

## CHAPTER 16 - MOTOR VEHICLE FRANCHISES

**31-16-101. Definitions.**

(a) As used in this act:

(i) "Coerce" means compelling another to do what he is not otherwise required to do or not to do what he otherwise has a right to do;

(ii) "Department" means the department of transportation;

(iii) "Designated family member" means:

(A) The spouse, child, grandchild, parent, brother or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the owner's will or applicable intestate laws;

(B) A person who has been nominated by the owner of a new motor vehicle dealership as the successor to the dealership in any written instrument filed with the manufacturer; or

(C) In the case of an incapacitated owner of a new motor vehicle dealership, the person who has been appointed by a court as the legal representative of the incapacitated owner's property.

(iv) "Director" means the director of the department;

(v) "Distributor" means a person who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to vehicle dealers or who maintains distributor representatives;

(vi) "Distributor branch" means a branch office maintained by a distributor for the same purposes for which a factory branch is maintained;

(vii) "Distributor representative" means a person engaged as a representative of a distributor or distributor branch for the purpose of making or promoting the sale of its vehicles or for supervising or contacting its dealers or prospective dealers;

(viii) "Factory branch" means a branch office maintained by a manufacturer for the sale of vehicles to distributors, for the sale of vehicles to vehicle dealers or for directing or supervising, in whole or in part, its representatives;

(ix) "Factory representative" means a person engaged as a representative of a manufacturer or by a factory branch for the purpose of making or promoting a sale of its vehicles, or for supervising or contacting its dealers or prospective dealers;

(x) "Franchise or dealer's selling agreement", hereinafter referred to as the "sales and services agreement", means a contract or

agreement between a vehicle dealer and a manufacturer or its distributor or factory branch by which the dealer is authorized to engage in the business of selling any specified make of new vehicles;

(xi) "Motor vehicle" means a self-propelled vehicle, excluding a motor home and which:

(A) Is intended for registration and use on the public highways; and

(B) Has at least three (3) wheels.

(xii) "New vehicle" means a motor vehicle which is in the possession of a manufacturer or has been sold by a manufacturer for distribution in the United States to the holders of a valid sales and service agreement, franchise or contract granted by the manufacturer for sale of the new motor vehicle and which is in fact new and on which the original motor vehicle title has not been issued from the franchised dealer;

(xiii) "Manufacturer" means a person engaged in the business of constructing or assembling vehicles which are subject to registration in this state and, except where otherwise provided, "manufacturer" means a distributor, a factory branch, distributor branch or other representative thereof, but excludes any person whose principal business is wholesale and retail financing. The term includes direct sale manufacturers;

(xiv) "Principal place of business" means:

(A) For dealers selling fewer than twelve (12) vehicles in any twelve (12) consecutive month period, a permanent commercial building located within the state of Wyoming at which the business of a new motor vehicle dealer may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public may contact the vehicle dealer or his vehicle salesman at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The business shall be sufficiently identified with an exterior sign permanently affixed to the building or land with letters clearly visible from the highway facing the site and designated to indicate the nature of the business and the telephone number of the business. A dedicated telephone number shall be required for the principal place of business;

(B) For dealers selling twelve (12) or more vehicles in any twelve (12) consecutive month period, a site upon which a permanent building is located containing adequate facilities to carry on the business of a licensed dealer and used to conduct business as a dealer and not primarily used as, or attached directly to, a residence, with space thereon or contiguous thereto adequate to permit the display of at least five (5) vehicles and sufficiently identified with an exterior sign permanently affixed to the building or land with letters clearly visible from the highway facing the site and designated to indicate the nature of the business. The facilities, sign and space for display shall be in compliance

with all applicable zoning ordinances prescribed by the municipality or county in which they are located and in which building the public may contact the vehicle dealer or the dealer's salespersons during the declared business hours, and at which place of business shall be kept and maintained the books, records and files as required by W.S. 31-11-107(a) and (b) necessary to conduct the business. A dedicated telephone number shall be required for the principal place of business with a published phone number listed in the principal place of business;

(xv) "Relevant market area" means that marketing area as defined by the sales and service agreement granted by the manufacturer, distributor or wholesaler and held by a new vehicle dealer;

(xvi) "Used vehicle" means any vehicle other than a new vehicle;

(xvii) Repealed By Laws 2001, Ch. 24, § 2.

(xviii) "Vehicle dealer" or "dealer" means any person engaged in the business of selling or exchanging vehicles or who buys and sells, or exchanges retail three (3) or more vehicles or six (6) or more new vehicles with a gross vehicle weight rating over twenty-six thousand (26,000) pounds in any twelve (12) consecutive month period, but does not include any insurance company, finance company, public utility company or person coming into possession of any vehicle as an incident to its regular business who sells that vehicle, or who sells that vehicle under any contractual rights it may have with respect thereto. Vehicle dealers are classified as follows:

(A) A "new vehicle dealer" means a vehicle dealer that deals solely in new vehicles or in new and used vehicles. It also includes a person who in the ordinary course of business is engaged in the business of selling new motor vehicles to consumers or other end users and who holds a valid sales and service agreement, franchise or contract, granted by a manufacturer, distributor or wholesaler for the sale of its motor vehicles;

(B) A "used vehicle dealer" means a vehicle dealer that deals solely in used vehicles;

(C) Repealed by Laws 1997, ch. 154, § 3.

(xix) "Wholesaler" means a person who sells used vehicles to Wyoming vehicle dealers;

(xx) "This act" means W.S. 31-16-101 through 31-16-127;

(xxi) "Antique vehicle" means a motor vehicle which is at least twenty-five (25) years old;

(xxii) "Established place of business" means each place actually occupied either continuously or at regular periods by a manufacturer where the manufacturer's books and records are kept and a large share of the manufacturer's business is conducted;

(xxiii) "Recreational vehicle" means a vehicle designed primarily as living quarters for recreational, camping, vacation or travel use which has an electrical system which operates above twelve (12) volts and has a plumbing and heating system;

(xxiv) "Retail vehicle sale" means the lease of a vehicle or transfer of title of a vehicle to another person in exchange for value but excludes a transfer for the purpose of resale;

(xxv) "Vehicle" means as defined in W.S. 31-1-101(a) (xxvi);

(xxvi) A "Wyoming based manufacturer" means a person with an established place of business in Wyoming who is engaged in the business of manufacturing, constructing or assembling new and unused vehicles or their major component parts or both and sells new and unused vehicles to dealers, wholesalers, distributors or the general public. The term includes a factory branch office of the manufacturer, or any partnership, firm, association, joint venture, corporation or trust which is controlled by the manufacturer;

(xxvii) "Agent" means a person other than a holder of any vehicle dealer's license issued by the department who, for salary, commission or compensation of any kind, negotiates in any way for the sale, purchase, order or exchange of vehicles;

(xxviii) "Applicant" means any person, corporation, limited liability company, limited partnership or any other entity that files an application with the department for a vehicle dealer's license under this act;

(xxix) "Licensed dealer" means a vehicle dealer that is licensed by the department pursuant to this act as a new vehicle dealer or a used vehicle dealer;

(xxx) "Salesperson" means an individual who, for salary, commission or compensation of any kind, is employed either directly, indirectly, regularly or occasionally by any new vehicle dealer or any used vehicle dealer to sell, purchase or exchange vehicles;

(xxxi) A "direct sale manufacturer" means a person licensed under W.S. 31-16-104(a) (ix) who is engaged in the business of manufacturing, constructing or assembling new and unused vehicles and who sells and services, at a facility physically located in the state, vehicles of that manufacturer's line make to the general public. A direct sale manufacturer shall not include an affiliate or wholly owned subsidiary of a manufacturer's line make that is presently sold or has previously been sold in this state through a new vehicle dealer.

(b) Notwithstanding paragraph (a) (xxv) of this section, for purposes of W.S. 31-16-108 through 31-16-124 "vehicle" means a motor vehicle as defined in paragraph (a) (xi) of this section.

