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1  
2 An act relating to motor vehicle dealers; amending s.  
3 320.64, F.S.; prohibiting licensees from certain actions  
4 intended to coerce a dealer to improve its facilities  
5 after the licensee has approved those facilities; allowing  
6 licensees to offer certain loan or grant programs to  
7 induce the dealer to relocate or improve the existing  
8 facilities, if such inducement is not discriminatory or  
9 designed to force the dealer to do so; prohibiting certain  
10 adverse actions against a dealer who does not participate  
11 in such programs; declaring certain inducement programs  
12 void; authorizing a licensee to set reasonable standards  
13 for dealer sales and facilities; prohibiting licensees  
14 from altering allocations or supplies of new vehicles to  
15 achieve goals that are prohibited in this state by  
16 statute; clarifying a provision relating to a prohibition  
17 against a dealer selling a motor vehicle to a customer who  
18 exported or resold the vehicle; requiring the licensee to  
19 prove the dealer had actual knowledge of the customer's  
20 intent to export or resell the vehicle; creating a  
21 conclusive presumption that the dealer had no actual  
22 knowledge if the vehicle was titled or registered in this  
23 country; authorizing licensees to audit dealers to  
24 determine the validity of paid claims if the licensee  
25 complies with applicable statutory requirements; creating  
26 s. 320.6412, F.S.; providing a burden of proof in actions  
27 to terminate a motor vehicle dealer franchise based on  
28 fraud or misrepresentation; amending s. 320.696, F.S.;  
29 substantially revising provisions relating to the

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30 licensee's responsibility to timely and reasonably  
31 compensate a dealer who performs warranty, service  
32 contract maintenance plan, or other vehicle preparation  
33 work; providing methods of determining the cost for parts  
34 and labor to be paid to a dealer as compensation for  
35 performing warranty repairs and vehicle preparation for  
36 the licensee; prohibiting the licensee from taking certain  
37 adverse actions against a dealer for seeking to obtain  
38 compensation for such work; prohibiting certain acts by a  
39 licensee to reduce the amount of compensation to be paid  
40 to a dealer or to offset or recover from the dealer  
41 compensation previously received; providing for  
42 severability; providing an effective date.

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Subsections (10), (18), (22), (25), (26), and  
47 (30) of section 320.64, Florida Statutes, are amended to read:  
48 320.64 Denial, suspension, or revocation of license;  
49 grounds.--A license of a licensee under s. 320.61 may be denied,  
50 suspended, or revoked within the entire state or at any specific  
51 location or locations within the state at which the applicant or  
52 licensee engages or proposes to engage in business, upon proof  
53 that the section was violated with sufficient frequency to  
54 establish a pattern of wrongdoing, and a licensee or applicant  
55 shall be liable for claims and remedies provided in ss. 320.695  
56 and 320.697 for any violation of any of the following provisions.  
57 A licensee is prohibited from committing the following acts:  
58 (10) (a) The applicant or licensee has attempted to enter,

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59 | or has entered, into a franchise agreement with a motor vehicle  
60 | dealer who does not, at the time of the franchise agreement, have  
61 | proper facilities to provide the services to his or her  
62 | purchasers of new motor vehicles which are covered by the new  
63 | motor vehicle warranty issued by the applicant or licensee.  
64 | Notwithstanding any provision of a franchise, a licensee may not  
65 | require a motor vehicle dealer, by agreement, program, policy,  
66 | standard, or otherwise, to relocate, to make substantial changes,  
67 | alterations, or remodeling to, or to replace a motor vehicle  
68 | dealer's sales or service facilities unless the licensee's  
69 | requirements are reasonable and justifiable in light of the  
70 | current and reasonably foreseeable projections of economic  
71 | conditions, financial expectations, and the motor vehicle  
72 | dealer's market for the licensee's motor vehicles.

73 |       (b) A licensee may, however, provide to a motor vehicle  
74 | dealer a commitment to allocate additional vehicles or a loan or  
75 | grant of money as an inducement for the motor vehicle dealer to  
76 | relocate, expand, improve, remodel, alter, or renovate its  
77 | facilities if the licensee delivers an assurance to the dealer  
78 | that it will offer to supply to the dealer a sufficient quantity  
79 | of new motor vehicles, consistent with its allocation obligations  
80 | at law and to its other same line-make motor vehicle dealers,  
81 | which will economically justify such relocation, expansion,  
82 | improvement, remodeling, renovation, or alteration, in light of  
83 | reasonably current and reasonably projected market and economic  
84 | conditions. The provisions of the increase in vehicle allocation,  
85 | the loan or grant and the assurance, and the basis for them must  
86 | be contained in a written agreement voluntarily entered into by  
87 | the dealer and must be made available, on substantially similar

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88 terms, to any of the licensee's other same line-make dealers in  
89 this state with whom the licensee offers to enter into such an  
90 agreement.

