209] Violation by foreign corporation - penalty. Every foreign corporation and every foreign association exercising any of the powers, franchises, or functions of a corporation in this state violating any of the provisions of this part 2 is denied the right and prohibited from doing any business in this state, and it is the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state is authorized to revoke the license of any such corporation or association heretofore authorized by him to do business in this state.

44-20-210. [Formerly 12-6-210] Penalty. Any person who violates any of the provisions of this part 2, any person who is a party to any agreement or understanding, or to any contract prescribing any condition, prohibited by this part 2, and any employee, agent, or officer of any such person who participates, in any manner, in making, executing, enforcing, or performing, or in urging, aiding, or abetting in the performance of, any such contract, condition, agreement, or understanding and any person who pays or gives or contracts to pay or give any thing or service of value prohibited by this part 2, and any person who receives or accepts or contracts to receive or accept any thing or service of value prohibited by this part 2 commits a class 6 felony and shall be punished as provided in section 18-1.3-401. ~~C.R.S.~~ Each day's violation of this provision shall constitute a separate offense.

44-20-211. [Formerly 12-6-211] Contract void. Any contract or agreement in violation of the provisions of this part 2 shall be absolutely void and shall not be enforceable either in law or equity.

44-20-212. [Formerly 12-6-212] Provisions cumulative. The provisions of this part 2 shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

44-20-213. [Formerly 12-6-213] Damages. In addition to the criminal and civil penalties provided in this part 2, any person who is injured in his OR HER business or property by any other person or corporation or association or partnership, by reason of any thing forbidden or declared to be unlawful by this part 2, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount of controversy, and to recover twofold the damages sustained by him OR HER, and the costs of suit. When it appears to the court before which any proceedings under this part 2 are pending that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending or not.

44-20-214. [Formerly 12-6-214] Repeal of part. This part 2 is repealed, effective September 1, 2027. Before its repeal, this part 2 is scheduled for review in accordance with section 24-34-104.

PART 3 SUNDAY CLOSING LAW

44-20-301. [Formerly 12-6-301] Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Motor vehicle" means every self-propelled vehicle intended primarily for use and operation on the public highways and every vehicle intended primarily for operation on the public highways ~~which~~ THAT is not driven or propelled by its own power, but which is designed either to be attached to or become a part of a self-propelled vehicle; it does not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

44-20-302. [Formerly 12-6-302] Sunday closing. No person, firm, or corporation, whether owner, proprietor, agent, or employee, shall keep open, operate, or assist in keeping open or operating any place or premises or residences, whether open or closed, for the purpose of selling, bartering, or exchanging or offering for sale, barter, or exchange any motor vehicle, whether new, used, or secondhand, on the first day of the week commonly called Sunday. This part 3 shall not apply to the opening of an establishment or place of business on the ~~said~~ first day of the week for other purposes, such as the sale of petroleum products, tires, or automobile accessories, or for the purpose of operating and conducting a motor vehicle repair shop, or for the purpose of supplying such services as towing or wrecking. The provisions of this part 3 shall not apply to the opening of an establishment or place of business on the ~~said~~ first day of the week for the purpose of selling, bartering, or exchanging or offering for sale, barter, or exchange any boat, boat trailer, snowmobile, or snowmobile trailer.

44-20-303. [Formerly 12-6-303] Penalties. Any person, firm, partnership, or corporation who violates any of the provisions of this part 3 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than seventy-five dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or the court, in its discretion, may suspend or revoke the Colorado motor vehicle dealer's license issued under the provisions of part 1 of this ~~article~~ ARTICLE 20, or by such fine and imprisonment and suspension or revocation.

44-20-304. [Formerly 12-6-304] Repeal of part. This part 3 is repealed, effective September 1, 2027. Before its repeal, this part 3 is scheduled for review in accordance with section 24-34-104.

PART 4 POWERSPORTS VEHICLES

44-20-401. [Formerly 12-6-501] Legislative declaration. (1) The general assembly hereby declares that:

(a) The sale and distribution of powersports vehicles affects the public interest, and a significant factor of inducement in making a sale of a powersports vehicle is the trust and confidence of the purchaser in the dealer from whom the purchase is made and the expectancy that the dealer

will remain in business to provide service for the vehicle;

(b) The proper sale and service of a powersports vehicle are important to consumer safety, and the manufacturers and distributors of powersports vehicles have an obligation to the public not to terminate or refuse to continue their franchise agreements with retail powersports vehicle dealers unless the powersports vehicle manufacturer or distributor has first established good cause for termination of any such agreement, to the end that there shall be no diminution of locally available service;

(c) The licensing and supervision of powersports vehicle dealers by the motor vehicle dealer board are necessary for the protection of consumers, and therefore, the sale of powersports vehicles by unlicensed dealers or salespersons, or by licensed dealers or salespersons who have demonstrated unfitness, should be prevented; and

(d) Consumer education concerning the rules ~~and regulations~~ of the powersports vehicle industry, the considerations when purchasing a powersports vehicle, and the role, functions, and actions of the motor vehicle dealer board are necessary for the protection of the public and for maintaining the trust and confidence of the public in the motor vehicle dealer board.

44-20-402. [Formerly 12-6-502] Definitions. As used in this ~~part~~
5 PART 4, unless the context otherwise requires:

(1) "ANSI/SVIA-1-2001" means the American national standards institute's, or its successor organization's, provisions for four-wheel all-terrain vehicles, equipment configuration, and performance requirements, developed by the specialty vehicle institute of America, or its successor organization.

(2) "Board" means the motor vehicle dealer board.

(3) "Consumer" means a purchaser, renter, or lessee of a powersports vehicle that is primarily used for business, personal, family, or household purposes. "Consumer" does not include a purchaser of powersports vehicles primarily for resale.

(4) "Custom trailer" means a vehicle that is not driven or propelled

by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and that is uniquely designed and manufactured for a specific purpose or customer. "Custom trailer" does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

~~(4.5)~~ (5) "Director" means the director of the auto industry division created in section ~~12-6-105~~ 44-20-105.

~~(5)~~ "Executive director" means the executive director of the department of revenue.

~~(5.5)~~ (6) "Franchise" means the authority to sell or service and repair powersports vehicles of a designated line-make granted through a sales, service, and parts agreement with a manufacturer, distributor, or manufacturer representative.

~~(6)~~ (7) "Line-make" means a group or series of powersports vehicles that have the same brand identification or brand name, based upon the powersports vehicle manufacturer's trademark, trade name, or logo.

~~(7)~~ (8) "New powersports vehicle" mean a powersports vehicle that has been transferred on a manufacturer's statement of origin and for which an ownership registration card has been submitted by the original owner to the powersports vehicle manufacturer.

~~(8)~~ (9) "Off-highway vehicle" means any self-propelled vehicle that is designed to travel on wheels or tracks in contact with the ground, designed primarily for use off of the public highways, and generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following:

- (a) Military vehicles;
 - (b) Golf carts;
 - (c) Vehicles designed and used to carry persons with disabilities;
- and
- (d) Vehicles designed and used specifically for agricultural, logging,

or mining purposes.

~~(9)~~ (10) "Personal watercraft" means a motorboat that is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel, and that is designed primarily for use off of the public highways, and that uses either of the following as the primary source of motive power:

- (a) An inboard motor powering a water jet pump; or
- (b) An outboard motor-driven propeller.

~~(10)~~ (11) "Powersports vehicle" means any of the following:

- (a) An off-highway vehicle;
- (b) A personal watercraft; or
- (c) A snowmobile.

~~(11)~~ (12) "Powersports vehicle dealer" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, leases, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used powersports vehicles or who is engaged wholly or in part in the business of selling or leasing new or new and used powersports vehicles, whether or not the powersports vehicles are owned by ~~such~~ THE person. The sale or lease of ten or more new or new and used powersports vehicles or the offering for sale or lease of more than ten new or new and used powersports vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling or leasing new or new and used powersports vehicles. "Powersports vehicle dealer" includes an owner of real property who allows more than ten new or new and used powersports vehicles to be offered for sale or lease on ~~such~~ THE property during one calendar year unless ~~said~~ THE property is leased to a licensed powersports vehicle dealer. "Powersports vehicle dealer" does not include:

- (a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of persons enumerated in the definition of "powersports vehicle dealer" when engaged in the specific performance of their duties as ~~such~~ employees;

(d) A wholesaler or anyone selling powersports vehicles solely to wholesalers; or

(e) A wholesale motor vehicle auctioneer.

~~(12)~~(13) "Powersports vehicle distributor" means a person, resident or nonresident, who, in whole or in part, sells or distributes new powersports vehicles to powersports vehicle dealers or who maintains powersports vehicle distributor representatives.

~~(13)~~ (14) "Powersports vehicle manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new powersports vehicles.

~~(14)~~(15) "Powersports vehicle manufacturer representative" means a representative employed by a person who manufactures or assembles powersports vehicles for the purpose of making or promoting the sale of the person's powersports vehicles or for supervising or contacting its dealers or prospective dealers.

~~(15)~~(16) "Powersports vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a powersports vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of powersports vehicles.

~~(16)~~(17) "Principal place of business" means a site or location for which the powersports vehicle dealer is licensed, sufficiently designated to admit of definite description, with space thereon or contiguous thereto adequate to permit the display of one or more new or used powersports vehicles, and including a permanent enclosed building or structure to accommodate the office of the dealer and to provide a safe place to keep the books and other records of the business of ~~such~~ THE dealer, at which site or location the principal portion of ~~such~~ THE dealer's business shall be

conducted and the books and records thereof kept and maintained; except that a dealer may keep its books and records at an off-site location in Colorado after notifying the board in writing of ~~such~~ THE location at least thirty days in advance. Motor vehicle and used motor vehicle dealers shall be authorized to offer both motor vehicles and powersports vehicles from the same principal place of business. In the case of motor vehicle dealers, ~~such~~ THE principal place of business shall be at the address set forth in the dealer's sales agreement.

~~(17)~~ (18) "Snowmobile" means a self-propelled vehicle primarily designed or altered for travel on snow or ice when supported in part by skis, belts, or cleats and designed primarily for use off of the public highways. "Snowmobile" shall not include machinery used strictly for the grooming of snowmobile trails or ski slopes.

~~(18)~~ (19) "Used powersports vehicle" means a powersports vehicle that is not a new powersports vehicle.

~~(19)~~ (20) "Used powersports vehicle dealer" means any person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used powersports vehicles, or attempts to negotiate a sale or lease of new and used powersports vehicles or who is engaged wholly or in part in the business of selling used powersports vehicles, whether or not ~~such~~ THE used powersports vehicles are owned by ~~such~~ THE person. The sale of ten or more used powersports vehicles or the offering for sale of more than ten used powersports vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling used powersports vehicles. "Used powersports vehicle dealer" includes an owner of real property who allows more than ten used powersports vehicles to be offered for sale on ~~such~~ THE property during one calendar year unless the property is leased to a licensed used powersports vehicle dealer. "Used powersports vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(b) Public officers while performing their official duties;

(c) Employees of used powersports vehicle dealers when engaged in the specific performance of their duties;

(d) Anyone selling powersports vehicles solely to wholesalers;

(e) Mortgagees or secured parties as to powersports vehicles constituting collateral on a mortgage or security agreement, if ~~such~~ THE mortgagees or secured parties shall not realize for their own account from ~~such~~ THE sales any ~~moneys~~ MONEY in excess of the outstanding balance secured by ~~such~~ THE mortgage or security agreement, plus costs of collection; or

(f) A motor vehicle auctioneer.

~~(20)~~(21) "Wholesaler" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in a new or new and used powersports vehicle solely to powersports vehicle dealers or used powersports vehicle dealers.

44-20-403. [Formerly 12-6-503] Motor vehicle dealer board. Powersports vehicle dealers, used powersports vehicle dealers, powersports manufacturers, distributors, representatives, and powersports vehicle salespersons shall be subject to the jurisdiction of the ~~motor vehicle dealer~~ board.

44-20-404. [Formerly 12-6-504] Board - powers and duties - rules. (1) In addition to the duties and powers of the board under section ~~12-6-104~~ 44-20-104, the board may:

(a) Promulgate, amend, and repeal rules reasonably necessary to implement this ~~part 5~~ PART 4, including, without limitation, the administration, enforcement, issuance, and denial of licenses to wholesalers, powersports vehicle dealers, powersports vehicle salespersons, and used powersports vehicle dealers;

(b) Delegate to the board's executive secretary, employed pursuant to section ~~12-6-105 (2)(b)~~ 44-20-405 (1)(b), the authority to execute all actions within the power of the board, carry out the directives of the board, and make recommendations to the board on all matters within the authority

of the board;

(c) Issue through the department of ~~revenue~~ a temporary license to an applicant seeking a license issued by the board, which temporary license shall permit the applicant to operate for not more than one hundred twenty days, during which time the board may complete its investigation and determination of all facts relative to the qualifications of the applicant for ~~such~~ THE license;

(d) (I) Issue through the department of ~~revenue~~ and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under this ~~part 5~~, to PART 4, refuse to issue to any applicant any license the board is authorized to issue by this ~~part 5~~ PART 4;

(II) Permit the director to issue licenses pursuant to rules adopted by the board under subsection (1)(a) of this section;

(e) (I) After due notice and a hearing:

(A) Review the findings of an administrative law judge or hearing officer from a hearing conducted pursuant to this ~~part 5~~ PART 4; or

(B) Revoke and suspend or order the director to issue or to reinstate, on such terms and conditions and for such period of time as the board deems fair and just, any license issued pursuant to this ~~part 5~~ PART 4;

(II) Issue a letter of admonition for a minor violation of this ~~part 5~~ PART 4 that does not become a part of the licensee's record with the board;

(III) Issue a letter of reprimand and a notice of the right to request formal disciplinary proceedings, in writing within twenty days, to a licensee for a violation of this ~~part 5~~ PART 4, which letter is a part of the licensee's record with the board for a period of two years after issuance and may be considered in aggravation of any subsequent violation by the licensee; except that the letter shall be vacated and a formal disciplinary proceeding shall be instituted upon a written request within twenty days after the letter is issued;

(f) (I) Investigate, with the assistance of the director, on its own motion or upon a written and signed complaint from any person, a suspected

or alleged violation by a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle salesperson of this ~~part 5~~ PART 4 or a rule promulgated by the board;

(II) Issue subpoenas or delegate the authority to issue subpoenas to the director;

(III) Require the director to investigate complaints transmitted by the board pursuant to section ~~12-6-505 (3)(b) and (3)(c)~~ 44-20-405 (3)(b) AND (3)(c);

(IV) Seek to resolve disputes before beginning an investigation or hearing through its own action or by direction of the director;

(V) If the board determines that there is probable cause to believe a violation of this ~~article 6~~ ARTICLE 20 has occurred after an investigation by the director, order an administrative hearing be held pursuant to section 24-4-105.