### **31-16-102. Unlicensed vehicle dealers and manufacturers prohibited.**

No person shall hold himself out as being in the business of a retail seller of vehicles, or act as a retail vehicle dealer, direct sale manufacturer or Wyoming based manufacturer without a valid license issued by the department under this act. No person shall act as a vehicle dealer of a new vehicle without a valid license as a new vehicle dealer for new vehicles of the same line make issued by the department under this act. No person other than a licensed vehicle dealer shall display a vehicle for sale unless the title is in the name of the displayer. No person shall solicit sales of vehicles without a vehicle dealer's license, unless the title is in the name of the person soliciting sales.

**31-16-103. Licenses; applications; issuance, suspension and revocation; change in ownership; rulemaking.**

(a) An applicant for a license required under this act shall, before commencing business and annually thereafter submit an application to the department in a form prescribed by the department containing the following:

(i) The legal name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct his business. If the applicant is a partnership, the name and residence address of each partner, whether a limited or general partner, and the name under which the partnership business is to be conducted. If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors. If the applicant is a limited liability company, the name and address of the members and managers;

(ii) A complete description, including the address, of the principal place of business and any other place of business for activities requiring a license under this act operated and maintained by the applicant in conjunction with the principal place of business in each county in this state;

(iii) For a new vehicle dealer's license, copies of letters of franchise for the new vehicles that the applicant has been enfranchised to sell or exchange and the name and addresses of any manufacturer or distributor who has enfranchised the applicant;

(iv) For a manufacturer's license, the name and address of each distributor, factory branch and factory representative;

(v) Any other information the department may reasonably require, including financial statements of new applicants, past or present judicial, civil or administrative dispositions of criminal, civil or administrative actions relating to the conduct of the business if currently licensed or a new applicant, telephone numbers, sales and use tax numbers for the business and declared business hours. Any new applicant for a license issued under this act, including all officers of a corporation or members of a limited liability company or limited partnership, shall provide information necessary for a state and national criminal history record background check and release of information as provided in W.S. 7-19-106(k) (ii) and consent to the release of any criminal history information to the department;

(vi) If a renewal of dealer's license, the number of retail vehicle sales each month during the twelve (12) full calendar months preceding the month in which the renewal application is made;

(vii) For a Wyoming based manufacturer's license, a description of the location of each established place of business in this state, the number of manufacturer license plates requested, a statement of the need for the plates including, but not limited to, the number of employees, annual sales, and such other information as required by the department;

(viii) For a direct sale manufacturer's license, a description of the location of each established place of business in this state, the number of manufacturer license plates requested, a statement of the need for the plates including, but not limited to, the number of employees, annual sales, and such other information as required by the department.

(b) Pending determination by the department that the applicant has met the requirements under this act, it may issue a temporary license to any applicant. A temporary license shall not exceed a period of ninety (90) days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant for the license. The temporary license terminates when the applicant's license has been issued or refused. When the department determines the applicant has complied with all licensing requirements, the department shall issue a license or renewal to an applicant upon submission of a complete application to the department indicating the applicant is qualified and will operate from a principal place of business if a dealer or a direct sale manufacturer or from an established place of business if a Wyoming based manufacturer, and upon filing of a bond and payment of a license fee of twenty-five dollars (\$25.00) for dealers selling fewer than twelve (12) vehicles in any twelve (12) consecutive month period and one hundred dollars (\$100.00) for dealers selling twelve (12) or more vehicles in any twelve (12) consecutive month period as follows:

(i) Repealed by Laws 1997, ch. 154, § 3.

(ii) Repealed by Laws 1997, ch. 154, § 3.

(iii) Any additional place of business to be licensed under this act has sufficient facilities such that it could qualify as a principal place of business and is located in the same county in which the principal place of business is located;

(iv) To a dealer who had at least twelve (12) retail sales or exchanged at least twelve (12) vehicles or six (6) or more new vehicles with a gross vehicle weight rating over twenty-six thousand (26,000) pounds in the twelve (12) full calendar months preceding the date of application;

(v) To a dealer selling self-propelled motor homes or drilling and service rigs;

(vi) To a person who did not hold a certificate at the time of the application;

(vii) To a person engaged in the business of repossessing vehicles if that person repossessed at least twelve (12) vehicles in the twelve (12) full calendar months preceding the date of application, but the person need not have a principal place of business as defined in this act;

(viii) To a banking or lending institution engaged in the business of making loans secured by vehicles;

(ix) To a person selling antique vehicles and paying the annual license fee of two hundred fifty dollars (\$250.00);

(x) To the applicant who has not had a license issued under this chapter suspended or revoked without reinstatement, and has not violated the provisions of this chapter or any rule or regulation adopted under this chapter, if the applicant is:

(A) A partner in a partnership;

(B) A director or stockholder of a corporation duly registered and doing business in Wyoming; or

(C) A member or manager of a limited liability company duly registered and doing business in Wyoming.

(xi) To any additional place of business that may qualify under this act.

(c) The department may deny, suspend, revoke or refuse to renew a license or temporary permit issued under this act if it finds the person, applicant, vehicle dealer, salesperson, agent, direct sale manufacturer or Wyoming based manufacturer:

(i) Knowingly violated any rule, regulation or statute or any federal law regulating dealers and manufacturers, or any federal vehicle safety standards applicable to dealers or Wyoming based manufacturers;

(ii) Knowingly made a materially false statement in applying for a license, demo plates, full use plates, temporary registration permits, or dealer reassignment documents used by the applicant;

(iii) Failed to furnish or keep in force the required bond;

(iv) Has any previous administrative or criminal actions or has lost a civil action in this state or any other state relating to the conduct of the business license or applied for during the ten (10) years preceding the date of the application;

(v) Used or permitted the use of demo or full use plates in an unauthorized manner or for an unauthorized purpose;

(vi) Used or permitted the use of temporary registration permits in an unauthorized manner or for an unauthorized purpose;

(vii) Has been convicted of a felony involving fraud, conspiracy to commit fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, theft or extortion within the immediate ten (10) year period prior to the date of license application;

(viii) Has been convicted of a felony under W.S. 6-2-302;

(ix) Failed to furnish any requested information to the department.

(d) If a new vehicle dealer changes to, or adds, another franchise for the sale of new vehicles, cancels or otherwise loses a franchise for the sale of new vehicles, the dealer shall immediately notify the department. If there is a cancellation or loss of franchise, and the department determines the dealer may be licensed as a used vehicle dealer, the vehicle dealer shall surrender the new vehicle dealer's license and a used vehicle dealer's license shall be issued. The dealer may continue in the business for which a vehicle dealer is relicensed to dispose of the stock of new vehicles which the dealer had on hand at the time of the relicensing.

(e) The dealer or manufacturer shall immediately notify the department which shall issue a new dealer or Wyoming based manufacturer license for the unexpired portion of the original license at no charge if the dealer changes the site or location of his principal place of business, or the Wyoming based manufacturer changes the site or location of his established place of business.

(f) Sixty (60) days after transfer of ownership of a dealership or the business of a Wyoming based manufacturer or direct sale manufacturer, except as a result of transfer of shares of stock in a corporate dealership or Wyoming based manufacturer duly incorporated in Wyoming, the dealer license, Wyoming based manufacturer license, demo plates, full use plates, manufacturer plates and temporary permits are void and shall immediately be delivered to the department. The new owner shall apply for a new dealer license, demo plates, full use plates, manufacturer plates and temporary permits immediately upon transfer of ownership. Upon transfer of ownership or termination of business the former dealer, direct sale manufacturer or Wyoming based manufacturer shall notify the department and, if not a transfer of ownership, immediately deliver the dealer license, direct sale manufacturer license, Wyoming based manufacturer license, demo plates, full use plates, manufacturer plates and temporary permits to the department.