91 (c) A licensee shall not withhold a bonus, incentive, or  
92 other benefit that is available to its other same line-make  
93 franchised dealers in this state from, or take or threaten to  
94 take any action that is unfair or adverse to a dealer who does  
95 not enter into an agreement with the licensee pursuant to  
96 paragraph (b).

97 (d) A licensee may not refuse to offer a program, bonus,  
98 incentive, or other benefit, in whole or in part, to a dealer in  
99 this state which it offers to its other same line-make dealers  
100 nationally or in the licensee's zone or region in which this  
101 state is included. Neither may it discriminate against a dealer  
102 in this state with respect to any program, bonus, incentive, or  
103 other benefit. For purposes of this chapter, a licensee may not  
104 establish this state alone as a zone, region, or territory by any  
105 other designation.

106 (e) Paragraphs (a) and (b) do not affect any contract  
107 between a licensee and any of its dealers regarding relocation,  
108 expansion, improvement, remodeling, renovation, or alteration  
109 which exists on the effective date of this act.

110 (f) Any portion of a licensee-offered program for a bonus,  
111 incentive, or other benefit that, in whole or in part, is based  
112 upon or aimed at inducing a dealer's relocation, expansion,  
113 improvement, remodeling, renovation, or alteration of the  
114 dealer's sales or service facility, or both, is void as to each  
115 of the licensee's motor vehicle dealers in this state who,  
116 nevertheless, shall be eligible for the entire amount of the

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117 bonuses, incentives, or benefits offered in the program upon  
118 compliance with the other eligibility provisions in the program.

119 (g) A licensee may set and uniformly apply reasonable  
120 standards for a motor vehicle dealer's sales and service  
121 facilities which are related to upkeep, repair, and cleanliness.

122 (18) The applicant or licensee has established a system of  
123 motor vehicle allocation or distribution or has implemented a  
124 system of allocation or distribution of motor vehicles to one or  
125 more of its franchised motor vehicle dealers which reduces or  
126 alters allocations or supplies of new motor vehicles to the  
127 dealer to achieve, directly or indirectly, a purpose that is  
128 prohibited by ss. 320.60-320.70, or which otherwise is unfair,  
129 inequitable, unreasonably discriminatory, or not supportable by  
130 reason and good cause after considering the equities of the  
131 affected motor vehicles dealer or dealers. An applicant or  
132 licensee shall maintain for 3 years records that describe its  
133 methods or formula of allocation and distribution of its motor  
134 vehicles and records of its actual allocation and distribution of  
135 motor vehicles to its motor vehicle dealers in this state. As  
136 used in this subsection, "unfair" includes, without limitation,  
137 the refusal or failure to offer to any dealer an equitable supply  
138 of new vehicles under its franchise, by model, mix, or colors as  
139 the licensee offers or allocates to its other same line-make  
140 dealers in the state.

141 (22) The applicant or licensee has refused to deliver, in  
142 reasonable quantities and within a reasonable time, to any duly  
143 licensed motor vehicle dealer who has an agreement with such  
144 applicant or licensee for the retail sale of new motor vehicles  
145 and parts for motor vehicles sold or distributed by the applicant

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146 or licensee, any such motor vehicles or parts as are covered by  
147 such agreement. Such refusal includes the failure to offer to its  
148 same line-make franchised motor vehicle dealers all models  
149 manufactured for that line-make, or requiring a dealer to pay any  
150 extra fee, require a dealer to execute a separate franchise  
151 agreement, purchase unreasonable advertising displays or other  
152 materials, or relocate, expand, improve, remodel, renovate, ~~or~~  
153 recondition, or alter the dealer's existing facilities, or  
154 provide exclusive facilities as a prerequisite to receiving a  
155 model or series of vehicles. However, the failure to deliver any  
156 motor vehicle or part will not be considered a violation of this  
157 section if the failure is due to an act of God, work stoppage, or  
158 delay due to a strike or labor difficulty, a freight embargo,  
159 product shortage, or other cause over which the applicant or  
160 licensee has no control. An applicant or licensee may impose  
161 reasonable requirements on the motor vehicle dealer, other than  
162 the items listed above, including, but not limited to, the  
163 purchase of special tools required to properly service a motor  
164 vehicle and the undertaking of sales person or service person  
165 training related to the motor vehicle.

