

§ 63-17-51. Short title.

Sections 63-17-51 through 63-17-119 shall be known and may be cited as the “Mississippi Motor Vehicle Commission Law.”

HISTORY:

Codes, 1942, § 8071.7-01; Laws, 1970, ch. 478, § 1; reenacted without change, Laws, 1983, ch. 344, § 1; Laws, 1991, ch. 305, § 1; Laws, 2000, ch. 418, § 11, eff from and after July 1, 2000.

§ 63-17-53. Legislative findings and declarations.

The legislature finds and declares that the distribution and sales of motor vehicles in the State of Mississippi vitally affects the general economy of the state and the public interest and the public welfare. The legislature further finds and declares that it is necessary, in the exercise of its police power, to regulate and to license motor vehicle manufacturers, factory branches and divisions, distributors, distributor branches and divisions, distributor representatives, wholesalers, wholesaler branches and divisions, dealers and salesmen doing business in the State of Mississippi in order (1) to prevent frauds, unfair practices, discrimination, impositions and other abuses upon the citizens of the State of Mississippi, (2) to avoid undue control of the independent motor vehicle dealer by motor vehicle manufacturing and distributing organizations, (3) to foster and keep alive vigorous and healthy competition, (4) to prevent the creation or perpetuation of monopolies, (5) to prevent the practice of requiring the buying of special features, accessories, special models, appliances and equipment not desired by a motor vehicle dealer or the ultimate purchaser, (6) to prevent false and misleading advertising, (7) to promote and keep alive a sound system of distribution of motor vehicles to the public, and (8) to promote the public safety and welfare.

HISTORY:

Codes, 1942, § 8071.7-02; Laws, 1970, ch. 478, § 2; reenacted without change, Laws, 1983, ch. 344, § 2; Laws, 1991, ch. 305, § 2, eff from and after July 1, 1991.

§ 63-17-55. Definitions.

The following words, terms and phrases, when used in the Mississippi Motor Vehicle Commission Law, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) “Motor vehicle” means any motor-driven vehicle of the sort and kind required to have a Mississippi road or bridge privilege license, and shall include, but not be limited to, motorcycles. “Motor vehicle” shall also mean an engine, transmission, or rear axle manufactured for installation in a vehicle having as its primary purpose the transport of person or persons or property on a public highway and having a gross vehicle weight rating of more than sixteen thousand (16,000) pounds, whether or not attached to a vehicle chassis.

(b) “Motor vehicle dealer” means any person, firm, partnership, copartnership, association, corporation, trust or legal entity, not excluded by paragraph (c) of this section, who holds a bona fide contract or franchise in effect with a manufacturer, distributor or wholesaler of new motor vehicles, and a license under the provisions of the Mississippi Motor Vehicle Commission Law, and such duly franchised and licensed motor vehicle dealers shall be the sole and only persons, firms, partnerships, copartnerships, associations, corporations, trusts or legal entities entitled to sell and publicly or otherwise solicit and advertise for sale new motor vehicles as such.

(c) The term “motor vehicle dealer” does not include:

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

(ii) Public officers while performing their duties as such officers;

(iii) Employees of persons, corporations or associations enumerated in paragraph (c)(i) of this section when engaged in the specific performance of their duties as such employees; or

(iv) A motor vehicle manufacturer operating a project as defined in Section 57-75-5(f)(iv)1; and the provisions of the Mississippi Motor Vehicle Commission Law shall not apply to: **1.**

- a.** Any lease by such a motor vehicle manufacturer of three (3) or fewer motor vehicles at any one time and related vehicle maintenance, of any line of vehicle produced by the manufacturer or its subsidiaries, to any one (1) employee of the motor vehicle manufacturer on a direct basis; or
- b.** Any sale or other disposition of such motor vehicles by the motor vehicle manufacturer at the end of a lease through direct sales to employees of the manufacturer or through an open auction or auction limited to dealers of the manufacturer's vehicle line or its subsidiaries' vehicle lines; or
- 2.** Any sale or other disposition by such a motor vehicle manufacturer of motor vehicles for which the manufacturer obtained distinguishing number tags under Section 27-19-309(8).
- (d)** "New motor vehicle" means a motor vehicle which has not been previously sold to any person except a distributor or wholesaler or motor vehicle dealer for resale.
- (e)** "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a motor vehicle dealer purchasing in his capacity as such dealer, who in good-faith purchases such new motor vehicle for purposes other than for resale.
- (f)** "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging or otherwise disposing of a new motor vehicle to an ultimate purchaser for use as a consumer.
- (g)** "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer whose duties include the selling or offering for sale of new motor vehicles.
- (h)** "Commission" means the Mississippi Motor Vehicle Commission.
- (i)** "Manufacturer" means any person, firm, association, corporation or trust, resident or nonresident, who manufactures or assembles new motor vehicles.
- (j)** "Distributor" or "wholesaler" means any person, firm, association, corporation or trust, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers, or who maintains distributor representatives.
- (k)** "Factory branch" means a branch or division office maintained by a person, firm, association, corporation or trust who manufactures or assembles new motor vehicles for sale to distributors or wholesalers, to

motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives.

(l)

“Distributor branch” means a branch or division office similarly maintained by a distributor or wholesaler for the same purposes a factory branch or division is maintained.

(m) “Factory representative” means a representative employed by a person, firm, association, corporation or trust who manufactures or assembles new motor vehicles, or by a factory branch, for the purpose of making or promoting the sale of his, its or their new motor vehicles, or for supervising or contacting his, its or their dealers or prospective dealers.

(n) “Distributor representative” means a representative similarly employed by a distributor, distributor branch or wholesaler.

(o) “Person” means and includes, individually and collectively, individuals, firms, partnerships, copartnerships, associations, corporations and trusts, or any other forms of business enterprise, or any legal entity.

(p) “Good faith” means the duty of each party to any franchise agreement, and all officers, employees or agents franchise, to act in a fair and equitable manner toward each other in the performance of the respective obligations under the franchise agreement.

(q) “Coerce” means to compel or attempt to compel by threat or duress. However, recommendation, exposition, persuasion, urging or argument shall not be deemed to constitute coercion.

(r) “Special tools” are those which a dealer was required to purchase by the manufacturer or distributor for service on that manufacturer’s product.

(s) “Motor vehicle lessor” means any person, not excluded by paragraph (c) of this section, engaged in the motor vehicle leasing or rental business.

(t) “Specialty vehicle” means a motor vehicle manufactured by a second stage manufacturer by purchasing motor vehicle components, e.g. frame and drive train, and completing the manufacturer of finished motor vehicles for the purpose of resale with the primary manufacturer warranty unimpaired, to a limited commercial market rather than the consuming public. Specialty vehicles include garbage trucks, ambulances, fire trucks, buses, limousines, hearses and other similar limited purpose vehicles as the commission may by regulation provide.

(u) “Auto auction” means (i) any person who provides a place of business or facilities for the wholesale exchange of motor vehicles by and between duly licensed motor vehicle dealers, (ii) any motor vehicle dealer licensed to sell used motor vehicles selling motor vehicles using an auction format but not on consignment, or (iii) any person who provides the facilities for or is in the business of selling in an auction format motor vehicles.

(v) “Motor home” means a motor vehicle that is designed and constructed primarily to provide temporary living quarters for recreational, camping or travel use.

(w) “Dealer-operator” means the individual designated in the franchise agreement as the operator of the motor vehicle dealership.

(x) “Franchise” or “franchise agreement” means a written contract or agreement between a motor vehicle dealer and a manufacturer or its distributor or factory branch by which the motor vehicle dealer is authorized to engage in the business of selling or leasing the specific makes, models or classifications of new motor vehicles marketed or leased by the manufacturer and designated in the agreement or any addendum to such agreement.

(y) “Net cost” means the price the motor vehicle dealer pays for new motor vehicles, supplies, parts, equipment, signs, furnishings and special tools, minus any applicable discounts or subsidies obtained by the motor vehicle dealer.

(z) “Line or make” means a collection of models, series, or groups of motor vehicles manufactured by or for a particular manufacturer, distributor or importer offered for sale, lease or distribution pursuant to a common trademark, service mark or brand name; however:

(i) Multiple brand names or marks may constitute a single line or make, but only when included in a common motor vehicle dealer agreement and the manufacturer, distributor or importer offers such vehicles bearing the multiple names of marks together only, and not separately, to its authorized motor vehicle dealers.

(ii) Motor vehicles bearing a common brand name or mark may constitute separate line or makes when such vehicles are of different vehicle types or are intended for different types of use, provided that either:

1. The manufacturer has expressly defined or covered the subject line or makes of vehicles as separate and distinct line or makes in the applicable dealer agreements; or

2. The manufacturer has consistently characterized the subject vehicles as constituting separate and distinct line or makes to its dealer network.

(aa) “Site-control agreement” or “exclusive use agreement” means an agreement that, regardless of its name, title, form or the parties entering into it, has the effect of:

(i) Controlling the use and development of the premises of a motor vehicle dealer’s franchise or facilities;

(ii) Requiring a motor vehicle dealer to establish or maintain an exclusive motor vehicle dealership facility on the premises of the motor vehicle dealer’s franchise or facility;

(iii) Restricting the power or authority of the dealer or the lessor, if the motor vehicle dealer leases the dealership premises, to transfer, sell, lease, develop, redevelop or change the use of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease or any similar arrangement; or

(iv) Establishing a valuation process or formula for the motor vehicle dealership premises that does not allow for the motor vehicle dealership premises to be transferred, sold or leased by the motor vehicle dealer at the highest and best use valuation for the motor vehicle dealership premises.

(bb) “Market area” means the area of responsibility set forth in the franchise agreement.

(cc) “Core parts” means those original vehicle manufacturer parts that are listed in the original vehicle manufacturer’s or distributor’s current parts catalog, for which there is a core charge and which are returnable to the manufacturer or distributor.

HISTORY:

Codes, 1942, § 8071.7-03; Laws, 1970, ch. 478, § 3; Laws, 1982, ch. 392; reenacted, Laws, 1983, ch. 344, § 3; reenacted without change, Laws, 1991, ch. 305, § 3; Laws, 1994, ch. 399, § 2; Laws, 2000, ch. 418, § 8; Laws, 2000, 3rd Ex Sess, ch. 1, § 20; Laws, 2006, ch. 432, § 2; Laws, 2007, ch. 303, § 9; Laws, 2014, ch. 349, § 2, eff from and after July 1, 2014.

§ 63-17-57. Creation of Motor Vehicle Commission; appointment and terms of members; officers.

There is hereby created the Mississippi Motor Vehicle Commission to be composed of eight (8) members, one (1) of whom shall be appointed by the Attorney General from the state at large for a term of four (4) years and one (1) of whom shall be appointed by the Secretary of State from the state at large for a term of four (4) years, and six (6) licensees who shall be appointed by the Governor, one (1) from the state at large and one (1) from each of the five (5) congressional districts of this state for terms of the following duration: the term of the member from the state at large shall expire at the time the incumbent Governor's term expires, the term of the member appointed from the First Congressional District shall expire on June 30, 1973, the term of the member appointed from the Second Congressional District shall expire on June 30, 1974, the term of the member appointed from the Third Congressional District shall expire on June 30, 1976, the term of the member from the Fourth Congressional District shall expire on June 30, 1977, and the term of the member appointed from the Fifth Congressional District shall expire on June 30, 1978. Each member shall serve until his successor is appointed and qualified. At the expiration of the term of the member initially appointed by the Attorney General each successor member shall be appointed for a term of four (4) years by the incumbent Attorney General, and at the expiration of the term of the member appointed by the Secretary of State each successor member shall be appointed for a term of four (4) years by the incumbent Secretary. At the expiration of a term for which each of the initial appointments of the Governor is made, each successor member shall be appointed for a term of seven (7) years except that the term of the member appointed from the state at large shall be coterminous with that of the Governor making the appointment. The members of the commission as constituted on July 1, 2006, who are appointed by the Governor and whose terms have not expired shall serve the balance of their terms, after which time the gubernatorial appointments shall be made as follows: The Governor shall appoint one (1) member of the commission from each of the four (4) congressional districts and two (2) from the state at large.

The member appointed from the state at large by the Governor shall serve as chairman of the commission and one (1) of the other members appointed by the Governor shall be designated by him to serve as vice chairman. In the absence of the chairman at any meeting of the commission the vice chairman shall preside and perform the duties of the chairman.