(g) A Wyoming licensed dealer may establish and operate an additional place of business or operate in an organized motor vehicle show as a vehicle dealer if:

(i) Each additional place of business except those located in an enclosed shopping mall, shall meet the same criteria as set forth in W.S. 31-16-101(a) (xiv);

(ii) Before operating in an organized motor vehicle show, a licensed dealer shall notify the department in writing not later than fourteen (14) days prior to the date of the show and obtain a letter of authorization from the department to operate in an organized motor vehicle



show within the county of the principal place of business, or within the dealer's relevant market area as defined by W.S. 31-16-101(a)(xv). A vehicle dealer may operate in not more than four (4) shows in any calendar year and each show shall not exceed seven (7) consecutive days. The letter of authorization to operate in an organized motor vehicle show shall be displayed in a location at the motor vehicle show where any peace officer or designated member of the department can examine it. As used in this subsection, "organized motor vehicle show" means an exhibition and sale by one (1) or more licensed motor vehicle dealers in a private or public assembly, facility or area.

(h) An applicant for a license to operate as a dealer or Wyoming based manufacturer shall also file with the department a bond in the sum of twenty-five thousand dollars (\$25,000.00) with a corporate surety duly licensed to do business within this state. The bond shall:

(i) Be approved as to form by the attorney general;

(ii) Guarantee the return of the dealer or Wyoming based manufacturer license, manufacturer plates, full use and demo plates, and temporary permits; and

(iii) Be conditioned that the applicant shall not practice any fraud, fraudulent misrepresentations, or violate any federal or state law, rules or regulations relating to the conduct of the business.

(j) The department shall promulgate rules necessary to implement and enforce this act, including rules relating to the authorized use of demo, full use or manufacturer plates, the form of the plates and the number of manufacturer plates issued.

(k) If the director has reasonable cause to believe that a licensee or other person has violated or is violating any provision of this act or any other law related to the conduct of a vehicle dealer or has violated or is violating any rule or order adopted or issued by the department pursuant to law, in addition to any other remedies existing in this act, the director may bring and maintain, in the name and on behalf of the department, an action in the proper court against a licensee or other person to restrain or enjoin the licensee or other person from continuing the violation. In the action, the court shall proceed as in other actions for injunction.

#### **31-16-104. Classes of licenses and permits; expiration.**

(a) Licenses issued under this act shall be the following classes:

(i) New vehicle dealer's license which permits the licensee to engage in the business of selling or exchanging new vehicles or both new and used vehicles;

(ii) Motor vehicle manufacturer's license which permits the out-of-state manufacturer to engage in the business of constructing or assembling motor vehicles of the type subject to registration in this state;

(iii) Repealed by Laws 1997, ch. 154, § 3.

(iv) Repealed by Laws 1997, ch. 154, § 3.

(v) Wyoming based manufacturer's license which permits the licensee to engage in the manufacturing, constructing or assembling of new and unused vehicles or their major component parts or both in the state of Wyoming and sell new and unused vehicles;

(vi) Used vehicle dealer's license which permits the licensee to engage in the business of selling or exchanging used vehicles;

(vii) Temporary ninety (90) day vehicle dealer permit allows an applicant to operate a business under this act for a period of ninety (90) days while the department is completing an investigation for any purpose relative to the business. The temporary permit terminates when the applicant's license has been issued or refused but in no case shall the temporary permit exceed ninety (90) days;

(viii) Temporary recreational vehicle display and sales permit pursuant to W.S. 31-16-127;

(ix) Direct sale manufacturer's license which permits the licensee to sell new and unused vehicles or new and used vehicles of the same line make to the general public. A direct sale manufacturer's license shall be granted only to a person who seeks to sell or exchange vehicles of that manufacturer's line make that no other new vehicle dealer in the state sells or exchanges.

(b) Repealed by Laws 2005, ch. 159, § 2.

(c) Repealed by Laws 1997, ch. 154, § 3.

(d) Except for temporary vehicle dealer permits and special recreational vehicle display and sales permits, licenses issued under this act shall be valid for one (1) year and shall expire at midnight preceding the anniversary date.

### **31-16-105. Display, form and custody of dealer's license.**

The department shall prescribe each form of the license. Each dealer shall conspicuously display his own license in his place of business.

### **31-16-106. Required principal place of business.**

The department shall not issue a dealer's license to any applicant without a principal place of business. If the dealer changes the site or location of his principal place of business, he shall immediately notify the department. A new license shall be granted if the new location meets all the requirements of a principal place of business. If a dealer ceases to have a principal place of business he shall immediately surrender his license to the department until the dealer obtains a principal place of business. The dealer's license shall be reissued without charge if a principal place of business is established. Nothing in this act shall be

construed to prevent a dealer from conducting the business for which he is licensed at one (1) or more licensed supplemental lots or locations not contiguous but operated and maintained in conjunction with the dealer's principal place of business.

**31-16-107. Right of action.**

Any person injured because he refuses to agree to a proposal which would be in violation of this act, may bring an action for damages and equitable relief, including injunctive relief.

**31-16-108. Unlawful acts.**

(a) No vehicle dealer or other person required to be licensed under this act, or any salesperson or agent shall:

(i) Knowingly publish or circulate any misleading or inaccurate advertisement which misrepresents any of the products sold or furnished by a licensed dealer or use any false or misleading advertisement in the conduct of its business;

(ii) Violate this act or any of the rules and regulations promulgated under it;

(iii) Knowingly purchase, sell, acquire or dispose of a stolen vehicle;

(iv) Violate any law of this state respecting commerce in vehicles or any state agency rule or regulation;

(v) Engage in the business for which a dealer is licensed without maintaining a principal place of business as required by this act;

(vi) Engage in a type of business respecting the sale or exchange of new or new and used vehicles for which he is not licensed;

(vii) Knowingly purchase a vehicle which has an altered or removed vehicle identification number or to alter or remove a vehicle identification number plate;

(viii) Repealed by Laws 1997, ch. 154, § 3.

(ix) Violate any provision of the federal motor vehicle safety standards;

(x) Display for sale, exchange or sell any new motor vehicle for which the vehicle dealer does not hold a valid franchise;

(xi) Import, display for sale, exchange, or sell, any new vehicle, or any used vehicle originally sold by a manufacturer for distribution outside the United States unless the vehicle is in compliance with all federal regulations governing vehicles that were manufactured for distribution outside the United States and subsequently imported into the United States. Any dealer required to be licensed under this act shall

maintain records in his principal place of business necessary to verify compliance with this provision if requested by the department or any law enforcement officer;

(xii) Advertise, display, demonstrate, exchange or sell any vehicle with less than one thousand (1,000) miles on the odometer, unless the person is a properly licensed dealer, or the person has obtained a valid Wyoming title in his name or business name and has paid the applicable sales or use tax on the vehicle in his name before advertising, displaying, demonstrating, exchanging or selling the vehicle.

(b) No manufacturer licensed under this act shall require or coerce or attempt to require or coerce any new vehicle dealer in this state:

(i) To order or accept delivery of any new vehicle, vehicle part or accessory, equipment or any other commodity not required by law which the new vehicle dealer has not voluntarily ordered. This paragraph does not modify or supersede any terms or provisions of the franchise requiring new vehicle dealers to market a representative line of the vehicles covered by the franchise, to promote the sale, leasing and rental of the vehicles and to carry a reasonable inventory of models offered for sale by the manufacturer;

(ii) To order or accept delivery of any new vehicle with special features, accessories or equipment not included in the list price of those vehicles as publicly advertised by the manufacturer or distributor unless they are required by law;

(iii) To participate monetarily in an advertising campaign or contest or to purchase any promotional materials, training materials, showroom or other display decorations or materials at the expense of the new vehicle dealer. This paragraph does not modify any provisions of the franchise requiring the dealer to advertise and promote the sale of vehicles covered by the franchise and does not apply to campaigns, contests, advertising and other promotional programs in which the dealer voluntarily participates;

(iv) To enter into any agreement with the manufacturer or to prejudice the new vehicle dealer by threatening to terminate or cancel a franchise or any contractual agreement existing between the dealer and the manufacturer. This paragraph does not preclude the manufacturer or distributor from insisting on compliance with the reasonable terms or provisions of the franchise or other contractual agreement. Notice in good faith from a manufacturer or distributor to any new vehicle dealer of the new vehicle dealer's violation of those terms or provisions does not constitute a violation of this act;