166 (25) The applicant or licensee has undertaken an audit of  
167 warranty payments or incentive payments ~~payment~~ previously paid  
168 to a motor vehicle dealer in violation of this section or has  
169 failed to comply with any of its obligations under s. 320.696. An  
170 applicant or licensee may reasonably and periodically audit a  
171 motor vehicle dealer to determine the validity of paid claims as  
172 provided in s. 320.696. Audit of warranty payments shall only be  
173 for the 1-year period immediately following the date the claim  
174 was paid. Audit of incentive payments shall only be for an 18-

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175 month period immediately following the date the incentive was  
176 paid. An applicant or licensee shall not deny a claim or charge a  
177 motor vehicle dealer back subsequent to the payment of the claim  
178 unless the applicant or licensee can show that the claim was  
179 false or fraudulent or that the motor vehicle dealer failed to  
180 substantially comply with the reasonable written and uniformly  
181 applied procedures of the applicant or licensee for such repairs  
182 or incentives. An applicant or licensee may not charge a motor  
183 vehicle dealer back subsequent to the payment of a claim unless a  
184 representative of the applicant or licensee first meets in  
185 person, by telephone, or by video teleconference with an officer  
186 or employee of the dealer designated by the motor vehicle dealer.  
187 At such meeting the applicant or licensee must provide a detailed  
188 explanation, with supporting documentation, as to the basis for  
189 each of the claims for which the applicant or licensee proposed a  
190 charge-back to the dealer and a written statement containing the  
191 basis upon which the motor vehicle dealer was selected for audit  
192 or review. Thereafter, the applicant or licensee must provide the  
193 motor vehicle dealer's representative a reasonable period after  
194 the meeting within which to respond to the proposed charge-backs,  
195 with such period to be commensurate with the volume of claims  
196 under consideration, but in no case less than 45 days after the  
197 meeting. The applicant or licensee is prohibited from changing or  
198 altering the basis for each of the proposed charge-backs as  
199 presented to the motor vehicle dealer's representative following  
200 the conclusion of the audit unless the applicant or licensee  
201 receives new information affecting the basis for one or more  
202 charge-backs. If the applicant or licensee claims the existence  
203 of new information, the dealer must be given the same right to a

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204 meeting and right to respond as when the charge-back was  
205 originally presented.

206 (26) Notwithstanding the terms of any franchise agreement,  
207 including any licensee's program, policy, or procedure, the  
208 applicant or licensee has refused to allocate, sell, or deliver  
209 motor vehicles; charged back or withheld payments or other things  
210 of value for which the dealer is otherwise eligible under a sales  
211 promotion, program, or contest; ~~or~~ prevented a ~~the~~ motor vehicle  
212 dealer from participating in any promotion, program, or contest;  
213 or has taken or threatened to take any adverse action against a  
214 dealer, including charge backs, reducing vehicle allocations, or  
215 terminating or threatening to terminate a franchise because the  
216 dealer sold or leased a motor vehicle to a customer who exported  
217 the vehicle to a foreign country or who resold the vehicle,  
218 unless the licensee proves that the dealer had actual knowledge  
219 that the customer intended to export or resell the motor vehicle.  
220 There is a conclusive presumption that the dealer had no actual  
221 knowledge if the vehicle is titled or registered in any state in  
222 this country for selling a motor vehicle to a customer who was  
223 ~~present at the dealership and the motor vehicle dealer did not~~  
224 ~~know or should not have reasonably known that the vehicle would~~  
225 ~~be shipped to a foreign country. There will be a rebuttable~~  
226 ~~presumption that the dealer did not know or should not have~~  
227 ~~reasonably known that the vehicle would be shipped to a foreign~~  
228 ~~country if the vehicle is titled in one of the 50 United States.~~  
229 (30) The applicant or licensee has conducted or threatened  
230 to conduct any audit of a motor vehicle dealer in order to coerce  
231 or attempt to coerce the dealer to forego any rights granted to  
232 the dealer under ss. 320.60-320.70 or under the agreement between



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233 | the licensee and the motor vehicle dealer. Nothing in this  
234 | section shall prohibit an applicant or licensee from reasonably  
235 | and periodically auditing a dealer to determine the validity of  
236 | paid claims, as permitted under this chapter, if the licensee  
237 | complies with the provisions of ss. 320.60-320.70 applicable to  
238 | such audits.