**Miss. Code § 63-17-57 Creation of Motor Vehicle Commission;
appointment and terms of members; officers (Mississippi Code
(2019 Edition))**

In the event of a vacancy created by the death, resignation or removal of any member of the commission the vacancy shall be filled by appointment of the Governor, Attorney General or the Secretary of State, as the case may be, for the unexpired portion of the term. All appointments made pursuant to this section shall be made with the advice and consent of the Senate.

HISTORY:

Codes, 1942, § 8071.7-04; Laws, 1970, ch. 478, § 4; reenacted without change, Laws, 1983, ch. 344, § 4; reenacted without change, Laws, 1991, ch. 305, § 4; Laws, 2006, ch. 432, § 3, eff from and after July 1, 2006.

§ 63-17-59. Qualifications of members of commission.

Each of the members appointed to the commission shall be a citizen of the United States and a resident of the State of Mississippi and a qualified elector of the jurisdiction from which appointed, and each shall be of good moral character. The members of the commission initially appointed by the attorney general and the secretary of state and all members subsequently appointed by them shall never have been engaged in the manufacture, distribution or sale of motor vehicles and shall not thereafter be so engaged as long as they are members of the commission. The members of the commission initially appointed by the governor and all such members subsequently appointed by an incumbent governor shall be qualified to receive a license under the provisions of the Mississippi Motor Vehicle Commission Law and shall be holders of a current license within ninety days after their respective appointments and shall continue to be holders of a current license at all times thereafter so long as they are such members.

HISTORY:

Codes, 1942, § 8071.7-04; Laws, 1970, ch. 478, § 4; reenacted without change, Laws, 1983, ch. 344, § 5; reenacted without change, Laws, 1991, ch. 305, § 5, eff from and after July 1, 1991.

§ 63-17-61. Organization of commission; oath and bond of members; quorum; voting; seal.

The commission shall meet at Jackson and complete its organization immediately after the entire membership thereof has been appointed and has qualified.

The chairman and each member of the commission shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath of office prescribed by Section 268 of the constitution of this state, and shall file the same in the office of the secretary of state.

The commission shall purchase either a blanket position honesty or faithful performance bond from some surety company authorized to do business in this state in the penal sum of ten thousand dollars (\$10,000.00), made payable to the State of Mississippi, conditioned for the honest and faithful performance of the duties of the chairman and each member of the commission, the executive secretary of the commission and all other employees of the commission, said bond to be approved by the governor and filed in the office of the secretary of state. The commission shall keep such a bond in force at all times and from and after the date the commission is organized.

A majority of the commission shall constitute a quorum for the transaction of any business. Neither the chairman nor the vice-chairman, when the vice-chairman is presiding, shall be entitled to vote unless his vote is necessary to break a tie vote.

The commission shall adopt and use a common seal for the authentication of its records and orders.

HISTORY:

Codes, 1942, § 8071.7-04; Laws, 1970, ch. 478, § 4; reenacted without change, Laws, 1983, ch. 344, § 6; reenacted without change, Laws, 1991, ch. 305, § 6, eff from and after July 1, 1991.

§ 63-17-63. Meetings of commission.

The commission shall hold all of its regular monthly meetings in its office at Jackson, Mississippi. The commission may, upon approval of a majority of its members, hold special meetings and the hearings provided for under Section 63-17-93 at any time and place within the State of Mississippi.

HISTORY:

Codes, 1942, § 8071.7-04; Laws, 1970, ch. 478, § 4; reenacted without change, Laws, 1983, ch. 344, § 7; reenacted without change, Laws, 1991, ch. 305, § 7, eff from and after July 1, 1991.

§ 63-17-65. Compensation of members of commission.

The chairman and members of the commission shall receive per diem in the amount set forth in Section 25-3-69 for each and every day actually and necessarily spent in attending the meetings of the commission, and shall be reimbursed for their reasonable subsistence and traveling expenses necessarily incurred in the performance of their duties in accordance with Section 25-3-41. The chairman shall require itemized statements of all such reimbursable expenses and shall audit or cause to be audited such statements before approving the same for payment.

HISTORY:

Codes, 1942, § 8071.7-04; Laws, 1970, ch. 478, § 4; reenacted and amended, Laws, 1983, ch. 344, § 8; reenacted without change, Laws, 1991, ch. 305, § 8, eff from and after July 1, 1991.

§ 63-17-67. Executive director; employment of clerical and professional assistance; office.

The commission shall employ a qualified person to serve as executive director thereof, to serve at the pleasure of the commission, and shall fix his salary, subject to the approval of the State Personnel Board, and shall define and prescribe his duties. The executive director shall be in charge of the commission's office and shall devote full time to the duties thereof. His duties shall include, but not be limited to, the collection of all fees and charges under the provisions of the Mississippi Motor Vehicle Commission Law, keeping a record of all proceedings of the commission and an accurate account of all monies received and disbursed by the commission, all of which records shall be considered as public records. The commission may employ such clerical and professional help and incur such expenses as may be reasonably necessary for the proper discharge of its duties.

The commission shall maintain its office and transact its business, except as otherwise provided, at Jackson, Mississippi, and the Department of Finance and Administration shall approve suitable quarters and the remuneration therefor.

HISTORY:

Codes, 1942, § 8071.7-04; Laws, 1970, ch. 478, § 4; Laws, 1977, ch. 411, § 1; reenacted and amended, Laws, 1983, ch. 344, § 9; reenacted and amended, Laws, 1991, ch. 305, § 9, eff from and after July 1, 1991.

§ 63-17-69. Promulgation, etc., of rules and regulations by commission.

The commission shall have power to prescribe, issue, amend and rescind such reasonable rules and regulations as may be reasonably necessary or appropriate to carry out the provisions of the Mississippi Motor Vehicle Commission Law. No rule or regulation shall be effective until thirty days after copies of the proposed rule or regulation shall have been mailed to all motor vehicle dealers operating in the State of Mississippi, and a representative of each manufacturer, wholesaler, and distributor whose motor vehicles are sold therein, whether said representative is located within or without the State of Mississippi, and a notice setting forth either the terms or substance of said proposed rule or regulation and the time and place of a hearing thereon shall have been published in a newspaper of general circulation in the state and published in the City of Jackson. Such hearing may be held at any time twenty days after publication of such notice, but such rules or regulations shall not become effective until a hearing thereon. All rules, regulations and forms adopted by the commission shall be filed with its executive secretary and shall be readily available for public inspection and examination during reasonable business hours. A copy of said rules, regulations and forms shall also be filed and recorded in the office of the secretary of state. Any interested person shall have the right to petition the commission for issuance, amendment or repeal of a rule or regulation.

HISTORY:

Codes, 1942, § 8071.7-04; Laws, 1970, ch. 478, § 4; reenacted without change, Laws, 1983, ch. 344, § 10; reenacted without change, Laws, 1991, ch. 305, § 10, eff from and after July 1, 1991.

§ 63-17-71. Motor vehicle commission fund.

All funds received by the commission shall be deposited in the State Treasury to the credit of a special fund to be known as the “motor vehicle commission fund.” All expenses incurred in the organization, maintenance and operation of the commission shall be paid from such special fund. The expenditure of all such funds shall be made only pursuant to appropriation approved by the legislature and as provided by law. The receipts and disbursements of the commission shall be audited annually by the state auditor.

HISTORY:

Codes, 1942, § 8071.7-04; Laws, 1970, ch. 478, § 4; reenacted without change, Laws, 1983, ch. 344, § 11; Laws, 1984, ch. 488, § 264; reenacted without change, Laws, 1991, ch. 305, § 11, eff from and after July 1, 1991.

§ 63-17-73. Offenses and penalties.

(1) It is unlawful:

(a) For any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, or act as a motor vehicle dealer, motor vehicle salesman, manufacturer, distributor, wholesaler, factory branch or division, distributor branch or division, wholesaler branch or division, factory representative or distributor representative, as such, in this state without first obtaining a license therefor as provided in the Mississippi Motor Vehicle Commission Law, regardless of whether or not the person, firm, association, corporation or trust maintains or has a place or places of business in this state. Any person, firm, association, corporation or trust engaging, acting or serving in more than one (1) of the capacities or having more than one (1) place where the business is carried on or conducted shall be required to obtain and hold a current license for each capacity and place of business.

(b) For a motor vehicle dealer or a motor vehicle salesman:

(i) To require a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts or accessories not desired or requested by the purchaser. However, this prohibition shall not apply as to special features, appliances, equipment, parts or accessories which are already installed on the car when received by the dealer.

(ii) To represent and sell as a new motor vehicle any motor vehicle which has been used and operated for demonstration purposes or which is otherwise a used motor vehicle.

(iii) To resort to or use any false or misleading advertisement in connection with his business as a motor vehicle dealer or motor vehicle salesman.

(iv) To sell an extended service contract, extended maintenance plan or similar product that is not offered, endorsed or sponsored by a manufacturer or distributor without disclosing to the consumer, orally and in writing, that the offered product is not provided or supported by a manufacturer or distributor.

(c) For a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesaler branch or division, or officer, agent or other representative thereof, to coerce, or attempt to coerce, any motor vehicle dealer:

(i) To order or accept delivery of any motor vehicle or vehicles, appliances, equipment, parts or accessories therefor, or any other commodity or commodities which shall not have been voluntarily ordered by the motor vehicle dealer.

(ii) To order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of the motor vehicles as publicly advertised by the manufacturer thereof.

(iii) To order for any person any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever.

(iv) To contribute or pay money or anything of value into any cooperative or other advertising program or fund.

This paragraph (c) shall not apply to manufacturers of motor homes governed by the provisions of Sections 63-17-201 through 63-17-221.

(d) For a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesaler branch or division, or officer, agent or other representative thereof:

(i) To refuse to deliver in reasonable quantities and within a reasonable time after receipt of dealer's order to any duly licensed motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division or wholesale branch or division, any motor vehicles as are covered by such franchise or contract specifically publicly advertised by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division or wholesale branch or division, to be available for immediate delivery. However, the failure to deliver any motor vehicle shall not be considered a violation of this subsection if the failure is due to acts of God, work stoppages or delays due to strikes or labor difficulties, freight embargoes or other causes over which the manufacturer, distributor or wholesaler, or any agent thereof, has no control.

(ii) To coerce, or attempt to coerce any motor vehicle dealer to enter into any agreement, with the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, or officer, agent or other representative thereof, or to do any other act prejudicial to the dealer by threatening to cancel any franchise or any contractual agreement existing between the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, and the dealer. However, good-faith notice to

any motor vehicle dealer of the dealer's violation of any terms or provisions of the franchise or contractual agreement shall not constitute a violation of this subsection.

(iii) To terminate or cancel the franchise or selling agreement of any dealer without due cause. The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation, regardless of the terms or provisions of such franchise or selling agreement. "Due cause" shall be defined as a breach by the dealer of a material provision of the franchise agreement which breach has not been cured within a reasonable time after the dealer has been given written notice of the breach. The burden of proving that due cause exists shall be upon the party attempting to terminate, cancel or not renew the franchise or selling agreement. The manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, or officer, agent or other representative thereof shall notify a motor vehicle dealer in writing, and forward a copy of the notice to the commission, of the termination or cancellation of the franchise or selling agreement of the dealer at least sixty (60) days before the effective date thereof, stating the specific grounds for such termination or cancellation. The manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, or officer, agent or other representative thereof shall notify a motor vehicle dealer in writing, and forward a copy of the notice to the commission, at least sixty (60) days before the contractual term of his franchise or selling agreement expires that the franchise or selling agreement will not be renewed, stating the specific grounds for the nonrenewal, in those cases where there is no intention to renew the franchise or selling agreement. In no event shall the contractual term of any franchise or selling agreement expire, without the written consent of the motor vehicle dealer involved, prior to the expiration of at least sixty (60) days following such written notice. Any motor vehicle dealer who receives written notice that his franchise or selling agreement is being terminated or cancelled or who receives written notice that his franchise or selling agreement will not be renewed, may, within the sixty-day notice period, file with the commission a verified complaint for its determination as to whether the termination or cancellation or nonrenewal is unfair within the purview of the Mississippi Motor Vehicle Commission Law, and the franchise agreement shall continue in effect until final determination of the issues raised in the complaint notwithstanding anything to the contrary contained in the law or in the franchise or selling agreement.

(iv) To require, attempt to require, coerce or attempt to coerce a dealer, by franchise agreement or otherwise, or as a condition to the renewal or continuation of a franchise agreement, to materially change the dealer's

method of conducting business, not including its facilities, if the change would impose substantial and unreasonable financial hardship on the business of the motor vehicle dealer in light of the business objective of the proposed change, unless the change is voluntarily agreed to by the dealer for separate and valuable consideration.