(g) Summarily issue to any person who is licensed by the board pursuant to this ~~part 5~~ PART 4 cease-and-desist orders on such terms and conditions and for such time as the board deems fair and just, if ~~such~~ THE orders are followed by notice and a hearing pursuant to this section;

(h) (I) Prescribe the forms to be used for applications for persons licensed under this ~~part 5~~ PART 4;

(II) Require of an applicant, as a requisite to the issuance of a license, information concerning the applicant's fitness to be licensed under this ~~part 5~~ PART 4 as the board considers necessary;

(i) Adopt a seal with the words "motor vehicle dealer board" and such other devices as the board may desire engraved thereon by which it shall authenticate the acts of its office;

(j) Require that a powersports vehicle dealer's or used powersports vehicle dealer's principal place of business and such other sites or locations operated by the dealer have signs or devices giving notice of the dealer's name, the location and address of the dealer's principal place of business, and the type and number of license held by the dealer, as the board

considers necessary to notify any person doing business with the dealer to identify ~~such~~ THE dealer, and for this purpose to promulgate rules determining the size, shape, lettering, and location of ~~such~~ THE signs or devices;

(k) Cause to be conducted written examinations, as prescribed by the board, to test the competency of all first-time applicants for a wholesaler's license, powersports vehicle dealer's license, used powersports vehicle dealer's license, or powersports vehicle salesperson's license;

(l) Promulgate rules requiring off-highway vehicles sold by persons licensed under this ~~part 5~~ PART 4 to comply with ANSI/SVIA-1-2001 or a successor standard promulgated by the American national standards institute or its successor organization if ~~such~~ THE rules do not conflict with the ANSI standards or set standards more stringent than those set by ANSI;

(m) (I) Prescribe forms to be used as a part of a contract for the sale of a powersports vehicle by a powersports vehicle dealer or powersports vehicle salesperson, other than a retail installment sales contract subject to the provisions of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5, ~~C.R.S.~~, that shall include the following information in addition to any other disclosures or information required by state or federal law:

(A) In twelve-point, bold-faced type, or at least three points larger than the smallest type appearing in the contract, an instruction that the form is a legal instrument and that, if the purchaser of the powersports vehicle does not understand the form, ~~such~~ THE purchaser should seek legal assistance;

(B) In the type and size specified in ~~sub-subparagraph (A) of this subparagraph (I)~~ SUBSECTION (1)(m)(I)(A) OF THIS SECTION, an instruction that only those terms in written form embody the contract for sale of a powersports vehicle and that any conflicting oral representations made to the purchaser are void;

(C) In the type and size specified in ~~sub-subparagraph (A) of this subparagraph (I)~~ SUBSECTION (1)(m)(I)(A) OF THIS SECTION, a notice that fraud or misrepresentation in the sale of a powersports vehicle is punishable under the laws of this state;

(D) In the type and size specified in ~~sub-subparagraph (A) of this subparagraph (f)~~ SUBSECTION (1)(m)(I)(A) OF THIS SECTION, if the contract for the sale of a powersports vehicle requires a single, lump sum payment of the purchase price, a clear disclosure to the purchaser of this fact or, if the contract is contingent upon the approval of credit financing for the purchaser arranged by or through the powersports vehicle dealer, a statement that the purchaser shall agree to purchase the powersports vehicle that is the subject of the sale from the powersports vehicle dealer at not greater than a certain annual percentage rate of financing that shall be agreed upon by the parties and entered in writing on the contract;

(E) Except as otherwise provided under this ~~part 5~~ PART 4, if the purchase price of the powersports vehicle is not paid to the powersports vehicle dealer in full at the time of consummation of the sale and the vehicle dealer delivers and the purchaser takes possession of the vehicle at such time, a statement in bold-faced type that, if financing cannot be arranged in accordance with the contract and the sale is not consummated, the purchaser shall agree to pay a daily rate for use of the vehicle until financing of the purchase price of the vehicle is arranged for the obligor by or through the authorized powersports vehicle dealer or until the purchase price is paid in full by or through the obligor, which daily rate shall be agreed upon in writing on the contract.

(II) The information required by ~~subparagraph (f) of this paragraph (m)~~ SUBSECTION (1)(m)(I) OF THIS SECTION shall be read and initialed by both parties at the time of ~~the consummation of~~ the sale of a powersports vehicle.

(III) The use of the contract form required by ~~subparagraph (f) of this paragraph (m)~~ SUBSECTION (1)(m)(I) OF THIS SECTION shall be mandatory for the sale of a powersports vehicle.

(n) After final action is taken on a hearing held before an administrative law judge or a hearing officer designated by the board from within the board's membership, review the findings of law and fact and the fairness of any fine imposed and to uphold ~~such~~ THE fine, impose an administrative fine upon its own initiative that shall not exceed ten thousand dollars for each separate offense by any licensee, or vacate the fine imposed by the judge or hearing officer; except that, for powersports vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred

pounds, the fine for each separate offense shall not exceed one thousand dollars; and

(o) Impose a fine of up to one thousand dollars per day per violation for any person found, after notice and hearing pursuant to section 24-4-105, ~~C.R.S.~~, to have violated the provisions of section ~~12-6-523(2)~~ 44-20-423 (2).

(2) The board shall:

(a) Order an investigation of all written and signed complaints;

(b) Require an application for a powersports vehicle dealer's license or used powersports vehicle dealer's license to contain, in addition to such information as the board may require, a statement of the following facts:

(I) The name and residence address of the applicant and any trade name under which the applicant intends to conduct business;

(II) If the applicant is a partnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted;

(III) If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors;

(IV) A complete description, including the municipality, street, and number, if any, of the principal place of business, and any other additional places of business as shall be operated and maintained by the applicant;

(V) If the application is for a powersports vehicle dealer's license, the names of the new powersports vehicles that the applicant has been enfranchised to sell or exchange and the name and address of the powersports manufacturer or distributor who has enfranchised the applicant; and

(VI) The name and address of any person who will act as a salesperson under the authority of the license, if issued.

(3) The findings of the board under subsection (1) of this section

shall be final.

(4) (a) For the purposes of ~~paragraphs (e) and (g) of subsection (1)~~ SUBSECTIONS (1)(e) AND (1)(g) of this section, the address for the notice to be given under section 24-4-105 ~~C.R.S.~~, is the last-known address for the person as indicated in the state motor vehicle records; the last-known address for the owner of the real property upon which powersports vehicles are displayed in violation of section ~~12-6-523 (2)~~ 44-20-423 (2), as indicated in the records of the county assessor's office; or any address for service of process in accordance with rule 4 of the Colorado rules of civil procedure.

(b) A person who fails to pay a fine ordered by the board for a violation of section ~~12-6-523 (2)~~ 44-20-423 (2) under ~~paragraph (o) of subsection (1)~~ SUBSECTION (1)(o) of this section shall be subject to enforcement proceedings, by the board through the attorney general, in the county or district court pursuant to the Colorado rules of civil procedure. Fines collected under this subsection (4) shall be disposed of pursuant to section ~~12-6-528~~ 44-20-430.

(5) (a) If a hearing is conducted by an administrative law judge, the maximum fine that may be imposed is ten thousand dollars for each separate offense by any person licensed by the board pursuant to this ~~part~~ 5 PART 4; except that, for a powersports vehicle dealer who sells primarily vehicles that weigh under one thousand five hundred pounds, the fine for each separate offense may not exceed one thousand dollars.

(b) (I) If a licensing hearing is conducted by a hearing officer, the sanctions that may be recommended by the hearing officer are limited to the denial or grant of an unrestricted license or a restricted license under such terms as the hearing officer deems appropriate.

(II) If a disciplinary hearing is conducted by a hearing officer, the hearing officer may only recommend a probationary period of no more than twelve months, a fine of no more than five hundred dollars, or both such probationary period and fine for each separate violation committed by a person licensed by the board.

44-20-405. [Formerly 12-6-505] Powers and duties of executive director and director. (1) The executive director is hereby charged with

the administration, enforcement, and issuance or denial of the licensing of powersports vehicle distributors, powersports vehicle manufacturer representatives, and powersports vehicle manufacturers, and has the following powers and duties:

(a) To promulgate, amend, and repeal rules reasonably necessary to undertake the functions the executive director is mandated to carry out pursuant to this ~~part 5~~ PART 4 and to administer the laws of this state that the executive director deems necessary to carry out the duties of the office of the executive director pursuant to this ~~part 5~~ PART 4;

(b) To employ, subject to the laws of this state and after consultation with the board, an executive secretary for the board, who shall be accountable to the board and shall, pursuant to delegation by the board, discharge the responsibilities of the board under this ~~part 5~~ PART 4;

~~(c) Repealed.~~

~~(d)~~ (c) To issue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under this ~~part 5~~ PART 4, to refuse to issue to an applicant any license the executive director is authorized to issue by this ~~part 5~~ PART 4;

~~(e) and (f) Repealed.~~

~~(g)~~ (d) To prescribe the forms to be used for applications for licenses to be issued by the executive director under this ~~part 5~~ PART 4 and to require of applicants, as a condition precedent to the issuance of a license, such information concerning the applicant's fitness to be licensed under this ~~part 5~~ PART 4 as the executive director considers necessary;

~~(h)~~ (e) (I) To summarily issue cease-and-desist orders on such terms and conditions, and for such period of time as the executive director deems fair and just, to any person who is licensed by the executive director pursuant to this ~~part 5~~ PART 4 if ~~such~~ THE orders are followed by notice and a hearing pursuant to section ~~12-6-504 (4)(a)~~ 44-20-421;

(II) To issue cease-and-desist orders to persons acting as powersports vehicle manufacturers without the powersports vehicle manufacturer's license required by this ~~part 5~~ PART 4; and

(III) To impose a fine, not to exceed one thousand dollars per day, for each violation of section ~~12-6-523(1)~~ 44-20-423 (1), after a notice and hearing subject to section 24-4-105. ~~C.R.S.~~

(2) If a person fails to comply with a cease-and-desist order issued pursuant to this section, the executive director may bring a suit for injunction to prevent any further violation of ~~such~~ THE order. In any such suit, the final proceedings of the executive director, based upon evidence in record, shall be prima facie evidence of the facts found therein.

(3) The director may:

(a) Employ such clerks, deputies, and assistants as the director considers necessary to discharge the duties imposed upon the director or executive director by this ~~part 5~~ PART 4 and to designate the duties of ~~such~~ THE clerks, deputies, and assistants;

(b) Investigate, upon the director's own initiative, upon the written and signed complaint of any person, or upon request by the board under section ~~12-6-504(1)(f)(I)~~ 44-20-404 (1)(f)(I), any suspected or alleged violation of this ~~part 5~~ PART 4 or of any rule promulgated under this ~~article 6~~ ARTICLE 20;

(c) Delegate authority to persons for the purpose of investigating alleged or suspected violations of this ~~part 5~~ PART 4. The investigators and their supervisors utilized by the director, while actually engaged in performing their duties, have the authority as delegated by the director:

(I) To issue subpoenas, in accordance with the performance of their duties, to licensees who are under the jurisdiction of the executive director or the board;

(II) To issue summonses for violations of section ~~12-6-523(2)~~ 44-20-423 (2);

(III) To issue misdemeanor summonses for violations of section ~~12-6-522(1)(a)~~ 44-20-422 (1)(a); and

(IV) To procure criminal records during an investigation.

44-20-406. [Formerly 12-6-506] Records as evidence. Copies of all records and papers in the office of the board, director, or executive director, duly authenticated under the hand and seal of the board, director, or executive director, shall be received in evidence in all cases equally and with like effect as the original.

44-20-407. [Formerly 12-6-507] Attorney general to advise and represent. (1) The attorney general shall represent the board, director, and executive director and shall give opinions on questions of law relating to the interpretation of this ~~part 5~~ PART 4 or arising out of the administration thereof and shall appear for and on behalf of the board, director, and executive director in all actions brought by or against them, whether under this ~~part 5~~ PART 4 or otherwise.

(2) The board may request the attorney general to make civil investigations and enforce rules ~~and regulations~~ of the board in cases of civil violations and to bring and defend civil suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the board.

44-20-408. [Formerly 12-6-508] Classes of licenses. (1) The following classes of licenses are issued under this ~~part 5~~ PART 4:

(a) A powersports vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering new and used powersports vehicles, which license shall not permit more than two persons named therein as owners of the business of the licensee to act as powersports vehicle salespersons.

(b) A used powersports vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering used powersports vehicles only. ~~Such~~ THE license shall also permit a licensee to negotiate for a consumer the sale, exchange, or lease of used and new powersports vehicles not owned by the licensee. Prior to completion of a sale, exchange, or lease of a powersports vehicle not owned by the licensee, the licensee shall disclose in writing to the consumer whether the licensee will receive compensation from the consumer or the owner of the powersports vehicle as a result of ~~such~~ THE transaction. If the licensee receives compensation from the owner of the powersports vehicle as a result of the transaction, the licensee shall include in the written

disclosure the name of ~~such~~ THE owner from whom the licensee will receive compensation. This license shall not permit more than two persons named therein who shall be owners of the business of the licensee to act as powersports vehicle salespersons.

(c) A powersports vehicle salesperson's license permits the licensee to engage in the activities of a powersports vehicle salesperson while employed by a licensed powersports vehicle dealer or used powersports vehicle dealer.

(d) A powersports vehicle manufacturer's or distributor's license shall permit the licensee to engage in the activities of a powersports manufacturer or distributor.

(e) A powersports vehicle manufacturer representative's license shall permit the licensee to engage in the activities of a powersports vehicle manufacturer representative.

(f) A wholesaler's license shall permit the licensee to engage in the activities of a wholesaler.

(2) (a) A person who is licensed as a motor vehicle salesperson pursuant to part 1 of this ~~article~~ ARTICLE 20 shall be deemed to be licensed as a powersports vehicle salesperson under this ~~part 5~~ PART 4.