(v) To change the capital structure of the new vehicle dealer or the new vehicle dealer's financing means if the new vehicle dealer meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria. A new vehicle dealer may change its capital structure in accordance with reasonable capital standards if the change does not change the principal management or ownership in whole or in part or result in the sale of the franchise. If a change in capital

structure results in a sale of the franchise, the manufacturer or distributor may not unreasonably withhold any necessary consent to the change;

(vi) To refrain from participation in the management of, investment in or the acquisition of any other line of new vehicle or related products. This paragraph does not apply unless the new vehicle dealer maintains a reasonable line of credit for each make or line of new vehicle, the new vehicle dealer remains in compliance with any reasonable facilities and other franchise requirements of the manufacturer and no change is made in the principal management of the new vehicle dealer;

(vii) To prospectively agree to relieve any person from liability imposed by this law or to require any controversy between a new vehicle dealer and a manufacturer, distributor or their representatives, to be referred to any person other than the duly constituted courts of the state or the United States, or to the director if the referral would be binding upon the new vehicle dealer;

(viii) To establish, after becoming a new vehicle dealer, exclusive facilities, personnel or display space for a line make when such requirements would not be justified by reasonable business considerations;

(ix) To expand facilities without making available a sufficient supply of new vehicles to justify an expansion considering the market and economic conditions;

(x) To modify significantly an existing dealership or to construct a new vehicle dealership facility without a sufficient supply of new vehicles to justify a modification or construction considering the market and economic conditions.

(c) No manufacturer licensed under this act shall:

(i) Delay, refuse or fail to deliver new vehicles or new vehicle parts or accessories in a reasonable time and quantity relative to the new vehicle dealer's facilities and sales potential in the new vehicle dealer's relevant market area after acceptance of an order from a new vehicle dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer, any new vehicle, parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts or accessories are publicly advertised as being available for delivery or actually delivered. Failure caused by acts or causes beyond the control of the manufacturer is not a violation of this act;

(ii) Refuse to disclose to any new vehicle dealer handling the same line make the manner and mode of distribution of the line make within the relevant market area;

(iii) Without the consent of the dealer, obtain money, goods, services or other benefit from a person who does business with the new vehicle dealer in relation to the transaction between the new vehicle dealer and the person other than as compensation for services rendered and

products provided, unless the benefit is promptly transmitted or credited to the new vehicle dealer;

(iv) Increase prices of new vehicles ordered by the new vehicle dealer for consumers prior to the new vehicle dealer's receipt of the written official price increase notification. A sales contract signed by a consumer is evidence of each order if the vehicle is delivered to the customer. In the event of manufacturer price reductions or cash rebates paid to the new vehicle dealer intended by the manufacturer to be passed on to the consumer, the amount of any reduction or rebate received by a new vehicle dealer passes to the private retail consumer by the new vehicle dealer. Price reductions apply to all unused, undamaged and unsold vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to a new model or series are not a price increase or price decrease. Price changes caused by the following are not subject to this paragraph:

(A) The addition to a vehicle of required or optional equipment or a change in the capacity, performance, size, weight or design specifications of a vehicle;

(B) Changes in the rate of exchange of the United States dollar, in the case of foreign-made vehicles or components; and

(C) An increase in transportation charges due to increased rates imposed by a carrier.

(v) Release to any other party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or new vehicle dealer, any business, financial, or personal information which is provided by the new vehicle dealer to the manufacturer without the express written consent of the new vehicle dealer;

(vi) Deny any new vehicle dealer the right of free association with any other new vehicle dealer for any lawful purpose;

(vii) Unfairly compete with a new vehicle dealer in the same line make and operating under an agreement or franchise from the manufacturer in the relevant market area. A manufacturer is not competing when operating a dealership either temporarily for a reasonable period or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions;

(viii) Unfairly discriminate among its new vehicle dealers with respect to warranty reimbursement;

(ix) Unreasonably withhold consent to the sale, transfer or exchange of the franchise to a qualified buyer capable of being licensed as a new vehicle dealer in this state;

(x) Fail to respond in writing to a request for consent as specified in paragraph (ix) of this subsection within sixty (60) days of receipt of a written request. Failure to respond within the time specified is consent to the request;

(xi) Prevent or attempt to prevent any new vehicle dealer from changing the executive management control of the new vehicle dealer unless the manufacturer shows the change of executive management will result in executive management or control by a person who is not of good moral character or who does not meet reasonable, preexisting and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards. This paragraph does not prevent a manufacturer or distributor from withholding consent based upon the prospective buyer's character, automotive experience, capital and other reasonable qualifications for appointment as a dealer, and the effect of the proposed transaction upon competition. If the manufacturer rejects a proposed change in executive management control, written notice of his reasons shall be given to the dealer within sixty (60) days of notice to the manufacturer by the dealer of the proposed change or the change in the executive management of the new vehicle dealer shall be presumptively deemed approved;

(xii) Terminate, cancel or fail to renew any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer relied in granting the franchise;

(xiii) Prevent or attempt to prevent the new vehicle dealer from receiving the fair market value of the dealership in a sale transaction or from transferring the new vehicle dealership to a spouse or legal heir as specified in this act;

(xiv) Engage in any predatory practice or discrimination against any new vehicle dealer;

(xv) Use any false or misleading advertisement in the conduct of his business as a manufacturer or distributor in this state;

(xvi) Make any false or misleading statement, either directly or through any agent or employee, to induce any new vehicle dealer to enter into any agreement or franchise.

(d) No manufacturer or any officer, agent or representative shall coerce or attempt to coerce any new vehicle dealer in this state to sell, assign or transfer any retail installment sales contract obtained by the dealer in connection with the sale by him in this state of new vehicles manufactured or sold by the manufacturer to a specified finance company, class of companies or to any other specified person.

(e) Any statement, threats, promises, acts, contracts or offers of contracts which lessen or eliminate competition or tend to create a monopoly are unfair trade practices, unfair methods of competition and are prohibited.

(f) No manufacturer or agent or employee of a manufacturer shall use a written instrument, agreement or waiver to attempt to nullify any of the provisions of this section. Any such agreement, written instrument or waiver is null and void.

(g) No person shall directly or indirectly impose unreasonable restrictions on the new vehicle dealer relative to the sale, transfer, right to renew, termination, discipline, noncompetition covenants, site control (whether by sublease, collateral pledge of lease, or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights.

(h) This act applies to all written franchise agreements between a manufacturer and a new vehicle dealer, including but not limited to, the franchise offering, the franchise agreement, sales of goods, services or advertising, promises to pay, security interests, pledges, insurance contracts, advertising contracts, construction or installation contracts, servicing contracts and all other agreements where the manufacturer has any direct or indirect interest.

(j) No motor vehicle manufacturer or distributor licensed under this act, directly or indirectly, shall offer to sell or sell new motor vehicles to a consumer except through a new vehicle dealer who holds a valid sales and service agreement, franchise, or contract granted by the manufacturer, distributor or wholesaler for the sale of its motor vehicles. This subsection shall not apply to a licensed direct sale manufacturer, sales to affiliates of the manufacturer, distributor or wholesaler, sales to the federal government, charitable organizations or sales to employees of the manufacturer, distributor or wholesaler.

### **31-16-109. Termination, cancellation or nonrenewal of franchise.**

(a) Notwithstanding the terms, provisions or conditions of any franchise or waiver, no manufacturer shall cancel, terminate or fail to renew any franchise with a licensee unless the manufacturer has satisfied the notice requirement of subsection (b) of this section and has good cause for cancellation, termination or nonrenewal.

(b) Prior to the termination, cancellation or nonrenewal of any franchise, the manufacturer shall furnish notification of termination, cancellation or nonrenewal to the department and the licensee:

(i) Not less than ninety (90) days prior to the effective date of the termination, cancellation or nonrenewal;

(ii) Not less than fifteen (15) days prior to the effective date of the termination, cancellation or nonrenewal with respect to any of the following which shall constitute good cause for cancellation, termination or nonrenewal:

(A) Insolvency of the licensee, or filing of any petition by or against the licensee under any bankruptcy or receivership law;



(B) Failure of the licensee to conduct sales and service operations during customary business hours for seven (7) consecutive business days, except for acts of God or circumstances beyond the direct control of the licensee;

(C) Conviction of the dealer, or any owner or principal manager of the dealer in a court of original jurisdiction of a felony or any crime involving theft, dishonesty or false statement;

(D) Revocation of any license which the licensee is required to have to operate a dealership;

(E) A fraudulent misrepresentation by the new motor vehicle dealer to the manufacturer, which is material to the franchise; or

(iii) Not less than one hundred eighty (180) days prior to the effective date of the termination or cancellation, where the manufacturer is discontinuing the sale of the product line.