(v) To offer to sell or to sell any new motor vehicle to any motor vehicle dealer at a lower actual price therefor than the actual price charged to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device, including, but not limited to, sales promotion plans or programs which result in such lesser actual price. The provisions of this subparagraph shall not apply so long as a manufacturer, distributor or wholesaler, or any agent thereof, offers to sell or sells new motor vehicles to all motor vehicle dealers at the same price. This subparagraph shall not be construed to prevent the offering of volume discounts if such discounts are equally available to all franchised motor vehicle dealers of the same line or make in this state.

The provisions of this subsection shall not apply to sales to a motor vehicle dealer of any motor vehicle ultimately sold, donated or used by such dealer in a driver education program, to sales to a motor vehicle dealer for resale to any unit of government, federal, state or local, or to bona fide fleet sales.

(vi) To offer to sell or to sell parts and/or accessories to any new motor vehicle dealer for use in his own business for the purpose of repairing or replacing the same or a comparable part or accessory, at a lower actual price therefor than the actual price charged to any other new motor vehicle dealer for similar parts and/or accessories for use in his own business. However, it is recognized that certain motor vehicle dealers operate and serve as wholesalers of parts and accessories to retail outlets, and nothing herein contained shall be construed to prevent a manufacturer, distributor or wholesaler, or any agent thereof, from selling to a motor vehicle dealer who operates and serves as a wholesaler of parts and accessories, the parts and accessories as may be ordered by such motor vehicle dealer for resale to retail outlets, at a lower actual price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories.

(vii) To prevent or attempt to prevent by contract or otherwise any motor vehicle dealer from changing the capital structure of his dealership or the means by or through which he finances the operation of his dealership, provided the motor vehicle dealer at all times meets any capital standards agreed to between the dealership and the manufacturer, distributor or wholesaler, provided such standards are deemed reasonable by the commission.

(viii) To prevent or attempt to prevent by contract or otherwise any motor vehicle dealer or any officer, partner or stockholder of any motor vehicle dealer from selling or transferring any part of the interest of any of them to any other person or persons or party or parties. However, no motor vehicle dealer, officer, partner or stockholder shall have the right to sell, transfer or assign the franchise or any right thereunder without the consent of the manufacturer, distributor or wholesaler which consent shall not be unreasonably withheld.

(ix) To condition unreasonably the renewal or extension of a franchise on a motor vehicle dealer's substantial renovation of the motor vehicle dealer's place of business or on the construction, purchase, acquisition or rental of a new place of business by the motor vehicle dealer. The manufacturer shall notify the motor vehicle dealer in writing of its intent to impose such a condition within a reasonable time prior to the effective date of the proposed renewal or extension, but in no case less than one hundred eighty (180) days prior to the renewal or extension. Upon receipt of written notification, a motor vehicle dealer shall have sixty (60) days to file a protest with the commission, and the manufacturer shall demonstrate to the commission the need for the demand in view of the need to service the public and the economic conditions existing in the motor vehicle industry and the market area served by the motor vehicle dealer at the time the action would be required of the motor vehicle dealer. As part of any such condition the manufacturer shall offer the motor vehicle dealer a reasonable initial supply and model mix of motor vehicles to meet the sales levels necessary to support the increased overhead incurred by the motor vehicle dealer by reason of the renovation, construction, purchase or rental of a new place of business consistent with nationally applied standards.

(x) To require, coerce or attempt to coerce a motor vehicle dealer to refrain from participation in the management of, investment in, the acquisition of, or the current operation of any other line of motor vehicles or related products, as long as the motor vehicle dealer maintains a reasonable line of credit for each dealership and the motor vehicle dealer remains in substantial compliance with reasonable facilities' requirements of the manufacturer or distributor. The reasonable facilities' requirements may not include any requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel or display space when the requirements are unreasonable considering current economic conditions in the market area and not otherwise justified by reasonable business considerations. The burden of proving by a preponderance of the evidence that the current economic conditions and reasonable business considerations justify exclusive facilities is on the manufacturer. Voluntary and noncoerced

acceptance of such conditions by the motor vehicle dealer in writing for separate and valuable consideration shall not constitute a violation.

(xi) To fail or refuse to sell or offer to sell to all motor vehicle dealers in a line or make, every motor vehicle sold or offered for sale under the franchise agreement to any motor vehicle dealer of the same line or make; or to unreasonably require a motor vehicle dealer to pay an extra fee, purchase unreasonable advertising displays or any other materials, or to unreasonably require the dealer-operator to remodel, renovate or recondition its existing facilities as a prerequisite to receiving a certain model or series of vehicles. However, the failure to deliver any such motor vehicle shall not be considered a violation of this section if the failure is not arbitrary and is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other cause of which the manufacturer or distributor has no control. This provision shall not apply to manufacturers of recreational vehicles.

(xii) To condition the sale, transfer, relocation or renewal of a franchise or dealer agreement or to condition sales, services, parts or finance incentives upon site-control agreement; however, voluntary and noncoerced acceptance of such conditions by the motor vehicle dealer in writing, shall not constitute a violation.

(xiii) To assign or change a motor vehicle dealer's market area under the franchise or motor vehicle dealer's agreement arbitrarily or without due regard to the present or projected future pattern of motor vehicle sales and registrations within the motor vehicle dealer's market area, and without first having provided the motor vehicle dealer's with written notice of the change in the motor vehicle dealer's market area and a detailed description of the change and reasons therefor.

(xiv) To attempt to coerce, or coerce, a motor vehicle dealer to adhere to performance standards that are not applied uniformly to other similarly situated motor vehicle dealers.

(xv) To establish any performance standard or program for measuring motor vehicle dealer's performance that may have a material impact on a motor vehicle dealer that is not fair, reasonable and equitable, or applying any such standard or program to a motor vehicle dealer in a manner that is not fair, reasonable and equitable. If dealership performance standards are based on a survey, the manufacturer or distributor shall establish the objectivity of the survey process and provide this information to any motor vehicle dealer covered by the survey request. Within fifteen (15) business days of a request by the motor vehicle dealer, a manufacturer shall disclose in writing to the motor vehicle dealer a description of the performance

standard or program and all relevant information used in the application of the performance standard or program to that motor vehicle dealer unless the manufacturer has already provided the information.

(xvi) To increase prices of new motor vehicles which the new motor vehicle dealer had ordered for the ultimate purchasers prior to the motor vehicle dealer's receipt of written official price increase notification. A sales contract signed by the ultimate purchaser that includes model and firm price shall constitute evidence of each such order provided that the vehicle is in fact delivered to that purchaser.

(xvii) To attempt to require, coerce or attempt to coerce any new motor vehicle dealer to sell, offer to sell or sell exclusively an extended service contract, extended maintenance plan or similar product, including, without limitation, GAP products, offered, endorsed or sponsored by the manufacturer or distributor by any of the following means:

- 1.** By an act or statement made by the manufacturer or distributor that will adversely impact the motor vehicle dealer whether it is express or implied; or
- 2.** By a provision in a franchise agreement that the motor vehicle dealer shall sell, offer to sell or sell exclusively an extended service contract, extended warranty plan or similar product offered, endorsed or sponsored by the manufacturer or distributor; or
- 3.** By measuring the motor vehicle dealer's performance under the franchise agreement based on the sale of extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the manufacturer or distributor; or
- 4.** By requiring the motor vehicle dealer to actively promote the sale or extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the manufacturer or distributor.

Nothing in this subparagraph shall prohibit a manufacturer or distributor from providing incentive programs to a new motor vehicle dealer who makes the voluntary decision to offer to sell, sell or sell exclusively an extended service contract, extended maintenance plan or similar product offered, endorsed or sponsored by the manufacturer or distributor.

(xviii) To require a motor vehicle dealer to provide its customer lists or service files to the manufacturer or distributor, unless necessary for the sale and delivery of a new motor vehicle to a consumer, to validate and pay consumer or dealer incentives, for reasonable marketing purposes, for

evaluation of dealer performance, for analytics or for the submission to the franchisor for any services supplied by the franchisee for any claim for warranty parts or repairs. Nothing in this section shall limit the franchisor's ability to require or use customer information to satisfy any safety or recall notice obligation or other legal obligation.

(xix) To release or cause to be released a motor vehicle dealer's nonpublic customer information to another motor vehicle dealer unless the franchise has been terminated, the customer has relocated to an address that is outside of the motor vehicle dealer's market area, the customer has transacted business with another motor vehicle dealer of the same brand, a customer has not transacted with the dealer from which a vehicle was purchased for a period of nine (9) months, or the motor vehicle dealer consents to the sharing of customer information with other dealers.

(xx) To coerce, attempt to coerce, require or attempt to require any motor vehicle dealer to provide installment financing with a specified financial institution.

(xxi) To require, coerce or attempt to coerce a dealer or successor dealer to construct or substantially alter a facility or premises if such construction or alteration would be unreasonable under the circumstances.

(xxii) To require, coerce or attempt to coerce a dealer or successor dealer to construct or substantially alter a facility or premises if the same area of the facility or premises has been constructed or substantially altered within the last ten (10) years and the construction or alteration was required and approved by the manufacturer as a part of a program, standard or policy, except for improvements made to comply with health or safety laws, or to accommodate the technology requirements necessary to sell or to service a motor vehicle. As used in this subsection, "substantially alter" means an alteration that substantially impacts the architectural features, characteristics, or integrity of a structure or lot. The term does not include routine maintenance reasonably necessary to maintain a dealership in attractive condition, or items directly protected by federal intellectual property rights of the manufacturer. If, during such ten-year period, the manufacturer revises an existing, or establishes a new program, standard, policy, bonus, incentive, rebate, or other benefit for the construction or substantial alteration of a dealership facility or premises, a motor vehicle dealer who completed a facility as a part of a prior program, standard, or policy within the ten-year period and elects not to comply with the applicant's or manufacturer's requirements under the revised or new program, standard, or facility-related policy will not be eligible for any bonus, incentive, rebate, or other benefit under the revised or new program but shall remain entitled to all benefits under the prior program according to

the terms of the prior program in place when the dealer began to perform under the program. If the prior program under which the dealer completed a facility construction or substantial alteration does not contain a specific time period during which the manufacturer or distributor must provide payments or benefits to a dealer, then the manufacturer or distributor may not deny the dealer payment or benefits under the terms of that prior program, as it existed when the dealer began to perform under the prior program, for the balance of the ten-year period, regardless of whether the manufacturer's or distributor's facility program has been changed or canceled.

(xxiii) To require, coerce, or attempt to coerce a dealer located in this state to purchase goods or facility construction or maintenance services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer from a vendor selected, identified, or designated by a manufacturer, distributor, affiliate, or captive finance source when the dealer may obtain goods or facility construction or maintenance services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer of the same quality, material, and design from a vendor selected by the dealer, provided the dealer obtains prior approval from the manufacturer, distributor or affiliate, for the use of the dealer's selected vendor. Goods shall include signs or sign components to be purchased or leased by the dealer which are not trademarked or otherwise directly protected by the federal intellectual property rights of the manufacturer. Such approval by the manufacturer, distributor or affiliate may not be unreasonably withheld. For purposes of this subdivision, the term "goods" does not include moveable displays, brochures, and promotional materials containing material subject to the intellectual property rights of a manufacturer or distributor, or special tools as reasonably required by the manufacturer, or parts to be used in repairs under warranty or recall obligations of a manufacturer or distributor. If the manufacturer, distributor or affiliate claims that a vendor chosen by the dealer cannot supply goods or facility construction or maintenance services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer which are the same quality, material, and design, the dealer may file a protest with the commission. When a protest is filed, the commission shall promptly inform the manufacturer, distributor, affiliate, or captive finance source that a protest has been filed. The commission shall conduct a hearing on the merits of the protest within ninety (90) days following the filing of a response to the protest. The manufacturer, distributor or affiliate shall bear the burden of proving that the goods or facility construction or maintenance services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer chosen by the dealer are not of the same

quality, material or design to those required by the manufacturer, distributor or affiliate.

This paragraph (d) shall not apply to manufacturers of motor homes governed by the provisions of Sections 63-17-201 through 63-17-221.

