

No. 1984-78

## AN ACT

SB 1220

Amending the act of December 22, 1983 (P.L.306, No.84), entitled "An act providing for the State Board of Vehicle Manufacturers, Dealers and Salespersons; and providing penalties," further providing for the definitions of "franchise" and "importer," and for the cancellation of certain franchises.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "franchise" in section 2 of the act of December 22, 1983 (P.L.306, No.84), known as the Board of Vehicles Act, is amended and a definition is added to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Franchise." The written agreement or contract between any new vehicle manufacturer *or importer* and any new vehicle dealer *or distributor* which purports to fix the legal rights and liabilities of the parties to such agreement or contract, and pursuant to which the dealer purchases and resells the franchise product or leases or rents the dealership premises.

"Importer." *A person, resident or nonresident, who imports vehicles from outside of the United States.*

\* \* \*

Section 2. Section 9(c) of the act is amended to read:

Section 9. Unlawful acts by manufacturers, factory branches, distributors, field representatives, officers, agents or any representatives of manufacturers, factory branches or distributors.

\* \* \*

(c) Canceling of franchises.—It shall be a violation of this act for any manufacturer, factory branch, distributor, field representative, officer, agent or any representative whatsoever of a vehicle manufacturer or factory branch to unfairly, without due regard to the equities of said dealer and without just provocation, cancel the franchise of any vehicle dealer; or being a manufacturer, factory branch or importer, to unfairly, without due regard to the equities of a distributor and without just provocation cancel the franchise of any distributor. All existing dealers' franchises shall continue in full force and operation under a newly appointed distributor on the termination of an existing distributor unless a mutual agreement of cancellation is filed with the board between the newly appointed distributor and such dealer. Not less than 60 days advance notice of such termination, cancellation or failure to renew shall be given the dealer *or distributor* prior to the effective date

thereof unless the nature or character of the reason for termination, cancellation or failure to renew is such that the giving of such notice would not be in the public interest. At any time before the effective date of such termination, cancellation or failure to renew, the dealer *or distributor* may appeal to the board for a hearing on the merits, and following due notice to all parties concerned, such hearing shall be promptly held. No such termination, cancellation or failure to renew shall become effective until final determination of the issue by the board. In the event of a dealer *or distributor* appeal, the burden of proof shall be on the manufacturer *or importer* to show that such termination, cancellation or failure to renew was for good cause and in good faith.

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Section 3. This act shall be retroactive to January 1, 1984.

Section 4. This act shall take effect immediately.

APPROVED—The 8th day of June, A. D. 1984.

DICK THORNBURGH