239 |  
240 | A motor vehicle dealer who can demonstrate that a violation of,  
241 | or failure to comply with, any of the preceding provisions by an  
242 | applicant or licensee will or can adversely and pecuniarily  
243 | affect the complaining dealer, shall be entitled to pursue all of  
244 | the remedies, procedures, and rights of recovery available under  
245 | ss. 320.695 and 320.697.

246 | Section 2. Section 320.6412, Florida Statutes, is created  
247 | to read:

248 | 320.6412 Franchise termination based on fraud; standard of  
249 | proof.--Notwithstanding the provisions of any franchise  
250 | agreement, a franchise agreement of a motor vehicle dealer may  
251 | not be terminated, canceled, discontinued, or not renewed by a  
252 | licensee on the basis of misrepresentation or fraud, or the  
253 | filing of any false or fraudulent statements or claims with the  
254 | licensee, unless the licensee proves by a preponderance of the  
255 | evidence before a trier of fact either that the majority owner,  
256 | or if there is no majority owner, the person designated as the  
257 | dealer-principal in the franchise agreement, knew of such acts at  
258 | the time they allegedly were committed, or that the licensee  
259 | provided written notice detailing such alleged acts to the  
260 | majority owner or dealer-principal who, within a reasonable time  
261 | after receipt of such written notice, failed to take actions

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262 reasonably calculated to prevent such acts from continuing or  
263 recurring.

264 Section 3. Section 320.696, Florida Statutes, is amended to  
265 read:

266 (Substantial rewording of section. See  
267 s. 320.696, F.S., for present text.)

268 320.696 Warranty responsibility.--

269 (1) (a) A licensee shall timely compensate a motor vehicle  
270 dealer who performs work to maintain or repair a licensee's  
271 product under a warranty or maintenance plan, extended warranty,  
272 certified pre-owned warranty, or a service contract, issued by  
273 the licensee or its common entity, unless issued by a common  
274 entity that is not a manufacturer; to fulfill a licensee's  
275 delivery or preparation procedures; or to repair a motor vehicle  
276 as a result of a licensee's or common entity's recall, campaign  
277 service, authorized goodwill, directive, or bulletin.

278 (b) As used in this section, the terms "compensate" and  
279 "compensation" shall include all labor and parts included in the  
280 work as provided in this section. The term "labor" shall include  
281 time spent by employees for diagnosis and repair of a vehicle.  
282 The term "parts" shall include replacement parts and accessories.  
283 The term "retail customer repair" means work, including parts and  
284 labor, performed by a dealer which does not come within the  
285 provisions of a licensee's or its common entity's warranty,  
286 extended warranty, certified pre-owned warranty, service  
287 contract, or maintenance plan, and excludes parts and labor  
288 described in paragraphs (3) (b) and (4) (c).

289 (c) Compensation not paid to a motor vehicle dealer within  
290 30 days after receipt of a claim is not timely. A licensee shall

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291 | not establish or implement a term, policy, or procedure different  
292 | from those described in this section for any motor vehicle dealer  
293 | to obtain compensation under this section, and shall not pay a  
294 | motor vehicle dealer less than amounts due pursuant to this  
295 | section.

296 |       (2) A licensee shall not take or threaten to take adverse  
297 | action against a motor vehicle dealer who seeks to obtain  
298 | compensation pursuant to this section. As used in this  
299 | subsection, the term "adverse action" includes, without  
300 | limitation, acting or failing to act, other than in good faith;  
301 | creating or implementing an obstacle or process that is  
302 | inconsistent with the licensee's obligations to the dealer under  
303 | this section; hindering, delaying, or rejecting the proper and  
304 | timely payment of compensation due under this section to a  
305 | dealer; establishing, implementing, enforcing, or applying any  
306 | policy, standard, rule, program, or incentive regarding  
307 | compensation due under this section other than in a uniform and  
308 | nondisparate manner among the licensee's dealers in this state;  
309 | conducting or threatening to conduct any warranty, retail  
310 | customer repair, or other service-related audit more frequently  
311 | than once each calendar year; or denying, reducing, or charging  
312 | back a warranty claim because of a dealer's failure to comply  
313 | with all of the licensee's requirements for describing or  
314 | processing a claim.