(2) Concerning any sale of a motor vehicle or vehicles to the State of Mississippi, or to the several counties or municipalities thereof, or to any other political subdivision thereof, no manufacturer, distributor or wholesaler shall offer any discounts, refunds, or any other similar type inducements to any dealer without making the same offer or offers to all other of its dealers within the state. If the inducements above mentioned are made, the manufacturer, distributor or wholesaler shall give simultaneous notice thereof to all of its dealers within the state.

(3) It is unlawful to be a broker. For the purpose of this subsection, “broker” means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle, and who is not:

(a) A new motor vehicle dealer or agent or employee of such a dealer; or

(b) A distributor or an agent or employee of such a distributor.

However, an individual shall not be deemed to be a broker if he or she is the owner of the new or used motor vehicle which is the object of the brokering transaction.

(4)

(a) For purposes of this subsection, the term “Stop-Sale” or “Do-Not-Drive” order means a notification issued by a manufacturer to its franchised new motor vehicle dealers stating that certain used vehicles in inventory shall not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or noncompliance, or a federal emissions recall.

(b) A manufacturer shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs shall be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a dealer authorized to sell and service new vehicles of the same line-make within thirty (30) days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a Stop-Sale or Do-Not-Drive order on the vehicle, the manufacturer shall compensate the dealer at a prorated rate of at least one percent (1%) of the value of the vehicle per month beginning on the date that is thirty (30) days after the

date on which the Stop-Sale or Do-Not-Drive order was provided to the dealer until the earlier of either of the following:

- (i)** The date the recall or remedy parts are made available; or
- (ii)** The date the dealer sells, trades, or otherwise disposes of the affected used motor vehicle.
- (c)** The value of a used vehicle shall be the average trade-in value for used vehicles as indicated in an independent third party guide for the year, make, and model, of the recalled vehicle.
- (d)** This subsection shall apply only to used vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with federal law and regulations adopted thereunder and where a Stop-Sale or Do-Not-Drive order has been issued and repair parts or remedy remain unavailable for thirty (30) days or longer. This subsection further shall apply only to new motor vehicle dealers holding an affected used vehicle for sale:
 - (i)** In inventory at the time the Stop-Sale or Do-Not-Drive order was issued; or
 - (ii)** Which was taken in the used vehicle inventory of the dealer as a consumer trade-in incident to the purchase of a new vehicle from the dealer after the Stop-Sale or Do-Not-Drive order was issued; and
 - (iii)** That are a line-make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs.
- (e)** It shall be a violation of this subsection for a manufacturer to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer, whether through a chargeback, removal of the individual dealer from an incentive program or reduction in amount owed under an incentive program solely because the new motor vehicle dealer has submitted a claim for reimbursement under this subsection. This subsection shall not apply to an action by a manufacturer that is applied uniformly among all dealers of the same line-make in the state.
- (f)** All reimbursement claims made by new motor vehicle dealers pursuant to this subsection for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a Stop-Sale or Do-Not-Drive order shall be subject to the same limitations and requirements as a warranty reimbursement claim made under paragraph (j) of Section 63-17-85. In the alternative, a manufacturer may compensate its franchised dealers under a national recall compensation program provided the compensation under the program is equal to or greater than that

provided under paragraph (b); or the manufacturer and dealer otherwise agree.

(g) A manufacturer may direct the manner and method in which a dealer must demonstrate the inventory status of an affected used motor vehicle to determine eligibility under this subsection, provided that the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to the dealer.

(h) Nothing in this subsection shall require a manufacturer to provide total compensation to a dealer which would exceed the total average trade-in value of the affected used motor vehicle as originally determined under paragraph (b) of this subsection (4).

(i) If a recall remedy for an affected use motor vehicle is available under a federal statute or regulation, then a dealer may opt to be compensated under either the federal statute or authority of this subsection but may not combine the remedies.

HISTORY:

Codes, 1942, § 8071.7-05; Laws, 1970, ch. 478, § 5; reenacted without change, Laws, 1983, ch. 344, § 12; reenacted without change, Laws, 1991, ch. 305, § 12; Laws, 1994, ch. 399, § 3; Laws, 2000, ch. 418, § 9; Laws, 2006, ch. 432, § 4; Laws, 2014, ch. 349, § 3; Laws, 2014, ch. 532, § 12, eff from and after Oct. 1, 2014; Laws, 2019, ch. 394, § 1, eff from and after July 1, 2019.

**Miss. Code § 63-17-74 Sale of motor vehicle not titled and
registered in name of seller prohibited; exceptions; penalty for
violation (Mississippi Code (2019 Edition))**

This section is likely affected by New Legislation. Although the new codification has not yet been released, the likely impact of the new legislation is reflected below.

Codified Section:

§ 63-17-74. Sale of motor vehicle not titled and registered in name of seller prohibited; exceptions; penalty for violation.

(1) It is unlawful for a person to sell a motor vehicle that is not titled and registered in the name of that person unless the person is:

- (a)** An heir, successor or assignee of the owner of the motor vehicle;
- (b)** A motor vehicle dealer licensed or permitted in the State of Mississippi to sell motor vehicles;
- (c)** A person selling a motor vehicle to a licensed used motor vehicle parts dealer or scrap metal processor in compliance with Section 63-21-39;
- (d)** A person selling a motor vehicle under the Mississippi Title Pledge Act;
- (e)** An insurance company or its authorized agent selling a motor vehicle that is the subject of an insurance claim; or
- (f)** A finance company or bank selling a motor vehicle.

All local and state law enforcement agencies have jurisdiction to enforce this section.

(2) Any person who violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) per violation.

HISTORY:

Laws, 2013, ch. 522, § 1, eff from and after July 1, 2013.

**Miss. Code § 63-17-74 Sale of motor vehicle not titled and
registered in name of seller prohibited; exceptions; penalty for
violation (Mississippi Code (2019 Edition))**

As Affected by Hb 359

Effective Date: 7/8/2020

(1) It is unlawful for a person to sell a motor vehicle that is not titled and registered in the name of that person unless the person is:

- (a) An heir, successor or assignee of the owner of the motor vehicle;
- (b) A motor vehicle dealer licensed or permitted in the State of Mississippi to sell motor vehicles;
- (c) A person selling a motor vehicle to a licensed used motor vehicle parts dealer or scrap metal processor in compliance with Section 63-21-39;
- (d) A person selling a motor vehicle under the Mississippi Title Pledge Act;
- (e) An insurance company or its authorized agent selling a motor vehicle that is the subject of an insurance claim;
- (f) A finance company or bank selling a motor vehicle; or

(g) A wrecker service or automobile repair service/business selling a motor vehicle that is legally being held for sale as merchandise.

All local and state law enforcement agencies have jurisdiction to enforce this section.

(2) Any person who violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) per violation.

Affected by Hb 359

§ 63-17-75. Applications for licenses.

Within ninety (90) days after July 1, 1970, all persons who on July 1, 1970, are engaged in a business or occupation for which a license is required under the Mississippi Motor Vehicle Commission Law shall make application on forms prescribed by the commission for their respective licenses. All such persons shall be permitted, without a license, to continue to engage in the business or occupation for which a license is applied for until the license is either granted or, in case it is denied, until the applicant has exhausted or has had an opportunity to exhaust all of his remedies under Section 63-17-99. No person not engaged in a business or occupation requiring such a license on July 1, 1970, shall be permitted to engage in such business or occupation until he shall have first obtained a license to engage in such business or occupation.

Applications for licenses shall be verified by the oath or affirmation of the applicants and shall be on forms prescribed by the commission and furnished to such applicants. Applications shall contain such information as the commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The commission shall require that there be set forth in each application information relating to the applicant's financial standing, the applicant's business integrity, whether the applicant has an established place of business and is primarily engaged in the pursuit, avocation or business for which a license or licenses is applied for, and whether the applicant is able to properly conduct the business for which a license or licenses is applied for, and such other pertinent information consistent with the safeguarding of the public interest and public welfare. Applications for license as a motor vehicle dealer shall, in addition to the foregoing, be accompanied by the filing with the commission of a bona fide contract or franchise then in effect between the applicant and a manufacturer, distributor or wholesaler of the new motor vehicle or vehicles proposed to be dealt in, unless such contract or franchise has already been filed with the commission in connection with a previous application made by such applicant, in which event the applicant shall, in lieu of again filing the contract or franchise, identify the contract or franchise by appropriate reference and file all revisions and additions, if any, which have been made to said contract or franchise. The applicant must furnish satisfactory evidence that he or it maintains adequate space in the building or structure wherein his or its established business is conducted for the display of new motor vehicles, or he will have such facilities within a reasonable time after receiving a license, and that he or it has or will have adequate facilities in said building or structure for the repair and servicing of motor vehicles and the storage of new parts and accessories for same. However, the failure to

furnish the evidence called for in the preceding sentence shall not constitute sufficient cause for denying a license to any motor vehicle dealer who on July 1, 1970, was an enfranchised new motor vehicle dealer in this state of a manufacturer, distributor or wholesaler of new motor vehicles and who continued to be such a dealer from such date until application was made for a license as a motor vehicle dealer.

New applications for licenses as a new, used or wholesale motor vehicle dealer shall, in addition to the foregoing, be accompanied by the filing with the commission of a corporate surety bond in the penal sum of Twenty-five Thousand Dollars (\$25,000.00) on a bond form approved by the commission. However, an applicant for licenses at multiple locations may choose to provide a corporate surety bond in the penal sum of One Hundred Thousand Dollars (\$100,000.00) covering all licensed locations of the same capacity in lieu of separate bonds for each location.

The bond shall be in effect upon the applicant being licensed and shall be conditioned upon his complying with the provisions of the Mississippi Motor Vehicle Commission Law. The bond shall be an indemnity for any loss sustained by any person by reason of the acts of the person bonded when those acts constitute grounds for the suspension or revocation of license. The bond shall be executed in the name of the State of Mississippi for the benefit of any aggrieved party. The aggregate liability of the surety for any claimants, regardless of the number of years this bond is in force or has been in effect, shall not exceed the amount of the bond. The proceeds of the bond shall be paid upon receipt by the commission of a final judgment from a Mississippi court of competent jurisdiction against the principal and in favor of an aggrieved party.

New, used and wholesale motor vehicle dealers shall be required to maintain motor vehicle liability insurance providing blanket coverage on vehicles operated on the public streets and highways of this state, including vehicles in dealership inventory unless the motor vehicle dealer's inventory does not have a motor. Evidence of liability insurance for business and inventory vehicles shall be filed with the application for license, and the application for license shall be denied if proof of liability insurance satisfactory to the Department of Revenue is not provided.

HISTORY:

Codes, 1942, § 8071.7-05; Laws, 1970, ch. 478 § 5; reenacted without change, Laws, 1983, ch. 344, § 13; reenacted without change, Laws, 1991, ch. 305, § 13; Laws, 2000, ch. 418, § 10; Laws, 2015, ch. 400, § 3, eff from and after July 1, 2015; Laws, 2019, ch. 325, § 1, eff from and after July 1, 2019.

§ 63-17-76. Application for used motor vehicle dealer's license to be accompanied by documentation of completion of education seminar; conduct of seminars; approval of seminars by State Tax Commission.

(1) Every application for the issuance of a used motor vehicle dealer's license shall be accompanied by such evidence as the State Tax Commission shall prescribe, documenting the completion of an education seminar conducted by the Mississippi Independent Auto Dealers Association during the twelve-month period immediately preceding the date of application. Completion of an eight-hour licensing seminar conducted by the Mississippi Independent Auto Dealers Association shall be required for an initial license. All seminars must be approved by the State Tax Commission. The education requirements of this section shall not apply to:

(a) Used motor vehicle dealer the primary business of which is the sale of salvage vehicles on behalf of insurers;

(b) A manufactured home dealer; or

(c) A franchised new car dealer licensed under the Mississippi Motor Vehicle Commission Law or any employee of such a dealer.

(2) The Mississippi Independent Auto Dealers Association shall submit to the State Tax Commission a complete and specific description of the seminars it conducts pursuant to this section, a description of how the seminar will benefit licensees in conducting their businesses, the number of hours involved, a description of the method which will be used to ensure attendance, and copies of any instructional materials which will be provided to attendees. At the time approval is granted, the State Tax Commission shall determine how many hours of education may be received by attending the program.

HISTORY:

Laws, 2007, ch. 431, § 1, eff from and after July 1, 2007.

§ 63-17-77. License fees; expiration dates.