(c) Notification under this section shall be in writing, by certified mail or personally delivered to the licensee and shall state the intention to terminate, cancel or not to renew the franchise, reasons for the termination, cancellation or nonrenewal and the date on which the termination, cancellation or nonrenewal takes effect.

(d) Good cause for termination, cancellation or nonrenewal of a franchise shall include but not be limited to:

(i) Failure by the licensee to comply with a provision of the franchise, which is both reasonable and of material significance to the franchise relationship, provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days prior to termination, cancellation or nonrenewal;

(ii) Failure of the licensee to comply with reasonable performance criteria established by the manufacturer if the licensee was apprised by the manufacturer in writing of the failure and:

(A) The notification stated that notice was provided of failure of performance pursuant to this section;

(B) The licensee was afforded a reasonable opportunity, for a period of not less than six (6) months, to comply with the criteria; and

(C) The licensee did not demonstrate substantial compliance with the performance criteria of the manufacturer during such period.

(e) Within twenty (20) days of receiving the notice or within twenty (20) days after the end of any appeal procedure provided by the manufacturer, the dealer may file with the department to protest the termination, cancellation or nonrenewal. When a protest is filed, the department shall inform the manufacturer that a timely protest has been filed. The manufacturer shall have twenty (20) days to respond to the protest. The manufacturer shall not terminate, cancel or nonrenew the

franchise until the department has held a hearing and determined that there is good cause for permitting the termination, cancellation or nonrenewal.

(f) The department will select a hearing examiner to conduct a hearing and to render proposed findings of fact. The proposed findings of fact shall be conclusive unless clearly erroneous and unsupported by the record. The hearing shall be conducted and the department shall render its final determination within one hundred twenty (120) days after the manufacturer responds to the licensee's protest. The department may forbid the termination, cancellation or nonrenewal of the franchise if it is determined good cause does not exist.

(g) All costs of the department, including but not limited to, the cost of the investigation, the cost of the hearing examiner and the cost of preparing the record, shall be borne equally by the parties. The department may, in its discretion, award costs to the prevailing party in any hearing held pursuant to this chapter provided, however, if the department should determine by a preponderance of the evidence, that the protest is without merit, it shall award costs and reasonable attorney fees to the prevailing party.

(h) The manufacturer shall have the burden of proof under this section.

(j) Upon the termination, nonrenewal or cancellation of any franchise by the manufacturer pursuant to this section, the licensee shall be allowed fair and reasonable compensation by the manufacturer for the:

(i) New vehicle inventory which is unused, undamaged, unsold and acquired from the manufacturer within the prior twelve (12) months and prior to the dealer receiving notice of termination;

(ii) Supplies and parts which are unused, undamaged, unsold and in original packaging and have been acquired from the manufacturer prior to the dealer receiving notice of termination and are listed in the manufacturer's current parts catalog or price list;

(iii) Equipment and furnishings purchased from the manufacturer or its approved sources in order to comply with the dealer's obligations under the franchise; and

(iv) Special tools acquired from the manufacturer or a source approved by the manufacturer which were recommended by the manufacturer in writing and are in good and usable condition, except for reasonable wear and tear.

(k) Fair and reasonable compensation under subsection (j) of this section shall be paid or credited by the manufacturer within ninety (90) days of the tender of the property, provided the licensee has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.

(m) In the event of a termination, cancellation or nonrenewal by the manufacturer under this section, except as provided in subparagraph (b) (ii)

(C) of this section, the manufacturer shall pay:

(i) A sum equivalent to rent of the unexpired term of the lease or one (1) year rent based upon reasonable rental value, whichever is less, if the motor vehicle dealer is leasing its motor vehicle dealership facility from a lessor other than manufacturers or distributors; or

(ii) A sum equivalent to reasonable rental value of the dealership facility for one (1) year or the reasonable rental value of the facility until facilities are leased or sold, whichever is less, if the motor vehicle dealer owns the motor vehicle dealer facility.

(n) The rental payment required under subsection (m) of this section is only required to the extent that the facilities were used for the sale and service of the manufacturer's or distributor's product, and only to the extent they are not leased for other purposes. Payment under subsection (k) of this section entitles the manufacturer or distributor to possession and use of the facility.

(o) This section shall not relieve a new motor vehicle dealer, lessor or other owner of an established place of business from the obligation to mitigate damages.

### **31-16-110. Succession to franchise ownership.**

(a) Notwithstanding the terms, provisions or conditions of any franchise:

(i) Any owner or a licensee may appoint by will, or any other written instrument, a designated family member to succeed in the ownership interest of the owner in the new vehicle dealer;

(ii) Unless there exists good cause for refusal to honor succession by the manufacturer, any designated family member of a deceased or incapacitated owner of a new vehicle dealer may succeed to the ownership of the new vehicle dealer under the existing franchise if:

(A) The designated family member gives the manufacturer written notice of intent to succeed to the ownership of the new vehicle dealer within thirty (30) days of the owner's death or incapacity; and

(B) The designated family member agrees to be bound by all the terms and conditions of the franchise.

(iii) The manufacturer may request and the designated family member shall promptly provide personal and financial data reasonably necessary to determine whether the succession should be honored;

(iv) If a manufacturer believes good cause exists for refusing to honor the succession to the ownership of a new vehicle dealer by a family member of a deceased or incapacitated owner of a new vehicle dealer under the existing franchise agreement, the manufacturer may serve upon the designated family member and the department notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with

the dealer no sooner than sixty (60) days from the date the notice is served. The notice may only be served not more than sixty (60) days following receipt of:

(A) Notice of the designated family member's intent to succeed to the ownership of the new vehicle dealer; or

(B) Any personal or financial data which it has requested.

(v) The notice in paragraph (iv) of this subsection shall state the specific grounds for the refusal to honor the succession and of its intent to discontinue the existing franchise with the new vehicle dealer no sooner than sixty (60) days from the date the notice is served;

(vi) If notice of refusal and discontinuance is not timely served upon the family member, the franchise shall continue in effect subject to termination only as otherwise permitted under this act;

(vii) Within twenty (20) days of receiving the notice after the end of any appeal procedure provided by the manufacturer, the designated family member may file with the department to protest the refusal to honor the successor. When such a protest is filed, the department shall inform the manufacturer that a timely protest has been filed and the manufacturer has sixty (60) days to respond to the protest after actually being informed by the department of the protest. The manufacturer shall not terminate or discontinue the existing franchise until the department has held a hearing under the Wyoming Administrative Procedure Act and determined that there is good cause for not permitting the succession. All hearing costs shall be borne as prescribed under W.S. 31-16-109(g);

(viii) In determining whether good cause for the refusal to honor the succession exists, the manufacturer or importer has the burden of proof;

(ix) This act does not preclude the owner of a new vehicle dealer from designating any person as his successor by written instrument filed with the manufacturer. If there is a conflict between the written instrument and this section and the written instrument has not been revoked by the owner of the new dealer in writing to the manufacturer the written instrument shall govern;

(x) As used in this section, "manufacturer" includes a manufacturer, a distributor, a factory branch, distributor branch or other representative.