(b) A person who is licensed as a motor vehicle manufacturer or distributor pursuant to part 1 of this ~~article~~ ARTICLE 20 shall be deemed to be licensed as a powersports vehicle manufacturer or distributor under this ~~part 5~~ PART 4.

(c) A person who is licensed as a motor vehicle manufacturer pursuant to part 1 of this ~~article~~ ARTICLE 20 shall be deemed to be licensed as a powersports vehicle manufacturer under this ~~part 5~~ PART 4.

44-20-409. [Formerly 12-6-509] Temporary powersports vehicle dealer license. (1) (a) If a licensed powersports vehicle dealer has entered into a written agreement to sell a dealership to a purchaser and the purchaser has been awarded a new franchise, the board may issue a temporary powersports vehicle dealer's license to the purchaser or prospective purchaser. The director shall issue the temporary license only

after the board has received the applications for both a temporary powersports vehicle dealer's license and a powersports vehicle dealer's license, the appropriate application fee for the powersports vehicle dealer's application, evidence of a passing score of the written examination described in section ~~12-6-515~~ 44-20-415, and evidence that the franchise has been awarded to the applicant by the powersports vehicle manufacturer.

(b) A temporary powersports vehicle dealer's license authorizes the licensee to act as a powersports vehicle dealer and subjects the licensee to this ~~article 6~~ ARTICLE 20 and to all rules adopted by the executive director or the board. A temporary powersports vehicle dealer's license is effective for up to sixty days or until the board acts on the licensee's application for a powersports vehicle dealer's license, whichever is sooner.

(2) For the purpose of enabling an out-of-state dealer to sell powersports vehicles on a temporary basis during specifically identified events, the director may issue, upon direction by the board, a temporary powersports vehicle dealer's license that is effective for thirty days. The temporary licensee is subject to the rules adopted by the executive director or the board.

44-20-410. [Formerly 12-6-510] Display, form, custody, and use of licenses. (1) The board and the executive director shall prescribe the form of the license to be issued by the executive director, and shall imprint on each license the seal of their offices. The executive director shall mail the license to the business address where the powersports vehicle salesperson is licensed. Each powersports vehicle salesperson shall keep a copy of the license at the salesperson's place of employment for inspection by employers, consumers, the director, the executive director, or the board. A powersports vehicle dealer or wholesaler shall display conspicuously the person's license in the person's place of business.

(2) Each license issued under this ~~part 5~~ PART 4 is separate and distinct. It is a violation of this ~~part 5~~ PART 4 for a person to exercise any of the privileges granted under a license that the person does not hold, or for a licensee to knowingly allow such an exercise of privileges.

44-20-411. [Formerly 12-6-511] Fees - disposition - expenses - expiration of licenses. (1) The fee established pursuant to subsection (5) of this section shall be collected with each application for each of the

following:

(a) (I) Powersports vehicle dealer's license or used powersports vehicle dealer's license;

(II) Powersports vehicle dealer's or used powersports vehicle dealer's license for each place of business in addition to the principal place of business;

(III) Renewal or reissue of powersports vehicle dealer's license or used dealer's license after change in location or lapse in principal place of business;

(b) Powersports vehicle manufacturer's license;

(c) Powersports vehicle distributor's license;

(d) Powersports vehicle manufacturer representative's license;

(e) Powersports vehicle salesperson's license including, without limitation, reissuing a license;

(f) Wholesaler's license.

(2) Fees shall be paid to the state treasurer who shall credit the same to the auto dealers license fund created in section ~~12-6-123~~ 44-20-133.

(3) If an application for a wholesaler's license, powersports vehicle dealer's, used powersports vehicle dealer's, or powersports salesperson's license is withdrawn by the applicant prior to issuance of the license, one-half of the license fee shall be refunded.

(4) (a) Licenses issued under this ~~part 5~~ PART 4, if not suspended or revoked, shall be valid until one year following the month of issuance thereof and shall then expire; except that any license issued under this ~~part 5~~ PART 4 shall expire upon the voluntary surrender thereof or upon the abandonment of the licensee's place of business for a period of more than thirty days.

(b) Thirty days before the expiration of a license, the director shall

mail to the licensee's business address of record a notice stating when the person's license is due to expire and the fee necessary to renew the license. For a powersports vehicle salesperson or powersports vehicle manufacturer representative, the notice shall be mailed to the address of the powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle manufacturer where the person is licensed.

(c) Upon the expiration of a license, unless suspended or revoked, it may be renewed upon the payment of the application fees specified in this section and renewal shall be made from year to year as a matter of right; except that, if a wholesaler or powersports vehicle dealer voluntarily surrenders its license or abandons its place of business for a period of more than thirty days, the licensee is required to file a new application to renew its license.

(d) Notwithstanding ~~paragraph (a) of this subsection (4)~~ SUBSECTION (4)(a) OF THIS SECTION, a person has a thirty-day grace period after the license expires in which the license may be renewed pursuant to ~~paragraph (c) of this subsection (4)~~ SUBSECTION (4)(c) OF THIS SECTION, so long as the person has a bond in full force and effect that complies with the applicable bonding requirements of section ~~12-6-512 or 12-6-513~~ 44-20-412 OR 44-20-413 during the thirty-day period. A person applying during the thirty-day grace period shall pay a late fee established pursuant to subsection (5) of this section.

(5) (a) The board shall propose, as part of its annual budget request, an adjustment in the amount of each fee that the board is authorized by law to collect. The budget request and the adjusted fees for the board shall reflect direct and indirect costs.

(b) Based upon any appropriation made and subject to the approval of the executive director, the board shall adjust the fees collected by the executive director so that the revenue generated from fees covers the direct and indirect costs of administering this ~~part 5. Such~~ PART 4. THE fees shall remain in effect for the fiscal year for which the appropriation is made.

(c) In any year, if ~~moneys~~ MONEY appropriated by the general assembly to the board for its activities for the prior fiscal year are unexpended, the ~~moneys~~ MONEY shall be made a part of the appropriation to the board for the next fiscal year, and the amount shall not be raised from

fees collected by the board or the executive director. If a supplemental appropriation is made by the general assembly to the board for its activities, the fees of the board and the executive director, when adjusted for the fiscal year next following that in which the supplemental appropriation was made, shall be adjusted by an additional amount that is sufficient to compensate for ~~such~~ THE supplemental appropriation. ~~Moneys~~ MONEY appropriated to the board in the annual general appropriation bill shall be from the fund provided in section ~~12-6-123~~ 44-20-133.

44-20-412. [Formerly 12-6-512] Bond of licensee. (1) A wholesaler's license, powersports vehicle dealer's license, or used powersports vehicle dealer's license shall not be issued to any applicant unless the applicant procures and files with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, ~~C.R.S.~~, or a good and sufficient bond with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general, and conditioned that the applicant shall not make any fraudulent representation or violate any of the provisions of this ~~part 5~~ PART 4 or any rule promulgated by the board under this ~~part 5~~ PART 4. A powersports vehicle dealer or used powersports vehicle dealer shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if ~~such~~ THE dealer furnishes a bond, savings account, deposit, or certificate of deposit under section ~~12-6-111~~ 44-20-112.

(2) (a) The purpose of the bond procured by the applicant pursuant to subsection (1) of this section and section ~~12-6-513~~ 44-20-413 is to provide for the reimbursement for any loss or damage suffered by any retail consumer caused by violation of this ~~part 5~~ PART 4 by a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer. For a wholesale transaction, the bond is available to each party to the transaction; except that, if a retail consumer is involved, ~~such~~ THE consumer shall have priority to recover from the bond. The amount of the bond shall be fifty thousand dollars for each wholesaler applicant, powersports vehicle dealer applicant, and used powersports vehicle dealer applicant. The aggregate liability of the surety for all transactions shall not exceed the amount of the bond, regardless of the number of claims or claimants.

(b) No corporate surety shall be required to make a payment to any person making a claim under ~~such~~ THE bond until a final determination of

fraud or fraudulent representation has been made by the board or by a court of competent jurisdiction.

(3) Bonds required pursuant to this section shall be renewed annually when the bondholder's license is renewed. Bonds may be renewed through a continuation certificate issued by the surety.

(4) Nothing in this ~~part 5~~ PART 4 shall interfere with the authority of the courts to administer and conduct an interpleader action for claims against a licensee's bond.

44-20-413. [Formerly 12-6-513] Powersports vehicle salesperson's bond. (1) A powersports vehicle salesperson's license shall not be issued unless the applicant has procured and filed with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, ~~C.R.S.~~, or a good and sufficient bond in the amount of fifteen thousand dollars with corporate surety thereon duly licensed to do business within the state, approved as to form by the attorney general, and conditioned that the applicant shall perform in good faith as a powersports vehicle salesperson without fraud or fraudulent representation and without violating this ~~part 5~~ PART 4 or any rule promulgated by the board under this ~~part 5~~ PART 4. The board shall implement by January 1, 2008, a psychometrically valid and reliable salesperson exam that measures the minimum level of competence necessary to practice. A powersports vehicle salesperson shall not be required to furnish an additional bond, savings account, deposit, or certificate of deposit under this section if ~~such~~ THE salesperson furnishes a bond, savings account, deposit, or certificate of deposit under section ~~12-6-112~~ 44-20-113.

(2) No corporate surety shall be required to make a payment to any person claiming under ~~such~~ THE bond until a final determination of fraud or fraudulent representation has been made by the board or by a court of competent jurisdiction.

(3) Bonds required under this section shall be renewed annually when the bondholder's license is renewed. Bonds may be renewed through a continuation certificate issued by the surety.

44-20-414. [Formerly 12-6-514] Notice of claims honored against bond. (1) A corporate surety that has provided a bond to a licensee

pursuant to section ~~12-6-512 or 12-6-513~~ 44-20-412 OR 44-20-413 shall provide notice to the board and director of any claim that is honored against the bond within thirty days after the claim is honored.

(2) A notice provided by a corporate surety pursuant to subsection (1) of this section must be in the form required by the director, subject to approval by the board, and must include the name of the licensee, the name and address of the claimant, the amount of the honored claim, and the nature of the claim against the licensee.

44-20-415. [Formerly 12-6-515] Testing licensees. All persons applying for a wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or powersports vehicle salesperson's license under this ~~part 5~~ PART 4 shall be examined for their knowledge of the powersports vehicle laws of the state of Colorado and the rules promulgated pursuant to this ~~part 5~~ PART 4. If the applicant is a corporation, the managing officer shall take the examination, and, if the applicant is a partnership, all the general partners shall take ~~such~~ THE examination. No license shall be issued except upon successful passing of the examination. This section shall not apply to a motor vehicle dealer, used motor vehicle dealer, or motor vehicle salesperson licensed pursuant to part 1 of this ~~article~~ ARTICLE 20.

44-20-416. [Formerly 12-6-516] Filing of written warranties. A licensed powersports vehicle manufacturer shall file with the director all written warranties and changes in written warranties the manufacturer makes on powersports vehicles or parts thereof. A licensed powersports vehicle manufacturer shall file with the director a copy of the delivery and preparation obligations of a powersports vehicle manufacturer's dealer, and these warranties and obligations constitute the powersports vehicle dealer's only responsibility for product liability as between the powersports vehicle dealer and the powersports vehicle manufacturer. Any mechanical, body, or parts defects arising from express or implied warranties of the powersports vehicle manufacturer constitute the powersports vehicle manufacturer's product or warranty liability, and the powersports vehicle manufacturer shall reasonably compensate any authorized powersports vehicle dealer who performs work to rectify a powersports vehicle manufacturer's product or warranty defects.

44-20-417. [Formerly 12-6-517] Application - fingerprint-based background check - rules. (1) An application for a wholesaler's license,

powersports vehicle dealer's license, used powersports vehicle dealer's license, or powersports vehicle salesperson's license shall be submitted to the board.

(2) An application for a powersports vehicle distributor, powersports vehicle manufacturer representative, or powersports vehicle manufacturer license shall be submitted to the director.

(3) Fees for licenses shall be paid at the time of the filing of application for license.

(4) Persons applying for a powersports vehicle dealer's license shall file with the board a certified copy of a certificate of appointment as a powersports vehicle dealer from a powersports vehicle manufacturer.

(5) (a) A person applying for a powersports vehicle manufacturer's or distributor's license must:

(I) File with the director a certified copy of a typical sales, service, and parts agreement with all powersports vehicle dealers; and

(II) File evidence of the appointment of an agent for process in the state of Colorado.

(b) Within sixty days after amending or modifying or adding an addendum to the sales, service, or parts agreement of more than one powersports dealer, a licensed manufacturer or distributor shall file a certified copy of the new sales, service, and parts agreement, including the changes, with the director if the amendment, modification, or addendum materially alters the rights and obligations of the contracting parties.

(6) Persons applying for a wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or a powersports vehicle salesperson's license shall file with the board a written instrument in which the applicant shall appoint the secretary of the board as the agent of the applicant upon whom all process may be served in any action against the applicant arising out of a claim for damages suffered by a violation of this ~~part 5~~ PART 4, rules promulgated under this ~~part 5~~ PART 4, or any condition of the applicant's bond.

(7) (a) A person applying for a wholesaler's license or used powersports vehicle dealer's license shall file with the board a certification that the applicant has met the educational requirements for licensure under this subsection (7), unless the applicant is licensed as a motor vehicle dealer or a used motor vehicle dealer. This subsection (7) shall not apply to a person who has held a license, within the last three years, as a motor vehicle dealer, used motor vehicle dealer, wholesaler, wholesale motor vehicle auction dealer, powersports vehicle dealer, or used powersports vehicle dealer under this ~~part 5~~ PART 4 or part 1 of this ~~article~~ ARTICLE 20.

(b) An applicant for a wholesaler's license or used powersports vehicle dealer's license shall not be licensed unless one of the following persons has completed an eight-hour prelicensing education program:

(I) The managing officer if the applicant is a corporation or limited liability company;

(II) All of the general partners if the applicant is any form of partnership; or

(III) The owner or managing officer if the applicant is a sole proprietorship.

(c) The prelicensing education program shall include, without limitation, state and federal statutes and rules governing the sale of powersports vehicles.

(d) A prelicensing education program shall not fulfill the requirements of this section unless approved by the board. The board shall approve any program with a curriculum that reasonably covers the material required by this section within eight hours.