All applications for license or licenses shall be accompanied by the appropriate fee or fees therefor in accordance with the schedule thereof hereinafter set out. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

The schedule of license fees to be charged and received by the commission for the licenses issued shall be as follows:

- (1)** For each manufacturer, distributor, wholesaler, factory branch and division or distributor branch and division, and wholesaler branch and division, four hundred dollars (\$400.00).
- (2)** For each motor vehicle dealer, factory representative, distributor representative and wholesaler representative, one hundred dollars (\$100.00).
- (3)** For each motor vehicle salesman, ten dollars (\$10.00).

Any person, firm or corporation required to be licensed, who fails to make application for such license at the time required, shall, in addition to the aforesaid fees, pay interest at the rate of six percent (6%) per annum for the period of time during which he shall operate without a proper license, and in addition thereto, shall pay a penalty of fifty percent (50%) of the amount of the license fee. Said penalty, however, may be waived in whole or in part within the discretion of the commission.

All licenses shall expire on the thirty-first day of December following the date of issue.

HISTORY:

Codes, 1942, § 8071.7-05; Laws, 1970, ch. 478, § 5; Laws, 1982, ch. 326; reenacted, Laws, 1983, ch. 344, § 14; reenacted without change, Laws, 1991, ch. 305, § 14, eff from and after July 1, 1991.

§ 63-17-79. Specification of location of business; effect of change of location.

The license issued to each motor vehicle dealer, manufacturer, distributor, wholesaler, factory branch or division, distributor branch or division, or wholesaler branch or division, shall specify the location of the factory, office, branch or division thereof. In case such location is changed, the commission shall endorse the change of location on the license without charge if it be within the same county. A change of location to another county shall require a new license.

HISTORY:

Codes, 1942, § 8071.7-05; Laws, 1970, ch. 478, § 5; reenacted without change, Laws, 1983, ch. 344, § 15; Laws, 1991, ch. 305, § 15, eff from and after July 1, 1991.

§ 63-17-80. Motor vehicle lessors required to be licensed.

It is unlawful for a motor vehicle lessor or any agent, employee or representative thereof: (a) to represent and to offer for lease any new motor vehicle in Mississippi without first obtaining a new motor vehicle dealer license, or (b) to lease or offer to lease a new motor vehicle from an unlicensed location.

HISTORY:

Laws, 2000, ch. 418, § 1, eff from and after July 1, 2000.

§ 63-17-81. License of salesman.

Every motor vehicle salesman shall have his license upon his person, or displayed at his place of employment, except as hereinafter provided, when engaged in his business, and shall display the same upon request. The name and business address of the employer of such salesman shall be stated on the license.

In case of a change of employer the following procedure shall be adhered to:

(a) The licensee shall within three (3) days following such change mail or deliver his license to the commission for its endorsement of such change thereon. The license shall be accompanied by a fee of Two Dollars and Fifty Cents (\$2.50) for endorsing each such change of employer and a written statement of the licensee setting forth the name and business address of his new employer, the date his employment terminated with his last employer, and the date his employment commenced with his new employer.

(b) The last employer of the licensee shall, within three (3) days following the termination of employment of the licensee, make a report to the commission setting forth the reason or reasons why the services of the licensee were terminated and such other information as may be required by the commission.

(c) Upon receipt by the commission of the licensee's license and fee and his last employer's report, the commission shall immediately make an appropriate endorsement on said license showing the change of employer and mail the license, as endorsed, to the licensee unless the commission has grounds to believe and does believe that the licensee is no longer qualified under the provisions of the Mississippi Motor Vehicle Commission Law as a motor vehicle salesman. Under such circumstances the commission shall immediately notify him and his new employer in writing that a hearing will be held for the purpose of determining whether his license should be revoked or suspended, specifying the grounds for revocation or suspension, as the case may be, and the time and place for the hearing. Such hearing and any and all appeals by the licensee with respect thereto shall be in accordance with the provisions of Sections 63-17-89 through 63-17-99.

(d) If, after the commission receives the licensee's license and fee and his last employer's report, the executive director of the commission cannot for any reason endorse and mail to the licensee his license within a period of three (3) days following the receipt by the commission of the licensee's license and fee and his last employer's report, then and in that event he shall

mail to the licensee a permit in such form as the commission shall prescribe, which permit shall serve in lieu of a license until such time as the commission endorses and mails the license to the licensee or until such time as the licensee's license is revoked or suspended in accordance with the provisions of the Mississippi Motor Vehicle Commission Law. If the license is ultimately revoked or suspended then immediately upon such revocation or suspension the licensee shall return said permit to the commission for cancellation.

(e) The commission shall maintain a permanent file with respect to each licensed motor vehicle salesman. Each such file shall contain all pertinent information with respect to the fitness and qualifications of each such licensee for the use by the commission in from time to time determining whether his license should be revoked or suspended.

There is no intent under the Mississippi Motor Vehicle Commission Law to prevent a salesman who has not previously been licensed or a transferee salesman from selling during the time required to process his application. Such applicant shall be allowed to sell from the date of employment as long as he and his dealer follow the procedure for license application.

HISTORY:

Codes, 1942, § 8071.7-05; Laws, 1970, ch. 478, § 5; reenacted without change, Laws, 1983, ch. 344, § 16; reenacted without change, Laws, 1991, ch. 305, § 16; Laws, 1994, ch. 399, § 8, eff from and after July 1, 1994.

§ 63-17-83. License of factory representative or distributor representative.

Every motor vehicle factory representative or distributor representative shall have his license upon his person when engaged in his business, and shall display the same upon request. The name of the employer of such factory representative or distributor representative shall be stated on said license. In case of a change of employer, the holder of such license shall immediately mail same to the commission for its endorsement of such change thereon. A fee of two dollars and fifty cents (\$2.50) shall be charged by the commission for endorsing each such change of employer on said licenses, and said fee shall accompany the application for change.

HISTORY:

Codes, 1942, § 8071.7-05; Laws, 1970, ch. 478, § 5; reenacted without change, Laws, 1983, ch. 344, § 17; reenacted without change, Laws, 1991, ch. 305, § 17, eff from and after July 1, 1991.

§ 63-17-85. Grounds for denial, revocation, or suspension of license; assessment of civil penalty in lieu of suspension of license; collection and disposition of penalty.

The commission may deny an application for a license, or revoke or suspend a license after it has been granted, for any of the following reasons:

- (a)** On satisfactory proof of unfitness of the applicant or the licensee, as the case may be, under the standards established and set out in the Mississippi Motor Vehicle Commission Law.
- (b)** For fraud practiced or any material misstatement made by an applicant in any application for license under the provisions of Section 63-17-75.
- (c)** For any willful failure to comply with any provision of said law or with any rule or regulation promulgated by the commission under authority vested in it by said law.
- (d)** Change of condition after license is granted or failure to maintain the qualifications for license.
- (e)** Continued or flagrant violation of any of the provisions of said law or of any of the rules or regulations of the commission.
- (f)** For any willful violation of any law relating to the sale, distribution or financing of motor vehicles.
- (g)** Willfully defrauding any retail buyer to the buyer's damage.
- (h)** Willful failure to perform any written agreement with any retail buyer.
- (i)** Being a manufacturer who, for the protection of the buying public, fails to specify the delivery and preparation obligations of its motor vehicle dealers prior to delivery of new motor vehicles to retail buyers. A copy of the delivery and preparation obligations of its motor vehicle dealers and a schedule of the compensation to be paid to its motor vehicle dealers for the work and services they shall be required to perform in connection with such delivery and preparation obligations shall be filed with the commission by every licensed motor vehicle manufacturer and shall constitute any such dealer's only responsibility for product liability as between such dealer and such manufacturer. The compensation as set forth on said schedule shall be reasonable and the reasonableness thereof shall be subject to the approval of the commission. Any mechanical, body or parts defects arising from any

**Miss. Code § 63-17-85 Grounds for denial, revocation, or
suspension of license; assessment of civil penalty in lieu of
suspension of license; collection and disposition of penalty
(Mississippi Code (2019 Edition))**

express or implied warranties of any such manufacturer shall constitute such manufacturer's product or warranty liability.

(j) On satisfactory proof that any manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division has unfairly and without due regard to the equities of the parties or to the detriment of the public welfare failed to properly fulfill any warranty agreement or to adequately and fairly compensate any of its motor vehicle dealers for labor, parts and/or incidental expenses incurred by any such dealer with regard to factory warranty agreements performed by any such dealer. In no event shall any such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division pay to any of its motor vehicle dealers a labor rate per hour for warranty work less than that charged by any such dealer to its retail customers. No such dealer shall charge to its manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, a labor rate per hour in excess of the rate charged to its retail customers. All claims made by motor vehicle dealers hereunder for such labor, parts and/or incidental expenses shall be paid within thirty (30) days following their approval. All such claims shall be either approved or disapproved within thirty (30) days after their receipt, and when any such claim is disapproved the motor vehicle dealer who submits it shall be notified in writing of its disapproval within said period, and each such notice shall state the specific grounds upon which the disapproval is based.

(k) For the commission of any act prohibited by Sections 63-17-73 through 63-17-83 or the failure to perform any of the requirements of said sections.

If the commission finds, after notice and hearing in the manner provided for under the Mississippi Motor Vehicle Commission Law, that there is sufficient cause upon which to base the revocation of the license of any licensee involved in the hearing, the commission may in lieu of revoking such license assess a civil penalty against the guilty licensee not to exceed ten thousand dollars (\$10,000.00). If the commission finds, after such notice and hearing, that sufficient cause exists for the suspension only of the license of any licensee, the commission may in lieu of suspending such license assess a civil penalty against the guilty licensee of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) per day for each day such license would otherwise be suspended. However, the amount of such penalty shall not exceed an aggregate of seven thousand five hundred dollars (\$7,500.00). Failure of the licensee to pay all penalties so assessed within the time allowed by the commission for the payment thereof, which time shall in no case exceed ninety (90) days from the date of

**Miss. Code § 63-17-85 Grounds for denial, revocation, or
suspension of license; assessment of civil penalty in lieu of
suspension of license; collection and disposition of penalty
(Mississippi Code (2019 Edition))**

the commission's order making such assessment, shall, unless an appeal is taken and perfected within the time and in the manner provided by the Mississippi Motor Vehicle Commission Law, result in an automatic revocation of such licensee's license. Any such penalties assessed by the commission remaining unpaid at the expiration of the time for payment may be recovered by an action in the name of the commission. All such actions shall be brought by the attorney general of the State of Mississippi upon the written request of the commission to do so, and shall be brought in the chancery court of the county or the chancery court of the judicial district of the county to which the commission's order making such assessment is appealable under the provisions of Section 63-17-99. All civil penalties assessed and collected by the commission under the authority of this subsection shall be deposited in the general fund of the state treasury.

HISTORY:

Codes 1942, § 8071.7-06; Laws, 1970, ch. 478, § 6; Laws, 1977, ch. 411, § 2; reenacted, Laws, 1983, ch. 344, § 18; reenacted without change, Laws, 1991, ch. 305, § 18, eff from and after July 1, 1991.

§ 63-17-87. Limited revocation or suspension of license.

The revocation or suspension of the license of a manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesaler branch or division may be limited to:

(a) One or more municipalities or counties.

(b) The sales area of any dealer whose franchise is unfairly cancelled or terminated within the purview of the Mississippi Motor Vehicle Commission Law, or whose franchise is not renewed in violation of the provisions of said law. However, where such a franchise is unfairly cancelled or terminated within the purview of said law or is not renewed in violation of the provisions of said law in a metropolitan area serviced by several motor vehicle dealers handling the same motor vehicles, the revocation or suspension shall not be applicable to the remaining motor vehicle dealers in such metropolitan area.

HISTORY:

Codes, 1942, § 8071.7-06; Laws, 1970, ch. 478, § 6; reenacted without change, Laws, 1983, ch. 344, § 19; reenacted without change, Laws, 1991, ch. 305, § 19, eff from and after July 1, 1991.

§ 63-17-89. Hearings; prerequisite to denial, revocation or suspension of license.

The commission shall not:

- 1.** Deny an application for a license without first giving the applicant a hearing, or an opportunity to be heard, on the question of whether he is qualified under the provisions of the Mississippi Motor Vehicle Commission Law to receive the license applied for.
- 2.** Revoke or suspend a license without first giving the licensee a hearing, or an opportunity to be heard, on the question of whether there are sufficient grounds under the provisions of said law upon which to base such revocation or suspension.

HISTORY:

Codes, 1942, § 8071.7-07; Laws, 1970, ch. 478, § 7; reenacted without change, Laws, 1983, ch. 344, § 20; reenacted without change, Laws, 1991, ch. 305, § 20, eff from and after July 1, 1991.

