

No. 2011-65

AN ACT

SB 419

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," providing for the definition of "area of responsibility"; further providing for reimbursement for all parts and service required by the manufacturer or distributor and reimbursement audits; providing for area of responsibility; further providing for grounds for disciplinary proceedings; and making a related repeal.

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

Section 1. Section 2 of the act of December 22, 1983 (P.L.306, No.84), known as the Board of Vehicles Act, is amended by adding a definition 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:

* * *

"Area of responsibility." The geographic area designated in the franchise agreement or related document where a new vehicle dealer is responsible for effectively selling, servicing and otherwise representing the products of the manufacturer.

* * *

Section 2. Section 9(c) of the act, amended October 18, 2000 (P.L.577, No.75), is amended and subsection (e) is amended by adding a paragraph to read:

Section 9. Reimbursement for all parts and service required by the manufacturer or distributor; reimbursement audits.

* * *

[(c) Copy of obligation to be filed with board.—A copy of the delivery and preparation obligations of its dealers shall be filed with the board by every vehicle manufacturer and shall constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer.]

* * *

(e) Warranty reimbursement and incentive or reimbursement program approval and audits.—

* * *

(3) (i) After the completion of any internal appeal process pursuant to the manufacturer's or distributor's policy manual, but no less than 30 days prior to a manufacturer or distributor charging back a new vehicle dealer for any claims which the manufacturer or distributor alleges are false or unsubstantiated, the manufacturer or

distributor shall notify the new vehicle dealer in writing of all of the following:

(A) The amount of and basis for each claim the manufacturer or distributor seeks to charge back.

(B) The total amount to be charged back.

(ii) During the 30-day time period under subparagraph (i), a new vehicle dealer may file with the board a protest of the charge-backs as provided for under section 8. When such a protest is filed, the board shall inform the manufacturer or distributor that a timely protest has been filed and that the manufacturer or distributor shall not charge back the new vehicle dealer:

(A) until the board has held a hearing; or

(B) if the board has determined that there is good cause for not permitting the charge-back of such new vehicle dealer.

* * *

Section 3. The act is amended by adding a section to read:

Section 12.1. Area of responsibility.

It shall be a violation of this act for any manufacturer or distributor, officer, agent or any representative of a manufacturer or distributor to unreasonably alter a new vehicle dealer's area of responsibility. The following shall apply:

(1) Advance notice from the manufacturer of an alteration of a dealer's area of responsibility shall be given at least 60 days before the effective date of the alteration. The notice shall include an explanation of the basis for the alteration.

(2) At any time before the effective date of such alteration of a dealer's area of responsibility, and after the completion of any internal appeal process pursuant to the manufacturer's or distributor's policy manual, the dealer may file a protest as provided for under section 8. In the event a protest is filed, no such alteration of a dealer's area of responsibility shall become effective until final determination by the board.

(3) If a dealer protests under paragraph (2), the burden of proof shall be on the manufacturer to show that the dealer's area of responsibility is reasonable and justifiable in light of the market conditions.

(4) If a new vehicle dealer's area of responsibility is altered, the manufacturer shall allow 18 months for the dealer to penetrate the market and to become sales effective prior to taking negative legal action claiming a breach or nonperformance of the dealer's sales performance responsibilities against the dealer.

Section 4. Section 19(10) of the act, amended October 18, 2000 (P.L.577, No.75), is amended to read:

Section 19. Grounds for disciplinary proceedings.

In addition to any criminal or civil penalties otherwise provided in this act, the board shall have the power to formally reprimand, suspend or revoke any license or refuse to issue or renew any license of an applicant or licensee or a person required to be licensed under this act, if after due notice of and hearing, the person charged is found in violation of or fails to carry out the

acts and procedures set forth in this act or is found guilty of committing or attempting to commit any of the acts set forth in section 23 or any of the following acts:

* * *

(10) Having engaged in the buying, selling, exchanging, trading or otherwise dealing in vehicles on Sunday in violation of 18 Pa.C.S. § 7365 (relating to trading in motor vehicles and trailers).

(i) Manufactured housing is permitted to be sold on Sundays by licensed manufactured housing dealers without being subject to prosecution under this paragraph.

(ii) *Licensed motorcycle dealers are permitted to buy, sell, exchange, trade or otherwise deal in motorcycles on Sunday without being subject to prosecution under this paragraph.*

* * *

Section 5. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the amendment of section 19(10) of the act.

(2) 18 Pa.C.S. § 7365 is repealed insofar as it relates to motorcycles.

Section 6. This act shall take effect in 60 days.

APPROVED—The 7th day of July, A.D. 2011

TOM CORBETT