### **31-16-111. Limitations on establishing or relocating new vehicle dealers.**

(a) If a manufacturer seeks to enter into a franchise establishing an additional new vehicle dealer or relocating an existing new vehicle dealer within a radius of ten (10) miles from where the same line make is then represented the manufacturer shall in writing notify the department and each new vehicle dealer in that line make within a ten (10) mile radius of the intention to establish an additional dealer or to relocate an existing

dealer within the ten (10) mile radius. Within twenty (20) days of receiving the notice or within twenty (20) days after the end of any appeal procedure provided by the manufacturer, any new vehicle dealer notified may file with the department to protest the establishing or relocating of the new vehicle dealer. When a protest is filed, the department shall inform the manufacturer that a timely protest has been filed, and the manufacturer has forty-five (45) days to respond to the protest. The manufacturer shall not establish or relocate the proposed new vehicle dealer until the department has held a hearing under the Wyoming Administrative Procedure Act, nor thereafter, if the department has determined that there is good cause for not permitting the addition or relocation of the new vehicle dealer which determination shall be made within sixty (60) days of receipt by the department of the response to the protest from the manufacturer. All hearing costs shall be borne as prescribed in W.S. 31-16-109(g).

(b) This section does not apply:

(i) To the relocation of an existing new vehicle dealer within that dealer's relevant market area, provided that the relocation not be at a site within seven (7) miles of a new vehicle dealer for the same line make of vehicle;

(ii) If the proposed new vehicle dealer is to be established at or within two (2) miles of a location at which a former new vehicle dealer for the same line make had ceased operating within the previous two (2) years;

(iii) To the reopening of a new vehicle dealer who temporarily has been out of business;

(iv) If the protesting new vehicle dealer has not established to the department that he:

(A) Is a licensed new motor vehicle dealer of the same line make located within ten (10) miles of the proposed location of the additional new vehicle dealer or of the proposed relocation site of an existing new vehicle dealer;

(B) Is providing facilities, equipment, parts, capital and personnel in substantial compliance with its contractual obligations to the manufacturer; and

(C) Has attained in the last three (3) years sales penetration for the manufacturer in his area of responsibility that is equal to or greater than the average penetration of all same line make new vehicle dealers in the state; or

(v) Where the relocation is two (2) miles or less from the existing location of the relocating new vehicle dealer.

(c) In determining whether good cause has been established for not entering into or relocating an additional new vehicle dealer for the same line make, the department shall take into consideration the existing circumstances including, but not limited to:

(i) Permanency of the investment of both the existing and proposed new vehicle dealers;

(ii) Growth or decline in population and new motor vehicle registrations in the relevant market area;

(iii) Effect on the consuming public in the relevant market area;

(iv) Whether it is injurious or beneficial to the public welfare for an additional new vehicle dealer to be established;

(v) Whether the new vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient customer care for the vehicles of the line make in the market area, including the adequacy of vehicle sales and service facilities, equipment, supply of vehicle parts and qualified service personnel;

(vi) Whether the establishment of an additional new vehicle dealer would increase competition and be in the public interest.

(d) The protesting new vehicle dealer shall have the burden of establishing that good cause does not exist for the establishment of an additional new vehicle dealer or the relocation of an existing new vehicle dealer.

### **31-16-112. Penalty.**

(a) Any person, Wyoming based manufacturer, direct sale manufacturer, vehicle dealer, salesperson or agent who violates this act or any rule or regulation promulgated under this act is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

(b) The highway patrol division and other enforcement officers as the department designates are charged with the duty of policing and enforcing the provisions of this act. The designated enforcement officers have authority to issue citations for violations of any of the provisions of this act.

### **31-16-113. Product liability responsibility.**

A manufacturer shall file with the department a copy of the delivery and preparation obligations required to be performed by a new vehicle dealer prior to the delivery of a new vehicle to a buyer. These delivery and preparation obligations constitute the new vehicle dealer's only responsibility for product liability as between the new vehicle dealer and the manufacturer, except for a loss caused by the new vehicle dealer's failure to adhere to these obligations, a loss caused by the new vehicle dealer's negligent, reckless or intentional misconduct or loss caused by the new vehicle dealer's modification of a product without manufacturer's authorization. Any mechanical, body or parts defects arising from an express or implied warranty of the manufacturer constitute the manufacturer's product or warranty liability only as between the

manufacturer and the new vehicle dealer. This section shall not affect the obligation of new vehicle dealers to perform warranty repair, other service and maintenance as may be required by law or contract.

**31-16-114. Product liability indemnification.**

Notwithstanding the terms of any franchise agreement, no new vehicle manufacturer shall fail to indemnify and hold harmless its franchised new vehicle dealers against any judgment or settlement for damages including, but not limited to, court costs and reasonable attorney fees of the new vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, warranty, express or implied, or rescission of the sale to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly or design of new vehicles, parts or accessories or other functions by the manufacturer beyond the control of the new vehicle dealer. This section does not absolve any new vehicle dealer from responsibility for the negligent, reckless or intentional misconduct of the new vehicle dealer and his employees and agents.

**31-16-115. Disclosure of damage required.**

On any new vehicle, any uncorrected damage or any corrected damage exceeding six percent (6%) of the manufacturer's suggested retail price measured by the claim for reimbursement to the manufacturer or transportation or insurance carrier shall be disclosed in writing prior to delivery. Damage to glass, tire and bumpers and any damaged components, body panels, or options which can be replaced by identical components without welding are excluded from the six percent (6%) rule when replaced by identical manufacturer's original equipment.

**31-16-116. Grounds for revocation; cessation of right to revocation.**

Repaired damage to a customer-ordered new vehicle, not exceeding the six percent (6%) rule, does not constitute grounds for revocation of the customer order. The customer's right of revocation ceases upon his acceptance of delivery of the vehicle if disclosure required in this act is made prior to delivery.

**31-16-117. Payment for delivery preparation, warranty, sales incentives and service incentives.**

(a) Each new vehicle manufacturer shall specify in writing to each of its new vehicle dealers licensed in this state the dealer's obligations for predelivery preparation and warranty service on its products, compensate the new vehicle dealer for service required of the dealer by the manufacturer and provide the dealer a schedule of compensation to be paid the dealer for parts, work and service in connection therewith, and the time allowance for the performance of that work and service.

(b) No schedule of compensation shall fail to include reasonable compensation for diagnostic work, repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. The hourly labor rate

charged by the dealer for warranty service shall not exceed the hourly labor rate charged to nonwarranty customers for nonwarranty service and repairs, provided that rate is reasonable. Reimbursement for parts purchased by the dealer for use in performing work pursuant to a manufacturer's express warranty shall be dealer cost plus thirty percent (30%).

(c) No new vehicle manufacturer shall fail to perform any warranty obligations, fail to include in written notices of factory recalls to new vehicle owners and dealers, the expected date by which necessary parts and equipment will be available to dealers for the correction of those defects or fail to compensate any of the new vehicle dealers in this state for repairs affected by recall.

(d) All claims made by new vehicle dealers for predelivery preparation, warranty, sales incentives or service incentives shall be paid or credited within thirty (30) days following their approval. The manufacturer may audit claims and charge the dealer for unsubstantiated or incorrect claims for a period of one (1) year following payment except where the manufacturer reasonably suspects fraud. A manufacturer that reasonably suspects fraud may audit claims for a period of four (4) years and charge the dealer for fraudulent claims as otherwise provided by law. All claims shall be either approved or disapproved within thirty (30) days after their receipt, on forms or by computerized communication and in the manner specified by the manufacturer including a computerized communications system. Any claim not specifically disapproved in writing or through electronic communication within thirty (30) days after receipt is construed to be approved and payment shall be made within thirty (30) days.

(e) This section shall apply to each manufacturer or distributor of motor vehicles, medium duty or heavy duty truck components or engines who provides integral parts of vehicles or major components by selling directly to dealers or enters into a contract with a motor vehicle, medium duty or heavy duty truck dealer which authorizes the dealer to perform warranty or other services on products produced or distributed.

### **31-16-118. Repair or replacement of an odometer.**

Nothing in this act shall be construed to prohibit the service, repair or replacement of an odometer, provided the indicated mileage remains the same as before the service, repair or replacement. Where the odometer is incapable of registering the same mileage as before the service, repair or replacement, the odometer shall be adjusted to read zero and a notice shall be attached permanently to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. No person shall fail to adjust an odometer or affix a notice regarding that adjustment, as required under this section. No person shall with intent to defraud remove or alter any notice affixed to a vehicle under this section.