§ 63-17-91. Hearings; calling of hearing.

(1) Any interested party shall have the right to have the commission call a hearing for the purpose of taking action in respect to any matter within the commission's jurisdiction by filing with the commission a verified complaint setting forth the grounds upon which the complaint is based.

(2) The commission may on its own motion call a hearing for the purpose of taking action in respect to any matter within its jurisdiction.

HISTORY:

Codes, 1942, § 8071.7-07; Laws, 1970, ch. 478, § 7; reenacted without change, Laws, 1983, ch. 344, § 21; reenacted without change, Laws, 1991, ch. 305, § 21, eff from and after July 1, 1991.

§ 63-17-93. Hearings; notice; location; effect of failure to appear.

(1) When a hearing is to be held before the commission, the commission shall give written notice thereof to all parties whose rights may be affected thereby. The notice shall set forth the reason for the hearing and the questions or issues to be decided by the commission at such hearing and the time when and the place where the hearing will be held. All such notices shall be mailed to all parties whose rights may be affected by such hearing by registered or certified mail, and addressed to their last known address. Any such hearing shall be held in the county where the principal office of the commission is located.

(2) If any party who is notified of a hearing in accordance with the requirements of this section fails to appear at such hearing, either in person or by counsel, then and in that event the commission may make any decision and take any action it may deem necessary or appropriate with respect to any issue or question scheduled for hearing and decision by it at such hearing which affects or may affect the rights of such defaulting party.

HISTORY:

Codes, 1942, § 8071.7-07; Laws, 1970, ch. 478, § 7; reenacted without change, Laws, 1983, ch. 344, § 22; reenacted without change, Laws, 1991, ch. 305, § 22; Laws, 1994, ch. 399, § 9, eff from and after July 1, 1994.

§ 63-17-95. Hearings; conduct; decisions.

- (1) All parties whose rights may be affected at any hearing before the commission shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against them, and to produce evidence and witnesses in their own behalf. The commission shall make and keep a record of each such hearing and shall provide a transcript thereof to any interested party upon his request and at his expense. Testimony taken at all such hearings shall be taken either stenographically or by machine.
- (2) Witnesses who testify at any hearing before the commission shall testify under oath. The form of the oath or affirmation shall be in the form or to the effect following: “You do solemnly swear (or affirm) that the evidence you shall give as a witness at this hearing shall be the truth, the whole truth, and nothing but the truth; so help you God.”
- (3) Any member of the commission may administer oaths or affirmations to witnesses testifying before the commission.
- (4) The commission shall prescribe its rules of order or procedure in hearings or other proceedings before it. However, such rules of order or procedure shall not be in conflict or contrary to the provisions of law governing hearings before the commission, and appeals therefrom.
- (5) All decisions of the commission with respect to the hearings shall be incorporated into orders of the commission and spread upon its minutes.
- (6) The commission may apply to the chancery court of the county or to the chancery court of the judicial district of the county, or to any chancellor of any such court in vacation, to which its order is appealable under the provisions of Section 63-17-99 for the enforcement of such order by injunction.

HISTORY:

Codes, 1942, § 8071.7-07, Laws, 1970, ch. 478, § 7; Laws, 1977, ch. 411, § 3; reenacted, Laws, 1983, ch. 344, § 23; reenacted without change, Laws, 1991, ch. 305, § 23, eff from and after July 1, 1991.

§ 63-17-97. Execution and enforcement of summons, citation or subpoena.

It shall be the duty of the sheriffs and constables of the counties of this state and of any employee of the commission, when so directed by the commission, to execute any summons, citation or subpoena which the commission may cause to be issued and to make return thereof to the commission. The sheriffs and constables so serving and returning same shall be paid for so doing the fees provided for such services in the circuit court. Any person who appears before the commission or a duly designated employee thereof in response to a summons, citation or subpoena shall be paid the same witness fee and mileage allowance as witnesses in the circuit court.

In case of failure or refusal on the part of any person to comply with any summons, citation or subpoena issued and served as above authorized or in the case of the refusal of any person to be sworn or affirmed as a witness, or testify or answer to any matter regarding which he may be lawfully interrogated as a witness, or the refusal of any person to produce his record books and accounts relating to any matter regarding which he may be lawfully interrogated as a witness, the chancery court of any county of the State of Mississippi, or any chancellor of any such court in vacation, may, on application of the commission or of the executive director thereof, issue an attachment for such person and compel him to comply with such summons, citation or subpoena and to attend before the commission or its designated employee and to produce the documents specified in any subpoena duces tecum and to be sworn or affirmed as a witness or to give his testimony upon such matters as he may be lawfully required. Any such chancery court, or any chancellor of any such court in vacation, shall have the power to punish for contempt as in case of disobedience of like process issued from or by any such chancery court, or as in case of refusal to be sworn or affirmed as a witness, or as in case of refusal to testify as a witness therein in response to such process, and such person shall be taxed with the costs of such proceedings.

HISTORY:

Codes, 1942, § 8071.7-07; Laws, 1970, ch. 478, § 7; Laws, 1977, ch. 411, § 4;

**Miss. Code § 63-17-97 Execution and enforcement of summons,
citation or subpoena (Mississippi Code (2019 Edition))**

reenacted, Laws, 1983, ch. 344, § 24; reenacted without change, Laws, 1991, ch. 305, § 24, eff from and after July 1, 1991.

§ 63-17-99. Appeals from decisions of commission; finality of decisions.

The following procedure shall govern in taking and perfecting appeals:

1. Any person who is a party to any hearing before the commission and who is aggrieved by any decision of the commission with respect to any hearing before it shall have the right of appeal to the chancery court of the county of such person's residence or principal place of business within this state; if such person is a nonresident of the state he shall have the right of appeal to the chancery court of the residence of the opposing party, and if the opposing party is also a nonresident, the appeal shall be to the Chancery Court of the First Judicial District of Hinds County, Mississippi. All such appeals shall be taken and perfected within sixty days from the date of the decision of the commission which is the subject of the appeal. The chancery court to which such appeal is taken may affirm such decision or reverse and remand the same to the commission for further proceedings as justice may require or dismiss such decision. All such appeals shall be taken and perfected, heard and determined, either in term time or in vacation, on the record, including a transcript of pleadings and evidence, both oral and documentary, heard and filed before the commission. In perfecting any such appeal, the provisions of law respecting notice to the reporter and allowance of bills of exceptions, now or hereafter in force, respecting appeals from the chancery court to the supreme court shall be applicable. The reporter shall transcribe his notes, taken stenographically or by machine, and file the record with the commission within thirty days after approval of the appeal bond, unless, on application of the reporter, or of the appellant, an additional fifteen days shall have been allowed by the commission to the reporter within which to transcribe his notes and file the transcript of the record with the commission.

2. Upon the filing with the commission of a petition of appeal to the proper chancery court, it shall be the duty of the commission, as promptly as possible, and in any event within sixty days after approval of the appeal bond, to file with the clerk of said Chancery Court to which the appeal is taken, a copy of the petition for appeal and of the decision appealed from, and the original and one copy of the transcript of the record of the proceedings and evidence before the commission. After the filing of said petition, the appeal shall be perfected by the filing of a bond in the penal sum of five hundred dollars (\$500.00) with two sureties or with a surety company qualified to do business in Mississippi as surety, conditioned to pay the costs of such appeal, said bond to be approved by any member of the

commission or by its executive secretary or by the clerk of the chancery court to which such appeal is taken.

3. No decision of the commission made as a result of a hearing shall become final with respect to any party affected and aggrieved by such decision until such party shall have exhausted or shall have had an opportunity to exhaust all of his remedies. However, any such decision may be made final if the commission finds that failure to do so would be detrimental to the public interest or public welfare; however, the finality of any such decision shall not prevent any party or parties affected and aggrieved thereby to appeal the same in accordance with the appellate procedure set forth in this section.

HISTORY:

Codes, 1942, § 8071.7-07; Laws, 1970, ch. 478, § 7; reenacted without change, Laws, 1983, ch. 344, § 25; reenacted without change, Laws, 1991, ch. 305, § 25, eff from and after July 1, 1991.

§ 63-17-101. Recovery of damages and attorney fees by licensee.

Any licensee suffering pecuniary loss because of any willful failure by any other licensee to comply with any provision of the Mississippi Motor Vehicle Commission Law or with any rule or regulation promulgated by the commission under authority vested in it by said law may recover reasonable damages and attorney fees therefor in any court of competent jurisdiction.

HISTORY:

Codes, 1942, § 8071.7-09; Laws, 1970, ch. 478, § 9; reenacted without change, Laws, 1983, ch. 344, § 26; reenacted without change, Laws, 1991, ch. 305, § 26, eff from and after July 1, 1991.

§ 63-17-103. Restrictions on right to advertise motor vehicle as new; enforcement of restriction.

(1) Nothing in the Mississippi Motor Vehicle Commission Law shall be construed to prohibit the sale of a new motor vehicle by any person who is not required to be licensed under said law. However, only a motor vehicle dealer as defined in Section 63-17-55 shall have the right to advertise or represent, publicly or otherwise, that a motor vehicle is new in connection with its sale, exchange or other disposition. Any person who is not such a motor vehicle dealer and who advertises or represents that a motor vehicle is new in connection with its sale, exchange or other disposition shall be guilty of a misdemeanor and upon conviction shall be punished in the manner provided for by Section 63-17-105. However, nothing in this section shall apply to (a) any lease by a motor vehicle manufacturer operating a project as defined in Section 57-75-5(f)(iv)1 or Section 57-75-5(f)(xxi) of three (3) or fewer motor vehicles at any one time and related vehicle maintenance, of any line of vehicle produced by the manufacturer or its subsidiaries, to any one (1) employee of the motor vehicle manufacturer on a direct basis, or any sale or other disposition of such motor vehicles by the motor vehicle manufacturer at the end of a lease through direct sales to employees of the manufacturer or through an open auction or auction limited to dealers of the manufacturer's vehicle line or its subsidiaries' vehicle lines; or (b) any sale or other disposition by such a motor vehicle manufacturer of motor vehicles for which the manufacturer obtained distinguishing number tags under Section 27-19-309(8).

(2) Any person who violates the provisions of subsection (1) of this section may be enjoined from further violations of such provisions by writ of injunction issued out of a court of equity upon a bill filed in the name of the state by the Attorney General, or any district or county attorney whose duty requires him to prosecute criminal cases on behalf of the state, in the county where such violation occurred.

HISTORY:

Codes, 1942, § 8071.7-10; Laws, 1970, ch. 478, § 10; Laws, 1977, ch. 411, § 5; reenacted, Laws, 1983, ch. 344, § 27; reenacted without change, Laws, 1991,

Miss. Code § 63-17-103 Restrictions on right to advertise motor vehicle as new; enforcement of restriction (Mississippi Code (2019 Edition))

ch. 305, § 27; Laws, 2000, 3rd Ex Sess, ch. 1, § 21; Laws, 2007, ch. 303, § 10, eff from and after passage (approved Mar. 2, 2007.).

§ 63-17-105. Penalties.

Every person committing a willful violation of any provision of subsection (1) of Section 63-17-73 or of Section 63-17-103 or subsection (3) of Section 63-17-73 is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

HISTORY:

Codes, 1942, § 8071.7-08; Laws, 1970, ch. 478, § 8; reenacted without change, Laws, 1983, ch. 344, § 28; reenacted without change, Laws, 1991, ch. 305, § 28; Laws, 1994, ch. 399, § 4, eff from and after July 1, 1994.

§ 63-17-107. Repealed.

Repealed by Laws, 1991, ch. 305 § 29, eff from and after July 1, 1991.

[Laws, 1979, ch. 301, § 34; ch. 357, § 2; 1983, ch. 344, § 29]

§ 63-17-109. Right of first refusal.

(1) In the event of a proposed sale or transfer of a dealership and the franchise agreement for the dealership contains a right of first refusal in favor of the manufacturer or distributor, notwithstanding the terms of the franchise agreement, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the dealership only if all of the following requirements are met:

(a) The manufacturer or distributor sends by certified mail, return receipt requested, or any other reliable means of communication, notice of its intent to exercise its right of first refusal within sixty (60) days of receipt of the executed contract for the proposed sale or transfer and completed application and related documents reasonably requested by the manufacturer or distributor. The manufacturer or distributor shall provide the application and notice of other requirements within fifteen (15) days of request. In no event shall the manufacturer or distributor exercise its right of first refusal more than one hundred twenty (120) days after receipt of the executed contract. The manufacturer or distributor and the applicant shall act in good faith to provide the required information in a timely and expeditious manner.