315 |       (3) (a) A licensee shall compensate a motor vehicle dealer  
316 | for parts used in any work described in subsection (1). The  
317 | compensation may be an agreed percentage markup over the  
318 | licensee's dealer cost, but if an agreement is not reached within  
319 | 30 days after a dealer's written request, compensation for the

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320 parts is the greater of:

321 1. The dealer's arithmetical mean percentage markup over  
322 dealer cost for all parts charged by the dealer in 50 consecutive  
323 retail customer repairs made by the dealer within a 3-month  
324 period before the dealer's written request for a change in  
325 reimbursement pursuant to this section, or all of the retail  
326 customer repair orders over that 3-month period if there are  
327 fewer than 50 retail customer repair orders in that period. The  
328 motor vehicle dealer shall give the licensee 10 days' written  
329 notice that it intends to make a written request to the licensee  
330 for a warranty parts reimbursement increase and permit the  
331 licensee, within that 10-day period, to select the initial retail  
332 customer repair for the consecutive repair orders that will be  
333 attached to the written request used for the markup computation,  
334 provided that if the licensee fails to provide a timely  
335 selection, the dealer may make that selection. No repair order  
336 shall be excluded from the markup computation because it contains  
337 both warranty, extended warranty, certified pre-owned warranty,  
338 maintenance, recall, campaign service, or authorized goodwill  
339 work and a retail customer repair. However, only the retail  
340 customer repair portion of the repair order shall be included in  
341 the computation and the parts described in paragraph (b) shall be  
342 excluded from the computation;

343 2. The licensee's highest suggested retail or list price  
344 for the parts; or

345 3. An amount equal to the dealer's markup over dealer cost  
346 that results in the same gross profit percentage for parts used  
347 in work done under subsection (1) as the dealer receives for  
348 parts used in the customer retail repairs, as evidenced by the

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349 average of said dealer's gross profit percentage in the dealer's  
350 financial statements for the 2 months preceding the dealer's  
351 request.

352  
353 If a licensee reduces the suggested retail or list price for any  
354 replacement part or accessory, it also shall reduce, by at least  
355 the same percentage, the cost to the dealer for the part or  
356 accessory. The dealer's markup or gross profit percentage shall  
357 be uniformly applied to all of the licensee's parts used by the  
358 dealer in performing work covered by subsection (1).

359 (b) In calculating the compensation to be paid for parts by  
360 the arithmetic mean percentage markup over dealer cost method in  
361 paragraph (a), parts discounted by a dealer for repairs made in  
362 group, fleet, insurance, or other third-party payer service work;  
363 parts used in repairs of government agencies' repairs for which  
364 volume discounts have been negotiated; parts used in special  
365 event, specials, or promotional discounts for retail customer  
366 repairs; parts sold at wholesale; parts used for internal  
367 repairs; engine assemblies and transmission assemblies; parts  
368 used in retail customer repairs for routine maintenance, such as  
369 fluids, filters and belts; nuts, bolts, fasteners, and similar  
370 items that do not have an individual part number; and tires shall  
371 be excluded in determining the percentage markup over dealer  
372 cost.

373 (c) If a licensee furnishes a part or component to a motor  
374 vehicle dealer at no cost to use in performing repairs under a  
375 recall, campaign service action, or warranty repair, the licensee  
376 shall compensate the dealer for the part or component in the same  
377 manner as warranty parts compensation under this subsection, less

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378 the dealer cost for the part or component as listed in the  
379 licensee's price schedule.

380 (d) A licensee shall not establish or implement a special  
381 part or component number for parts used in predelivery, dealer  
382 preparation, warranty, extended warranty, certified pre-owned  
383 warranty, recall, campaign service, authorized goodwill, or  
384 maintenance-only applications if that results in lower  
385 compensation to the dealer than as calculated in this subsection.

386 (4) (a) A licensee shall compensate a motor vehicle dealer  
387 for labor performed in connection with work described in  
388 subsection (1) as calculated in this subsection.

