

26 | that the section was violated with sufficient frequency to
27 | establish a pattern of wrongdoing, and a licensee or applicant
28 | shall be liable for claims and remedies provided in ss. 320.695
29 | and 320.697 for any violation of any of the following
30 | provisions. A licensee is prohibited from committing the
31 | following acts:

32 | (42) (a) The applicant or licensee, or common entity
33 | thereof, has established, implemented, or enforced criteria for
34 | measuring the sales or service performance of any of its
35 | franchised motor vehicle dealers in this state which have a
36 | material or adverse effect on any motor vehicle dealer and
37 | which:

- 38 | 1. Are unfair, unreasonable, arbitrary, or inequitable; or
39 | 2. Do not include all relevant and material local and
40 | regional criteria, data, and facts. Relevant and material
41 | criteria, data, or facts include, but are not limited to, those
42 | of motor vehicle dealerships of comparable size in comparable
43 | markets. If such performance measurement criteria are based, in
44 | whole or in part, on a survey, such survey must be based on a
45 | statistically significant and valid random sample.

46 | (b) The An applicant or, licensee, or common entity, or an
47 | affiliate thereof, has implemented or enforced criteria for
48 | measuring the sales or service performance of any of its
49 | franchised motor vehicle dealers in this state without, before
50 | implementation or enforcement, providing a written description

51 ~~to each such franchised which enforces against any motor vehicle~~
 52 ~~dealer any such performance measurement criteria shall, upon the~~
 53 ~~request of the motor vehicle dealer, describe in writing to the~~
 54 motor vehicle dealer in this state providing, in detail, how the
 55 performance measurement criteria were designed, calculated,
 56 established, and uniformly applied.

57 (43) The applicant or licensee, or common entity thereof,
 58 has engaged in an action, or implemented a policy, standard,
 59 rule, practice, or program, as retaliation against a franchised
 60 motor vehicle dealer because the dealer invoked any right
 61 pursuant to ss. 320.60-320.70; asserted that the applicant or
 62 licensee, or common entity thereof, acted in a manner that
 63 violates any provision of ss. 320.60-320.70; or testified,
 64 assisted, or participated in any manner in an investigation, a
 65 proceeding, or a hearing that may directly affect the applicant
 66 or licensee, or common entity thereof.

67
 68 A motor vehicle dealer who can demonstrate that a violation of,
 69 or failure to comply with, any of the preceding provisions by an
 70 applicant or licensee will or may adversely and pecuniarily
 71 affect the complaining dealer, shall be entitled to pursue all
 72 of the remedies, procedures, and rights of recovery available
 73 under ss. 320.695 and 320.697.

74 **Section 2. Subsection (3) of section 320.641, Florida**
 75 **Statutes, is amended to read:**

76 320.641 Discontinuations, cancellations, nonrenewals,
 77 modifications, and replacement of franchise agreements.—

78 (3) Any motor vehicle dealer who receives a notice of
 79 intent to discontinue, cancel, not renew, modify, or replace
 80 may, within the 90-day notice period, file a petition or
 81 complaint for a determination of whether such action is an
 82 unfair or prohibited discontinuation, cancellation, nonrenewal,
 83 modification, or replacement. Agreements and certificates of
 84 appointment shall continue in effect until final determination
 85 of the issues raised in such petition or complaint by the motor
 86 vehicle dealer.

87 (a) A discontinuation, cancellation, or nonrenewal of a
 88 franchise agreement is unfair unless all of the following apply:

- 89 1. ~~if~~ It is ~~not~~ clearly permitted by the franchise
 90 agreement;
- 91 2. It is ~~not~~ undertaken in good faith;
- 92 3. It is ~~not~~ undertaken for good cause;
- 93 4. It ~~or~~ is based on the motor vehicle dealer's an-alleged
 94 breach of the franchise agreement which is ~~not~~ in fact a
 95 material and substantial breach, but not if the discontinuation,
 96 cancellation, or nonrenewal applies to all same line-make
 97 franchised motor vehicle dealers and is otherwise permitted by
 98 ss. 320.60-320.70; and
- 99 5. ~~or, if~~ The grounds relied upon for discontinuation
 100 ~~termination,~~ cancellation, or nonrenewal have ~~not~~ been applied

101 in a uniform and consistent manner by the licensee.

102 (b) If the notice of discontinuation, cancellation, or
 103 nonrenewal relates to an alleged failure of the new motor
 104 vehicle dealer's sales or service performance obligations under
 105 the franchise agreement, the new motor vehicle dealer must first
 106 be provided with at least 180 days to correct the alleged
 107 failure before a licensee may send the notice of
 108 discontinuation, cancellation, or nonrenewal.

109 (c) A modification or replacement is unfair unless all of
 110 the following apply:

111 1. ~~if~~ It is ~~not~~ clearly permitted by the franchise
 112 agreement;

113 2. It is ~~not~~ undertaken in good faith; and

114 3. It ~~or~~ is ~~not~~ undertaken for good cause.

115 (d) The applicant or licensee shall have the burden of
 116 proof that any such discontinuation, cancellation, nonrenewal,
 117 modification, or replacement ~~action~~ is fair and not prohibited.

118 **Section 3.** This act shall take effect July 1, 2025.