(b) The exercise of the right of first refusal will result in the motor vehicle dealer receiving consideration, terms and conditions that are either the same as or greater than that for which such dealer has contracted for in connection with the proposed transaction.

(2) The manufacturer's or distributor's right of first refusal shall not apply to a transaction involving one (1) of the following:

(a) A designated family member or members, including the spouse, child or grandchild, spouse of a child or grandchild, brother, sister or parent of the dealer-operator, or one or more motor vehicle dealer owners;

(b) A manager employed by the motor vehicle dealer in the dealership during the previous five (5) years that is otherwise qualified as a dealer-operator;

(c) A partnership or corporation controlled by any of the family members of the dealer-operator;

(d) A trust arrangement established or to be established for the purpose of allowing the new motor vehicle dealer to continue to qualify as such pursuant to the manufacturer's or distributor's standards, or provides for

the succession of the franchise agreement to designated family members or qualified management in the event of the death or incapacity of the dealer-operator or its principal owner or owners.

(3)

(a) The manufacturer or distributor shall pay the reasonable expenses, including attorneys' fees which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed owner prior to the exercise of the right of first refusal in negotiating and implementing the contract for the proposed sale of the dealership. The expenses and attorneys' fees shall be paid to the proposed new owner at the time of the closing of the sale at which the manufacturer or distributor exercises its right of first refusal.

(b) No payment of expenses and attorneys' fees shall be required if the person claiming reimbursement has not submitted or caused to be submitted an accounting of those expenses within thirty (30) days after the receipt of the manufacturer's or distributor's written request for the accounting. A manufacturer or distributor may request the accounting before exercising its right of first refusal.

(4) If the selling dealer discloses the manufacturer's right of first refusal to the proposed owner in writing, the motor vehicle dealer shall not have any liability to any person as a result of a manufacturer or distributor exercising its right of first refusal and the manufacturer or distributor shall assume the defense of the selling motor vehicle dealer for any claims by the proposed owner arising from the exercise of the right of first refusal.

(5) If the manufacturer or distributor does not exercise its right of first refusal within the time period set forth in subsection (1) (a), the manufacturer or distributor shall act upon the proposed sale of the franchise promptly and in good faith but in no event more than one hundred twenty (120) days after receipt of the completed application and related documents reasonably requested by the manufacturer or distributor.

HISTORY:

Laws, 2000, ch. 418, § 2; Laws, 2006, ch. 432, § 5, eff from and after July 1, 2006.

Miss. Code § 63-17-111 Owner of dealership may appoint successor by written agreement; manufacturer or dealer must honor succession unless good cause shown; procedure for refusing to honor succession (Mississippi Code (2019 Edition))

§ 63-17-111. Owner of dealership may appoint successor by written agreement; manufacturer or dealer must honor succession unless good cause shown; procedure for refusing to honor succession.

(1) Notwithstanding the terms of any franchise agreement, any dealer-operator may appoint by will, or other written instrument, a designated successor to succeed in the ownership of the dealer-operator in the dealership upon the death or incapacity of the dealer-operator.

(2) Unless good cause exists for the refusal to honor the succession on the part of the manufacturer or distributor, any designated successor of a deceased or incapacitated dealer-operator of a dealership may succeed to the ownership of the motor vehicle dealership under the existing franchise agreement if:

(a) The designated successor gives the manufacturer or distributor written notice of his or her intention to succeed to the ownership of the motor vehicle dealership within sixty (60) days after the dealer-operator's death or incapacity; and

(b) The designated successor agrees to be bound by all the terms and conditions of the sales and service agreement.

(3) The manufacturer or distributor may request, and the designated successor shall provide promptly upon such request, personal and financial data reasonably necessary to determine whether the succession should be honored.

(4)

(a) If the manufacturer or distributor believes that good cause exists for refusing to honor the succession of a deceased or incapacitated dealer, the manufacturer or distributor may, not more than sixty (60) days following receipt of the notice of the designated successor's intent to succeed and receipt of such personal and financial data, serve upon the designated successor notice of its refusal to honor the proposed succession and of its intent to terminate the existing franchise with the dealer-operator not earlier than six (6) months from the date such notice of refusal is served.

(b) Such notice shall state the specific grounds for the refusal to honor the succession.

Miss. Code § 63-17-111 Owner of dealership may appoint successor by written agreement; manufacturer or dealer must honor succession unless good cause shown; procedure for refusing to honor succession (Mississippi Code (2019 Edition))

(c) If such notice is not timely served upon the designated successor, the franchise agreement shall continue in effect subject to termination only as otherwise provided by the Mississippi Motor Vehicle Commission Law.

(5) In determining whether good cause for the refusal to honor the succession exists, the manufacturer or distributor has the burden of proving that the designated successor is not of good moral character or does not otherwise meet the manufacturer's or distributor's reasonable standards for a dealer-operator.

(6) If a manufacturer or distributor refuses to honor the succession to the ownership interest of a deceased or incapacitated dealer-operator for good cause, the manufacturer or distributor shall allow the designated successor a reasonable period of time, which shall not be less than six (6) months, in which to consummate the sale of the dealership.

(7) Changes in the ownership of a new motor home dealership shall be governed by the provisions of Sections 63-17-201 through 63-17-221.

HISTORY:

Laws, 2000, ch. 418, § 3; Laws, 2014, ch. 532, § 13, eff from and after Oct. 1, 2014.

§ 63-17-113. Modification of franchise agreement; good cause required for termination, cancellation or nonrenewal.

(1) No person shall modify a franchise agreement during the term of such agreement or upon its renewal if the modification substantially and adversely affects the motor vehicle dealer's rights, obligations, investment, or return on investment without giving sixty (60) days' written notice of the proposed modification to the motor vehicle dealer and without showing good cause to the commission.

(2) Notwithstanding any agreement, the following alone shall not constitute good cause for the termination, cancellation or nonrenewal of a franchise agreement: The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of or holds a franchise agreement for the sale or service of another make or line of new motor vehicles, or that the new motor vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as the manufacturer or distributor prior to the effective date of this law, or is approved in writing by the manufacturer or distributor.

HISTORY:

Laws, 2000, ch. 418, § 4, eff from and after July 1, 2000.

§ 63-17-115. Unreasonable discrimination prohibited.

A manufacturer or distributor of motor vehicles that directly or indirectly owns or operates a new motor vehicle dealership, in whole or in part, shall not unreasonably discriminate against any other motor vehicle dealer in the same line or make in any matter governed by the franchise agreement, including, but not limited to, the allocation or availability of:

- (a)** Motor vehicles;
- (b)** Other manufacturer or distributor products;
- (c)** Promotional or advertising allowances;
- (d)** The opportunity to perform warranty work; or
- (e)** The implementation of dealer programs or benefits.

HISTORY:

Laws, 2000, ch. 418, § 5, eff from and after July 1, 2000.

Miss. Code § 63-17-116 Relevant market areas established for new motor vehicle dealers in counties having certain populations; notice to same line-make motor vehicle dealer in relevant market area required; standing to object to additional franchise agreements; factors for determining good cause for additional new motor vehicle dealer (Mississippi Code (2019 Edition))

§ 63-17-116. Relevant market areas established for new motor vehicle dealers in counties having certain populations; notice to same line-make motor vehicle dealer in relevant market area required; standing to object to additional franchise agreements; factors for determining good cause for additional new motor vehicle dealer.

(1) For purposes of this section, “relevant market area” means:

(a) For a proposed new motor vehicle dealer or a new motor vehicle dealer who plans to relocate his or her place of business in a county having a population which is greater than sixty thousand (60,000), the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten-mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer’s principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer’s principal place of business; or

(b) For a proposed new motor vehicle dealer or a new motor vehicle dealer who plans to relocate his or her place of business in a county having a population which is sixty thousand (60,000) or less, the area within radius of fifteen (15) miles of the intended site of the proposed or relocated dealer, or the county line, whichever is closer to the intended site. The fifteen-mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer’s principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer’s principal place of business.

(2) As used in this section, “relocate” and “relocation” shall not include the relocation of a new motor vehicle dealer within two (2) miles of its established place of business.

(3) Before a franchisor enters into a franchise establishing or relocating a new motor vehicle dealer within a relevant market area where the same line-make is represented, the franchisor shall give written notice to each new motor vehicle dealer of the same line-make in the relevant market area of its intent to establish an additional dealer or to relocate an existing dealer within that relevant market area.

Miss. Code § 63-17-116 Relevant market areas established for new motor vehicle dealers in counties having certain populations; notice to same line-make motor vehicle dealer in relevant market area required; standing to object to additional franchise agreements; factors for determining good cause for additional new motor vehicle dealer (Mississippi Code (2019 Edition))

(4) Within sixty (60) days after receiving the notice provided for in subsection (3) of this section, or within sixty (60) days after the end of any appeal or alternative dispute resolution procedure provided by the franchisor, a new motor vehicle dealer may file a verified complaint before the Mississippi Motor Vehicle Commission pursuant to Section 63-17-91 to determine whether good cause exists for the establishing or relocating of a proposed new motor vehicle dealer. The Mississippi Motor Vehicle Commission shall render a decision on the verified complaint within sixty (60) days of its filing. If the commission fails to render its decision within the sixty-day time period, either party may file an appeal pursuant to Section 63-17-99, and the court will conduct a hearing and take evidence, both oral and documentary, in the place of the Mississippi Motor Vehicle Commission and shall render a decision utilizing the factors set forth in subsection (7).

(5) This section shall not apply to:

(a) The reopening or replacement in a relevant market area of a closed dealership that has been closed within the preceding two (2) years, if the established place of business of the reopened or replacement dealer is within two (2) miles of the established place of business of the closed dealership.

(b) The entering into of a renewal, replacement, or succeeding franchise agreement with an existing motor vehicle dealer whose operations will continue at the dealer's then current location; or

(c) The relocation of an existing or replacement dealer to a location within the existing or replacement dealer's own relevant market area if the proposed new location is not within a six-mile radius of any other same line-make motor vehicle dealer.

(6) Only a dealer into whose relevant market area the proposed new franchise or relocated dealer will be located shall have standing to object to the additional franchise agreement or relocation or to take any other action under this chapter with respect to the proposed appointment or relocation. Such a dealer may not protest the relocation of an existing dealer or the establishment of a replacement dealer if the proposed location is further away from the dealer than the relocating or replacement dealer's current or former location.

(7) In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line-make, the Mississippi Motor Vehicle Commission shall take into consideration the existing circumstances including, but not limited to, the following:

Miss. Code § 63-17-116 Relevant market areas established for new motor vehicle dealers in counties having certain populations; notice to same line-make motor vehicle dealer in relevant market area required; standing to object to additional franchise agreements; factors for determining good cause for additional new motor vehicle dealer (Mississippi Code (2019 Edition))

- (a)** Permanency of the investment;
- (b)** Effect on the retail motor vehicle business and the consuming public in the relevant market area;
- (c)** Whether it is injurious or beneficial to the public welfare;
- (d)** Whether the new motor vehicle dealers of the same line-make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line-make in the market area, including the adequacy of motor vehicle sales and qualified service personnel;
- (e)** Whether the establishment or relocation of the new motor vehicle dealer in the relevant market area would promote competition;
- (f)** Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area;
- (g)** Effect on the relocating dealer and the franchisor of a denial of the establishment of a new dealer in, or a relocation of a dealer into, the relevant market area; and
- (h)** Effect on the objecting dealer of the relocation or establishment of a new proposed franchise location.

HISTORY:

Laws, 2006, ch. 432, § 1, eff from and after July 1, 2006.

Miss. Code § 63-17-117 Warranty or sales incentive audits to be conducted within certain amount of time after payment of disputed claim or end of incentive or rebate program; approved and paid claims not to be charged back to dealer absent fraud, improper repair, or failure to substantiate claim (Mississippi Code (2019 Edition))

§ 63-17-117. Warranty or sales incentive audits to be conducted within certain amount of time after payment of disputed claim or end of incentive or rebate program; approved and paid claims not to be charged back to dealer absent fraud, improper repair, or failure to substantiate claim.

(1) Notwithstanding the terms of any franchise agreement, warranty and sales incentive audits of a motor vehicle dealer's records may be conducted by the manufacturer or distributor. Any audit for warranty parts or service compensation shall be performed within the twelve-month period immediately following the date of the payment of the disputed claim by the manufacturer or distributor. Any audit for sales incentives, service incentives, rebates or other forms of incentive compensation shall be performed within the twelve-month period immediately following the date of the payment of the disputed claim by the manufacturer or distributor or the end of the program during which the incentives, service incentives, rebates or other forms of incentives compensation were offered, whichever is later.