389 (b) Compensation paid by a licensee to a motor vehicle  
390 dealer may be an agreed hourly labor rate. If, however, an  
391 agreement is not reached within 30 days after the dealer's  
392 written request, the dealer may choose to be paid the greater of:

393 1. The dealer's hourly labor rate for retail customer  
394 repairs, determined by dividing the amount of the dealer's total  
395 labor sales for retail customer repairs by the number of total  
396 labor hours that generated those sales for the month preceding  
397 the request, excluding the work in paragraph (c); or

398 2. An amount equal to the dealer's markup over dealer cost  
399 that results in the same gross profit percentage for labor hours  
400 performed in work covered by subsection (1) as the dealer  
401 receives for labor performed in its customer retail repairs, as  
402 evidenced by the average of said dealer's gross profit percentage  
403 in the dealer's financial statements provided to the licensee for  
404 the 2 months preceding the dealer's written request, if the  
405 dealer provides in the written request the arithmetical mean of  
406 the hourly wage paid to all of its technicians during that

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407 preceding month. The arithmetical mean shall be the dealer cost  
408 used in that calculation.

409  
410 After an hourly labor rate is agreed or determined, the licensee  
411 shall uniformly apply and pay that hourly labor rate for all  
412 labor used by the dealer in performing work under subsection (1).  
413 However, a licensee shall not pay an hourly labor rate less than  
414 the hourly rate it was paying to the dealer for work done under  
415 subsection (1) on January 2, 2008. A licensee shall not eliminate  
416 flat-rate times from, or establish an unreasonable flat-rate time  
417 in its warranty repair manual, warranty time guide, or any other  
418 similarly named document. A licensee shall establish reasonable  
419 flat-rate labor times in its warranty repair manuals and warranty  
420 time guides for newly introduced model motor vehicles which are  
421 at least consistent with its existing documents. As used in this  
422 subsection, the terms "retail customer repair" and "similar work"  
423 are not limited to a repair to the same model vehicle or model  
424 year, but include prior repairs that resemble but are not  
425 identical to the repair for which the dealer is making a claim  
426 for compensation.

427 (c) In determining the hourly labor rate calculated under  
428 subparagraph (b)1., a dealer's labor charges for internal vehicle  
429 repairs; vehicle reconditioning; repairs performed for group,  
430 fleet, insurance, or other third-party payers; discounted repairs  
431 of motor vehicles for government agencies; labor used in special  
432 events, specials, or express service; and promotional discounts  
433 shall not be included as retail customer repairs and shall be  
434 excluded from such calculations.

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435       (5) A licensee shall not review, change, or fail to pay a  
436 motor vehicle dealer for parts or labor determined under this  
437 section unless the dealer has requested a change, or the action  
438 is pursuant to the licensee's written, predetermined schedule for  
439 increasing parts or labor compensation that is not contrary to  
440 any provision of this section. A dealer may make written requests  
441 for changes in compensation for parts or labor performed under  
442 this section not more than semiannually. The dealer shall attach  
443 supporting documentation to each written request. Any increase in  
444 parts or labor reimbursement determined thereafter to be owed to  
445 the dealer shall be paid pursuant to this section retroactively  
446 for all claims filed by a dealer 15 days after the date of the  
447 licensee's receipt of the dealer's written request.

448       (6) A licensee shall not recover or attempt to recover,  
449 directly or indirectly, any of its costs for compensating a motor  
450 vehicle dealer under this section, including by decreasing or  
451 eliminating solely in this state or as it relates to any of its  
452 dealers, any bonuses or other incentive that the licensee has in  
453 effect nationally, regionally, or in a territory by any other  
454 designation; by reducing the dealer's gross margin for any of the  
455 licensee's products or services where the wholesale price charged  
456 to the dealer is determined by the licensee and the reduction is  
457 not in effect nationally or regionally; by imposing a separate  
458 charge or surcharge to the wholesale price paid by a dealer in  
459 this state for any product or service offered to or supplied by a  
460 licensee under a franchise agreement with the dealer; or by  
461 passing on to the dealer any charge or surcharge of a common  
462 entity of the licensee.



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463       (7) A licensee shall not require, influence, or attempt to  
464 influence a motor vehicle dealer to implement or change the  
465 prices for which it sells parts or labor in retail customer  
466 repairs. A licensee shall not implement or continue a policy,  
467 procedure, or program to any of its dealers in this state for  
468 compensation under this section which is inconsistent with this  
469 section.

470       (8) If a court determines with finality that any provision  
471 of this section is void or unenforceable, the remaining  
472 provisions shall not be affected but shall remain in effect.

473       Section 4. This act shall take effect upon becoming a law.