(e) The board may adopt rules establishing reasonable fees to be charged for the prelicensing education program.

(f) The board may adopt reasonable rules to implement this section, including, without limitation, rules that govern:

(I) The content and subject matter of education;

(II) The criteria, standards, and procedures for the approval of courses and course instructors;

(III) The training facility requirements; and

(IV) The methods of instruction.

(g) An approved prelicensing program provider shall issue a certificate to a person who successfully completes the approved prelicensing education program. The current certificate of completion, or a copy of the certificate, shall be posted conspicuously at the dealership's principal place of business.

(h) An approved prelicensing program provider shall submit a certificate to the director for each person who successfully completes the prelicensing education program. The certificate may be transmitted electronically.

(8) (a) With the submission of an application for any license issued under this ~~part 5~~ PART 4, each applicant shall submit a complete set of fingerprints to the Colorado bureau of investigation or the auto industry division for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The board or the executive director shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to be licensed. The board or the executive director may verify the information an applicant is required to submit. The applicant shall pay the costs associated with the fingerprint-based criminal history record check to the Colorado bureau of investigation.

(b) This subsection (8) does not apply to a publicly traded company or the company's subsidiary.

44-20-418. [Formerly 12-6-518] Notice of change of address or status. (1) The board, through the executive director, shall not issue a powersports vehicle dealer's license or used powersports vehicle dealer's license to an applicant who has no principal place of business. If a powersports vehicle dealer or used powersports vehicle dealer changes the

site or location of the dealer's principal place of business, the dealer shall immediately notify the board in writing, and thereupon, a new license shall be granted for the unexpired portion of the term of the existing license at a fee established pursuant to section ~~12-6-511~~ 44-20-411. If a powersports vehicle dealer or used powersports vehicle dealer ceases to possess a principal place of business where the dealer conducts the business for which the dealer is licensed, the dealer shall immediately notify the board in writing and, upon demand by the board, shall deliver the dealer's license, which shall be held and retained until it appears to the board that the licensee possesses a principal place of business; whereupon, the dealer's license shall be reissued. Nothing in this ~~part 5~~ PART 4 shall be construed to prevent a powersports vehicle dealer or used powersports vehicle dealer from conducting the business for which the dealer is licensed at one or more sites or locations not contiguous to the dealer's principal place of business but operated and maintained in conjunction therewith.

(2) (a) If a powersports vehicle dealer changes to a new line-make of powersports vehicles, adds another franchise for the sale of new powersports vehicles, or cancels or otherwise loses a franchise for the sale of new powersports vehicles, the dealer shall immediately notify the board. If a franchise is canceled or lost, the board shall determine whether the dealer should be licensed as a used powersports vehicle dealer.

(b) If the powersports vehicle dealer no longer possesses a franchise to sell new powersports vehicles, the board shall cancel and the powersports vehicle dealer shall deliver to it the dealer's license, and the board shall direct the director to issue to the dealer a used powersports vehicle dealer's license.

(c) Upon the cancellation or loss of a franchise to sell new powersports vehicles and the relicensing of the dealer as a used powersports vehicle dealer, the dealer may continue in the business of a powersports vehicle dealer for a time, not exceeding six months after the relicensing of the dealer, to enable the dealer to dispose of the stock of new powersports vehicles on hand at the time of relicensing, but not otherwise.

(3) If a powersports vehicle salesperson is discharged, leaves an employer, or changes a place of employment, the powersports vehicle dealer who last employed the salesperson shall confiscate and return the salesperson's license to the board. Upon being reemployed as a powersports

vehicle salesperson, the powersports vehicle salesperson shall notify the board. Upon receiving the notification, the board shall issue a new license for the unexpired portion of the returned license after collecting a fee set pursuant to section ~~12-6-511 (5)~~ 44-20-411 (5). It shall be unlawful for the salesperson to act as a powersports vehicle salesperson until a new license is procured.

(4) Upon a change of place of business or business address, a wholesaler shall immediately notify the board of the change.

(5) (a) Except as specified in subsection (5)(d) of this section:

(I) A person holding an ownership interest in a licensed corporation, limited liability company, limited liability partnership, or other business entity shall not sell the interest to a person who does not already own an interest in the business entity until the owner applies to the board to be approved to hold an ownership interest in the business entity and the board approves the person to hold the interest.

(II) A licensed corporation, limited liability company, limited liability partnership, or other business entity shall notify the board within ten days after a transfer, other than a sale, of any ownership that results in a new person holding an interest in the business entity. To continue to hold ownership in the business, the transferee shall apply to the board for approval to continue holding an ownership interest in the business entity.

(b) To be approved by the board to hold an ownership interest in a licensed business entity, the new owner must demonstrate the qualifications necessary for licensing, including a fingerprint-based criminal history record check, in accordance with this ~~part 5~~ PART 4.

(c) (I) If the board does not approve a person to hold an ownership interest in a licensed business entity, the person shall transfer the interest within six months after acquiring the ownership interest.

(II) This subsection (5)(c) does not authorize a person to hold an interest in a licensed business entity when the person acquired the interest as the result of a sale that violates subsection (5)(a)(I) of this section.

(d) (I) This subsection (5) does not apply to the sale or transfer of

an interest in a publicly traded company.

(II) This subsection (5) does not apply to the sale of an interest to an institutional investor of a business entity that is subject to the reporting requirements of the "Securities Exchange Act of 1934", 15 U.S.C. sec. 78a et seq., as amended. For the purposes of this subsection (5)(d)(II), "institutional investor" means an entity, such as a pension fund, endowment fund, insurance company, commercial bank, or mutual fund, that invests money on behalf of its members or clients and that is required by the United States securities and exchange commission to file a form 13F, or its successor form, to report quarterly holdings.

44-20-419. [Formerly 12-6-519] Principal place of business - requirements. (1) The building or structure required to be located on a principal place of business shall have electrical service and adequate sanitary facilities.

(2) A room in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house shall not be used as a principal place of business unless the entire ground floor of the hotel, apartment house, or rooming house building or the dwelling house is devoted principally to and occupied for commercial purposes and the office of the dealer is located on the ground floor thereof.

(3) Nothing in this section shall be construed to exempt a powersports vehicle dealer or used powersports vehicle dealer from local zoning ordinances.

44-20-420. [Formerly 12-6-520] Licenses - grounds for denial, suspension, or revocation. (1) A powersports vehicle manufacturer's or distributor's license may be denied, suspended, or revoked on the following grounds:

- (a) Material misstatement in an application for a license;
- (b) Willful failure to comply with this ~~part 5~~ PART 4 or any rule promulgated by the executive director under this ~~part 5~~ PART 4;
- (c) Engaging, in the past or present, in any illegal business practice.

(2) A powersports vehicle manufacturer representative's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with this ~~part 5~~ PART 4 or any rules promulgated by the executive director under this ~~part 5~~ PART 4;

(c) Committing any unconscionable business practice under title 4; ~~C.R.S.~~;

(d) Having coerced or attempted to coerce a powersports vehicle dealer to accept delivery of any powersports vehicle, parts or accessories therefore, or any other commodities or services that have not been ordered by the dealer;

(e) Having coerced or attempted to coerce a powersports vehicle dealer to enter into any agreement to do an act unfair to the dealer by threatening to cause the cancellation of the dealer's franchise;

(f) Having withheld, threatened to withhold, reduced, or delayed without just cause an order for powersports vehicles, parts or accessories therefore, or any other commodities or services that have been ordered by a powersports vehicle dealer; or

(g) Engaging, in the past or present, in any illegal business practice.

(3) A wholesaler's license, powersports vehicle dealer's license, or a used powersports vehicle dealer's license may be denied, suspended, or revoked on the following grounds:

(a) Material misstatement in an application for a license;

(b) Willful failure to comply with this ~~part 5~~ PART 4 or any rule promulgated by the executive director under this ~~part 5~~ PART 4;

(c) Having been convicted of or pled nolo contendere to any felony or crime pursuant to article 3, 4, or 5 of title 18 ~~C.R.S.~~, or any like crime pursuant to federal law or the law of another state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be

conclusive evidence of the conviction in a hearing held pursuant to this ~~article~~ ARTICLE 20.

(d) Defrauding any buyer, seller, powersports vehicle salesperson, or financial institution to the person's damage;

(e) Intentionally or negligently failing to perform any written agreement with any buyer or seller;

(f) Failing or refusing to furnish and keep in force a bond required under this ~~part 5~~ PART 4;

(g) Making a fraudulent or illegal sale, transaction, or repossession;

(h) Willfully misrepresenting, circumventing, concealing, or failing to disclose, through subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer;

(i) Intentionally publishing or circulating advertising that is misleading or inaccurate in any material particular or that misrepresents a product sold or furnished by a licensed dealer;

(j) Knowingly purchasing, selling, or otherwise acquiring or disposing of a stolen powersports vehicle;

(k) Engaging in the business for which the dealer is licensed without at all times maintaining a principal place of business as required by this ~~part 5~~ PART 4 during reasonable business hours;

(l) Engaging in the business through employment of an unlicensed powersports vehicle salesperson;

(m) Willfully violating any state or federal law respecting commerce or powersports vehicles, or any lawful rule respecting commerce or powersports vehicles promulgated by any licensing or regulating authority pertaining to powersports vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or powersports vehicles;

(n) Representing or selling as a new and unused powersports vehicle

any powersports vehicle that the dealer or salesperson knows is otherwise a used powersports vehicle;

(o) Committing a fraudulent insurance act pursuant to section 10-1-128; ~~C.R.S.~~;

(p) Failing to give notice to a prospective buyer of the acceptance or rejection of a powersports vehicle purchase order agreement within a reasonable time period, as determined by the board, when the licensee is working with the prospective buyer on a finance sale or a consignment sale.

~~(3.5)~~ (4) A wholesaler's license may be denied, suspended, or revoked for the selling, leasing, or offering or attempting to negotiate the sale, lease, or exchange of an interest in motor vehicles to persons other than powersports vehicle dealers, used powersports vehicle dealers, or other wholesalers.

~~(4)~~ (5) The license of a powersports vehicle salesperson may be denied, revoked, or suspended on the following grounds:

(a) Material misstatement in an application for a license;

(b) Failure to comply with any provision of this ~~part 5~~ PART 4 or any rule promulgated by the board or executive director under this ~~part 5~~ PART 4;

(c) Engaging in the business for which the licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as provided in this ~~part 5~~ PART 4;

(d) Intentionally publishing or circulating an advertisement that is misleading or inaccurate in any material particular or that misrepresents a powersports vehicle product sold or attempted to be sold by the salesperson;

(e) Having indulged in any fraudulent business practice;

(f) Selling, offering, or attempting to negotiate the sale, exchange, or lease of powersports vehicles for a powersports vehicle dealer or used powersports vehicle dealer for which the salesperson is not licensed; except that negotiation with a powersports vehicle dealer or used powersports

vehicle dealer for the sale, exchange, or lease of new and used powersports vehicles, by a salesperson compensated for the negotiation by a powersports vehicle dealer or used powersports vehicle dealer for which the salesperson is licensed shall not be grounds for denial, revocation, or suspension;

(g) Representing oneself as a salesperson for a powersports vehicle dealer when the salesperson is not so employed and licensed;

(h) Having been convicted of or pled nolo contendere to any felony or any crime pursuant to article 3, 4, or 5 of title 18 ~~C.R.S.~~, or any like crime pursuant to federal law or the law of another state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of the conviction in a hearing held pursuant to this ~~article~~ ARTICLE 20.

(i) Having knowingly purchased, sold, or otherwise acquired or disposed of a stolen powersports vehicle;

(j) Employing an unlicensed powersports vehicle salesperson;

(k) Defrauding any retail buyer to the person's damage;

(l) Representing or selling as a new and unused powersports vehicle a powersports vehicle that the salesperson knows is otherwise a used powersports vehicle;

(m) Willfully violating any state or federal law respecting commerce or powersports vehicles, or any lawful rule respecting commerce or powersports vehicles promulgated by any licensing or regulating authority pertaining to powersports vehicles, under circumstances in which the act constituting the violation directly and necessarily involves commerce or powersports vehicles;

(n) Improperly withholding, misappropriating, or converting to the salesperson's own use any money belonging to customers or other persons received in the course of employment as a powersports vehicle salesperson.

~~(5)~~ (6) A license issued pursuant to this ~~part 5~~ PART 4 may be denied, revoked, or suspended if unfitness of the licensee or licensee applicant is shown in the following:

(a) The licensing character or record of the licensee or licensee applicant;

(b) The criminal character or record of the licensee or licensee applicant;

(c) The financial character or record of the licensee or licensee applicant;

(d) A violation of any lawful order of the board.

~~(5.5)~~ (7) The license of a powersports vehicle dealer may be denied, revoked, suspended, or otherwise subject to discipline imposed under this ~~part 5~~ PART 4 if an owner is acting as a salesperson without a motor vehicle salesperson license and the owner commits any of the acts or omissions that subject a salesperson's license to denial, revocation, or suspension under ~~subsection (5)~~ SUBSECTION (6) of this section.

~~(6)~~ (8) (a) A license issued or applied for pursuant to this ~~part 5~~ PART 4 shall be revoked or denied if the licensee or applicant has been convicted of or pleaded no contest to any of the following offenses in this state or another jurisdiction during the previous ten years:

(I) A felony in violation of article 3, 4, or 5 of title 18 ~~C.R.S.~~, or any similar crime under federal law or the law of another state; or

(II) A crime involving salvage fraud or the defrauding of a retail consumer in a powersports vehicle sale or lease transaction.

(b) A certified copy of a judgment of conviction by a court of competent jurisdiction of an offense under ~~subparagraph (I) of paragraph (a) of this subsection (6)~~ SUBSECTION (8)(a)(I) OF THIS SECTION is conclusive evidence of the conviction in any hearing held pursuant to this ~~article~~ ARTICLE 20.

~~(7)~~ (9) A person whose license issued under this ~~part 5~~ PART 4 is revoked or who surrenders a license to avoid discipline is ineligible to apply for a new license under this ~~part 5~~ PART 4 for one year after the date of revocation or surrender of the license.