(2) No claim which has been approved and paid may be charged back to the motor vehicle dealer unless it can be shown by a preponderance of the evidence that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective conditions under generally accepted standards of workmanship, or that the motor vehicle dealer failed to reasonably substantiate the repair in accordance with the manufacturer's or distributor's reasonable written claim requirement.

(3) A manufacturer or distributor shall not deny a claim based solely on a motor vehicle dealer's incidental failure to comply with a specific claim processing requirement such as a clerical error or other administrative technicality that does not call into question the legitimacy of a claim. A motor vehicle dealer may submit an amended or supplemental claim within the time and manner required by the manufacturer for sales incentives, service incentives, rebates or other forms of incentives compensation for up to sixty (60) days from the date on which such a claim was submitted or could have been submitted.

(4) Limitations on warranty parts, service compensation, sales incentive audits, rebates or other forms of incentive compensation, chargebacks for warranty parts or service compensation, and service incentives and

Miss. Code § 63-17-117 Warranty or sales incentive audits to be conducted within certain amount of time after payment of disputed claim or end of incentive or rebate program; approved and paid claims not to be charged back to dealer absent fraud, improper repair, or failure to substantiate claim (Mississippi Code (2019 Edition))

chargebacks for sales compensation only, shall not be effective in the case of intentionally false or fraudulent claims.

HISTORY:

Laws, 2000, ch. 418, § 6; Laws, 2014, ch. 349, § 4, eff from and after July 1, 2014.

**Miss. Code § 63-17-118 Manufacturer or distributor to
compensate motor vehicle dealer upon termination, cancellation
or nonrenewal of franchise or discontinuation of motor vehicle
line or make or parts essential to line or make (Mississippi Code
(2019 Edition))**

§ 63-17-118. Manufacturer or distributor to compensate motor vehicle dealer upon termination, cancellation or nonrenewal of franchise or discontinuation of motor vehicle line or make or parts essential to line or make.

(1) Upon any termination, cancellation, refusal to continue, or refusal to renew any franchise or any discontinuation of any line or make of motor vehicle or parts essential to such line or make, the manufacturer or distributor shall pay reasonable compensation to the motor vehicle dealer as follows:**(a)**

(i) The motor vehicle dealer's net cost for any new, unused, undamaged, unregistered, unmodified and unsold vehicle with a gross vehicle weight rating of sixteen thousand (16,000) pounds or less of the current and prior model year with less than seven hundred fifty (750) miles on the odometer that is in the motor vehicle dealer's inventory and was purchased from the manufacturer or another motor vehicle dealer of the same line or make in the ordinary course of business.

(ii) The motor vehicle dealer's net cost for any new, unused, undamaged, unregistered, unmodified and unsold vehicle with a gross vehicle weight rate of more than sixteen thousand (16,000) pounds of the current and prior model year that is in the motor vehicle dealer's inventory and was purchased from the manufacturer or another motor vehicle dealer of the same line or make in the ordinary course of business.

(iii) The manufacturer or distributor shall have no obligation to repurchase a motor vehicle if the motor vehicle has been modified to the extent that the modifications are so significant as to void the manufacturer's warranty or has been substantially altered to the prejudice of the manufacturer or distributor. The manufacturer or distributor shall have no obligation to repurchase any parts used to modify the motor vehicle that were not produced by or for the manufacturer or distributor.

(b) The motor vehicle dealer's net cost of each new, unused and undamaged part or accessory listed in the manufacturer or distributor's current parts catalog and in the original, resalable merchandising packages. In the case of sheet metal, a comparable substitute for the original package shall be sufficient. New or reconditioned core parts shall be valued at their core value, listed in the original vehicle manufacturer's or distributor's current parts catalog. If the part or accessory was purchased by the motor vehicle dealer from another authorized same line or make motor vehicle dealer in

**Miss. Code § 63-17-118 Manufacturer or distributor to
compensate motor vehicle dealer upon termination, cancellation
or nonrenewal of franchise or discontinuation of motor vehicle
line or make or parts essential to line or make (Mississippi Code
(2019 Edition))**

the ordinary course of business, the manufacturer shall purchase the part or accessory for the price in the current parts catalog. The motor vehicle dealer shall maintain accurate records regarding the actual purchase price of parts that the manufacturer or distributor is required to purchase under this paragraph.

(c) In addition to the costs referenced in paragraphs (a) and (b) of this subsection, the manufacturer shall pay the motor vehicle dealer an additional five percent (5%) charge based on the total compensation due under this section for handling, packing, storing and loading of any parts subject to repurchase pursuant to this section and the manufacturer shall pay for shipping the vehicles subject to repurchase from the location of the motor vehicle dealer to the location directed by the manufacturer.

(d) The manufacturer shall pay the motor vehicle dealer the amounts specified in this subsection within ninety (90) days after the tender of the property, subject to the motor vehicle dealer providing evidence of good and clear title upon return of property to the manufacturer. The manufacturer shall remove the property from the motor vehicle dealer's premises within one hundred eighty (180) days after the tender of the property.

(2) In the event a manufacturer or distributor cancels, refuses to continue, or refuses to renew any franchise or discontinues any line or make or parts essential to such line or make, in addition to the compensation provided in subsection (1) of this section, the manufacturer or distributor shall pay reasonable compensation to the motor vehicle dealer as follows:

(a) In the event a motor vehicle dealer leases the dealership facilities, then the manufacturer shall be liable for twelve (12) months payment of the gross rent or the remainder of the term of the lease, whichever is less. If the dealership facilities are not leased, then the manufacturer shall be liable for the equivalent of twelve (12) months payment of gross rent based upon the fair market value of the dealership facilities. The gross rent shall be paid only to the extent that the dealership premises are recognized in the franchise and only if they are used solely for performance in accordance with the franchise and not substantially in excess of those facilities recommended by the manufacturer or distributor. If the facility is used for the operations of more than one (1) franchise, the gross rent compensation shall only include the prorated value of the square footage used exclusively for the terminated franchise or line or make at the time of termination. This paragraph shall not apply to a termination, cancellation or nonrenewal due to a sale of the assets or stock of the motor vehicle dealership. In addition to the gross rent, the manufacturer is required to pay the dealer the net cost of any upgrades

**Miss. Code § 63-17-118 Manufacturer or distributor to
compensate motor vehicle dealer upon termination, cancellation
or nonrenewal of franchise or discontinuation of motor vehicle
line or make or parts essential to line or make (Mississippi Code
(2019 Edition))**

or other alterations made by the motor vehicle dealer to the dealership facilities which were required in writing by the manufacturer and made by the motor vehicle dealer within two (2) years prior to the effective date of termination. Nothing in this paragraph shall be construed to relieve a motor vehicle dealer of its obligation to mitigate damages upon termination, cancellation, or nonrenewal. As used in this paragraph “Gross rent” is the monthly rent plus the monthly cost of insurance and taxes.

(b) The manufacturer shall pay the motor vehicle dealer for the value of twelve (12) months of any outstanding amounts on any leases or the remaining amount of the lease, whichever is less, of computer hardware or software that is exclusively used to manage and report data of the terminated line or make to the manufacturer or distributor for financial reporting requirements.

(c) The manufacturer shall pay the motor vehicle dealer for the value of twelve (12) months or the remaining amount of the lease, whichever is less of any outstanding amounts on any manufacturer or distributor required equipment leases, service contracts, and sign leases.

(d) The fair market value of each undamaged sign owned by the motor vehicle dealer which bears a trademark or trade name used or claimed by the manufacturer if the sign was purchased from, or purchased at a requirement of, the manufacturer, plus the costs of installing the sign and the costs of purchasing and installing any pole upon which the sign is located. During the first three (3) years after its purchase, the fair market value of each sign shall be the motor vehicle dealer’s net costs of purchasing the sign. Thereafter, the fair market value of the sign shall be the greater of its actual market value or its depreciated value on the books of the motor vehicle dealer.

(e) The fair market value of all tools, data processing programs and equipment and automotive service equipment owned by the motor vehicle dealer which are exclusively used for the line or make being terminated and which were required in writing and designated as equipment, tools, data processing programs and equipment, and automotive service equipment and purchased from, or purchased as a requirement of, the manufacturer if the equipment, tools, programs and equipment are in usable and good condition, except for reasonable wear and tear. During the first three (3) years after their purchase, the fair market value of each item of equipment, tools, programs, and equipment shall be the motor vehicle dealer’s net cost associated with purchasing the items. Thereafter, the fair market value of

**Miss. Code § 63-17-118 Manufacturer or distributor to
compensate motor vehicle dealer upon termination, cancellation
or nonrenewal of franchise or discontinuation of motor vehicle
line or make or parts essential to line or make (Mississippi Code
(2019 Edition))**

each item shall be the greater of its actual market value or its depreciated value on the books of the motor vehicle dealer.

(f) In addition to the other payments set forth in this section, if a termination, cancellation, or nonrenewal is premised upon the manufacturer discontinuing the sale in this state of a line or make that was the subject of the franchise, then the manufacturer shall also be liable to the motor vehicle dealer for an amount at least equivalent to the fair market value of the motor vehicle dealer's franchise for the discontinued line or make as of:

(i) The date immediately preceding the date the manufacturer announces the action which results in termination, cancellation, or nonrenewal; or

(ii) The day twelve (12) months prior to the date on which the notice of termination, cancellation, or nonrenewal is issued, whichever amount is higher.

At the motor vehicle dealer's option, the manufacturer may avoid paying fair market value of the motor vehicle franchise to the motor vehicle dealer under this paragraph if the manufacturer, or another motor vehicle manufacturer pursuant to an agreement with the manufacturer, offers the motor vehicle dealer a replacement motor vehicle franchise with terms substantially similar to that offered to other same line or make motor vehicle dealers.

(g) The manufacturer shall pay the motor vehicle dealer the amounts specified in this subsection along with any other amounts that may be due to the motor vehicle dealer under the franchise agreement within ninety (90) days after the tender of the property, subject to the motor vehicle dealer providing evidence of good and clear title upon return of the property to the manufacturer. The manufacturer shall remove the property within one hundred eighty (180) days after the tender of the property from the motor vehicle dealer's premises. Unless previous arrangements have been made and agreed upon, the motor vehicle dealer is under no obligation to provide insurance for the property left after one hundred eighty (180) days.

(3) This section shall not apply to any sale, exchange, inheritance, gift or other transfer of ownership, stock, assets, management, or any other rights of the motor vehicle dealer, or to any termination for good cause, including, but not limited to, a conviction for a felony involving moral turpitude, for failure to conduct business for seven (7) consecutive business days or eight (8) business days out of any fifteen-day business period, for insolvency of the motor vehicle dealer or for loss of license to sell motor vehicles, or where

**Miss. Code § 63-17-118 Manufacturer or distributor to
compensate motor vehicle dealer upon termination, cancellation
or nonrenewal of franchise or discontinuation of motor vehicle
line or make or parts essential to line or make (Mississippi Code
(2019 Edition))**

there is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of a material significance to the franchise relationship provided that the dealer has been notified in writing of the failure.

(4) This section shall not apply to motor homes.

HISTORY:

Laws, 2014, ch. 349, § 1, eff from and after July 1, 2014.

§ 63-17-119. Suit to recover damages; venue; requirement that dealer waive right to trial void.

(1) Notwithstanding any provision of a franchise agreement to the contrary, if any motor vehicle dealer or dealer-operator incurs pecuniary loss due to a violation of the Mississippi Motor Vehicle Commission Law by a manufacturer or distributor, the motor vehicle dealer or dealer-operator may bring suit in a court of competent jurisdiction and recover damages, together with costs, including reasonable attorneys' fees.

(2) Venue for any proceeding arising from the franchise agreement shall be in Mississippi and shall be consistent with Mississippi law. It is the public policy of this state that venue provided for in this section may not be modified by contract. Any provision contained in the franchise agreement that requires arbitration or litigation to be conducted outside the State of Mississippi shall be void and unenforceable.

(3) Notwithstanding any provision in a franchise agreement to the contrary, any requirement that a dealer waive its right to a trial by jury is void and unenforceable.

HISTORY:

Laws, 2000, ch. 418, § 7; Laws, 2006, ch. 432, § 6, eff from and after July 1, 2006.