### **31-16-119. Disconnecting, turning back or resetting of odometer prohibited.**



No person shall disconnect, turn back, or reset the odometer of any vehicle with the intent to reduce the number of miles indicated on the odometer gauge.

**31-16-120. Selling vehicle knowing odometer turned back unlawful.**

No person shall sell a vehicle in this state if he has knowledge that the odometer on the vehicle has been turned back unless he notifies the buyer prior to the time of the sale that the odometer has been turned back or that he has reason to believe that the odometer has been turned back.

**31-16-121. Selling vehicle knowing odometer replaced unlawful.**

No person shall sell a vehicle in this state if he has knowledge that the odometer on the vehicle has been replaced with another odometer unless he notifies the buyer prior to the time of the sale that the odometer has been replaced or that he believes the odometer to have been replaced.

**31-16-122. Selling, advertising, using or installing device which causes other than true mileage to be registered.**

No person shall advertise for sale, sell, use or install on any part of a vehicle or on an odometer in a vehicle, any device which causes the odometer to register any mileage other than the true mileage driven. For the purposes of this section, the true mileage driven is that driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

**31-16-123. Purchaser plaintiff to recover costs and attorney's fee.**

(a) The purchaser of a vehicle may recover from the seller of the vehicle court costs and reasonable attorney fees fixed by the court, if:

(i) The suit or claim is based substantially upon the purchaser's allegation that the odometer on the vehicle has been tampered with contrary to this act or replaced contrary to this act; and

(ii) It is found in such suit that the seller of the vehicle or any of his employees or agents knew or had reason to know the odometer on the vehicle had been tampered with or replaced and failed to disclose the knowledge to the purchaser prior to the time of sale.

**31-16-124. Applicability of provisions.**

(a) Any person who engages directly or indirectly in purposeful contacts within this state in connection with the offering or advertising for sale or has business dealings with respect to a new vehicle sale within this state is subject to this act and is subject to the jurisdiction of the courts of this state.

(b) The applicability of this act is not affected by a choice of law clause in any franchise, agreement, waiver, novation or other written instrument.

(c) Any provision of any agreement, franchise, waiver, novation or other written instrument which is in violation of any section of this act is null and void and without force and effect.

(d) No manufacturer or other franchisor shall use any subsidiary corporation, affiliated corporation or any other controlled corporation, partnership, association or person to accomplish what would otherwise be illegal conduct under this act on the part of the manufacturer.

(e) Nothing in this act shall be construed to impair the obligations of a contract entered into prior to the date this act becomes effective or to prevent a manufacturer, distributor, representative or any other person, whether or not licensed under this act, from requiring performance of the prior written contract entered into with any licensee nor shall the requirement of that performance constitute a violation of this act if the contract, or the terms thereof, requiring performance, was freely entered into and executed between the contracting parties. This act applies to any amendments, novations, records or modifications of prior contracts and to any contracts entered into subsequent to the date this act becomes effective.

(f) Any assignment or delegation by a manufacturer or other franchisor, except an assignment or delegation agreed to by the affected new vehicle dealer does not relieve the manufacturer or other franchisor of liability for performance of obligations under any franchise agreement or in any way limit the application of this act to the manufacturer or other franchisor.

### **31-16-125. Demo, full use, and manufacturer license plates.**

(a) Any licensed dealer who sells or exchanges retail twelve (12) or more vehicles in any twelve (12) consecutive month period shall apply to the county treasurer in the county in which the business is licensed for demo and full use license plates. After presentation of a current dealer's license and payment of fees, the treasurer shall assign the requested number of plates to an approved applicant for use in the business located in the county. The treasurer shall not assign plates to a dealer in excess of the number approved by the department.

(b) The department shall authorize any licensed dealer who sells or exchanges retail twelve (12) or more vehicles in any one (1) calendar year to purchase the following number of demo license plates annually:

(i) If the dealer applied for a renewal certificate based on the total number of retail sales by the dealer during the twelve (12) full calendar months preceding the date of application for renewal:

(A) Three (3) demo plates plus one (1) demo plate for each twenty-five (25) retail vehicle sales or fractional part thereof for the first one thousand (1,000) retail vehicle sales;

(B) One (1) demo plate for each fifty (50) retail vehicle sales or fractional portion thereof from one thousand one (1,001) through one thousand five hundred (1,500) retail vehicle sales;

(C) One (1) demo plate for each one hundred (100) retail vehicle sales or fractional portion thereof in excess of one thousand five hundred (1,500) retail vehicle sales;

(D) In addition to demo plates otherwise authorized under this paragraph, one (1) plate for each four (4) retail vehicle sales or fractional part thereof if the vehicle is a truck with an unladen weight greater than six thousand (6,000) pounds or a recreational vehicle;

(E) One (1) demo plate if the applicant is an antique vehicle dealer.

(ii) If the dealer applied for a new dealer license, he may purchase demo plates in the same amount specified in paragraph (i) of this subsection, except authorization to purchase demo license plates shall be based on the dealer's reasonable estimate of the number of retail vehicle sales the dealer will make during the first year of business. The department may revise the estimate and reduce or increase the number of demo license plates authorized under this paragraph at any time, but not less than ninety (90) days after the certificate is issued if, from the number of retail sales made, it appears the estimate is substantially inaccurate. No dealer shall hold demo or full use license plates in excess of the number authorized. No refund shall be granted for demo or full use license plates returned under this paragraph.

(c) The department shall authorize and the county treasurer upon application and payment of the fees shall assign one (1) demo plate to any dealer selling fewer than twelve (12) vehicles per calendar year.

(d) The department shall authorize a licensed dealer to purchase full use license plates not to exceed fifty percent (50%) of the total number of demo plates allowed by subsection (b) of this section.

(e) A banking or lending institution engaged in the business of making loans secured by vehicles, or persons engaged in the business of repossessing vehicles, may acquire demo or full use license plates after presentation of a current dealer's license and upon payment of fees required by dealers and may use the demo or full use license plates solely for the repossession and sale of vehicles.

(f) Licensed Wyoming based manufacturers may apply to the department for one (1) or more manufacturer license plates, or, if the department authorizes, to the county treasurer in a county where the manufacturer has an established place of business. After presentation of a current manufacturer certificate and payment of fees, the department or treasurer, if authorized, shall assign to the manufacturer the number of license plates approved by the department for use in the usual and customary conduct of the manufacturer's business including, demonstrating, testing, transporting or selling a vehicle.

(g) Licensed dealers who have received demo license plates may apply for and receive temporary license permits from the department upon payment of fees.

(h) The department may authorize a dealer to purchase demo license plates in addition to the number authorized under subsection (b) of this section upon a showing of a substantial increase in the dealer's business or for other good cause shown.

(j) Every dealer or manufacturer upon transferring a vehicle by sale, lease or otherwise to any person other than a dealer or manufacturer shall immediately give written notice of the transfer to the department upon the official form provided by the department. The notice shall contain the date of the transfer, the names and addresses of the transferor and transferee, and a description of the vehicles required on the form.

(k) Licensed direct sale manufacturers may apply to the department for one (1) or more manufacturer license plates. After presentation of a current direct sale manufacturer license and payment of fees, the department shall assign to the direct sale manufacturer the number of license plates approved by the department for use in the usual and customary conduct of the manufacturer's business including, demonstrating, testing, transporting or selling a vehicle.

**31-16-126. Use of demo, full use plates; temporary permits.**

(a) Vehicles while included as a part of a licensed dealer's inventory may be operated on highways with demo license plates issued pursuant to W.S. 31-16-125, provided that:

(i) Demo plates may only be displayed on vehicles owned by or consigned to the dealership;

(ii) Notwithstanding paragraph (v) of this subsection, a dealer demo plate may only be used on a vehicle operated by a prospective buyer, by a dealership employee with a prospective buyer in the vehicle, or for conducting legitimate dealership business by a dealership employee during normal business hours and for no other purpose except as authorized by the department for good cause shown;

(iii) A dealer demo plate may not be used on any vehicle which has been sold and is in the possession of the purchaser, or upon any vehicle leased or rented by a dealer;

(iv) A demonstration by a prospective buyer cannot exceed seven (7) calendar days;

(v) Owners and employees of the dealership may not operate a vehicle with demo plates for their private purposes or use a demo plate for commercial purposes except as provided by this section;

(vi) Demo plates cannot be displayed on any of the following vehicles owned by the dealership which shall be titled and registered in the name of the dealership:

(A) Tow vehicles;

- (B) Parts and delivery vehicles;
- (C) Service department loaners;
- (D) Courtesy shuttle vehicles;
- (E) Rental vehicles; and
- (F) Haulers.

(vii) Except as authorized by the department for good cause shown, a dealer demo plate shall not be loaned to charitable organizations, parades or shows;

(viii) A dealer demo plate shall not be loaned or given to any person other than prospective buyers for demonstration purposes;

(ix) Demo plates shall be designated by "DEMO" above or below the plate numbers;

(x) The number of demo plates issued to a dealer shall be subject to W.S. 31-16-125.

(b) Vehicles while included as a part of a licensed dealer's inventory may be operated on highways with full use license plates issued pursuant to W.S. 31-16-125 provided that full use license plates:

(i) Shall be designated by "FULL USE" above or below the plate numbers;

(ii) Shall be limited to no more than fifty percent (50%) of a dealer's allotted demo plates;

(iii) Shall be valid for one (1) year;

(iv) May be used only on vehicles owned and offered for sale by the dealer. Full use plates shall not be used on vehicles owned by the dealership that are commonly used by that dealer as tow trucks, parts vehicles, rental vehicles, courtesy shuttles or haulers;

(v) May be transferred from one (1) vehicle to another freely and without notification to the department;

(vi) May be assigned by a vehicle dealer to the following persons:

(A) Owner or co-owners;

(B) Employees;

(C) To any person including former, current and prospective customers in order to serve the legitimate business interests of the dealership;

(D) A spouse living in the same household as the licensed dealer.

(c) A vehicle dealer may not use a demo, full use or manufacturer license plate on any vehicle type the dealer is not licensed to sell, as indicated on the dealer's application for a dealer license. No demo, full use, direct sale manufacturer or Wyoming based manufacturer license plate shall be used upon any vehicle rented, or leased by a dealer, direct sale manufacturer or Wyoming based manufacturer or upon a wrecker or delivery truck used by a dealer, direct sale manufacturer or Wyoming based manufacturer, except that a demo, full use or Wyoming based manufacturer license plate may be used on a vehicle lawfully being repossessed by a dealer, direct sale manufacturer or Wyoming based manufacturer. A demo, full use or manufacturer license plate for trailers may be used on a trailer being used by a dealer or Wyoming based manufacturer to transport a boat if the boat:

(i) Is being transported for the purpose of demonstration or sale; and

(ii) Is included in the dealer's or manufacturer's inventory.

(d) Vehicles may be operated without registration for sixty (60) days from the date of purchase when displaying a temporary license permit issued by a licensed dealer or the department. The form and display of the temporary license permit shall be prescribed by the department.

### **31-16-127. Temporary recreational vehicle display and sales permit.**

(a) No out of state recreational vehicle dealer shall display, demonstrate, exchange or sell a recreational vehicle, as defined in W.S. 31-16-101(a)(xxiii), in this state without a permit as provided in subsection (b) of this section.

(b) The department shall issue a temporary recreational vehicle display and sales permit to an out of state recreational vehicle dealer not currently licensed in Wyoming, subject to the following conditions:

(i) The applicant shall submit an application accompanied by an application fee of five hundred dollars (\$500.00) to the department at least ninety (90) days prior to the recreational vehicle display and sales event. The application shall be on a form approved by the department and shall include:

(A) The legal name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct his business. If the applicant is a partnership, the name and residence address of its managing partner, whether a limited or general partner, and the name under which the partnership business is to be conducted. If the applicant is a corporation, the name of the corporation and the name and address of its principal officer. If the applicant is a limited liability company, the name and address of the managing members;

(B) Any other information the department may reasonably require, including financial statements of new applicants, past or present judicial, civil or administrative dispositions of criminal, civil or administrative actions relating to the conduct of the business if currently licensed or a new applicant, telephone numbers, sales and use tax numbers for the business and declared business hours. Any new applicant for a permit issued under this section shall submit to fingerprinting and provide information necessary for a state and national criminal history record background check and release of information as provided in W.S. 7-19-106(k) (ii) and consent to the release of any criminal history information to the department;

(C) An additional fee of fifty dollars (\$50.00) for two (2) temporary recreational vehicle demo plates;

(D) An additional fee of five dollars (\$5.00) for ten (10) temporary permits for issuance to purchasers of recreational vehicles at the event;

(E) Any additional fees required by state and federal agencies for processing of criminal history record information and fingerprint searches.

(ii) The applicant is a licensed recreational vehicle dealer in its state of residence;

(iii) The recreational vehicle display and sales event is in conjunction with a state, regional or national recreational vehicle rally at which at least one hundred fifty (150) owned units are preregistered to attend;

(iv) The application shall be accompanied by a written statement from the owner or manager of the location where the recreational vehicle display and sales event will be conducted, describing the associated recreational vehicle rally and the display and sales event;

(v) The owner or manager of the location where the recreational vehicle display and sales event will be conducted shall notify all licensed Wyoming recreational vehicle dealers when a temporary recreational vehicle display and sales event is planned. Notice shall be timely, but not less than six (6) months prior to the event;

(vi) Wyoming licensed dealers shall have a first right of refusal to purchase space for the purpose of displaying and selling recreational vehicles, exercisable for three (3) months following the date of the notice required by paragraph (v) of this subsection, at any event for which a permit is required under this section;

(vii) Wyoming licensed recreational vehicle dealers holding a current exclusive franchise or dealer agreement with a recreational vehicle manufacturer shall have the first right of refusal to be the sole representative for that manufacturer, as provided in the exclusive franchise or dealer agreement;

(viii) Recreational vehicle dealers in a state allowing sales by out of state recreational vehicle dealers on terms substantially equal to those provided for in this section shall have a second right of refusal to purchase space for the purpose of displaying and selling recreational vehicles, exercisable for one (1) month following expiration of the first right of refusal provided by paragraph (vi) of this subsection, at any event for which a permit is required under this section;

(ix) A permit pursuant to this section shall be valid for a period up to seven (7) consecutive days, beginning on the first day of the scheduled event;

(x) Not more than three (3) permits as provided in this section shall be issued to any one (1) out of state recreational vehicle dealer in one (1) calendar year;

(xi) The application shall be accompanied by a cash or surety bond in the amount of fifty thousand dollars (\$50,000.00) with a corporate surety duly licensed to do business within this state. The bond shall:

(A) Be approved as to form by the attorney general;

(B) Be conditioned that the applicant shall not practice any fraud, make fraudulent misrepresentations, or violate any federal or state law, rules or regulations relating to the conduct of the business;

(C) Guarantee the return of the temporary recreational vehicle display and sales permit, recreational vehicle demo plates, unused temporary permits and stubs of temporary permits issued to purchasers;

(D) Be forfeited to the department upon any violation of this act;

(E) Be returned by the department to the bond holder within thirty (30) days after the last day of the event if no sales were consummated in Wyoming, or one (1) year after the last date of any sales transacted at the event if all conditions and guarantees of the bond have been met.

(xii) The permit shall be prominently displayed at the sales event in the location where the permit holder conducts business;

(xiii) Out of state dealers at a temporary recreational vehicle sales and display event, prior to consummation of a vehicle sale to a Wyoming resident, shall provide written notice to the buyer of the location of the manufacturer authorized service facility nearest to the event.

(c) For purposes of this section:

(i) "Out of state recreational vehicle dealer" means a dealer as defined in W.S. 31-16-101(a)(xviii) who is engaged in the business of selling or exchanging recreational vehicles and who is not licensed as a new vehicle dealer or used vehicle dealer as provided in this act;



(ii) "Recreational vehicle display and sales event" means any temporary private or public assembly of recreational vehicles at which recreational vehicles are displayed to the public for the purpose of sale or exchange.

(d) The department shall adopt rules and regulations to implement the provisions of this section.