44-20-421. [Formerly 12-6-521] Procedure for denial, suspension, or revocation of license - judicial review. (1) The denial, suspension, or revocation of licenses issued under this ~~part 5~~ PART 4 shall be in accordance with the provisions of sections 24-4-104 and 24-4-105; ~~C.R.S.~~; except that the discovery available under rule 26 (b)(2) of the Colorado rules of civil procedure is available in any proceeding.

(2) The board shall appoint an administrative law judge pursuant to part 10 of article 30 of title 24 ~~C.R.S.~~, to conduct any hearing concerning the licensing or discipline of a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, powersports vehicle manufacturer, powersports vehicle manufacturer representative, or powersports vehicle distributor; except that the board may, upon a unanimous vote of the members present when the vote is taken, conduct the hearing in lieu of appointing an administrative law judge.

(3) (a) The board shall assign a hearing concerning the licensing or discipline of a powersports vehicle salesperson to the executive director, who shall appoint an officer to conduct a hearing.

(b) Hearings conducted before an administrative law judge shall be in accordance with the rules of procedure of the office of administrative courts. Hearings conducted before an officer appointed by the executive director shall be in accordance with the rules of procedure established by the executive director.

(4) The board may summarily suspend a licensee required to post a bond under this ~~article~~ ARTICLE 20 if ~~such~~ THE licensee does not have a bond in full force and effect as required by this ~~article~~ ARTICLE 20. The suspension shall become effective upon the earlier of the licensee receiving notice of the suspension or within three days after the notice of suspension is mailed to a licensee's last-known address on file with the board. The notice may be effected by certified mail or personal delivery.

(5) The court of appeals shall have initial jurisdiction to review all final actions and orders that are subject to judicial review of the board. The proceedings shall be conducted in accordance with section 24-4-106 (11). ~~C.R.S.~~

44-20-422. [Formerly 12-6-522] Sales activity following license

denial, suspension, or revocation - unlawful act - penalty. (1) (a) It shall be unlawful and a violation of this ~~part 5~~ PART 4 for any person whose wholesaler's, powersports vehicle dealer's, used powersports vehicle dealer's, or powersports vehicle salesperson's license has been denied, suspended, or revoked to exercise the privileges of the license that was denied, suspended, or revoked.

(b) A violation of ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION shall be punishable in accordance with section ~~12-6-527~~ 44-20-429; except that a second or subsequent violation of ~~said paragraph (a)~~ SUBSECTION (1)(a) OF THIS SECTION shall be a class 6 felony.

(c) In any trial for a violation of ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION:

(I) A duly authenticated copy of the board's order of denial, suspension, or revocation shall constitute prima facie evidence of the denial, suspension, or revocation;

(II) A duly authenticated invoice, buyer's order, or other customary, written sales or purchase document or instrument proven to be signed by the defendant and indicating the defendant's role in the purchase or sale of a powersports vehicle at a retail or wholesale powersports vehicle sales location shall constitute prima facie evidence of the defendant's exercise of a privilege of licensure;

(III) It shall be an affirmative defense that the defendant bought or sold a powersports vehicle that was, at all relevant times, intended for the defendant's own use and not bought or sold for the purpose of profit or gain; and

(IV) The fact that the defendant has a powersports vehicle dealer's, used powersports vehicle dealer's, or powersports vehicle salesperson's license, or another license to buy and sell powersports vehicles, that is issued by a state or jurisdiction other than Colorado, shall not constitute a defense.

(2) Upon the defendant's conviction by entry of a plea of guilty or nolo contendere or judgment or verdict of guilt in connection with a violation of ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this

section or of section ~~12-6-523 (2)~~ 44-20-423 (2) or 42-6-142 (1), ~~C.R.S.~~, the court shall immediately give the executive director written notice of the conviction. In addition, the court shall forward to the executive director copies of documentation of any conviction on a lesser included offense and any amended charge, plea bargain, deferred prosecution, deferred sentence, or deferred judgment in connection with the original charge.

(3) Upon receiving notice of a conviction or other disposition pursuant to subsection (2) of this section, the executive director or his or her designee shall forward the notice to the ~~motor vehicle dealer~~ board, which shall immediately examine its files to determine whether the defendant's license was denied, suspended, or revoked at the time of the offense. If in fact the defendant's license was denied, suspended, or revoked at the time of the offense, the board shall:

(a) Not issue or reinstate any license to the defendant until one year after the time the defendant would otherwise have been eligible to receive a new or reinstated license; and

(b) Revoke or suspend any other licenses held by the defendant until at least one year after the date of the conviction or other disposition.

44-20-423. [Formerly 12-6-523] Unlawful acts. (1) It is unlawful and a violation of this ~~part 5~~ PART 4 for any powersports vehicle manufacturer, distributor, or manufacturer representative:

(a) To willfully fail to cause to not be performed any written warranties made with respect to a powersports vehicle or parts thereof;

(b) To coerce or attempt to coerce any powersports vehicle dealer to perform or allow to be performed an act that could be financially detrimental to the dealer or that would impair the dealer's goodwill or to enter into an agreement with a powersports vehicle manufacturer or distributor that would be financially detrimental to the dealer or impair the dealer's goodwill, by threatening to cancel or not renew a franchise between a powersports vehicle manufacturer or distributor and the dealer;

(c) To coerce or attempt to coerce any powersports vehicle dealer to accept delivery of a powersports vehicle, parts or accessories thereof, or any commodities or services that have not been ordered by the dealer;

(d) (I) To cancel or cause to be canceled, directly or indirectly, without just cause, the franchise of a powersports vehicle dealer, and the nonrenewal of a franchise or selling agreement without just cause is a violation of this ~~paragraph (d)~~ SUBSECTION (1)(d) and shall constitute an unfair cancellation.

(II) As used in this ~~paragraph (d)~~ SUBSECTION (1)(d), "just cause" shall be determined in the context of all circumstances surrounding the cancellation or nonrenewal, including but not limited to:

(A) The amount of business transacted by the powersports vehicle dealer;

(B) The investments necessarily made and obligations incurred by the powersports vehicle dealer, including but not limited to goodwill, in the performance of its duties under the franchise agreement, together with the duration and permanency of the investments and obligations;

(C) The potential for harm to consumers as a result of disruption of the business of the powersports vehicle dealer;

(D) The powersports vehicle dealer's failure to provide adequate service of facilities, equipment, parts, and qualified service personnel;

(E) The powersports vehicle dealer's failure to perform warranty work on behalf of the powersports vehicle manufacturer, subject to reimbursement by the powersports vehicle manufacturer; and

(F) The powersports vehicle dealer's failure to substantially comply, in good faith, with requirements of the franchise that are determined to be reasonable and material.

(III) The following conduct by a powersports vehicle dealer shall constitute just cause for termination without consideration of other factors:

(A) Conviction of, or a plea of guilty or nolo contendere to, a felony;

(B) A continuing pattern of fraudulent conduct against the powersports vehicle manufacturer or consumers; or

(C) Continuing failure to operate for ten days or longer.

(e) To withhold, reduce, or delay unreasonably or without just cause delivery of powersports vehicles, powersports vehicle parts and accessories, commodities, or ~~moneys~~ MONEY due powersports vehicle dealers for warranty work done by any powersports vehicle dealer;

(f) To withhold, reduce, or delay unreasonably or without just cause services contracted for by powersports vehicle dealers;

(g) To coerce any powersports vehicle dealer to provide installment financing with a specified financial institution;

(h) To violate any duty imposed by, or fail to comply with, any provision of section ~~12-6-524, 12-6-525, or 12-6-526~~ 44-20-424, 44-20-425, OR 44-20-426;

(i) (I) To fail to provide to the powersports vehicle dealer, within twenty days after receipt of a notice of intent from a powersports vehicle dealer, the list of documents and information necessary to approve the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or the change in executive management of the dealership;

(II) To fail to confirm within twenty days after receipt of all documents and information listed in ~~subparagraph (I) of this paragraph (i)~~ SUBSECTION (1)(i)(I) OF THIS SECTION that ~~such~~ THE documentation and information has been received;

(III) To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer within sixty days after the manufacturer has received all documents and information necessary to approve the sale or transfer of ownership, or to refuse to approve, unreasonably, the change in executive management of the dealership within sixty days after the manufacturer has received all information necessary to approve the change in management; except that nothing in this ~~part 5~~ PART 4 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the powersports vehicle manufacturer or distributor unless the manufacturer or distributor fails to send notice of the disapproval within sixty days after receiving all documents and information necessary to approve the sale or

transfer of ownership; or

(IV) To condition the sale, transfer, relocation, or renewal of a franchise agreement or to condition sales, services, parts, or finance incentives upon site control or an agreement to renovate or make improvements to a facility; except that voluntary acceptance of ~~such~~ THE conditions by the dealer shall not constitute a violation;

(j) (I) To fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make except as a result of a strike or labor difficulty, lack of manufacturing capacity, shortage of materials, freight embargo, or other cause over which the powersports vehicle manufacturer has no control; or

(II) To require a dealer to pay an unreasonable fee, purchase unreasonable advertising displays or other materials, or comply with unreasonable training or facilities requirements as a prerequisite to receiving any particular model of that same line-make, which shall be judged based on the circumstances of the individual dealer and the conditions of the market served by the dealer;

(k) To require, coerce, or attempt to coerce any powersports vehicle dealer to refrain from participation in the management of, investment in, or acquisition of another line-make of new powersports vehicles or related products; except that this ~~paragraph (k)~~ SUBSECTION (1)(k) shall not apply unless the powersports vehicle dealer:

(I) Maintains a reasonable line of credit for each make or line of new powersports vehicle;

(II) Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the powersports vehicle manufacturer; but "reasonable facilities requirements" shall not include a requirement that a powersports vehicle dealer establish or maintain exclusive facilities, personnel, or display space; and

(III) Provides written notice to the manufacturer, distributor, or manufacturer's representative, no less than ninety days prior to the dealer's intent to participate in the management of, investment in, or acquisition of another line-make of new powersports vehicles or related products;

(l) To fail to pay to a powersports vehicle dealer, within ninety days after the termination, cancellation, or nonrenewal of a franchise, all of the following:

(I) The dealer cost, plus any charges made by the powersports vehicle manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the powersports vehicle dealer by the powersports vehicle manufacturer, of unused, undamaged, and unsold powersports vehicles in the powersports vehicle dealer's inventory that were acquired from the powersports vehicle manufacturer or from another powersports vehicle dealer of the same line-make in the ordinary course of business within the previous twelve months;

(II) The dealer cost, less all allowances paid or credited to the powersports vehicle dealer by the powersports vehicle manufacturer, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging and listed in the powersports vehicle manufacturer's current parts catalog;

(III) The fair market value of each undamaged sign owned by the powersports vehicle dealer and bearing a common name, trade name, or trademark of the powersports vehicle manufacturer if acquisition of the sign was required by the powersports vehicle manufacturer;

(IV) The fair market value of all special tools and equipment that were acquired from the powersports vehicle manufacturer or from sources approved and required by the powersports vehicle manufacturer and that are in good and usable condition, excluding normal wear and tear; and

(V) The cost of transporting, handling, packing, and loading the powersports vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings described in this ~~paragraph (l)~~. SUBSECTION (1)(l);

(m) To require, coerce, or attempt to coerce a powersports vehicle dealer to close or change the location of the powersports vehicle dealer, or to make any substantial alterations to the dealer premises or facilities when doing so would be unreasonable or without written assurance of a sufficient supply of powersports vehicles so as to justify the changes, in light of the current market and economic conditions;

(n) To authorize or permit a person to perform warranty service repairs on powersports vehicles unless the person is:

(I) A powersports vehicle dealer with whom the powersports vehicle manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's powersports vehicles; or

(II) A person or government entity that has purchased new powersports vehicles pursuant to a powersports vehicle manufacturer's fleet discount program and is performing the warranty service repairs only on vehicles owned by the person or entity;

(o) To require, coerce, or attempt to coerce a powersports vehicle dealer to prospectively agree to a release, assignment, novation, waiver, or estoppel that would relieve any person of a duty or liability imposed under this ~~article~~ ARTICLE 20 except in settlement of a bona fide dispute;

(p) To discriminate between or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make based upon unreasonable sales and service standards;

(q) To fail to make practically available an incentive, rebate, bonus, or other similar benefit to a powersports vehicle dealer that is offered to another powersports vehicle dealer of the same line-make within this state;

(r) To fail to pay to a powersports vehicle dealer:

(I) Within ninety days after the termination, cancellation, or nonrenewal of a franchise for the failure of a dealer to meet performance sales and service obligations or after the termination, elimination, or cessation of a line-make, the cost of the lease for the facilities used for the franchise or line-make for the unexpired term of the lease, not to exceed one year; except that:

(A) If the powersports vehicle dealer owns the facilities, the value of renting ~~such~~ THE facilities for one year, prorated for each line-make based upon total sales volume for the previous twelve months before the involuntary termination;

(B) Nothing in this ~~subparagraph~~ (I) SUBSECTION (1)(r)(I) shall be

construed to limit the application of ~~paragraph (d) of this subsection (1)~~ SUBSECTION (1)(d) OF THIS SECTION;

(II) Within ninety days after the termination, elimination, or cessation of a line-make or the termination of a franchise due to the insolvency of the manufacturer or distributor, the fair market value of the powersports vehicle dealer's goodwill for the line-make as of the date the manufacturer or distributor announces the action that results in the termination, elimination, or cessation, not including any amounts paid under ~~subparagraphs (I) to (V) of paragraph (1) of this subsection (1)~~ SUBSECTIONS (1)(I)(I) TO (1)(I)(V) OF THIS SECTION;

(s) To condition a franchise agreement on improvements to a facility unless reasonably required by the technology of a powersports vehicle being sold at the facility;

(t) To charge back, deny powersports vehicle allocation, withhold payments, or take other actions against a powersports vehicle dealer if a powersports vehicle sold by the powersports vehicle dealer is exported from Colorado unless the manufacturer, distributor, or manufacturer representative proves that the powersports vehicle dealer knew or reasonably should have known a powersports vehicle was intended to be exported, which shall operate as a rebuttable presumption that the powersports vehicle dealer did not have ~~such~~ THIS knowledge;

(u) Within ninety days after the termination, elimination, or cessation of a line-make or the termination, cancellation, or nonrenewal of a franchise by the manufacturer, distributor, or manufacturer representative, for any reason other than that the powersports vehicle dealer commits fraud, makes a misrepresentation, or commits any other crime within the scope of the franchise agreement or in the operation of the dealership, to fail to reimburse a powersports vehicle dealer for the cost depreciated by five percent per year of any upgrades or alterations to the powersports vehicle dealer's facilities required by the manufacturer, distributor, or manufacturer representative within the previous five years;

(v) To fail to notify a powersports vehicle dealer at least ninety days before the following and to provide the specific reasons for the following:

(I) Directly or indirectly terminating, cancelling, or not renewing a

franchise agreement; or

(II) Modifying, replacing, or attempting to modify or replace the franchise or selling agreement of a powersports dealer, including a change in the dealer's geographic area upon which sales or service performance is measured, if the modification would substantially and adversely alter the rights or obligations of the dealer under the current franchise or selling agreement or would substantially impair the sales or service obligations or the dealer's investment;

(w) To require, coerce, or attempt to coerce a powersports dealer to substantially alter a facility or premises if the facility or premises has been altered within the last ten years at a cost of more than twenty-five thousand dollars, and the alteration was required and approved by the manufacturer, distributor, or manufacturer representative; except that this subsection (1)(w) does not apply to improvements made to comply with health or safety laws or to accommodate the technology requirements necessary to sell or service a line-make;

(x) (I) To sell or offer to sell new powersports vehicles to a franchised motor vehicle dealer with whom the manufacturer has a franchise agreement at a lower actual price than the actual price offered to any other powersports vehicle dealer with whom the manufacturer has a franchise agreement for the same motor vehicle similarly equipped; except that this subsection (1)(x) does not apply to:

(A) Resale to any government;

(B) Donation or use by the dealer in a driver education course; or

(C) A price change made in the ordinary course of business if made available to all powersports vehicle dealers when the price changes.

(II) This subsection (1)(x) does not prohibit a manufacturer, distributor, or manufacturer representative from offering incentive programs, sales-promotion plans, or other discounts if the incentives or discounts are reasonably available to all powersports vehicle dealers with whom the manufacturer has a franchise agreement.

(y) To require a powersports vehicle dealer to grant a manufacturer,

distributor, or manufacturer representative the following or to enforce the following if the exercise of the contractual right would stop the transfer of the powersports vehicle dealer ownership from an owner to an immediate family member of the owner:

(I) A right of first refusal to purchase the powersports vehicle dealer; or

(II) An option to purchase the powersports vehicle dealer; and

(z) (I) To use an unreasonable, arbitrary, or unfair performance standard in determining a powersports vehicle dealer's compliance with a franchise agreement; or

(II) To fail to communicate, upon the request of the dealer, any performance standard in a clear and concise writing to a powersports vehicle dealer before applying the standard to the powersports vehicle dealer.

(2) It is unlawful for a person to act as a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, powersports vehicle manufacturer, powersports vehicle distributor, powersports vehicle manufacturer representative, or powersports vehicle salesperson unless the person has been duly licensed under the provisions of this ~~part 5~~ PART 4.

44-20-424. [Formerly 12-6-524] New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (1) No powersports vehicle manufacturer or distributor shall establish an additional powersports vehicle dealer, reopen a previously existing powersports vehicle dealer, or authorize an existing powersports vehicle dealer without first providing at least sixty days' notice to all of its franchised dealers within whose relevant market area the new, reopened, or relocated dealer would be located. The notice must state:

(a) The specific location at which the additional, reopened, or relocated powersports vehicle dealer will be established;

(b) The date on or after which the powersports vehicle manufacturer intends to be engaged in business with the additional, reopened, or relocated powersports vehicle dealer at the proposed location; and

(c) The identity of all powersports vehicle dealers who are franchised to sell the same line-make of vehicles with licensed locations in the relevant market area where the additional, reopened, or relocated powersports vehicle dealer is proposed to be located.

~~(d) Repealed.~~

~~(1.5)~~ (2) A powersports vehicle manufacturer shall approve or disapprove of a powersports vehicle dealer facility initial site location, relocation, or reopening request within sixty days after the request or after sending the notice required by subsection (1) of this section to all of its franchised powersports vehicle dealers, whichever is later.

~~(2)~~ (3) Subsection (1) of this section shall not apply to:

(a) The relocation of an existing dealer within two miles of its current location; or

(b) The establishment of a replacement dealer, within two years, either at the former location or within two miles of the former location.

~~(3)~~ (4) As used in this section:

(a) "Powersports manufacturer" means a powersports vehicle manufacturer, distributor, or manufacturer representative.

(b) "Relevant market area" means the greater of the following:

(I) The geographic area of responsibility defined in the franchise agreement of an existing dealer; or

(II) The geographic area within a radius of ten miles of any existing dealer of the same line-make of powersports vehicle as the proposed additional motor vehicle dealer.

~~(c) Repealed.~~

~~(4) and (5) Repealed.~~

~~(6)~~ (5) (a) An existing powersports vehicle dealer adversely affected

by the reopening or relocation of an existing same line-make powersports vehicle dealer or the addition of a same line-make powersports vehicle dealer may, within ninety days after receipt of the notice required in subsection (1) of this section, file a legal action in a district court of competent jurisdiction or file an administrative complaint with the executive director to prevent or enjoin the relocation, reopening, or addition of the proposed powersports vehicle dealer. An existing powersports vehicle dealer is adversely affected if:

(I) The dealer is located within the relevant market area of the proposed relocated, reopened, or additional dealership described in the notice required in subsection (1) of this section; or

(II) The existing dealer or dealers of the same line-make show that, during any twelve-month period within the thirty-six months preceding the receipt of the notice required in subsection (1) of this section, the dealer or dealers, or a dealer's predecessor, made at least twenty-five percent of the dealer's retail sales of new powersports vehicles to persons whose addresses are located within ten miles of the location of the proposed relocated, reopened, or additional dealership.

(b) The executive director shall refer a complaint filed under this section to an administrative law judge in the office of administrative courts for final agency action.

(c) In any court or administrative action, the manufacturer has the burden of proof on each of the following issues:

(I) The change in population;

(II) The relevant vehicle buyer profiles;

(III) The relevant historical new powersports vehicle registrations for the line-make of vehicles versus the manufacturer's actual competitors in the relevant market area;

(IV) Whether the opening of the proposed reopened, relocated, or additional powersports vehicle dealer is materially beneficial to the public interest or the consumers in the relevant market area;

(V) Whether the powersports vehicle dealers of the same line-make in the relevant market area are providing adequate representation and convenient customer care, including the adequacy of sales and service facilities, equipment, parts, and qualified service personnel, for powersports vehicles of the same line-make in the relevant market area;

(VI) The reasonably expected market penetration of the line-make, given the factors affecting penetration; and

(VII) Whether the reopened, relocated, or additional dealership is reasonable and justifiable based on expected economic and market conditions within the relevant market area.

(d) In any court or administrative action, the powersports vehicle dealer has the burden of proof on each of the following issues:

(I) Whether the manufacturer engaged in any action or omission that, directly or indirectly, denied the existing powersports vehicle dealer of the same line-make the opportunity for reasonable growth or market expansion;

(II) Whether the manufacturer has coerced or attempted to coerce any existing powersports vehicle dealer into consenting to additional or relocated franchises of the same line-make in the community or territory or relevant market area; and

(III) The size and permanency of the investment of, and the obligations incurred by, the existing powersports vehicle dealers of the same line-make located in the relevant market area.

(e) (I) In a legal or administrative action challenging the relocation, reopening, or addition of a powersports vehicle dealer, the district court or administrative law judge shall make a determination, based on the factors identified in ~~subsections (6)(c) and (6)(d)~~ SUBSECTIONS (5)(c) AND (5)(d) of this section, of whether the relocation, reopening, or addition of a powersports vehicle dealer is:

(A) In the public interest; and

(B) Fair and equitable to the existing powersports vehicle dealers.

(II) The district court or the executive director shall deny any proposed relocation, reopening, or addition of a powersports vehicle dealer unless the manufacturer shows by a preponderance of the evidence that the existing powersports vehicle dealer or dealers of the same line-make in the relevant market area of the proposed dealership are not providing adequate representation of the line-make powersports vehicles. A determination to deny, prevent, or enjoin the relocation, reopening, or addition of a powersports vehicle dealer is effective for at least eighteen months.

44-20-425. [Formerly 12-6-525] Independent control of dealer - definitions. (1) Except as otherwise provided in this section, no powersports vehicle manufacturer shall own, operate, or control any powersports vehicle dealer or used powersports vehicle dealer in Colorado.

(2) Notwithstanding subsection (1) of this section, the following activities are not prohibited:

(a) Operation of a powersports vehicle dealer for a temporary period, not to exceed twelve months, during the transition from one owner or operator to another independent owner or operator; except that the executive director may extend the period, not to exceed twenty-four months, upon a showing by the manufacturer or distributor of the need to operate the dealership for such time to achieve a transition from an owner or operator to another independent third-party owner or operator;

(b) Ownership or control of a powersports vehicle dealer while the dealer is being sold under a bona fide contract or purchase option to the operator of the dealer;

(c) Participation in the ownership of the powersports vehicle dealer solely for the purpose of providing financing or a capital loan that will enable the dealer to become the majority owner of the dealer in less than seven years; and

(d) Operation of a powersports vehicle dealer if the powersports vehicle manufacturer has no other franchised dealers of the same line-make in this state.

(3) As used in this section:

(a) "Control" means to possess, directly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that "control" does not include the relationship between a powersports vehicle manufacturer and a powersports vehicle dealer under a franchise agreement.

(b) "Operate" means to directly or indirectly manage a powersports vehicle dealer.

(c) "Own" means to hold any beneficial ownership interest of one percent or more class of equity interest in a powersports vehicle dealer, whether as a shareholder, partner, limited liability company member, or otherwise. To "hold" an ownership interest means to have possession of, title to, or control of the ownership interest, either directly or through a fiduciary or agent.

(d) "Powersports vehicle manufacturer" means a powersports vehicle manufacturer, distributor, or manufacturer representative.

44-20-426. [Formerly 12-6-526] Successor under existing franchise agreement - duties of powersports vehicle manufacturer.

(1) If a licensed powersports vehicle dealer under franchise by a powersports vehicle manufacturer dies or becomes incapacitated, the powersports vehicle manufacturer shall act in good faith to allow a successor, which may include a family member, designated by the deceased or incapacitated powersports vehicle dealer to succeed to ownership and operation of the dealer under the existing franchise agreement if:

(a) Within ninety days after the powersports vehicle dealer's death or incapacity, the designated successor gives the powersports vehicle manufacturer written notice of an intent to succeed to the rights of the deceased or incapacitated powersports vehicle dealer in the franchise agreement;

(b) The designated successor agrees to be bound by all of the terms and conditions of the existing franchise agreement; and

(c) The designated successor meets the criteria generally applied by the powersports vehicle manufacturer in qualifying powersports vehicle dealers.

(2) A powersports vehicle manufacturer may refuse to honor the existing franchise agreement with the designated successor only for good cause. The powersports vehicle manufacturer may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored, and the designated successor shall supply the data promptly upon request.

(3) (a) If a powersports vehicle manufacturer believes that good cause exists for refusing to honor the requested succession, the powersports vehicle manufacturer shall send the designated successor, by certified or overnight mail, notice of its refusal to approve the succession within sixty days after the later of:

(I) Receipt of the notice of the designated successor's intent to succeed the powersports vehicle dealer in the ownership and operation of the dealer; or

(II) The receipt of the requested personal and financial data.

(b) Failure to serve the notice pursuant to ~~paragraph (a) of this subsection~~ (3) SUBSECTION (3)(a) OF THIS SECTION shall be considered approval of the designated successor, and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day of the notice period specified in ~~said paragraph (a)~~ SUBSECTION (3)(a) OF THIS SECTION.

(c) If the powersports vehicle manufacturer gives notice of refusal to approve the succession, the notice shall state the specific grounds for the refusal and shall state that the franchise agreement shall be discontinued not less than ninety days after the date the notice of refusal is served unless the proposed successor files an action in the district court to enjoin the action.

(4) This section shall not be construed to prohibit a powersports vehicle dealer from designating a person as the successor in advance, by written instrument filed with the powersports vehicle manufacturer. If the powersports vehicle dealer files the instrument, that instrument governs the succession rights to the management and operation of the dealer subject to the designated successor satisfying the powersports vehicle manufacturer's qualification requirements as described in this section.

44-20-427. [Formerly 12-6-526.5] Audit reimbursement limitations - dealer claims. (1) (a) A manufacturer, distributor, or manufacturer representative shall have the right to audit warranty, sales, or incentive claims of a powersports vehicle dealer for nine months after the date the claim was submitted.

(b) A manufacturer, distributor, or manufacturer representative shall not require documentation for warranty, sales, or incentive claims or audit warranty, sales, or incentive claims of a powersports vehicle dealer more than fifteen months after the date the claim was submitted, nor shall the manufacturer require a charge back, reimbursement, or credit against a future transaction arising out of an audit or request for documentation arising more than nine months after the date the claim was submitted.

(2) The powersports vehicle dealer shall have nine months after making a sale or providing service to submit warranty, sales, or incentive claims to the manufacturer, distributor, or manufacturer representative.

(3) Subsection (1) of this section shall not limit any action for fraud instituted in a court of competent jurisdiction.

(4) A powersports vehicle dealer may request a determination from the executive director, within thirty days, that a charge back, reimbursement, or credit required violates subsection (1) of this section. If a determination is requested within the thirty-day period, then the charge back, reimbursement, or credit shall be stayed pending the decision of the executive director. If the executive director determines after a hearing that the charge back, reimbursement, or credit violates subsection (1) of this section, the charge back, reimbursement, or credit shall be void.

44-20-428. [Formerly 12-6-526.7] Reimbursement for disapproving sale. A manufacturer or distributor shall pay reasonable attorney fees, not to exceed the usual and customary fees charged for the transfer of a franchise, and reasonable expenses that are incurred by the proposed owner or transferee before the manufacturer or distributor exercised its right of first refusal in negotiating and implementing the contract for the proposed change of ownership or the transfer of assets. Payment of attorney fees and expenses is not required if the claimant has failed to submit an accounting of attorney fees and expenses within twenty days after the receipt of the manufacturer's or dealer's written request for an

accounting. An expense accounting may be requested by the manufacturer or distributor before exercising its right of first refusal.

44-20-429. [Formerly 12-6-527] Penalty. (1) Except as provided in subsection (2) of this section, a person who willfully violates this ~~part 5~~ PART 4 commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501.

(2) (a) A person who willfully violates section ~~12-6-523 (2)~~ 44-20-423 (2) by acting as a powersports vehicle manufacturer, powersports vehicle distributor, or powersports vehicle manufacturer representative without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars for each separate offense, or if the violator is a corporation, the fine shall be not less than five hundred dollars nor more than two thousand five hundred dollars for each separate offense. A second conviction shall be punished by a fine of two thousand five hundred dollars.

(b) A person who willfully violates section ~~12-6-523 (2)~~ 44-20-423 (2) by acting as a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle salesperson without proper authorization commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars and a penalty of twenty-five hours of useful public service, neither of which the court may suspend, for each separate offense; except that, if the violator is a corporation, the corporation shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense. A second conviction for an individual shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars for each separate offense, which the court may not suspend.

44-20-430. [Formerly 12-6-528] Fines - disposition - unlicensed sales. Any fine collected for a violation of section ~~12-6-523 (2)~~ 44-20-423 (2) shall be awarded to the law enforcement agency that investigated and issued the citation for the violation.

44-20-431. [Formerly 12-6-529] Drafts or checks not honored for payment - penalties. (1) If a wholesaler, powersports vehicle dealer, or

used powersports vehicle dealer issues a draft or check to a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer and fails to honor the draft or check, then the license of the licensee shall be subject to suspension pursuant to section ~~12-6-520~~ 44-20-420. The license suspension shall be effective upon the date of a final decision against the licensee. A licensee whose license has been suspended pursuant to this subsection (1) shall not be eligible for reinstatement of the license and shall not be eligible to apply for another license issued under this ~~part 5~~ PART 4 unless it is demonstrated to the board that the unpaid draft or check has been paid in full and that any fine imposed on the licensee pursuant to subsection (2) of this section has been paid in full.

(2) A wholesaler, powersports vehicle dealer, or used powersports vehicle dealer that issues a draft or check to a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer and who fails to honor the draft or check, causing loss to a third party, commits a misdemeanor and shall be punished by a fine of two thousand five hundred dollars. Any fine collected for a violation of this subsection (2) shall be awarded to the law enforcement agency that investigated and issued the citation for the violation.

44-20-432. [Formerly 12-6-530] Right of action for loss. (1) A person shall have a right of action against the dealer, the dealer's salespersons, and the sureties upon their respective bonds if the person suffers loss or damage by reason of fraud practiced on the person or fraudulent representation made to the person by a licensed powersports vehicle dealer or a licensed used powersports vehicle dealer, or one of the dealer's salespersons acting on the dealer's behalf or within the scope of the employment, or suffers loss or damage by reason of the violation by the dealer or salesperson of any of the provisions of this ~~part 5~~ PART 4 that are designated by the board by rule, whether or not the violation is the basis for denial, suspension, or revocation of a license. The right of a person to recover for loss or damage as provided in this subsection (1) against the dealer or salesperson shall not be limited to the amount of their respective bonds.

(2) If a person suffers any loss or damage by reason of any unlawful act under section ~~12-6-523(1)(a)~~ 44-20-423 (1)(a), the person shall have a right of action against the powersports vehicle manufacturer, distributor, or manufacturer representative. In a court action wherein a powersports

vehicle manufacturer, distributor, or manufacturer representative has been found liable in damages to any person under this ~~part 5~~ PART 4, the amount of damages so determined shall be trebled and shall be recoverable by the person so damaged. Any person so damaged shall also be entitled to recover reasonable attorney fees.

(3) If a licensee suffers loss or damage by reason of an unlawful act under section ~~12-6-523(1)~~ 44-20-423 (1), the licensee shall have a right of action against the powersports vehicle manufacturer, distributor, or manufacturer representative. In a court action wherein a powersports vehicle manufacturer, distributor, or manufacturer representative has been found liable in damages to a licensee under this ~~part 5~~ PART 4, the licensee so damaged shall also be entitled to recover reasonable attorney fees.

44-20-433. [Formerly 12-6-531] Contract disputes - venue - choice of law. (1) In the event of a dispute between a powersports vehicle dealer and a powersports vehicle manufacturer under a franchise agreement, notwithstanding any provision of the agreement to the contrary:

(a) At the option of the powersports vehicle dealer, venue shall be proper in the county or judicial district where the dealer resides or has its principal place of business; and

(b) Colorado law shall govern, both substantively and procedurally.

44-20-434. [Formerly 12-6-532] Advertisement - inclusion of dealer name. No powersports vehicle dealer or used powersports vehicle dealer or an agent of a dealer shall advertise an offer for the sale, lease, or purchase of a powersports vehicle that creates the false impression that the vehicle is being offered by a private party or that does not contain the name of the dealer or the word "dealer" or, if the name is contained in the offer and does not clearly reflect that the business is a dealer, both the name of the dealer and the word "dealer".

44-20-435. [Formerly 12-6-534] Payout exemption to execution. A powersports vehicle dealer's right to receive payments from a manufacturer or distributor required by section ~~12-6-523(1)(l) and (1)(r)~~ 44-20-423 (1)(l) AND (1)(r) is not liable to attachment or execution and may not otherwise be seized, taken, appropriated, or applied in a legal or equitable process or by operation of law to pay the debts or liabilities of the

manufacturer or distributor. This section shall not prohibit a secured creditor from exercising rights accrued pursuant to a security agreement if the right arose as a result of the manufacturer or distributor voluntarily creating a security interest before paying existing debts or liabilities of the manufacturer or distributor. This section shall not prohibit a manufacturer or distributor from withholding a portion of the payments necessary to cover an amount of money owed to the manufacturer or distributor as an offset to the payments if the manufacturer or distributor provides the motor vehicle dealer written notice thereof.

44-20-436. [Formerly 12-6-535] Site control extinguishes. If a manufacturer, distributor, or manufacturer representative has terminated, eliminated, or not renewed a franchise agreement containing a site control provision, the powersports vehicle dealer may void a site control provision of a franchise agreement by returning any money the dealer has accepted in exchange for site control prorated by the time remaining before the agreement expires over the time period between the agreement being signed and the agreement expiring. This section does not apply if the termination, elimination, or nonrenewal is for just cause in accordance with section ~~12-6-523 (1)(d)~~ 44-20-423 (1)(d).

44-20-437. [Formerly 12-6-536] Modification voidable. If a manufacturer, distributor, or manufacturer representative fails to comply with section ~~12-6-120 (1)(v)(H)~~ 44-20-423 (1)(v)(II), the powersports dealer may void the modification or replacement of the franchise agreement.

44-20-438. [Formerly 12-6-537] Termination appeal. (1) A powersports vehicle dealer who has reason to believe that a manufacturer, distributor, or manufacturer representative has violated section ~~12-6-523 (1)(d)~~ or ~~(1)(v)~~ 44-20-423 (1)(d) OR (1)(v) may appeal to the board by filing a complaint with:

(a) The executive director; or

(b) A district court if neither the executive director nor the administrative law judge, appointed in accordance with this section, holds a hearing concerning the complaint within sixty days after the complaint was filed.

(2) Upon filing a verified complaint alleging with specific facts that

a violation has occurred under this section, the termination, elimination, modification, or nonrenewal of the franchise agreement is automatically stayed, without the motor vehicle dealer posting a bond, until a final determination is made on each issue raised in the complaint; except that the executive director, administrative law judge, or court may cancel the stay upon finding that the cancellation, termination, or nonrenewal of the franchise agreement was for any of the reasons specified in section ~~12-6-120(1)(d)(H)~~ 44-20-423 (1)(d)(III). The automatic stay maintains all rights under the franchise agreement until the final determination of the issues raised in the verified complaint. The manufacturer, distributor, or manufacturer representative shall not name a replacement motor vehicle dealer for the market or location until a final order is entered.

(3) If a verified complaint is filed with the executive director, the executive director shall refer the complaint to an administrative law judge with the office of administrative courts for final agency action.

(4) In resolving a termination complaint, the manufacturer, distributor, or manufacturer representative has the burden of proving any claim made that the factors listed in section ~~12-6-523(1)(d)(H)~~ 44-20-423 (1)(d)(II) apply to the termination, cancellation, or nonrenewal.

(5) The prevailing party in a claim that a termination, cancellation, or nonrenewal violates section ~~12-6-523(1)(d) or (1)(v)~~ 44-20-423 (1)(d) OR (1)(v) is entitled to recover attorney fees and costs, including expert witness fees, incurred in the termination protest.

44-20-439. [Formerly 12-6-538] Stop-sale directives - used powersports vehicles - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Average trade-in value" means the value of a used powersports vehicle as established by a generally accepted, published, third-party used vehicle resource.

(b) "Stop-sale directive" means an unconditional directive from a manufacturer or distributor to a powersports vehicle dealer to stop selling a type of powersports vehicle manufactured by the manufacturer or distributed by the distributor because of a safety defect.

(2) The manufacturer or distributor shall reimburse a powersports vehicle dealer in accordance with subsection (3) of this section if:

(a) The manufacturer or distributor issues a stop-sale directive for a powersports vehicle manufactured or distributed by the issuer of the stop-sale directive;

(b) The powersports vehicle dealer holds an active sales, service, and parts agreement with the manufacturer or distributor for the line-make of the used powersports vehicle covered by the stop-sale directive;

(c) The used powersports vehicle covered by the stop-sale directive is held in the inventory of the powersports vehicle dealer on the date the stop-sale directive is issued or taken by the dealer as a trade-in vehicle on a consumer purchase of the same line-make; and

(d) The manufacturer or distributor has not provided a remedy procedure or made parts available to repair the used powersports vehicle for more than thirty days after the stop-sale directive was issued.

(3) If the conditions in subsection (2) of this section are met, the manufacturer or distributor shall, upon application by the powersports vehicle dealer, pay or credit the dealer one and one-half percent per month of the average trade-in value of each used powersports vehicle's model affected by the stop-sale directive prorated from thirty days after the stop-sale directive was issued to the earlier of:

(a) The date when the manufacturer or distributor provides the powersports vehicle dealer with a remedy procedure and any necessary parts for ordering to repair the used powersports vehicle; or

(b) The date the powersports vehicle dealer transfers the powersports vehicle.

(4) A manufacturer or distributor may determine the reasonable manner and method required for a powersports vehicle dealer to demonstrate the inventory status of a used powersports vehicle to determine eligibility for reimbursement.

(5) (a) This section applies only to used powersports vehicles.

(b) This section is not intended to prevent a manufacturer or distributor from requiring that a powersports vehicle not be subject to an open recall or stop-sale directive as a condition for the powersports vehicle to be qualified or sold as a certified preowned vehicle or substantially similar designation.

(c) This section does not require a manufacturer or distributor to provide total compensation to a powersports vehicle dealer that would exceed the total average trade-in valuation of the affected used powersports vehicle.

(d) This section does not preclude a powersports vehicle dealer and a manufacturer or distributor from agreeing to reimbursement terms that differ from those specified in this section.

(e) Compensation provided to a powersports vehicle dealer under this section is exclusive and may not be combined with any other remedy under state or federal law.

44-20-440. [Formerly 12-6-539] Repeal of part. This ~~part 5~~ PART 4 is repealed, effective September 1, 2027. Before its repeal, this ~~part 5~~ PART 4 is scheduled for review in accordance with section 24-34-104.

SECTION 3. In Colorado Revised Statutes, **add with amended and relocated provisions** part 24 to article 4 of title 42 as follows:

PART 24
EVENT DATA RECORDERS

42-4-2401. [Formerly 12-6-401] Definitions. As used in this ~~part~~ PART 24, unless the context otherwise requires:

(1) "Event data" means records of one or more of the following categories of information concerning a motor vehicle, which records are captured by an event data recorder:

- (a) Whether the vehicle's air bag deployed;
- (b) Vehicle speed;

- (c) Vehicle direction;
- (d) Vehicle location;
- (e) Vehicle steering performance or use;
- (f) Vehicle brake performance or use; or
- (g) Vehicle seatbelt status or use.

(2) "Event data recorder" means a device or feature that is installed by the manufacturer of a motor vehicle for the purpose of capturing or transmitting retrievable event data.

(3) "Owner" means:

(a) A person having all the incidents of ownership of a motor vehicle, including legal title to the motor vehicle, regardless of whether the person lends, rents, or creates a security interest in the vehicle;

(b) A person entitled to possession of a motor vehicle as the purchaser under a security agreement; or

(c) A person entitled to possession of a vehicle as lessee under a written lease agreement if the lease agreement is intended to last for more than three months at its inception.

(4) "Owner's agent" means a natural person authorized by the owner within the last thirty days or the owner's representative as defined by section 13-20-702 (3). ~~C.R.S.~~

42-4-2402. [Formerly 12-6-402] Event data recorders. (1) A manufacturer of a motor vehicle that is sold or leased in Colorado with an event data recorder shall in bold-faced type disclose, in the owner's manual, that the vehicle is so equipped and, if so, the type of data recorded. A disclosure made by means of an insert into the owner's manual shall be deemed a disclosure in the owner's manual.

(2) Event data that is recorded on an event data recorder is the personal information of the motor vehicle's owner, and therefore, ~~such~~ THE

information shall not be retrieved by a person who is not the owner of the motor vehicle, except in the following circumstances:

(a) The owner of the motor vehicle or the owner's agent has consented to the retrieval of the data within the last thirty days;

(b) The data is retrieved by a motor vehicle dealer or by an automotive technician to diagnose, service, or repair the motor vehicle at the request of the owner or the owner's agent;

(c) The data is subject to discovery pursuant to the rules of civil procedure in a claim arising out of a motor vehicle accident;

(d) A court or administrative agency having jurisdiction orders the data to be retrieved;

(e) The event data recorder is installed after the manufacturer or motor vehicle dealer sells the motor vehicle; or

(f) A peace officer retrieves the data pursuant to a court order as part of an investigation of a suspected violation of a law that has caused, or contributed to the cause of, an accident resulting in damage of property or injury to a person.

(3) (a) No person shall release event data unless authorized by ~~paragraph (b) of this subsection~~ (3) SUBSECTION (3)(b) OF THIS SECTION.

(b) A person authorized to download or retrieve data from an event data recorder may release ~~such~~ THE data in the following circumstances:

(I) The owner of the motor vehicle or the owner's agent has consented to the release of the data within the last thirty days;

(II) The data is subject to discovery pursuant to the rules of civil procedure in a claim arising out of a motor vehicle accident;

(III) The data is released pursuant to a court order as part of an investigation of a suspected violation of a law that has caused, or contributed to the cause of, an accident resulting in appreciable damage of property or injury to a person;

(IV) If the identity of the owner or driver is not disclosed, the data is released to a motor vehicle safety and medical research entity in order to advance motor vehicle safety, security, or traffic management; or

(V) The data is released to a data processor solely for the purposes permitted by this section if the identity of the owner or driver is not disclosed.

(4) (a) If a motor vehicle is equipped with an event data recorder that is capable of recording or transmitting event data that is part of a subscription service, the fact that the data may be recorded or transmitted and instructions for discontinuing the subscription service or for disabling the event data recorder by a trained service technician shall be prominently disclosed in the subscription service agreement. A disclosure made by means of an insert into the service agreement shall be deemed a disclosure in the service agreement.

(b) Subsections (2) and (3) of this section shall not apply to subscription services meeting the requirements of ~~paragraph (a) of this subsection~~ (4) SUBSECTION (4)(a) OF THIS SECTION.

(5) A person who violates subsection (2) or (3) of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501. ~~C.R.S.~~

42-4-2403. [Formerly 12-6-403] Applicability. This ~~part 4~~ shall apply PART 24 APPLIES to motor vehicles manufactured on or after May 1, 2007.

SECTION 4. Repeal of relocated provisions in this act. In Colorado Revised Statutes, **repeal** article 6 of title 12.

SECTION 5. In Colorado Revised Statutes, 6-1-102, **amend** (5.5) as follows:

6-1-102. Definitions. As used in this article 1, unless the context otherwise requires:

(5.5) "Motor vehicle" has the same meaning as set forth in section ~~12-6-102~~ 44-20-102.

SECTION 6. In Colorado Revised Statutes, 11-35-101, **amend** (1) as follows:

11-35-101. Alternatives to surety bonds permitted - requirements - definition. (1) The requirement of a surety bond as a condition to licensure or authority to conduct business or perform duties in this state provided in sections 5-16-124 (1), 6-16-104.6, ~~12-6-111~~, ~~12-6-112~~, ~~12-6-112.2~~, ~~12-6-512~~, ~~12-6-513~~, 12-61-907, 23-64-121 (1), 33-4-101 (1), 33-12-104 (1), 35-55-104 (1), 37-91-107 (2) and (3), 38-29-119 (2), 39-21-105, 39-27-104 (2)(a), (2)(b), (2)(c), (2)(d), (2)(e), (2.1)(a), (2.1)(b), (2.1)(c), (2.5)(a), and (2.5)(b), 39-28-105 (1), 42-6-115 (3), ~~and~~ 42-7-301 (6), 44-20-112, 44-20-113, 44-20-114, 44-20-412, ~~AND~~ 44-20-413 may be satisfied by a savings account or deposit in or a certificate of deposit issued by a state or national bank doing business in this state or by a savings account or deposit in or a certificate of deposit issued by a state or federal savings and loan association doing business in this state. The savings account, deposit, or certificate of deposit must be in the amount specified by statute, if any, and must be assigned to the appropriate state agency for the use of the people of the state of Colorado. The aggregate liability of the bank or savings and loan association must in no event exceed the amount of the deposit. For the purposes of the sections referred to in this section, "bond" includes the savings account, deposit, or certificate of deposit authorized by this section.

SECTION 7. In Colorado Revised Statutes, **amend** 16-2.5-121 as follows:

16-2.5-121. Executive director of the department of revenue - senior director of enforcement for the department of revenue. The executive director and the senior director of enforcement of the department of revenue are peace officers while engaged in the performance of their duties whose authority includes the enforcement of laws and rules regarding automobile dealers pursuant to section ~~12-6-105 (3)~~ 44-20-105 (3), the lottery pursuant to sections 24-35-205 (3) and 24-35-206 (7), medical marijuana pursuant to article 43.3 of title 12, limited gaming pursuant to section 12-47.1-204, liquor pursuant to section 12-47-904 (1), and racing events pursuant to section 12-60-203 (1), and the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.

SECTION 8. In Colorado Revised Statutes, **amend** 16-2.5-122 as

follows:

16-2.5-122. Auto industry investigator. The director of the auto industry division or an auto industry investigator is a peace officer while engaged in the performance of his or her duties whose authority is limited to the enforcement of section ~~12-6-105(3)~~ 44-20-105 (3).

SECTION 9. In Colorado Revised Statutes, 24-1-117, **amend** (4)(a)(X) as follows:

24-1-117. Department of revenue - creation. (4) (a) The department of revenue shall consist of the following divisions:

(X) The auto industry division created in section ~~12-6-105~~ 44-20-105. The division shall exercise its powers and perform its duties and functions under the department of revenue as if the division were transferred to the department by a **type 2** transfer as described in section 24-1-105.

SECTION 10. In Colorado Revised Statutes, 24-34-104, **amend** (28)(a)(I) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (28) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2027:

(I) The regulation of motor vehicle and powersports vehicle sales by the motor vehicle dealer board and the director of the auto industry division, under the supervision of the executive director of the department of revenue, in accordance with parts 1, 2, 3, and 5 of article 6 of title ~~12~~ 4 OF ARTICLE 20 OF TITLE 44.

SECTION 11. In Colorado Revised Statutes, 24-35-101, **amend** (1)(c) as follows:

24-35-101. Functions of department of revenue - creation. (1) There is hereby created the department of revenue, the functions of which are the collection of the following:

(c) Taxes levied and the license fees imposed by the provisions of part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44, title 42, and part 2 of article 5 of title 43, and the administration and enforcement of ~~said~~ THESE provisions;

SECTION 12. In Colorado Revised Statutes, 38-20-116, **amend** (2.5)(d)(II) as follows:

38-20-116. Abandoned property - notice of sale - definitions. (2.5) (d) (II) Nothing in this subsection (2.5)(d) requires a repair shop to be a licensed dealer pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 for purposes of selling a motor vehicle pursuant to this section.

SECTION 13. In Colorado Revised Statutes, 39-26-113, **amend** (6)(b) and (7)(b) as follows:

39-26-113. Collection of sales tax - motor vehicles - off-highway vehicles - exemption - process for motor vehicles sold at auction - exception - definition. (6) (b) For purposes of this subsection (6), "seller-financed sale" means a retail sale of a motor or off-highway vehicle by a seller licensed under ~~article 6 of title 12, C.R.S.~~ ARTICLE 20 OF TITLE 44 in which the seller, or a wholly-owned affiliate or subsidiary of the seller, collects all or part of the total consideration paid for the vehicle in periodic payments and retains a lien on the vehicle until all payments have been received. Except as otherwise provided in this ~~paragraph (b)~~ SUBSECTION (6)(b), "seller-financed sale" does not include a retail sale of a vehicle in which a person other than the seller provides the consideration for the sale and retains a lien on the vehicle until all payments have been made.

(7) (b) The method of sales tax collection specified by ~~paragraph (a) of this subsection (7)~~ SUBSECTION (7)(a) OF THIS SECTION does not apply to the sale of a motor vehicle at auction sale if the auctioneer is also an automobile dealer licensed under part 1 of ~~article 6 of title 12, C.R.S.~~ ARTICLE 20 OF TITLE 44.

SECTION 14. In Colorado Revised Statutes, 39-26-713, **amend** (2)(b)(II) introductory portion as follows:

39-26-713. Tangible personal property. (2) The following are

exempt from taxation under part 2 of this article 26:

(b) (II) For purposes of this subsection (2)(b), any motor vehicle purchased and held for resale in this state by a licensed motor vehicle dealer, as defined in section ~~12-6-102~~ 44-20-102, who meets the eligibility requirements to receive a full-use dealer plate set forth in section 42-3-116 (6)(a)(I) shall be considered to be in the regular course of business and shall not be subject to taxation under part 2 of this article 26. A motor vehicle shall be considered to be purchased and held for resale if:

SECTION 15. In Colorado Revised Statutes, 42-3-115, **amend** (2)(b)(III)(A) as follows:

42-3-115. Registration upon transfer. (2) (b) A transferee may operate a motor vehicle on the highway before registering it if:

(III) (A) The transferee has purchased the motor vehicle within the last thirty-six hours from a person who is not a motor vehicle dealer under part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44;

SECTION 16. In Colorado Revised Statutes, 42-3-116, **amend** (6)(e) as follows:

42-3-116. Manufacturers or dealers. (6) (e) As used in this subsection (6), "motor vehicle dealer or wholesaler" includes motor vehicle dealers, used motor vehicle dealers, and wholesalers as those terms are defined in section ~~12-6-102~~ 44-20-102.

SECTION 17. In Colorado Revised Statutes, 42-4-304, **amend** (19)(b)(I) as follows:

42-4-304. Definitions relating to motor vehicle inspection and readjustment program. As used in sections 42-4-301 to 42-4-316, unless the context otherwise requires:

(19) (b) (I) Inspections conducted pursuant to section 42-4-309 (3) by a motor vehicle dealer test facility shall only be conducted on used motor vehicles inventoried or consigned in this state for retail sale by a motor vehicle dealer that is licensed pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 and that is a member of the state trade association

operating the motor vehicle dealer test facility.

SECTION 18. In Colorado Revised Statutes, 42-4-309, **amend** (3)(a), (3)(b), (3)(d), and (6)(a) as follows:

42-4-309. Vehicle fleet owners - motor vehicle dealers - authority to conduct inspections - fleet inspection stations - motor vehicle dealer test facilities - contracts with licensed inspection-only entities.

(3) (a) Any person licensed as a motor vehicle dealer pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 in whose name twenty or more motor vehicles are registered or inventoried or consigned for retail sale in this state that are required to be inspected shall comply with the requirements of section 42-4-310 for the issuance of a certificate of emissions compliance at the time of the retail sale of ~~any such~~ THE vehicle.

(b) Within the enhanced emissions program, motor vehicle dealers licensed pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 may contract for used motor vehicle inspection services by a licensed motor vehicle dealer test facility. Pursuant to rules of the commission, inspection procedures shall include a loaded mode transient dynamometer test cycle in combination with appropriate idle short tests pursuant to rules of the commission.

(d) Within the basic emissions program, any person licensed as a motor vehicle dealer pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 may be licensed to conduct inspections pursuant to subsections (1) and (2) of this section.

(6) (a) On and after June 1, 1996, a motor vehicle dealer or a used motor vehicle dealer licensed pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 that sells any vehicle subject to the enhanced emissions program may comply with sections 42-4-304 (3)(d) and 42-4-310 by providing the consumer of the vehicle a voucher purchased by the dealer from the contractor for the centralized enhanced emissions program, with or without charge to the consumer, up to the maximum amount charged for an emissions inspection at an enhanced inspection center. The voucher shall cover the cost of an emissions inspection of the vehicle at an enhanced inspection center and shall entitle the consumer to such an emissions inspection.

SECTION 19. In Colorado Revised Statutes, 42-4-310, **amend** (1)(a)(I) as follows:

42-4-310. Periodic emissions control inspection required.

(1) (a) (I) Subject to subsection (4) of this section, a motor vehicle that is required to be registered in the program area shall not be sold, registered for the first time without a certification of emissions compliance, or reregistered unless ~~such~~ THE vehicle has passed a clean screen test or has a valid certification of emissions control as required by the appropriate county. The provisions of this subsection (1)(a) do not apply to motor vehicle transactions at wholesale between motor vehicle dealers licensed pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44. An inspection is not required prior to the sale of a motor vehicle with at least twelve months remaining before the vehicle's certification of emissions compliance expires if ~~such~~ THE certification was issued when the vehicle was new.

SECTION 20. In Colorado Revised Statutes, 42-4-1805, **amend** (4)(b) as follows:

42-4-1805. Appraisal of abandoned motor vehicles - sale.

(4) (b) Nothing in this section requires an operator to be licensed pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 for purposes of conducting activities under this part 18.

SECTION 21. In Colorado Revised Statutes, 42-4-2104, **amend** (1)(b) as follows:

42-4-2104. Appraisal of abandoned motor vehicles - sale.

(1) (b) Nothing in this section requires that an operator must be a licensed dealer pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 for purposes of selling a motor vehicle pursuant to this part 21.

SECTION 22. In Colorado Revised Statutes, 42-4-2201, **amend** (2) as follows:

42-4-2201. Definitions. As used in this part 22, unless the context otherwise requires:

(2) "Licensed motor vehicle dealer" means a motor vehicle dealer

that is licensed pursuant to part 1 of ~~article 6 of title 12, C.R.S.~~ ARTICLE 20 OF TITLE 44.

SECTION 23. In Colorado Revised Statutes, 42-5-105, **amend** (1)(b)(IV) as follows:

42-5-105. Daily record. (1) (b) The record shall be kept in a good businesslike manner in the form of invoices or in a book by the dealer or proprietor and shall contain the following:

(IV) The name, address, and a copy of the identification document of the driver and the owner of a motor vehicle received for any purpose; except that a licensed motor vehicle dealer or used motor vehicle dealer is not required to obtain or retain a copy of an identification document if ~~such~~ THE dealer complies with part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44;

SECTION 24. In Colorado Revised Statutes, 42-6-102, **amend** (11.7) introductory portion as follows:

42-6-102. Definitions. As used in this part 1, unless the context otherwise requires:

(11.7) "Off-highway vehicle dealer" means both of the following as defined in section ~~12-6-502, C.R.S.~~ 44-20-402:

SECTION 25. In Colorado Revised Statutes, 42-6-201, **amend** (9) as follows:

42-6-201. Definitions. As used in this part 2, unless the context otherwise requires:

(9) "Used motor vehicle dealer" means any licensed motor vehicle dealer, used motor vehicle dealer, or wholesaler as defined by section ~~12-6-102~~ 44-20-102.

SECTION 26. In Colorado Revised Statutes, 42-11-101, **amend** (2) as follows:

42-11-101. Definitions. As used in this article, unless the context

otherwise requires:

(2) "Motor vehicle" means any vehicle subject to registration under section 42-1-102 (58) or any powersports vehicle as defined in section ~~12-6-502 (10)~~, C.R.S. 44-20-402 (11).

SECTION 27. Act subject to petition - effective date. This act takes effect October 1, 2018; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO