



1997 ASSEMBLY BILL 969

April 30, 1998 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary.

- 1 **AN ACT relating to:** certain statutes dealing with motor vehicle dealers,
2 salespersons and sales finance companies (Revision Bill).

Analysis by the Legislative Reference Bureau

This bill, drafted pursuant to s. 13.93 (2) (j), restructures the statutes dealing with motor vehicle dealers, salespersons and sales finance companies to divide these statutes into more workable sections. Language is modified to increase conformity with current drafting style. *No substantive changes are intended.* A table showing the relationship between the new statutory numbering and the old statutory numbering follows:

NEW NUMBER	TITLE	OLD NUMBER
	DEFINITIONS	
218.0101	Definitions.	218.01 (1)
(1)		(a)
(2)		(ar)
(3)		(b)
(4)		(ct)
(5) (a)		(df) 1.
(b)		2.

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(c)		3.
(d)		4.
(e)		5.
(f)		6.
(6)		(e)
(7)		(f)
(8)		(g)
(9)		(gm)
(10)		(h)
(11)		(i)
(12)		(j)
(13)		(je)
(14)		(jg)
(15)		(ji)
(16)		(jj)
(17)		(jk)
(18)		(jm)
(19)		(k)
(20)		(L)
(21)		(Lm)
(22)		(m)
(23) (a)1.		(n) 1.
(a)2.		2.
(b)1.		(o) 1.
(b)2.		2.
(b)3.		3.
(b)4.		4.
(b)5.		5.
(24)		(p)
(25)		(pt)
(26)		(q)
(27)		(qm)
(28)		(qr)
(29)		(qt)

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(30)		(r)
(31)		(s)
(32)		(t)
(33)		(u)
(34)		(v)
(35)		(w)
(36)		(x)
(37)		(xm)
	LICENSING AND REPORTING	
218.0111	Authority of licensors.	218.01 (1a)
218.0113	Licenses for dealers, distributors, manufacturers or transporters of semitrailers and trailers.	218.01 (1b)
218.0114	Licenses, how granted; agreements, filing.	218.01 (2)
(1)		(a)
(2)		(am)
(2m)		(bd) 3.
(3)		(an)
(4)		(b)
(5) (a)		(bb) 1.
(b)		2.
(6)		(bc)
(7) (a)		(bd) 1.
(b)		1g.
(c)		1r.
(d)		2.
(8)		(bf)
(9) (a) (int.)		(bm)1.(int.)
(a)1.		1.a.
(a)2.		1.b.
(a)3.		1.c.
(b)1.		2.a.

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(b)2.		2.b.
(c)		3.
(10) (int.)		(bo) (int.)
(a)		1.
(b)		2.
(11)		(bs)
(12) (a)		(c) 1.
(b)1.		2.a.
(b)2.		2.b.
(13) (a)		(cm) 1.
(b)		2.
(c)		3.
(d)		4.
(e)		5.
(14) (int.)		(d) (int.)
(a)		1.
(b)		2.
(c)		3.
(d)		4.
(e)		5.
(f)		6.
(g)1.		8.a.
(g)2.		8.b.
(15) (a)		(dm) 1.
(b)		2.
(16)		(dr)
(17)		(e)
(18)		(f)
(19)		(g)
(20) (a)		(h) 1.
(b)		2.
(c)		3.
(21)		(i)
(22)		(j)

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(23) (int.)		(k) (int.)
(a)		1.
(b)		2.
(c)		3.
(d)		4.
(e)		5.
(f)		6.
218.0116	Licenses, how denied, suspended or revoked.	218.01 (3)
(1) (int.)		(a) (int.)
(a)		1.
(am)		2.
(b)		3.
(bm)		4.
(c)		5.
(cm)		6.
(d)		7.
(dm)		8.
(e)		9.
(em)		10.
(f)		11.
(fm)		12.
(g)		13.
(gm)		14.
(h)		15.
(hm)		16.
(i)		17.
(im)		18.
(j)		19.
(jm)		20.
(k)		21.
(km)		22.
(L)		23.
(Lm)		24.

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(m)		25.
(mm)		26.
(n)		27.
(nm)		28.
(o)		29.
(om)		30.
(p)		31.
(pm)		32.
(q)		35.
(qm) (intro.)		36. (intro.)
(qm)1.		36.a.
(qm)2.		36.b.
(qm)3.		36.c.
(qm)4.		36.d.
(r)		37.
(rm)		38.
(s)		39.
(sm)		40.
(t)		41.
(tm)		42.
(u)		43.
(2)		(b)
(3) (a)1.		(bf) 1.a.
(a)2.		1.b.
(b)		2.
(c)		3.
(4) (a)		(c) 1.
(b)		2.
(c)		3.
(5)		(d)
(6)		(e)
(7) (a)		(f) 1.
(b)1.		2.a.

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(b)2.		2.b.
(b)3.		2.c.
(b)4.		2.d.
(b)5.		2.e.
(b)6.		2.f.
(b)7.		2.g.
(b)8.		2.h.
(c)		3.
(d) (intro.)		4. (intro.)
(d)1.		4.a
(d)2.		4.b.
(d)3.		4.c.
(d)4.		4.d.
(d)5.		4.e.
(8) (a)		(fm) 1.
(b) (intro.)		2. (intro.)
(b)1.		2.a.
(b)2.		2.b.
(b)3.		2.c.
(b)4.		2.d.
(b)5.		2.e.
(b)6.		2.f.
(c)		3.
(9)		(g)
(10)		(h)
218.0117	Revocation of license of dealer, distributor, manufacturer, or transporter.	218.01 (3a)
(1)		(a)
(2)		(b)
(3)		(c)
(4)		(d)

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218.0119	Changes in places of business to be reported.	218.01 (2a)
(1)		(a)
(2)		(b)
(3)		(c)
(4)		(d)
	MANUFACTURERS, IMPORTERS AND DISTRIBUTORS	
218.0121	Factory stores.	218.01 (2c)
(intro.)		(intro.)
(1)		(a)
(2)		(b)
(3)		(c)
218.0122	Damages to delivered vehicles.	218.01 (2d)
(1)		(a)
(2)		(b)
(3)		(c)
218.0123	Vehicle allocations.	218.01 (2f)
218.0124	Performance standards.	218.01 (2g)
218.0125	Warranty reimbursement.	218.01 (2w)
(1)		(a)
(2)		(b)
(3)		(c)
(4)		(d)
(5)		(e)
(6)		(f)
(7)		(g)
218.0126	Promotional allowances.	218.01 (2x)
	FRANCHISE AGREEMENTS AND LICENSEE DISPUTES	
218.0131	Family member's right to succeed deceased or incapacitated dealer under existing franchise agreement.	218.01 (3c)

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(1)		(b)
(2)		(c)
(3)		(d)
(4)		(e)
218.0132	Termination provisions.	218.01 (3n)
(1)		(a)
(2) (int.) (a)		(b) (int.) 1.
(b)		2.
(c)		3.
(d)		4.
(intro.)		(intro.)
(d) 1.		4.a.
(d) 2.		4.b.
(d) 3.		4.c.
(d) 4.		4.d.
(d) 5.		4.e.
218.0133	Agreement termination benefits.	218.01 (3r)
(1) (int.)		(a) (int.)
(a)		1.
(b)		2.
(2) (a)		(b) 1.
(b)		2.
(c)		3.
(d)		4.
(e)		5.
(3) (a)		(c) 1.
(b)		2.
(4) (a)		(d) 1.
(b)		2.
(c)		3.
(d)		4.
(5) (a) (int.)		(e) 1. (int.)
(a)1.		1.a.
(a)2.		1.b.

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(a)3.		1.c.
(a)4.		1.d.
(a)5.		1.e.
(a)6.		1.f.
(b)		2.
(c)		3.
(d)		4.
(6) (a)		(f) 1.
(b)		2.
218.0134	Dealership changes.	218.01 (3x)
(1)		(a)
(2) (a)		(b) 1.
(b)		2.
(c)		3.
(3) (a) (int.)		(c) 1. (int.)
(a)1.		1.a.
(a)2.		1.b.
(a)3.		1.c.
(a)4.		1.d.
(a)5.		1.e.
(a)6.		1.f.
(b)		2.
(4) (int.)		(d) (int.)
(a)		1.
(b)		2.
(c) (intro.)		3. (intro.)
(c)1.		3.a.
(c)2.		3.b.
(c)3.		3.c.
(d)		4.
218.0136	Mediation of disputes between licensees.	218.01 (7m)
(1)		(a)
(2)		(b)

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(3)		(c)
(4)		(d)
218.0137	Arbitration of disputes between licensees.	218.01 (7r)
218.0138	Immunity and presumption of good faith.	218.01 (7t)
	RETAIL SALES AND LEASE	
218.0141	Contract provisions.	218.01 (5m)(a)
218.0142	Instalment sales.	218.01 (6)
(1)		(a)
(2)		(b)
(3)		(bp)
(4)		(c)
(5)		(d)
(6)		(e)
(7)		(em)
(8)		(f)
(9)		(g)
(10)		(h)
(11)		(k)
218.0143	Notice of insurance to buyer under instalment sales contract.	218.01 (6m)
218.0144	Prelease agreements.	218.01 (6x)
(1)		(a)
(2) (int.)		(b) (int.)
(a)		(a)
(b)		2.
(3)		(c)
(4)		(d)
(5)		(e)
218.0145	Prohibited acts.	218.01 (7)
(1) (int.)		(a) (int.)
(a)		1.

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(b)		2.
(c)		3.
(d)		4.
(2)		(b)
(3) (int.)		(c) (int.)
(a)		1.
(b)		2.
(c)		3.
(4)		(d)
(5)		(e)
(6)		(f)
218.0146	Motor vehicles.	218.01 (7a)
(1)		(a)
(2)		(b)
(3) (int.)		(c) (int.)
(a)		1.
(b)		2.
(c)		3.
(d)		4.
218.0147	Purchase or lease of motor vehicle by minor.	218.01 (7b)
	POWERS OF REGULATORS	
218.0151	Advisory committee.	218.01 (4)
218.0152	Rules and regulations.	218.01 (5)
(1)		(a)
(2) (a)		(b) 1.
(b)		2.
(c)		3.
(3)		(c)
	REMEDIES	
218.0161	Penalties.	218.01 (8)

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218.0162	Commencement of action.	218.01 (8m)
218.0163	Civil damages.	218.01 (9)
(1) (int.)		(a) (int.)
(a)		1.
(b)		2.
(1m)		(am)
(2)		(b)
REPAIRS AND WARRANTIES		
218.0171	Repair, replacement and refund under new motor vehicle warranties.	218.015
218.0172	Motor vehicle adjustment programs.	218.017

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 73.03 (37) of the statutes is amended to read:

2 73.03 **(37)** To make refunds in connection with motor vehicles returned to the
3 manufacturers by a consumer, as provided under s. ~~218.015~~ 218.0171 (2) (e) and (f).

4 **SECTION 2.** 77.53 (1m) (intro.) of the statutes is amended to read:

5 77.53 **(1m)** (intro.) For motor vehicles that are used for a purpose in addition
6 to retention, demonstration or display while held for sale in the regular course of
7 business by a dealer who is licensed under s. ~~218.01~~ ss. 218.0101 to 218.0163, the
8 base for the tax imposed under sub. (1) is the following:

9 **SECTION 3.** 100.45 (1) (ag) of the statutes is amended to read:

10 100.45 **(1)** (ag) "Distributor" has the meaning given in s. ~~218.01 (1) (e)~~ 218.0101
11 (6).

12 **SECTION 4.** 100.45 (1) (ar) of the statutes is amended to read:

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1 100.45 (1) (ar) “Manufacturer” has the meaning given in s. ~~218.01 (1) (L)~~
2 218.0101 (20), except that, if more than one person satisfies the definition in s. ~~218.01~~
3 ~~(1) (L)~~ 218.0101 (20) with respect to a motor vehicle, “manufacturer” means the
4 person who installs the mobile air conditioner that is in the motor vehicle when the
5 motor vehicle is distributed for sale in this state.

6 **SECTION 5.** 135.07 (1) of the statutes is amended to read:

7 135.07 (1) To a dealership to which a motor vehicle dealer or motor vehicle
8 distributor or wholesaler as defined in s. ~~218.01 (1)~~ 218.0101 is a party in such
9 capacity.

10 **SECTION 6.** 138.04 of the statutes is amended to read:

11 **138.04 Legal rate.** The rate of interest upon the loan or forbearance of any
12 money, goods or things in action shall be \$5 upon the \$100 for one year and according
13 to that rate for a greater or less sum or for a longer or a shorter time; but parties may
14 contract for the payment and receipt of a rate of interest not exceeding the rate
15 allowed in ss. 138.041 to 138.056, 138.09 to 138.12, ~~218.01~~ 218.0101 to 218.0163, or
16 422.201, in which case such rate shall be clearly expressed in writing.

17 **SECTION 7.** 138.051 (8) of the statutes is amended to read:

18 138.051 (8) The contract rate is not subject to rate limitations imposed under
19 this chapter or s. ~~218.01~~ ss. 218.0101 to 218.0163 or under s. 422.201.

20 **SECTION 8.** 138.052 (11) of the statutes is amended to read:

21 138.052 (11) The contract rate is not subject to rate limitations imposed under
22 this chapter or s. ~~218.01~~ ss. 218.0101 to 218.0163 or under s. 422.201.

23 **SECTION 9.** 138.09 (3) (e) 1. c. of the statutes, as affected by 1997 Wisconsin Act
24 27, is amended to read:

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1 138.09 (3) (e) 1. c. A loan, finance or discount business under ~~s. 218.01 ss.~~
2 218.0101 to 218.0163.

3 **SECTION 10.** 218.01 (title) of the statutes is repealed.

 NOTE: The title of s. 218.01 is repealed to reflect the division of s. 218.01 into a
number of different sections.

4 **SECTION 11.** 218.01 (1) (intro.) of the statutes is renumbered 218.0101 (intro.)
5 and amended to read:

6 **218.0101 Definitions.** (intro.) In ~~this section ss. 218.0101 to 218.0163,~~ unless
7 the context requires otherwise ~~requires, the following words and terms shall have~~
8 ~~the following meanings:~~

9 **SECTION 12.** 218.01 (1) (a) of the statutes is renumbered 218.0101 (1).

10 **SECTION 13.** 218.01 (1) (b) of the statutes is renumbered 218.0101 (3) and
11 amended to read:

12 218.0101 (3) "Cash price" means the retail seller's price in dollars for the sale
13 of the goods, and the transfer of unqualified title ~~thereto~~ to those goods, upon
14 payment of such ~~the retail seller's price in cash or the a cash~~ equivalent thereof.

15 **SECTION 14.** 218.01 (1) (ct) of the statutes is renumbered 218.0101 (4).

16 **SECTION 15.** 218.01 (1) (df) of the statutes is renumbered 218.0101 (5).

17 **SECTION 16.** 218.01 (1) (e) of the statutes is renumbered 218.0101 (6).

18 **SECTION 17.** 218.01 (1) (f) of the statutes is renumbered 218.0101 (7).

19 **SECTION 18.** 218.01 (1) (g) of the statutes is renumbered 218.0101 (8).

20 **SECTION 19.** 218.01 (1) (gm) of the statutes is renumbered 218.0101 (9).

21 **SECTION 20.** 218.01 (1) (h) of the statutes is renumbered 218.0101 (10).

22 **SECTION 21.** 218.01 (1) (i) of the statutes is renumbered 218.0101 (11).

23 **SECTION 22.** 218.01 (1) (j) of the statutes is renumbered 218.0101 (12).

ASSEMBLY BILL 969**SECTION 23**

1 **SECTION 23.** 218.01 (1) (je) of the statutes is renumbered 218.0101 (13).

2 **SECTION 24.** 218.01 (1) (jf) of the statutes, as affected by 1997 Wisconsin Act
3 48, is renumbered 218.0101 (2).

4 **SECTION 25.** 218.01 (1) (jg) of the statutes is renumbered 218.0101 (14).

5 **SECTION 26.** 218.01 (1) (ji) of the statutes is renumbered 218.0101 (15).

6 **SECTION 27.** 218.01 (1) (jj) of the statutes is renumbered 218.0101 (16).

7 **SECTION 28.** 218.01 (1) (jk) of the statutes is renumbered 218.0101 (17).

8 **SECTION 29.** 218.01 (1) (jm) of the statutes is renumbered 218.0101 (18) and
9 amended to read:

10 218.0101 (18) "License period" means the period during which a particular
11 type of license described in ~~sub. (2) (d) s. 218.0114 (14)~~ is effective, as established by
12 the department of transportation or division of banking under ~~sub. (2) (em) 2. or 4.~~
13 s. 218.0114 (13) (b) or (d).

14 **SECTION 30.** 218.01 (1) (k) of the statutes is renumbered 218.0101 (19) and
15 amended to read:

16 218.0101 (19) "Licensor" means the body, either the division of banking or the
17 department of transportation or both, issuing a license ~~hereunder~~ under ss. 218.0101
18 to 218.0163.

19 **SECTION 31.** 218.01 (1) (L) of the statutes is renumbered 218.0101 (20) (intro.)
20 and amended to read:

21 218.0101 (20) (intro.) "Manufacturer" means any person, resident or
22 nonresident, who ~~manufactures~~ does any of the following:

23 (a) Manufactures or assembles motor vehicles ~~or who manufactures.~~

24 (b) Manufactures or installs on previously assembled truck chassis, special
25 bodies or equipment which when installed form an integral part of the motor vehicle

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1 and which constitutes a major manufacturing alteration and which completed unit
2 is owned by such the manufacturer.

3 **SECTION 32.** 218.01 (1) (Lm) of the statutes is renumbered 218.0101 (21).

4 **SECTION 33.** 218.01 (1) (m) of the statutes is renumbered 218.0101 (22).

5 **SECTION 34.** 218.01 (1) (n) of the statutes is renumbered 218.0101 (23) (a), and
6 218.0101 (23) (a) (intro.) and 2., as renumbered, are amended to read:

7 218.0101 (23) (a) (intro.) “Motor vehicle dealer” means any person, firm or
8 corporation, not excluded by par. (a) ~~(b)~~ who:

9 2. Is engaged wholly or in part in the business of selling or leasing motor
10 vehicles, including motorcycles, whether or not such the motor vehicles are owned
11 by such that person, firm or corporation.

12 **SECTION 35.** 218.01 (1) (o) (intro.) and 1. to 4. of the statutes are renumbered
13 218.0101 (23) (b) (intro.) and 1. to 4., and 218.0101 (23) (b) 1. to 4., as renumbered,
14 are amended to read:

15 218.0101 (23) (b) 1. Receivers, trustees, administrators, executors, guardians
16 or other persons appointed by or acting under the judgment or order of any court; ~~or,~~

17 2. Public officers while performing their official duties; ~~or,~~

18 3. Employees of persons, corporations or associations enumerated in subsds. 1.
19 and 2., when engaged in the specific performance of their duties as such employees
20 of the enumerated persons, corporations or associations.

21 4. Sales finance companies or other loan agencies who sell or offer for sale motor
22 vehicles repossessed or foreclosed on by ~~them~~ those sales finance companies or other
23 loan agencies under terms of an instalment contract, or motor vehicles taken in trade
24 ~~on such repossessions~~ for repossessed or foreclosed motor vehicles.

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1 **SECTION 36.** 218.01 (1) (o) 5. of the statutes, as affected by 1997 Wisconsin Act
2 48, is renumbered 218.0101 (23) (b) 5.

3 **SECTION 37.** 218.01 (1) (p) of the statutes is renumbered 218.0101 (24) and
4 amended to read:

5 218.0101 (24) “Motor vehicle salesperson” means sales representative, sales
6 manager, general manager or other person who is employed by a motor vehicle dealer
7 for the purpose of selling or approving retail sales, or leasing or approving consumer
8 leases, of motor vehicles. Any motor vehicle salesperson ~~licensed hereunder~~ shall be
9 licensed to sell or lease ~~only~~ for only one dealer at a time.

10 **SECTION 38.** 218.01 (1) (pt) of the statutes is renumbered 218.0101 (25).

11 **SECTION 39.** 218.01 (1) (q) of the statutes is renumbered 218.0101 (26).

12 **SECTION 40.** 218.01 (1) (qm) of the statutes is renumbered 218.0101 (27).

13 **SECTION 41.** 218.01 (1) (qr) of the statutes is renumbered 218.0101 (28).

14 **SECTION 42.** 218.01 (1) (qt) of the statutes is renumbered 218.0101 (29).

15 **SECTION 43.** 218.01 (1) (r) of the statutes is renumbered 218.0101 (30).

16 **SECTION 44.** 218.01 (1) (s) of the statutes is renumbered 218.0101 (31).

17 **SECTION 45.** 218.01 (1) (t) of the statutes is renumbered 218.0101 (32) and
18 amended to read:

19 218.0101 (32) “Retail instalment contract” or “instalment contract” means and
20 includes every contract to sell one or more motor vehicles at retail, in which the price
21 ~~thereof~~ of the motor vehicles is payable in one or more instalments over a period of
22 time and in which the seller has either retained title to the goods or has taken or
23 retained a security interest in the goods under a form of contract designated either
24 as a conditional sale, chattel mortgage or otherwise.

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1 **SECTION 46.** 218.01 (1) (u) of the statutes is renumbered 218.0101 (33) and
2 amended to read:

3 218.0101 **(33)** “Retail seller” means a person, firm or corporation selling or
4 agreeing to sell one or more motor vehicles under a retail instalment contract to a
5 buyer for the latter’s buyer’s personal use or consumption thereof.

6 **SECTION 47.** 218.01 (1) (v) of the statutes is renumbered 218.0101 (34) (a) and
7 amended to read:

8 218.0101 **(34)** (a) “Sales finance company” means ~~and includes~~ any person, firm
9 or corporation engaging in the business, in whole or in part, of acquiring by purchase
10 ~~or by loan on the security thereof,~~ or otherwise, retail instalment contracts or
11 consumer leases from retail sellers or lessors in this state, including or of making
12 loans to retail sellers or lessors in this state secured by the sellers’ or lessors’ retail
13 instalment contracts or consumer leases.

14 (b) “Sales finance company” includes any motor vehicle dealer who sells or
15 leases any motor vehicle on an instalment contract or consumer lease or acquires any
16 retail instalment contracts in the dealer’s retail sales or leases of motor vehicles.

17 **SECTION 48.** 218.01 (1) (w) of the statutes is renumbered 218.0101 (35).

18 **SECTION 49.** 218.01 (1) (x) of the statutes is renumbered 218.0101 (36).

19 **SECTION 50.** 218.01 (1) (xm) of the statutes is renumbered 218.0101 (37).

20 **SECTION 51.** 218.01 (1a) (title) of the statutes is renumbered 218.0111 (title).

21 **SECTION 52.** 218.01 (1a) of the statutes is renumbered 218.0111 (1) (intro.) and
22 amended to read:

23 218.0111 **(1)** (intro.) The department of transportation shall issue the licenses
24 provided for in ~~sub. (2) (d) 1. to 6. s. 218.0114 (14) (a) to (f)~~ and have supervision over
25 the licensees ~~thereunder~~ in respect to all of the provisions of this section ss. 218.0101

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1 to 218.0163, except only as to such matters as that the division of banking shall have
2 jurisdiction and control over all of the following:

3 (a) Matters that relate to the sale of motor vehicles on retail instalment
4 contracts and the financing and servicing of such those retail instalment contracts
5 and as to ~~such matters as~~.

6 (b) Matters that relate to prelease agreements under sub. ~~(6x)~~ s. 218.0144 and
7 consumer leases under chs. 421 to 427 and 429, ~~over which matter the division of~~
8 ~~banking shall have jurisdiction and control, and the division of banking shall issue~~
9 ~~the~~.

10 (c) The issuance of licenses to sales finance companies.

11 (2) Either licensor hereunder under sub. (1) shall, upon request, furnish the
12 other licensor with any information it may have in respect to any licensee or
13 applicant for license under sub. (1) or any transaction in which such a licensee or
14 applicant may be a party or be interested. No license shall be issued under sub. ~~(2)~~

15 ~~(d) 1. and 8. s. 218.0114 (14) (a) and (g)~~ until both licensors have approved the
16 application. The suspension or revocation by either licensor of a license issued under
17 s. 218.0114 (14) (a) or (g) ~~either of such licenses~~ shall automatically likewise suspend
18 or revoke the other license; ~~and such~~ issued under s. 218.0114 (14) (a) or (g). Any
19 suspension or revocation of a license issued under s. 218.0114 (14) (a) or (g) shall be
20 certified by the licensor ordering it to the other licensor.

21 **SECTION 53.** 218.01 (1b) of the statutes is renumbered 218.0113 and amended
22 to read:

23 **218.0113 Licenses for dealers, distributors, manufacturers or**
24 **transporters of semitrailers and trailers.** Subject to ch. 180 where applicable,
25 any dealer, distributor, manufacturer or transporter of semitrailers or trailers

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1 designed for use in combination with a truck or truck tractor is ~~deemed~~ considered
2 licensed under ~~this section ss. 218.0101 to 218.0163~~ where for purposes of chs. 341
3 and 342 a license under this section ss. 218.0101 to 218.0163 is required. This
4 ~~subsection~~ section is enacted to remove an undue burden on interstate commerce
5 from a class of commercial transactions in which the business character of the parties
6 does not require the protection provided by ~~this section ss. 218.0101 to 218.0163~~ and
7 to promote the expansion of credit for truck operators who require banking and
8 financing facilities throughout the United States.

9 **SECTION 54.** 218.01 (2) (title) of the statutes is renumbered 218.0114 (title).

10 **SECTION 55.** 218.01 (2) (a) of the statutes is renumbered 218.0114 (1) and
11 amended to read:

12 218.0114 (1) No person may engage in the business of being a motor vehicle
13 dealer, motor vehicle salesperson or sales finance company ~~shall engage in business~~
14 ~~as such~~ in this state without a license therefor as provided in ~~this section ss. 218.0101~~
15 to 218.0163. If any motor vehicle dealer acts as a motor vehicle salesperson, he or
16 she shall secure a motor vehicle salesperson's license in addition to a ~~license for motor~~
17 vehicle dealer license. Every motor vehicle dealer shall be responsible for the
18 licensing of every motor vehicle salesperson in his or her employ.

19 **SECTION 56.** 218.01 (2) (am) of the statutes is renumbered 218.0114 (2) and
20 amended to read:

21 218.0114 (2) No person may engage in the business of being a manufacturer,
22 importer or distributor ~~shall engage in business as such~~ in this state without a
23 license therefor as provided in ~~this section ss. 218.0101 to 218.0163~~.

24 **SECTION 57.** 218.01 (2) (an) of the statutes is renumbered 218.0114 (3) and
25 amended to read:

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1 218.0114 (3) No person may engage in the business of being a factory
2 representative or distributor representative ~~shall engage in business as such~~ in this
3 state without a license therefor as provided in ~~this section~~ ss. 218.0101 to 218.0163.

4 **SECTION 58.** 218.01 (2) (b) of the statutes is renumbered 218.0114 (4) and
5 amended to read:

6 218.0114 (4) Application for a license under this section shall be made to the
7 licensor, at ~~such~~ the time, in ~~such~~ the form and with ~~such~~ information as that the
8 licensor shall may require and shall be accompanied by the required fees. An
9 applicant for a sales finance company license, other than a motor vehicle dealer, shall
10 pay to the division of banking a nonrefundable \$300 investigation fee in addition to
11 the license fee under ~~par. (d)~~ sub. (16). If the cost of an investigation exceeds \$300,
12 the applicant shall, upon demand of the division of banking, pay the amount by
13 which the cost of the investigation exceeds the nonrefundable fee. A licensee is not
14 required to pay an investigation fee for the renewal of a license. The licensor may
15 require the applicant to provide information relating to any pertinent matter that
16 is commensurate with the safeguarding of the public interest in the locality in which
17 the applicant proposes to engage in business, except that information relating to the
18 applicant's solvency and financial standing may not be required for motor vehicle
19 dealers except as provided in ~~par. (h) 1.~~ sub. (20) (a). The information provided may
20 be considered by the licensor in determining the fitness of the applicant to engage
21 in business as set forth in ~~this section~~ ss. 218.0101 to 218.0163.

22 **SECTION 59.** 218.01 (2) (bb) of the statutes is renumbered 218.0114 (5) and
23 amended to read:

24 218.0114 (5) (a) A motor vehicle dealer or an applicant for a motor vehicle
25 dealer license shall provide and maintain in force a bond or irrevocable letter of credit

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1 of not less than \$25,000 or, if the dealer or applicant sells or proposes to sell
2 motorcycles and not other types of motor vehicles, a bond or irrevocable letter of
3 credit of not less than \$5,000. The bond or letter of credit shall be executed in the
4 name of the department of transportation for the benefit of any person who sustains
5 a loss because of an act of a motor vehicle dealer that constitutes grounds for the
6 suspension or revocation of a license under ~~this section~~ ss. 218.0101 to 218.0163.

7 (b) A sales finance company or an applicant for a sales finance company license
8 shall provide and maintain in force a bond or irrevocable letter of credit of not less
9 than \$25,000 issued by a surety company licensed to do business in this state or a
10 federally insured financial institution, as defined in s. 705.01 (3). The bond or letter
11 of credit shall be payable to the state of Wisconsin for the use of the state and of any
12 person who sustains a loss because of an act of a sales finance company that
13 constitutes grounds for the suspension or revocation of a license under ~~this section~~
14 ss. 218.0101 to 218.0163.

15 **SECTION 60.** 218.01 (2) (bc) of the statutes is renumbered 218.0114 (6) and
16 amended to read:

17 218.0114 (6) Except as provided in this subsection ~~section~~ every dealer and
18 distributor of new motor vehicles shall, at the time of application for a license, file
19 with the department of transportation a certified copy of the applicant's written
20 agreement and a certificate of appointment as dealer or distributor, respectively. The
21 certificate of appointment shall be signed by an authorized agent of the
22 manufacturer of domestic vehicles on direct manufacturer-dealer agreements; or,
23 where the manufacturer is wholesaling through an appointed distributorship, by an
24 authorized agent of the distributor on indirect distributor-dealer agreements. The
25 certificate shall be signed by an authorized agent of the importer on direct

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1 importer-dealer agreements of foreign-made vehicles; or by an authorized agent of
2 the distributor on indirect distributor-dealer agreements. The distributor's
3 certificate of appointment shall be signed by an authorized agent of the
4 manufacturer; or by an agent of the manufacturer or importer of foreign
5 manufactured vehicles.

6 **SECTION 61.** 218.01 (2) (bd) 1. of the statutes is renumbered 218.0114 (7) (a) 1.
7 (intro.) and amended to read:

8 218.0114 (7) (a) 1. (intro.) A written agreement need not be filed for each dealer
9 or distributor if the manufacturer ~~on~~ or importer for direct dealerships or distributor
10 ~~on~~ for indirect dealerships ~~or importer on direct dealerships~~ utilizes the identical
11 basic agreement for all its dealers or distributors in Wisconsin and certifies in the
12 certificate of appointment ~~that such blanket~~ all of the following:

13 a. That the basic agreement is on file and such written with the department
14 of transportation.

15 b. That the manufacturer's, distributor's or importer's agreement with such
16 dealer each of its dealers or distributor distributors, respectively, is identical with to
17 the filed blanket basic agreement, and.

18 c. That the manufacturer, distributor or importer has filed with the department
19 of transportation one such executed basic agreement together with a list of its
20 authorized dealers or distributors. Such with the department of transportation.

21 2. A manufacturer, distributor or importer shall notify the department of
22 transportation immediately of any of the following:

23 a. The appointment of any additional dealers or distributors, of any not
24 included in the list filed under subd. 1. c.

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1 ~~b. Any~~ revisions of or additions to the basic agreement on file, ~~or of any~~ under
2 ~~subd. 1. a.~~

3 ~~c. Any~~ individual dealer or distributor supplements to such ~~the basic~~
4 ~~agreement on file under subd. 1. a.~~

5 ~~3. Except as provided in subd. 1g., the par. (b), a~~ manufacturer, distributor or
6 ~~importer shall notify the a~~ dealer or distributor and forward a copy of such notice to
7 ~~the department of transportation of the discontinuation or cancellation of the~~
8 ~~manufacturer's, distributor's or importer's agreement of any of its dealers or~~
9 ~~distributors at least 60 days before the effective date thereof together with of the~~
10 ~~discontinuation or cancellation. The notice shall state the specific grounds for~~
11 ~~discontinuation or cancellation of the agreement, if discontinued or canceled. The~~
12 ~~manufacturer, distributor or importer that issues the notice of discontinuation or~~
13 ~~cancellation shall forward a copy of the notice to the department of transportation~~
14 ~~at least 60 days before the effective date of the discontinuation or cancellation.~~

15 ~~(e) Agreements and certificates of appointment are deemed~~ considered to be
16 continuing unless the manufacturer, distributor or importer has notified the
17 department of transportation of the discontinuation or cancellation of the agreement
18 of any of its dealers or distributors, and annual renewal of certifications filed as
19 provided in this ~~subsection~~ section is not necessary.

20 **SECTION 62.** 218.01 (2) (bd) 1g. of the statutes is renumbered 218.0114 (7) (b).

21 **SECTION 63.** 218.01 (2) (bd) 1r. of the statutes is renumbered 218.0114 (7) (c),
22 and 218.0114 (7) (c) (intro.), as renumbered, is amended to read:

23 218.0114 (7) (c) (intro) The notice served upon a motor vehicle dealer under
24 ~~subds. 1. and 1g. pars. (a) 3. and (b)~~ is not effective unless it conspicuously displays
25 the following statement:

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1 **SECTION 64.** 218.01 (2) (bd) 2. of the statutes is renumbered 218.0114 (7) (d) and
2 amended to read:

3 218.0114 **(7)** (d) Any dealer or distributor discontinued or canceled may, on or
4 before the date on which the discontinuation or cancellation becomes effective, file
5 with the department of transportation and division of hearings and appeals and
6 serve upon the respondent manufacturer, distributor or importer a complaint for a
7 determination of unfair discontinuation or cancellation under ~~sub. (3) (a) 17. s.~~
8 218.0116 (1) (i). ~~Allowing opportunity for an answer, the~~ The division of hearings and
9 appeals shall thereafter schedule a hearing on and decide the matter after allowing
10 the respondent an opportunity to answer. Agreements and certificates of
11 appointment shall continue in effect until final determination of the issues raised in
12 ~~such~~ the complaint. If the complainant prevails he or she shall have a cause of action
13 against the ~~defendant~~ respondent for reasonable expenses and attorney fees
14 incurred by him or her in ~~such~~ the matter.

15 **SECTION 65.** 218.01 (2) (bd) 3. of the statutes is renumbered 218.0114 (2m) and
16 amended to read:

17 218.0114 **(2m)** No manufacturers', distributors' or importers' vehicles shall be
18 sold in this state unless either the manufacturer on direct dealerships of domestic
19 vehicles, the importer of foreign manufactured vehicles on direct dealerships or the
20 distributor on indirect dealerships of either domestic or foreign vehicles are licensed
21 under ~~s. 218.01 ss. 218.0101 to 218.0163.~~ The obtaining of a license under ~~s. 218.01~~
22 ss. 218.0101 to 218.0163 shall conclusively establish that ~~such~~ a manufacturer,
23 distributor or importer is doing business in this state and shall subject the licensee
24 to all provisions of the Wisconsin statutes regulating manufacturers, importers and
25 distributors.

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1 **SECTION 66.** 218.01 (2) (bf) of the statutes is renumbered 218.0114 (8) and
2 amended to read:

3 218.0114 (8) Within 60 days after the department of transportation issues a
4 declaratory ruling under s. 227.41 that an agreement is inconsistent with ~~par. (bm)~~
5 sub. (9), a manufacturer, distributor or importer shall remove or revise any provision
6 of the agreement declared to be inconsistent with ~~par. (bm)~~ sub. (9).

7 **SECTION 67.** 218.01 (2) (bm) 1. (intro.) of the statutes is renumbered 218.0114
8 (9) (a) (intro.) and amended to read:

9 218.0114 (9) (a) (intro.) Except as provided in ~~par. (b)~~ sub. (10), provisions of
10 an agreement which do any of the following are void and prohibited:

11 **SECTION 68.** 218.01 (2) (bm) 1. a. of the statutes is renumbered 218.0114 (9) (a)
12 1. and amended to read:

13 218.0114 (9) (a) 1. Waive a remedy or defense available to a distributor or dealer
14 or other provision protecting the interests of a distributor or dealer under ~~this section~~
15 ss. 218.0101 to 218.0163 or under rules promulgated by the department of
16 transportation under ~~this section~~ ss. 218.0101 to 218.0163.

17 **SECTION 69.** 218.01 (2) (bm) 1. b. of the statutes is renumbered 218.0114 (9) (a)
18 2.

19 **SECTION 70.** 218.01 (2) (bm) 1. c. of the statutes is renumbered 218.0114 (9) (a)
20 3.

21 **SECTION 71.** 218.01 (2) (bm) 2. of the statutes is renumbered 218.0114 (9) (b)
22 and amended to read:

23 218.0114 (9) (b) 1. Notwithstanding ~~subd. 1. b. par. (a) 2.~~ and subject to ~~sub. (3)~~
24 ~~(a) 36. d. s. 218.0116 (1) (qm) 4.~~, an agreement may provide for the resolution of
25 disputes by arbitration, including binding arbitration, if both parties to the

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1 agreement voluntarily agree to an arbitration provision. An arbitrator acting under
2 this ~~subd. 2. a. subdivision~~ shall be bound by the laws of this state, including ~~par. (bd)~~
3 ~~2. sub. (7) (d)~~ and other provisions of ~~this section~~ ss. 218.0101 to 218.0163.

4 2. No finding of an arbitrator is binding upon any person who is not a party to
5 the agreement. A finding of an arbitrator does not bind the department of
6 transportation with respect to enforcement of ~~this section~~ ss. 218.0101 to 218.0163.

7 **SECTION 72.** 218.01 (2) (bm) 3. of the statutes is renumbered 218.0114 (9) (c)
8 and amended to read:

9 218.0114 (9) (c) Notwithstanding ~~subd. 1. b. par. (a) 2.~~, an agreement may
10 require a dealer or distributor to submit disputes to a nonbinding and reasonably
11 prompt dispute resolution procedure before bringing an action in another forum.

12 **SECTION 73.** 218.01 (2) (bo) (intro.) of the statutes is renumbered 218.0114 (10)
13 (intro.) and amended to read:

14 218.0114 (10) (intro.) ~~Paragraph (bm)~~ Subsection (9) does not apply to any of
15 the following:

16 **SECTION 74.** 218.01 (2) (bo) 1. of the statutes is renumbered 218.0114 (10) (a).

17 **SECTION 75.** 218.01 (2) (bo) 2. of the statutes is renumbered 218.0114 (10) (b)
18 and amended to read:

19 218.0114 (10) (b) An agreement, made after a dealer receives notice under ~~sub.~~
20 ~~(3) (f) 1. s. 218.0116 (7) (a)~~, which waives the dealer's right to file a complaint
21 protesting the establishment or relocation of a dealership proposed in the notice.

22 **SECTION 76.** 218.01 (2) (bs) of the statutes is renumbered 218.0114 (11) and
23 amended to read:

24 218.0114 (11) A manufacturer, distributor or importer shall designate in
25 writing the area of sales responsibility assigned to a motor vehicle dealer. A

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1 manufacturer, distributor or importer may not modify the area of sales responsibility
2 to avoid the requirements of ~~sub. (3) (f)~~ s. 218.0116 (7).

3 **SECTION 77.** 218.01 (2) (c) 1. of the statutes is renumbered 218.0114 (12) (a) and
4 amended to read:

5 218.0114 **(12)** (a) Except as provided in ~~subd. 2. par. (b)~~, all licenses shall be
6 granted or refused within 60 days after the licensor receives the application for the
7 license.

8 **SECTION 78.** 218.01 (2) (c) 2. a. of the statutes is renumbered 218.0114 (12) (b)
9 1.

10 **SECTION 79.** 218.01 (2) (c) 2. b. of the statutes is renumbered 218.0114 (12) (b)
11 2. and amended to read:

12 218.0114 **(12)** (b) 2. In cases where a complaint has been filed under ~~sub. (3)~~
13 ~~(f)~~ s. 218.0116 (7) protesting the proposed establishment or relocation of a dealership
14 in a relevant market area, no license may be issued until the division of hearings and
15 appeals has rendered a decision permitting the issuance of the license.

16 **SECTION 80.** 218.01 (2) (cm) of the statutes is renumbered 218.0114 (13) and
17 amended to read:

18 218.0114 **(13)** (a) Licenses described in ~~par. (d)~~ sub. (16) expire on December
19 31 of the calendar year for which the licenses are granted.

20 (b) The department of transportation shall promulgate rules establishing the
21 license period for each type of license described in ~~par. (d) 1. to 6.~~ sub. (14) (a) to (f).

22 (c) The department of transportation may promulgate rules establishing
23 expiration dates for the various types of licenses described in ~~par. (d) 1. to 6.~~ sub. (14)
24 (a) to (f).

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1 (d) The division of banking shall promulgate rules establishing the license
2 period for the license described in ~~par. (d) 8.~~ sub. (14) (g).

3 (e) The division of banking may promulgate rules establishing expiration dates
4 for licenses issued under ~~par. (d) 8.~~ sub. (14) (g).

5 **SECTION 81.** 218.01 (2) (d) (intro.) of the statutes is renumbered 218.0114 (14)
6 (intro.) and amended to read:

7 218.0114 (14) (intro.) Subject to ~~par. (dm)~~ sub. (15), the fee for licenses
8 described in this ~~paragraph~~ subsection equals the number of years in a license period
9 multiplied by whichever of the following applies:

10 **SECTION 82.** 218.01 (2) (d) 1. of the statutes is renumbered 218.0114 (14) (a) and
11 amended to read:

12 218.0114 (14) (a) For motor vehicle dealers, to the department of
13 transportation, \$20 for each office or branch ~~thereof~~ of the motor vehicle dealer, plus
14 \$1 for a supplemental license for each used motor vehicle lot within the same
15 municipality, but not immediately adjacent to the office or to a branch.

16 **SECTION 83.** 218.01 (2) (d) 2. of the statutes is renumbered 218.0114 (14) (b).

17 **SECTION 84.** 218.01 (2) (d) 3. of the statutes is renumbered 218.0114 (14) (c).

18 **SECTION 85.** 218.01 (2) (d) 4. of the statutes is renumbered 218.0114 (14) (d) and
19 amended to read:

20 218.0114 (14) (d) Any person licensed under ~~subd. 2. or 3. next preceding,~~ par.
21 (b) or (c) may also operate as a motor vehicle dealer, without any additional fee.

22 **SECTION 86.** 218.01 (2) (d) 5. of the statutes is renumbered 218.0114 (14) (e).

23 **SECTION 87.** 218.01 (2) (d) 6. of the statutes is renumbered 218.0114 (14) (f).

24 **SECTION 88.** 218.01 (2) (d) 8. of the statutes is renumbered 218.0114 (14) (g) and
25 amended to read:

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1 218.0114 (14) (g) 1. Except as provided in subd. ~~8. b. 2.~~, for motor vehicle
2 dealers, to the division of banking, \$10.

3 2. For motor vehicle dealers that operate as a sales finance company or that
4 carry or retain retail instalment contracts or consumer leases for more than 30 days,
5 to the division of banking, the same as for sales finance companies under ~~par. (dr)~~
6 sub. (16).

7 **SECTION 89.** 218.01 (2) (dm) of the statutes is renumbered 218.0114 (15) and
8 amended to read:

9 218.0114 (15) (a) If the department of transportation or division of banking
10 establishes a license period that is not evenly divisible into years, the department of
11 transportation or division of banking shall prorate the remainder when determining
12 the license fee under ~~par. (d)~~ sub. (14).

13 (b) If the department of transportation or division of banking grants a license
14 described under ~~par. (d)~~ sub. (14) during the license period, the fee for the license
15 shall equal the applicable dollar amount under ~~par. (d) 1. to 8.~~ sub. (14) (a) to (g)
16 multiplied by the number of calendar years, including parts of calendar years, during
17 which the license remains in effect. A fee determined under this ~~subdivision~~
18 paragraph may not exceed the license fee for an entire license period under ~~par. (d)~~
19 sub. (14).

20 **SECTION 90.** 218.01 (2) (dr) of the statutes, as affected by 1997 Wisconsin Act
21 48, is renumbered 218.0114 (16).

22 **SECTION 91.** 218.01 (2) (e) of the statutes is renumbered 218.0114 (17) and
23 amended to read:

24 218.0114 (17) The licenses of dealers, manufacturers, factory branches,
25 distributors, distributor branches and sales finance companies shall specify the

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1 location of the office or branch and must be conspicuously displayed ~~there~~ at that
2 location. In case such ~~the~~ location be of the office or branch is changed, the licensor
3 shall indorse the change of location on the license, without charge, if ~~it be~~ the new
4 location is within the same municipality as the previous location. A change of
5 location to another municipality shall require a new license, except for sales finance
6 companies.

7 **SECTION 92.** 218.01 (2) (f) of the statutes is renumbered 218.0114 (18) and
8 amended to read:

9 218.0114 (18) Every salesperson, factory representative or distributor
10 representative shall carry his or her license when engaged in business, and display
11 the license upon request. The license shall name ~~his or her~~ the licensee's employer,
12 ~~and in case of.~~ Upon leaving an employer, the ~~salesperson~~ licensee shall immediately
13 surrender the license to his or her employer who shall mail the license to the licensor.
14 If during the license period the ~~individual~~ licensee again is employed or acts as a
15 salesperson, he or she shall make application for reissue of a salesperson's license.
16 There shall be no fee in connection with such ~~the~~ the subsequent applications.

17 **SECTION 93.** 218.01 (2) (g) of the statutes is renumbered 218.0114 (19).

18 **SECTION 94.** 218.01 (2) (h) 1. of the statutes is renumbered 218.0114 (20) (a) and
19 amended to read:

20 218.0114 (20) (a) If the licensor has reasonable cause to doubt the financial
21 responsibility of the applicant or licensee or the compliance by the applicant or
22 licensee with ~~this section~~ ss. 218.0101 to 218.0163, the licensor may require the
23 applicant or licensee to furnish information relating to the applicant's or licensee's
24 solvency and financial standing.

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1 **SECTION 95.** 218.01 (2) (h) 2. of the statutes is renumbered 218.0114 (20) (b) and
2 amended to read:

3 218.0114 **(20)** (b) ~~Provided~~ If the licensor has reasonable cause to doubt the
4 financial responsibility of the applicant or licensee or the compliance by the
5 applicant or licensee with ~~this section ss. 218.0101 to 218.0163~~, the licensor may
6 require the applicant or licensee to furnish and maintain a bond in the form, amount
7 and with the sureties it approves, but not less than \$5,000, nor more than \$100,000,
8 conditioned upon the applicant or licensee complying with the statutes applicable to
9 the licensee and as indemnity for any loss sustained by any person by reason of any
10 acts of the licensee constituting grounds for suspension or revocation of the license
11 under ~~this section ss. 218.0101 to 218.0163~~. The bonds shall be executed in the name
12 of the department of transportation for the benefit of any aggrieved parties;
13 ~~provided, except~~ that the aggregate liability of the surety to all such aggrieved
14 parties shall, in no event, exceed the amount of the bond. The bonding requirements
15 in this subdivision paragraph shall not apply to manufacturers, factory branches,
16 and their agents and is in addition to the bond or letter of credit required of a motor
17 vehicle dealer under ~~par. (bb) 1.~~ sub. (5) (a).

18 **SECTION 96.** 218.01 (2) (h) 3. of the statutes is renumbered 218.0114 (20) (c) and
19 amended to read:

20 218.0114 **(20)** (c) An applicant or licensee furnishing information under ~~subd.~~
21 ~~1. par. (a)~~ may designate the information as a trade secret, as defined in s. 134.90 (1)
22 (c), or as confidential business information. The licensor shall notify the applicant
23 or licensee providing the information 15 days before any information designated as
24 a trade secret or as confidential business information is disclosed to the legislature,
25 a state agency, as defined in s. 13.62 (2), a local governmental unit, as defined in s.

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1 605.01 (1), or any other person. The applicant or licensee furnishing the information
2 may seek a court order limiting or prohibiting the disclosure. ~~In such cases~~ in which
3 case, the court shall weigh the need for confidentiality of the information against the
4 public interest in the disclosure.

5 **SECTION 97.** 218.01 (2) (i) of the statutes is renumbered 218.0114 (21) and
6 amended to read:

7 218.0114 (21) Application for dealers' licenses shall be submitted to the
8 department of transportation in duplicate and shall contain such information as the
9 licensors require. Application for sales finance company licenses shall contain such
10 information as the division of banking requires. No motor vehicle dealer or sales
11 finance company, unless so licensed, shall be permitted to register or receive or use
12 registration plates under ss. 341.47 to 341.57. The department of transportation
13 shall transmit the duplicate copy of each application for a dealer's license to the
14 division of banking with the fee required under ~~par. (d) 8. sub. (14) (g).~~ The division
15 of banking may not refund the fee required under ~~par. (d) 8. sub. (14) (g).~~ The division
16 of banking shall approve a sales finance company license for a dealer if no prior sales
17 finance company license has been suspended or revoked, and if the applicant meets
18 the requirements of ~~this section ss. 218.0101 to 218.0163~~ relating to sales finance
19 companies.

20 **SECTION 98.** 218.01 (2) (j) of the statutes is renumbered 218.0114 (22) and
21 amended to read:

22 218.0114 (22) A motor vehicle dealer licensed in accordance with the provisions
23 of ~~this section ss. 218.0101 to 218.0163~~ shall make reports to the licensor at such
24 intervals and showing such information as the licensor may require.

25 **SECTION 99.** 218.01 (2) (k) of the statutes is renumbered 218.0114 (23).

ASSEMBLY BILL 969**SECTION 100**

1 **SECTION 100.** 218.01 (2a) (title) of the statutes is renumbered 218.0119 (title).

2 **SECTION 101.** 218.01 (2a) (a) of the statutes is renumbered 218.0119 (1).

3 **SECTION 102.** 218.01 (2a) (b) of the statutes is renumbered 218.0119 (2) and
4 amended to read:

5 218.0119 (2) Whenever a licensed dealer, distributor, manufacturer or
6 transporter opens a new place of business, the licensee shall promptly report ~~such~~
7 that fact, including the address ~~thereof of the new place of business~~, to the
8 department of transportation.

9 **SECTION 103.** 218.01 (2a) (c) of the statutes is renumbered 218.0119 (3) and
10 amended to read:

11 218.0119 (3) Whenever a licensed dealer, distributor or manufacturer
12 discontinues or disposes of his or her business, ~~such person~~ that dealer, distributor
13 or manufacturer shall promptly report ~~such~~ that fact to the department of
14 transportation and return the license and registration plates issued. Whenever a
15 licensed dealer, distributor or manufacturer discontinues business due to license
16 suspension or revocation, ~~such person~~ that dealer, distributor or manufacturer shall
17 surrender the licenses and registration plates to the department of transportation
18 for ~~such~~ the suspension or revocation period.

19 **SECTION 104.** 218.01 (2a) (d) of the statutes is renumbered 218.0119 (4) and
20 amended to read:

21 218.0119 (4) Any dealer, distributor, manufacturer or transporter who fails to
22 comply with the requirements of this ~~subsection~~ section may be fined not more than
23 \$200 or imprisoned for not more than 6 months or both.

24 **SECTION 105.** 218.01 (2c) of the statutes is renumbered 218.0121 and amended
25 to read:

ASSEMBLY BILL 969**SECTION 105**

1 **218.0121 Factory stores.** A manufacturer, importer or distributor, or a
2 subsidiary ~~thereof of a manufacturer, importer or distributor~~, shall not own, operate
3 or control a motor vehicle dealership in this state. This subsection does not prohibit
4 any of the following:

5 **(1)** The ownership and operation by a manufacturer, importer or distributor,
6 or a subsidiary ~~thereof of a manufacturer, importer or distributor~~, of a dealership for
7 a temporary period, not to exceed one year, during the transition from one owner or
8 operator to another.

9 **(2)** The ownership or control of a dealership by a manufacturer, importer or
10 distributor, or a subsidiary ~~thereof of a manufacturer, importer or distributor~~, if the
11 dealership is being sold under a bona fide contract or purchase option to the operator
12 of the dealership, or a contract exists under which the operator of the dealership can
13 expect to acquire full ownership of or a controlling interest in the dealership, and
14 after the transfer of ownership is completed the dealership will no longer be owned,
15 operated or controlled by the manufacturer, importer or distributor, or a subsidiary
16 ~~thereof of the manufacturer, importer or distributor~~.

17 **(3)** The ownership, operation or control of a dealership by a manufacturer,
18 importer or distributor, or subsidiary ~~thereof of a manufacturer, importer or~~
19 ~~distributor~~, which does not meet the conditions under ~~par. (a) or (b)~~ sub. (1) or (2), if
20 the division of hearings and appeals determines, after a hearing on the matter at the
21 request of any party, that there is no prospective independent dealer available to own
22 and operate the dealership in a manner consistent with the public interest and that
23 meets the reasonable standard and uniformly applied qualifications of the
24 manufacturer, importer or distributor.

ASSEMBLY BILL 969**SECTION 106**

1 **SECTION 106.** 218.01 (2d) of the statutes is renumbered 218.0122 and amended
2 to read:

3 **218.0122 Damages to delivered vehicles. (1)** A manufacturer, importer or
4 distributor shall disclose in writing to a motor vehicle dealer, at or before delivery to
5 the dealer, any damage and repair to a new motor vehicle occurring after the
6 manufacturing process is complete but before delivery to the dealer, if the cost of the
7 repair exceeds 6% of the manufacturer's suggested retail price, as measured by retail
8 repair costs. Replacement of glass, tires, bumpers, fenders, moldings, audio
9 equipment, instrument panels, hoods and deck lids with identical manufacturer's
10 original equipment is not considered damage and repair under this ~~paragraph~~
11 subsection. If a manufacturer, importer or distributor fails to make a disclosure of
12 damage and repair under this ~~paragraph~~ subsection, it shall be liable to the dealer
13 for any liability imposed on the dealer for a failure on the part of the dealer to disclose
14 that damage and repair.

15 **(2)** If the cost of repairing damage to a new motor vehicle that occurs before
16 delivery to the dealer's location exceeds 6% of the manufacturer's suggested retail
17 price, as measured by retail repair costs, the dealer may reject or, if title has passed
18 to the dealer, require the manufacturer, importer or distributor who delivered the
19 vehicle to repurchase the vehicle within 10 business days after delivery, unless the
20 damage occurred during shipment and the method of transportation, carrier or
21 transporter of the motor vehicle was designated by the motor vehicle dealer. Upon
22 repurchase, the manufacturer, importer or distributor shall be subrogated to all of
23 the dealer's rights against the carrier or transporter of the motor vehicle regarding
24 damage. The cost of repairing glass, tires, bumpers, moldings and audio equipment

ASSEMBLY BILL 969**SECTION 106**

1 with identical manufacturer's original equipment shall not be included in
2 determining the cost of repairing damage under this ~~paragraph~~ subsection.

3 (3) This ~~subsection~~ section does not apply to motorcycles that are delivered in
4 a crated, disassembled condition to the dealer or the dealer's agent.

5 **SECTION 107.** 218.01 (2f) of the statutes is renumbered 218.0123.

6 **SECTION 108.** 218.01 (2g) of the statutes is renumbered 218.0124.

7 **SECTION 109.** 218.01 (2w) (title) of the statutes is renumbered 218.0125 (title).

8 **SECTION 110.** 218.01 (2w) (a) of the statutes is renumbered 218.0125 (1) and
9 amended to read:

10 218.0125 (1) In this ~~subsection~~ section, "dealer cost" means the wholesale cost
11 for a part as listed in the manufacturer's, importer's or distributor's current price
12 schedules or, if the part is not so listed, the dealer's original invoice cost for the part.

13 **SECTION 111.** 218.01 (2w) (b) of the statutes is renumbered 218.0125 (2).

14 **SECTION 112.** 218.01 (2w) (c) of the statutes is renumbered 218.0125 (3) and
15 amended to read:

16 218.0125 (3) To be eligible for compensation for parts under ~~par. (b)~~ sub. (2),
17 a dealer shall notify the manufacturer, importer or distributor in writing of the
18 amounts that the dealer charges its other retail service customers for parts and
19 request that it be paid for parts in accordance with this ~~subsection~~ section. The notice
20 may be limited to the dealer's average markup over dealer cost that the dealer
21 charges its other retail service customers for parts used to perform similar work. The
22 notice shall be served upon the manufacturer, importer or distributor not less than
23 30 days before the date on which the dealer requests that the manufacturer, importer
24 or distributor begin paying the dealer for parts at the stated amounts. The
25 manufacturer, importer or distributor shall pay the dealer, as provided in this

ASSEMBLY BILL 969**SECTION 112**

1 ~~subsection~~ section, at the amounts stated in the dealer notice for parts used in work
2 performed on and after the beginning date stated in the notice.

3 **SECTION 113.** 218.01 (2w) (d) of the statutes is renumbered 218.0125 (4).

4 **SECTION 114.** 218.01 (2w) (e) of the statutes is renumbered 218.0125 (5) and
5 amended to read:

6 218.0125 (5) A manufacturer, importer or distributor who fails to compensate
7 a dealer for parts at an amount not less than the amount the dealer charges its other
8 retail service customers for parts used to perform similar work shall not be found to
9 have violated this ~~subsection~~ section if the manufacturer, importer or distributor
10 shows that the amount is not reasonably competitive to the amounts charged to retail
11 service customers by other similarly situated franchised motor vehicle dealers in this
12 state for the same parts when used by those dealers to perform similar work.

13 **SECTION 115.** 218.01 (2w) (f) of the statutes is renumbered 218.0125 (6) and
14 amended to read:

15 218.0125 (6) If a manufacturer, importer or distributor furnishes a part to a
16 dealer at no cost for use by the dealer in performing work for which the manufacturer,
17 importer or distributor is required to compensate the dealer under this ~~subsection~~
18 section, the manufacturer, importer or distributor shall compensate the dealer for
19 the part at an amount not less than the amount the dealer charges its other retail
20 customers for parts when used to perform similar work less the wholesale cost for
21 such the furnished part as listed in the manufacturer's current price schedules. A
22 manufacturer, importer or distributor may pay the dealer a reasonable handling fee
23 instead of the compensation otherwise required by this ~~subsection~~ section for special
24 high-performance complete engine assemblies furnished to the dealer at no cost,
25 provided that the manufacturer, importer or distributor excludes special

ASSEMBLY BILL 969**SECTION 115**

1 high-performance complete engine assemblies in determining whether the amounts
2 requested in the dealer's notice are consistent with the amounts that the dealer
3 charges its other retail service customers for parts used by the dealer to perform
4 similar work.

5 **SECTION 116.** 218.01 (2w) (g) of the statutes is renumbered 218.0125 (7) and
6 amended to read:

7 218.0125 (7) A claim made by a franchised motor vehicle dealer for
8 compensation under this ~~subsection~~ section shall be either approved or disapproved
9 within 30 days after the claim is submitted to the manufacturer, importer or
10 distributor in the manner and on the forms the manufacturer, importer or distributor
11 reasonably prescribes. An approved claim shall be paid within 30 days after its
12 approval; ~~and, if,~~ If a claim is not specifically disapproved in writing or by electronic
13 transmission within 30 days after the date on which the manufacturer, importer or
14 distributor receives it, the claim shall be considered to be approved and payment
15 shall follow within 30 days. A manufacturer, importer or distributor retains the right
16 to audit claims for a period of one year after the date on which the claim is paid and
17 to charge back any amounts paid on claims that are false or unsubstantiated. If there
18 is evidence of fraud, this ~~paragraph~~ subsection does not limit the right of the
19 manufacturer to audit for longer periods and charge back for any fraudulent claim,
20 subject to the limitations period under s. 893.93 (1) (b).

21 **SECTION 117.** 218.01 (2x) of the statutes is renumbered 218.0126 and amended
22 to read:

23 **218.0126 Promotional allowances.** A claim made by a franchised motor
24 vehicle dealer for promotional allowances or other incentive payments shall be either
25 approved or disapproved within 30 days after the claim is submitted to the

ASSEMBLY BILL 969**SECTION 117**

1 manufacturer, importer or distributor in the manner and on the forms the
2 manufacturer, importer or distributor reasonably prescribes. An approved claim
3 shall be paid within 30 days after its approval; ~~and, if.~~ If a claim is not specifically
4 disapproved in writing or by electronic transmission within 30 days after the date
5 on which the manufacturer, importer or distributor receives it, the claim shall be
6 considered to be approved and payment shall follow within 30 days after approval.
7 A manufacturer, importer or distributor retains the right to audit a claim for a period
8 of 2 years after the date on which the claim is paid and to charge back any amounts
9 paid on claims that are false or unsubstantiated. If there is evidence of fraud, this
10 ~~subsection~~ section does not limit the right of the manufacturer to audit for longer
11 periods and charge back for any fraudulent claim, subject to the limitations period
12 under s. 893.93 (1) (b).

13 **SECTION 118.** 218.01 (3) (title) of the statutes is renumbered 218.0116 (title).

14 **SECTION 119.** 218.01 (3) (a) (intro.) of the statutes is renumbered 218.0116 (1)
15 (intro.).

16 **SECTION 120.** 218.01 (3) (a) 1. of the statutes is renumbered 218.0116 (1) (a).

17 **SECTION 121.** 218.01 (3) (a) 2. of the statutes is renumbered 218.0116 (1) (am).

18 **SECTION 122.** 218.01 (3) (a) 3. of the statutes is renumbered 218.0116 (1) (b).

19 **SECTION 123.** 218.01 (3) (a) 4. of the statutes is renumbered 218.0116 (1) (bm)

20 and amended to read:

21 218.0116 (1) (bm) Wilful failure to comply with any provision of ~~this section~~ ss.
22 218.0101 to 218.0163 or any rule or regulation promulgated by the licensor under
23 ~~this section~~ ss. 218.0101 to 218.0163.

24 **SECTION 124.** 218.01 (3) (a) 5. of the statutes is renumbered 218.0116 (1) (c).

25 **SECTION 125.** 218.01 (3) (a) 6. of the statutes is renumbered 218.0116 (1) (cm).

ASSEMBLY BILL 969**SECTION 126**

1 **SECTION 126.** 218.01 (3) (a) 7. of the statutes is renumbered 218.0116 (1) (d).

2 **SECTION 127.** 218.01 (3) (a) 8. of the statutes is renumbered 218.0116 (1) (dm).

3 **SECTION 128.** 218.01 (3) (a) 9. of the statutes is renumbered 218.0116 (1) (e) and
4 amended to read:

5 218.0116 (1) (e) Fraudulent misrepresentation, circumvention or concealment
6 through whatsoever subterfuge or device of any of the material particulars or the
7 nature thereof required hereunder to be stated or furnished to the retail buyer, lessee
8 or prospective lessee.

9 **SECTION 129.** 218.01 (3) (a) 10. and 11. of the statutes are renumbered 218.0116
10 (1) (em) and (f) and amended to read:

11 218.0116 (1) (em) Employment of fraudulent devices, methods or practices in
12 connection with compliance with the statutes with respect to the retaking of goods
13 under retail instalment contracts or consumer leases and the redemption and resale
14 or subsequent lease of such the retaken goods.

15 (f) Having ~~indulged~~ engaged in any unconscionable practice relating to said the
16 business of selling motor vehicles.

17 **SECTION 130.** 218.01 (3) (a) 12. of the statutes is renumbered 218.0116 (1) (fm).

18 **SECTION 131.** 218.01 (3) (a) 13. of the statutes is renumbered 218.0116 (1) (g)
19 and amended to read:

20 218.0116 (1) (g) Having sold a retail instalment contract or consumer lease to
21 a sales finance company that is not licensed hereunder.

22 **SECTION 132.** 218.01 (3) (a) 14. of the statutes is renumbered 218.0116 (1) (gm).

23 **SECTION 133.** 218.01 (3) (a) 15. of the statutes is renumbered 218.0116 (1) (h)
24 and amended to read:

ASSEMBLY BILL 969**SECTION 133**

1 218.0116 (1) (h) Being a manufacturer, importer or distributor who has coerced
2 or attempted to coerce any motor vehicle dealer to order any commodity or service
3 or to accept delivery of or pay for any commodity or service that the motor vehicle
4 dealer has not ordered. This ~~subdivision~~ paragraph does not modify or prohibit
5 reasonable requirements in a franchise agreement that require a dealer to market
6 and service a representative line of new motor vehicles that the manufacturer,
7 importer or distributor is publicly advertising.

8 **SECTION 134.** 218.01 (3) (a) 16. of the statutes is renumbered 218.0116 (1) (hm)
9 and amended to read:

10 218.0116 (1) (hm) Being a manufacturer of motor vehicles, factory branch,
11 distributor, field representative, officer, agent or any representative ~~whatsoever~~ of
12 ~~such a~~ motor vehicle manufacturer or factory branch, who has attempted to induce
13 or coerce, or has induced or coerced, any motor vehicle dealer to enter into any
14 agreement with ~~such~~ the manufacturer, factory branch or representative ~~thereof~~ of
15 the motor vehicle manufacturer or factory branch, or to do any other act unfair to said
16 the dealer, by threatening to cancel any franchise existing between ~~such~~ the
17 manufacturer, factory branch or representative ~~thereof~~ of the motor vehicle
18 manufacturer or factory branch and said the dealer.

19 **SECTION 135.** 218.01 (3) (a) 17. of the statutes is renumbered 218.0116 (1) (i)
20 (intro.) and amended to read:

21 218.0116 (1) (i) (intro.) Subject to ~~sub. (3n)~~ s. 218.0132, being a manufacturer,
22 importer or distributor who has unfairly, without due regard to the equities or
23 without just provocation, directly or indirectly canceled or failed to renew the
24 franchise of any motor vehicle dealer; or being a manufacturer or importer, who has
25 unfairly, without due regard to the equities or without just provocation, directly or

ASSEMBLY BILL 969**SECTION 135**

1 indirectly canceled or failed to renew the franchise of any distributor. If there is a
2 change in a manufacturer, importer or distributor, a motor vehicle dealer's franchise
3 granted by the former manufacturer, importer or distributor shall continue in full
4 force and operation under the new manufacturer, importer or distributor unless a
5 mutual agreement of cancellation is filed with the department of transportation
6 between the new manufacturer, importer or distributor and the dealer. In this
7 ~~subdivision paragraph,~~ "due:

8 1. "Due regard to the equities" means treatment in enforcing an agreement that
9 is fair and equitable to a motor vehicle dealer or distributor and that is not
10 discriminatory compared to similarly situated dealers or distributors; ~~and~~ "just.

11 2. "Just provocation" means a material breach by a motor vehicle dealer or
12 distributor, due to matters within the dealer's or distributor's control, of a reasonable
13 and necessary provision of an agreement and the breach is not cured within a
14 reasonable time after written notice of the breach has been received from the
15 manufacturer, importer or distributor.

16 **SECTION 136.** 218.01 (3) (a) 18. of the statutes, as affected by 1997 Wisconsin
17 Act 48, is renumbered 218.0116 (1) (im) (intro.) and amended to read:

18 218.0116 (1) (im) (intro.) Having accepted an order or contract of purchase from
19 a buyer or a consumer lease or prelease agreement from a lessee or prospective lessee
20 if such the arrangement results in the practice of bushing. ~~For the purpose of~~ In this
21 ~~section paragraph,~~ "bushing" means, ~~with:~~

22 1. With respect to an order or contract of purchase, the practice of increasing
23 the selling price of a motor vehicle above that originally quoted the purchaser as
24 evidenced by a purchase order or contract which has been signed by both the
25 purchaser and dealer licensee ~~and, with,~~

ASSEMBLY BILL 969**SECTION 136**

1 2. With respect to a consumer lease or prelease agreement, the practice of
2 increasing the gross capitalized cost above that originally quoted the lessee or
3 prospective lessee as evidenced by a consumer lease or prelease agreement which has
4 been signed by both the lessee or prospective lessee and the dealer licensee.

NOTE: Even though the unamended text refers to "this section", the only occurrence
of the term is in this statutory subunit. As a result, "section" is amended to refer only to
"paragraph".

5 **SECTION 137.** 218.01 (3) (a) 19. of the statutes is renumbered 218.0116 (1) (j).

6 **SECTION 138.** 218.01 (3) (a) 20. of the statutes is renumbered 218.0116 (1) (jm)

7 and amended to read:

8 218.0116 (1) (jm) Having set up, promoted or aided in the promotion of a plan
9 by which motor vehicles are sold or leased to a person for a consideration and upon
10 the further consideration that the purchaser or lessee agrees to secure one or more
11 persons to participate in the plan by respectively making a similar purchase or lease
12 and in turn agreeing to secure one or more persons likewise to join in said the plan,
13 each purchaser or lessee being given the right to secure money, credits, goods or
14 something of value, depending upon the number of persons joining in the plan.

15 **SECTION 139.** 218.01 (3) (a) 21. of the statutes is renumbered 218.0116 (1) (k)

16 and amended to read:

17 218.0116 (1) (k) Being a dealer who keeps open the dealer's place of business
18 on Sunday for the purpose of buying, leasing or selling motor vehicles; but nothing
19 in this ~~subdivision~~ paragraph shall apply to any person who conscientiously believes
20 that the 7th day of the week, from sunset Friday to sunset Saturday, should be
21 observed as the Sabbath and who actually refrains from conducting or engaging in
22 the business of buying, leasing, selling or offering for lease or sale motor vehicles, or
23 performing other secular business on that day.

ASSEMBLY BILL 969**SECTION 140**

1 **SECTION 140.** 218.01 (3) (a) 22. of the statutes is renumbered 218.0116 (1) (km)
2 and amended to read:

3 218.0116 (1) (km) Being a manufacturer, importer or distributor who violates
4 ~~sub. (2e), (2d), (2f), (2g) or (2w)~~ s. 218.0121, 218.0122, 218.0123, 218.0124 or
5 218.0125.

6 **SECTION 141.** 218.01 (3) (a) 23. of the statutes is renumbered 218.0116 (1) (L)
7 and amended to read:

8 218.0116 (1) (L) Being a motor vehicle dealer who, in breach of an agreement,
9 voluntarily changes its ownership or executive management, transfers its
10 dealership assets to another person, adds another franchise at the same location as
11 its existing franchise, or relocates a franchise without first complying with the
12 procedures in ~~sub. (3x)~~ s. 218.0134.

13 **SECTION 142.** 218.01 (3) (a) 24. of the statutes is renumbered 218.0116 (1) (Lm)
14 and amended to read:

15 218.0116 (1) (Lm) Being a manufacturer, importer or distributor who fails to
16 comply with the procedures in ~~sub. (3x)~~ s. 218.0134 regarding a dealer's request for
17 approval of a change of ownership or executive management, transfer of its
18 dealership assets to another person, adding another franchise at the same location
19 as its existing franchise, or relocation of a franchise or who fails to comply with an
20 order of the division of hearings and appeals issued under ~~sub. (3x)~~ s. 218.0134.

21 **SECTION 143.** 218.01 (3) (a) 25. of the statutes is renumbered 218.0116 (1) (m).

22 **SECTION 144.** 218.01 (3) (a) 26. of the statutes is renumbered 218.0116 (1) (mm)
23 and amended to read:

24 218.0116 (1) (mm) Being a manufacturer, factory branch, distributor, field
25 representative, officer, agent or any representative of ~~such a~~ a manufacturer, factory

ASSEMBLY BILL 969**SECTION 144**

1 branch or distributor who, notwithstanding the terms of any agreement, refuses to
2 honor the succession to the ownership or operation of a dealership under an existing
3 franchise agreement by a designated family member of a deceased or incapacitated
4 dealer, except in the manner prescribed by ~~sub. (3e)~~ s. 218.0131, or who unreasonably
5 withholds its approval of a change of ownership or executive management of the
6 dealership after the dealer's death or incapacity.

7 **SECTION 145.** 218.01 (3) (a) 27. of the statutes is renumbered 218.0116 (1) (n).

8 **SECTION 146.** 218.01 (3) (a) 28. of the statutes is renumbered 218.0116 (1) (nm)
9 and amended to read:

10 218.0116 (1) (nm) Wilful failure to provide and maintain facilities and business
11 records as required by ~~this section~~ ss. 218.0101 to 218.0163 or by any rule
12 promulgated by the licensor pertaining to facility and business records.

13 **SECTION 147.** 218.01 (3) (a) 29. of the statutes is renumbered 218.0116 (1) (o).

14 **SECTION 148.** 218.01 (3) (a) 30. of the statutes is renumbered 218.0116 (1) (om).

15 **SECTION 149.** 218.01 (3) (a) 31. of the statutes is renumbered 218.0116 (1) (p)
16 and amended to read:

17 218.0116 (1) (p) Having violated an order issued under ~~par. (h)~~ sub. (10).

18 **SECTION 150.** 218.01 (3) (a) 32. of the statutes is renumbered 218.0116 (1) (pm)
19 and amended to read:

20 218.0116 (1) (pm) Being a manufacturer, factory branch or distributor who
21 enters into a franchise agreement establishing or relocating a motor vehicle
22 dealership, parts outlet or service outlet in a relevant market area without first
23 complying with the procedure in ~~par. (f) 1.~~ sub. (7) (a).

24 **SECTION 151.** 218.01 (3) (a) 35. of the statutes is renumbered 218.0116 (1) (q)
25 and amended to read:

ASSEMBLY BILL 969**SECTION 151**

1 218.0116 (1) (q) Being a manufacturer, factory branch or distributor who
2 engages in any action which transfers to a motor vehicle dealer any responsibility of
3 the manufacturer, factory branch or distributor under s. ~~218.015~~ 218.0171.

4 **SECTION 152.** 218.01 (3) (a) 36. (intro.) of the statutes is renumbered 218.0116
5 (1) (qm) (intro.).

6 **SECTION 153.** 218.01 (3) (a) 36. a. of the statutes is renumbered 218.0116 (1)
7 (qm) 1. and amended to read:

8 218.0116 (1) (qm) 1. Fails to notify the department of transportation of any
9 revision or addition to an agreement as required under ~~sub. (2) (bd) 1.~~ s. 218.0114 (7)
10 (a).

11 **SECTION 154.** 218.01 (3) (a) 36. b. of the statutes is renumbered 218.0116 (1)
12 (qm) 2. and amended to read:

13 218.0116 (1) (qm) 2. Fails to revise or remove portions of an agreement that the
14 department of transportation declares to contain provisions which are inconsistent
15 with ~~sub. (2) (bm)~~ s. 218.0114 (9).

16 **SECTION 155.** 218.01 (3) (a) 36. c. of the statutes is renumbered 218.0116 (1)
17 (qm) 3. and amended to read:

18 218.0116 (1) (qm) 3. Requires or coerces a dealer or distributor to execute sign
19 an agreement, as a condition of obtaining or continuing a franchise, that contains
20 provisions that are void or prohibited under ~~sub. (2) (bm)~~ s. 218.0114 (9) or attempts
21 to enforce an agreement with void or prohibited provisions.

22 **SECTION 156.** 218.01 (3) (a) 36. d. of the statutes is renumbered 218.0116 (1)
23 (qm) 4. (intro.) and amended to read:

24 218.0116 (1) (qm) 4. (intro.) Requires or coerces a dealer or distributor to
25 execute sign an agreement that requires arbitration as a condition of obtaining or

ASSEMBLY BILL 969**SECTION 156**

1 continuing a franchise, unless the dealer or distributor has the option of signing an
2 otherwise identical agreement without the arbitration provision or unless the
3 agreement provides for arbitration on a case-by-case basis and only when both
4 parties elect to refer the matter to arbitration. This ~~subd. 36. d.~~ subdivision does not
5 apply to a manufacturer or distributor who enters into an agreement that creates a
6 new franchise for a new line make of motor vehicle, if the each of the following is
7 applicable:

8 a. The arbitration provision was the subject of good faith negotiations with a
9 representative group of dealers, ~~and if each.~~

10 b. Each dealer voluntarily accepts the arbitration provision after receiving a
11 franchise offering circular under s. 553.27 (4) that discloses the existence and effect
12 of the arbitration provision, ~~and if the.~~

13 c. The manufacturer or dealer files a copy of the franchise offering circular and
14 proof of good faith negotiation and voluntary acceptance of the arbitration with any
15 filing required under ~~sub. (2) (bd) 1.~~ s. 218.0114 (7) (a).

16 **SECTION 157.** 218.01 (3) (a) 37. of the statutes is renumbered 218.0116 (1) (r)
17 and amended to read:

18 218.0116 (1) (r) Being a manufacturer, distributor or importer who fails to
19 designate in writing the area of sales responsibility assigned to a motor vehicle
20 dealer or who changes or attempts to change an area of sales responsibility to avoid
21 the requirements of ~~par. (f)~~ sub. (7).

22 **SECTION 158.** 218.01 (3) (a) 38. of the statutes is renumbered 218.0116 (1) (rm)
23 and amended to read:

ASSEMBLY BILL 969**SECTION 158**

1 218.0116 (1) (rm) Being a grantor, as defined in ~~sub. (3r) (a) 2.~~ s. 218.0133 (1)
2 **(b)**, who fails to pay a motor vehicle dealer agreement termination benefits under
3 ~~sub. (3r)~~ s. 218.0133.

4 **SECTION 159.** 218.01 (3) (a) 39. of the statutes is renumbered 218.0116 (1) (s)
5 and amended to read:

6 218.0116 (1) (s) Being a manufacturer or distributor who modifies a motor
7 vehicle dealer agreement during the term of the agreement or upon its renewal
8 without complying with ~~par. (fm)~~ sub. (8).

9 **SECTION 160.** 218.01 (3) (a) 40. of the statutes is renumbered 218.0116 (1) (sm)
10 and amended to read:

11 218.0116 (1) (sm) Having violated s. ~~218.017~~ 218.0172.

12 **SECTION 161.** 218.01 (3) (a) 41. of the statutes is renumbered 218.0116 (1) (t)
13 and amended to read:

14 218.0116 (1) (t) Being a manufacturer, importer or distributor who compels a
15 dealer, through a financing subsidiary of the manufacturer, importer or distributor,
16 to agree to unreasonable operating requirements or who directly or indirectly cancels
17 or fails to renew a dealer's franchise, except as allowed under ~~subs. (3) (a) 17. and (3n)~~
18 par. (i) and s. 218.0132, through the actions of a financing subsidiary of the
19 manufacturer, importer or distributor. This ~~subdivision~~ paragraph does not limit the
20 right of a financing subsidiary to engage in business practices in accordance with the
21 usages of the trade in which it is engaged.

22 **SECTION 162.** 218.01 (3) (a) 42. of the statutes is renumbered 218.0116 (1) (tm)
23 and amended to read:

ASSEMBLY BILL 969**SECTION 162**

1 218.0116 (1) (tm) Being a licensee who wilfully refuses or fails to participate
2 in mediation pursuant to a demand for mediation served under sub. (7m) (a) s.
3 218.0136 (1).

4 **SECTION 163.** 218.01 (3) (a) 43. of the statutes is renumbered 218.0116 (1) (u).

5 **SECTION 164.** 218.01 (3) (b) of the statutes is renumbered 218.0116 (2) and
6 amended to read:

7 218.0116 (2) The licensor may without prior notice deny the application for a
8 license within 60 days after receipt ~~thereof~~ of the application by written notice to the
9 applicant, stating the grounds for such ~~the~~ the denial. Within 30 days after such
10 receiving the notice, the applicant may petition the division of hearings and appeals
11 to conduct a hearing to review the denial, and a hearing shall be scheduled with
12 reasonable promptness.

13 **SECTION 165.** 218.01 (3) (bf) of the statutes is renumbered 218.0116 (3) and
14 amended to read:

15 218.0116 (3) (a) 1. Except as provided in subd. 1. b. 2., the department of
16 transportation shall not license an applicant as a dealer ~~an applicant~~ for the sale or
17 lease of motor vehicles at retail unless such ~~the~~ the applicant owns or leases a vehicle
18 display lot and a permanent building ~~wherein~~ in which there are facilities to display
19 motor vehicles and ~~facilities~~ to repair functional and nonfunctional parts of motor
20 vehicles and, where replacement parts, repair tools and equipment to service motor
21 vehicles are kept, and at which ~~place of business shall be kept and maintained~~ the
22 books, records and files necessary to conduct the dealer's business shall be kept and
23 maintained.

24 1m. A residence, tent or temporary stand is not a sufficiently permanent place
25 of business building within the meaning of ~~this paragraph~~ subd. 1.

ASSEMBLY BILL 969**SECTION 165**

1 2. The requirements in subd. 1. a. that an applicant own or lease a vehicle
2 display lot and that the permanent building owned or leased by the applicant contain
3 facilities to display motor vehicles do not apply to persons who are engaged only in
4 the leasing of motor vehicles and who do not maintain an inventory of motor vehicles
5 offered for lease.

6 (b) An approved service contract with an established repair shop having the
7 repair parts and repair facilities specified in ~~subd. par. (a)~~ 1. shall serve in lieu of the
8 applicant's owning or leasing the applicant's own repair facilities if ~~such~~ the service
9 connection is within a reasonable distance from the applicant's place of business and
10 if ~~such~~ the service connection guarantees in writing the making of the repairs or
11 replacements ordered by the dealer.

12 (c) This ~~paragraph~~ subsection does not apply to persons who deal only in
13 mopeds or motor bicycles.

14 **SECTION 166.** 218.01 (3) (c) of the statutes is renumbered 218.0116 (4) and
15 amended to read:

16 218.0116 (4) (a) No license may be suspended or revoked except after a hearing
17 ~~thereon on the possible suspension or revocation.~~ Except as provided in subd. ~~2.~~ par.
18 (b), the licensor shall give the licensee at least 5 days' notice of the time and place of
19 ~~such the hearing, and the.~~ The order suspending or revoking ~~such the~~ license shall
20 not be effective until after 10 days' written notice ~~thereof of the order~~ to the licensee,
21 after ~~such the hearing under this paragraph~~ has been had held.

22 (b) When in the licensor's opinion the best interest of the public or the trade
23 demands it, for conduct or under circumstances specified in ~~this section ss. 218.0101~~
24 to 218.0163 or in rules promulgated by the licensor, the licensor may suspend a

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1 license upon not less than 24 hours' notice of hearing and with not less than 24 hours'
2 notice of the suspension of the license.

3 (c) Matters involving suspensions or revocations brought before the
4 department of transportation shall be heard and decided upon by the division of
5 hearings and appeals. If the department of transportation requests the division of
6 hearings and appeals to hear a matter brought before the department of
7 transportation under ~~subd. 2. par. (b)~~, the division of hearings and appeals shall hear
8 and decide the matter within 30 days after the date of the department of
9 transportation's request.

10 **SECTION 167.** 218.01 (3) (d) of the statutes is renumbered 218.0116 (5) and
11 amended to read:

12 218.0116 (5) The licensor may inspect the pertinent books, records, letters and
13 contracts of a licensee and shall determine the cost of an examination. The cost of
14 an examination shall be paid by ~~such~~ the licensee so examined within 30 days after
15 demand therefor ~~for the examination~~ by the licensor, ~~and the~~. The licensor may
16 maintain an action for the recovery of ~~such~~ the costs of the examination in any court
17 of competent jurisdiction.

18 **SECTION 168.** 218.01 (3) (e) of the statutes is renumbered 218.0116 (6) and
19 amended to read:

20 218.0116 (6) If a licensee is a firm, corporation or limited liability company, it
21 shall be sufficient cause for the denial, suspension or revocation of a license that any
22 officer, director, trustee or manager of the firm, corporation or limited liability
23 company, or any member in case of a partnership, has been guilty of any act or
24 omission which would be cause for refusing, suspending or revoking a license to ~~such~~
25 that party as an individual. Each licensee shall be responsible for the acts of any or

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1 all of his or her salespersons while acting as his or her agent, if the licensee approved
2 of or had knowledge of the acts or other similar acts and after such approval
3 approving of or obtaining knowledge of the acts retained the benefit, proceeds, profits
4 or advantages accruing from the acts or otherwise ratified the acts.

5 **SECTION 169.** 218.01 (3) (f) 1. of the statutes is renumbered 218.0116 (7) (a) 1.
6 and amended to read:

7 218.0116 (7) (a) 1. A manufacturer, importer or distributor who seeks to enter
8 into a franchise agreement establishing or relocating a motor vehicle dealership,
9 parts outlet or service outlet within the relevant market area of an existing
10 enfranchised dealer of the line make of motor vehicle shall first notify, in writing, the
11 department of transportation and each such that existing enfranchised dealer of its
12 intention to establish or relocate a dealership or outlet. Within 30 days of receiving
13 the notice or within 30 days after the end of any appeal procedure provided by the
14 manufacturer, importer or distributor, whichever is later, any existing enfranchised
15 dealer of the same line make to whom the manufacturer, importer or distributor is
16 ~~required to give~~ entitled to receive notice under this subdivision paragraph may file
17 with the department of transportation and the division of hearings and appeals a
18 complaint protesting the proposed establishment or relocation of the dealership or
19 outlet within the relevant market area of the existing enfranchised dealer.

20 2. If a complaint is filed under subd. 1., the department of transportation shall
21 inform the manufacturer, importer or distributor that a timely complaint has been
22 filed, that a hearing is required, and that the proposed franchise agreement may not
23 be entered into until the division of hearings and appeals has held a hearing, nor
24 thereafter, if the division of hearings and appeals determines that there is good cause
25 for not permitting the proposed establishment or relocation of the dealership or

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1 outlet. In the event of multiple complaints, hearings shall be consolidated to expedite
2 the disposition of the issue.

3 **SECTION 170.** 218.01 (3) (f) 2. of the statutes is renumbered 218.0116 (7) (b), and
4 218.0116 (7) (b) 8., as renumbered, is amended to read:

5 218.0116 (7) (b) 8. The effect the denial of such the proposed establishment or
6 relocation would have on the license applicant, dealer or outlet operator who is
7 seeking to establish or relocate a dealership or outlet.

8 **SECTION 171.** 218.01 (3) (f) 3. of the statutes is renumbered 218.0116 (7) (c).

9 **SECTION 172.** 218.01 (3) (f) 4. (intro.) of the statutes is renumbered 218.0116
10 (7) (d) (intro.) and amended to read:

11 218.0116 (7) (d) (intro.) For purposes of this ~~paragraph~~ subsection:

12 **SECTION 173.** 218.01 (3) (f) 4. a. of the statutes is renumbered 218.0116 (7) (d)
13 1h. and amended to read:

14 218.0116 (7) (d) 1h. The reopening or replacement of a dealership or outlet that
15 has been closed for less than 2 years, at the original location or within 2 miles of the
16 original location by the closest highway route, is not the establishment of a motor
17 vehicle dealership or outlet, unless the location is within 4 miles, by the closest
18 highway route, of another franchised dealer of the same line make and is closer to
19 that dealer than the closed dealership or outlet. ~~In this subd. 4. a., "closed" means~~
20 ~~the effective date of the termination or expiration of the dealership's or outlet's~~
21 ~~license or franchise, whichever is earlier.~~

22 1m. The reopening or replacement of a dealership or outlet that has been closed
23 for less than 2 years at a location other than the original location and other than a
24 location within 2 miles of the original location by the closest highway route, but
25 within the area of sales responsibility that had been assigned to the closed dealership

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1 or outlet by the manufacturer, importer or distributor is not the establishment of a
2 motor vehicle dealership or outlet, unless the new location is within 6 miles, by the
3 closest highway route, of another franchised dealer of the same line make and is
4 closer to that dealer than the closed dealership or outlet.

5 1q. The reopening or replacement of a dealership or outlet that has been closed
6 for 2 or more years or that is at a location outside of the area of sales responsibility
7 that had been assigned to the closed dealership or outlet by the manufacturer,
8 importer or distributor is the establishment of a dealership or outlet.

9 **SECTION 174.** 218.01 (3) (f) 4. b. of the statutes is renumbered 218.0116 (7) (d)
10 2.

11 **SECTION 175.** 218.01 (3) (f) 4. c. of the statutes is renumbered 218.0116 (7) (d)
12 3. and amended to read:

13 218.0116 (7) (d) 3. The establishment or relocation of a service or parts outlet
14 requires that notice be given under ~~subd. 1. par. (a)~~ par. (a) to existing enfranchised dealers
15 who are otherwise entitled to receive such notice under par. (a) and who are
16 authorized to perform work to rectify product or warranty defects or delivery and
17 preparation obligations on the same line make as the proposed service outlet or to
18 use a trade name, trademark or service mark that is also proposed to be used by the
19 proposed service or parts outlet, except that the establishment or relocation of a
20 service or parts outlet that is owned and operated by a motor vehicle dealership
21 enfranchised by the manufacturer, importer or distributor requires that notice be
22 given only to existing dealers who are otherwise entitled to receive such notice under
23 par. (a) and who hold a franchise to sell the same line make as the dealership that
24 will own and operate the proposed service or parts outlet.

ASSEMBLY BILL 969**SECTION 176**

1 **SECTION 176.** 218.01 (3) (f) 4. d. of the statutes is renumbered 218.0116 (7) (d)

2 4. and amended to read:

3 218.0116 (7) (d) 4. A manufacturer's, importer's or distributor's authorization
4 of a fleet owner to perform warranty or delivery and preparation work only on the
5 fleet owner's own vehicles is not the establishment of a service outlet. In this subd.
6 4. d. subdivision, "fleet;

7 a. "Fleet owner" means a person who owns for its own use or for the use of others
8 10 or more motor vehicles of the current or preceding model year manufactured or
9 sold by the manufacturer, importer or distributor who is authorizing the warranty
10 work to be performed, ~~except that~~ "fleet;

11 b. "Fleet owner" does not include persons engaged in the business of leasing
12 motor vehicles to individual consumers.

13 **SECTION 177.** 218.01 (3) (f) 4. e. of the statutes is renumbered 218.0116 (7) (d)

14 5.

15 **SECTION 178.** 218.01 (3) (fm) of the statutes is renumbered 218.0116 (8).

16 **SECTION 179.** 218.01 (3) (g) of the statutes, as affected by 1997 Wisconsin Act
17 27, is renumbered 218.0116 (9) and amended to read:

18 218.0116 (9) Any person in interest aggrieved by a decision of the division of
19 hearings and appeals or an order of the division of banking may have a review ~~thereof~~
20 of the decision as provided in ch. 227.

21 **SECTION 180.** 218.01 (3) (h) of the statutes is renumbered 218.0116 (10) and
22 amended to read:

23 218.0116 (10) In addition to the licensor's authority to deny, suspend or revoke
24 a license under ~~this section ss. 218.0101 to 218.0163~~, the division of banking, after
25 public hearing, may issue a special order enjoining any licensee from engaging in any

ASSEMBLY BILL 969**SECTION 180**

1 act or practice which is determined by the division of banking to be in violation of any
2 provision of ~~par. (a)~~ sub. (1), and the division of hearings and appeals may be
3 petitioned to issue such a special order after notice and hearing thereon.

4 **SECTION 181.** 218.01 (3a) (title) of the statutes is renumbered 218.0117 (title).

5 **SECTION 182.** 218.01 (3a) (a) of the statutes is renumbered 218.0117 (1) and
6 amended to read:

7 218.0117 (1) If a dealer, distributor or manufacturer is convicted under s.
8 341.55 (1) a ~~second~~ 2nd or subsequent time within the same registration year, the
9 department of transportation shall revoke the license of ~~such~~ the dealer, distributor
10 or manufacturer for a period not to exceed one year. For the purposes of this
11 ~~paragraph~~ subsection, the conviction of ~~the~~ an employe of a dealer, distributor or
12 manufacturer shall be counted as a conviction of the employer.

13 **SECTION 183.** 218.01 (3a) (b) of the statutes is renumbered 218.0117 (2) and
14 amended to read:

15 218.0117 (2) If a transporter is convicted under s. 341.55 (3) a 2nd or
16 subsequent time within the same license period, the department of transportation
17 shall revoke the license of ~~such~~ the transporter for a period not to exceed one year.

18 **SECTION 184.** 218.01 (3a) (c) of the statutes is renumbered 218.0117 (3) and
19 amended to read:

20 218.0117 (3) A dealer, distributor, manufacturer or transporter whose license
21 has been revoked shall ~~forthwith~~ immediately surrender its registration plates to a
22 traffic officer or peace officer designated by the department of transportation. A
23 dealer, distributor, manufacturer or transporter who fails to return the plates as
24 required by this ~~subsection~~ section may be fined not more than \$200 or imprisoned
25 for not more than 6 months or both.

ASSEMBLY BILL 969**SECTION 185**

1 **SECTION 185.** 218.01 (3a) (d) of the statutes is renumbered 218.0117 (4).

2 **SECTION 186.** 218.01 (3c) (title) of the statutes is renumbered 218.0131 (title).

3 **SECTION 187.** 218.01 (3c) (b) of the statutes is renumbered 218.0131 (1) and
4 amended to read:

5 218.0131 (1) Any designated family member of a deceased or incapacitated
6 dealer shall have the right to succeed such the deceased or incapacitated dealer in
7 the ownership or operation of the dealership under the existing franchise agreement
8 ~~provided~~ if the designated family member gives the manufacturer, factory branch or
9 distributor written notice of his or her intention to do so within 120 days of the
10 dealer's death or incapacity ~~and~~, unless there exists good cause for refusal to honor
11 such the succession on the part of the manufacturer, factory branch or distributor.
12 The manufacturer, factory branch or distributor may request, and the designated
13 family member shall provide, such personal and financial data as that is reasonably
14 necessary to determine whether the succession should be honored.

15 **SECTION 188.** 218.01 (3c) (c) of the statutes is renumbered 218.0131 (2) and
16 amended to read:

17 218.0131 (2) If a manufacturer, factory branch or distributor believes it has
18 good cause for refusing to honor the succession to the ownership and operation of a
19 dealership by a family member of a deceased or incapacitated dealer under the
20 existing franchise agreement, such the manufacturer, factory branch or distributor
21 may, within 30 days of receipt of notice of the designated family member's intent to
22 succeed the dealer in the ownership and operation of the dealership, serve upon such
23 the designated family member and the department of transportation notice of its
24 refusal to honor the succession and of its intent to discontinue the existing franchise
25 agreement with the dealership no sooner than 60 days from the date such the notice

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1 is served. ~~Sueh~~ The notice shall state the specific grounds for the refusal to honor
2 the succession and the discontinuance of the franchise agreement. If no notice of
3 ~~sueh~~ refusal and discontinuance is timely served upon the family member and
4 department of transportation, or if the division of hearings and appeals rules in favor
5 of the complainant in a hearing held under ~~par. (d)~~ sub. (3), the franchise agreement
6 shall continue in effect subject to termination only in the manner prescribed in this
7 subchapter.

8 **SECTION 189.** 218.01 (3c) (d) of the statutes is renumbered 218.0131 (3) (a) and
9 amended to read:

10 218.0131 **(3)** (a) Any designated family member who receives a notice of the
11 manufacturer's, factory branch's or distributor's refusal to honor his or her
12 succession to the ownership and operation of the dealership may, within the 60-day
13 notice period, serve on the respondent and file in triplicate with the division of
14 hearings and appeals a verified complaint for a hearing and determination by the
15 division of hearings and appeals on whether good cause exists for ~~sueh~~ the
16 manufacturer's, factory branch's or distributor's refusal and discontinuance. The
17 division of hearings and appeals shall forward a copy of the complaint to the
18 department of transportation.

19 (b) The manufacturer, factory branch or distributor shall, at the hearing held
20 under par. (a), have the burden of establishing good cause for ~~sueh~~ its refusal by
21 showing that the succession would be detrimental to the public interest or to the
22 representation of the manufacturer, factory branch or distributor. The franchise
23 agreement shall continue in effect until the final determination of the issues raised
24 in ~~sueh~~ the complaint.

ASSEMBLY BILL 969**SECTION 189**

1 (c) If the complainant prevails, at the hearing held under par. (a), he or she shall
2 have a cause of action against the defendant manufacturer, factory branch or
3 distributor for reasonable expenses and attorney fees incurred in ~~such~~ the matter.
4 If the manufacturer, factory branch or distributor prevails, the division of hearings
5 and appeals shall include in its order approving the termination of the franchise
6 agreement ~~such~~ conditions as that are reasonable and adequate to afford the
7 complainant an opportunity to receive fair and reasonable compensation for the
8 value of the dealership.

9 **SECTION 190.** 218.01 (3c) (e) of the statutes is renumbered 218.0131 (4) and
10 amended to read:

11 218.0131 (4) Nothing in this ~~subsection~~ section shall prevent a dealer, during
12 the dealer's lifetime, from designating any person as his or her successor dealer by
13 written instrument filed with the manufacturer, factory branch or distributor.

14 **SECTION 191.** 218.01 (3n) (title) of the statutes is renumbered 218.0132 (title).

15 **SECTION 192.** 218.01 (3n) (a) of the statutes is renumbered 218.0132 (1) (a) and
16 amended to read:

17 218.0132 (1) (a) For purposes of ~~sub. (3) (a) 17. s. 218.0116 (1) (i)~~, the
18 termination, cancellation or discontinuation of a motor vehicle line make will be
19 considered to be the cancellation or failure to renew the franchise of a motor vehicle
20 dealer or distributor of that line make even if that line make is part of an agreement
21 that includes other line makes ~~but~~.

22 (b) Notwithstanding par. (a), a manufacturer, importer or distributor may
23 change, add or delete models, specifications, model names, numbers or identifying
24 marks or similar characteristics of motor vehicles that it markets without effecting
25 a cancellation or failure to renew a franchise.

ASSEMBLY BILL 969**SECTION 193**

1 **SECTION 193.** 218.01 (3n) (b) (intro.) of the statutes is renumbered 218.0132 (2)
2 (intro.) and amended to read:

3 218.0132 **(2)** (intro.) The cancellation or nonrenewal of a franchise shall not be
4 a violation of ~~sub. (3) (a) 17.~~ s. 218.0116 (1) (i) if all of the following requirements are
5 met:

6 **SECTION 194.** 218.01 (3n) (b) 1. of the statutes is renumbered 218.0132 (2) (a).

7 **SECTION 195.** 218.01 (3n) (b) 2. of the statutes is renumbered 218.0132 (2) (b).

8 **SECTION 196.** 218.01 (3n) (b) 3. of the statutes is renumbered 218.0132 (2) (c)
9 and amended to read:

10 218.0132 **(2)** (c) If the franchisee is a motor vehicle dealer, the dealer receives
11 the termination benefits under ~~sub. (3r)~~ s. 218.0133.

12 **SECTION 197.** 218.01 (3n) (b) 4. (intro.) of the statutes is renumbered 218.0132
13 (2) (d) (intro.).

14 **SECTION 198.** 218.01 (3n) (b) 4. a. of the statutes is renumbered 218.0132 (2)
15 (d) 1.

16 **SECTION 199.** 218.01 (3n) (b) 4. b. of the statutes is renumbered 218.0132 (2)
17 (d) 2. and amended to read:

18 218.0132 **(2)** (d) 2. Compensates the dealer or distributor for the actual
19 pecuniary loss caused by the franchise cancellation or nonrenewal. In determining
20 the actual pecuniary loss, the value of any continued service or parts business
21 available to the dealer or distributor for the line make covered by the franchise shall
22 be considered. If the dealer or distributor and the manufacturer, importer or
23 distributor cannot agree on the amount of compensation to be paid under this ~~subd.~~
24 ~~4. b.~~ subdivision, either may file a declaratory judgment action in a court of
25 competent jurisdiction.

ASSEMBLY BILL 969**SECTION 200**

1 **SECTION 200.** 218.01 (3n) (b) 4. c. of the statutes is renumbered 218.0132 (2)
2 (d) 3. and amended to read:

3 218.0132 **(2)** (d) 3. Establishes, in a proceeding brought by the dealer or
4 distributor alleging that the cancellation or nonrenewal violates ~~sub. (3) (a) 17. s.~~
5 218.0116 (1) (i), that the continued distribution of the line make in the United States
6 would cause it economic loss and that, after the effective date of the franchise
7 cancellation or nonrenewal, neither the manufacturer, importer or distributor nor
8 any owner, assignee or licensee of the trademarks or service marks used for the
9 purpose of designating, making known or distinguishing the line make covered by
10 the franchise will use the trademarks or service marks, either alone or in conjunction
11 with other marks, in designating, making known or distinguishing any line make of
12 motor vehicle sold or distributed in the United States.

13 **SECTION 201.** 218.01 (3n) (b) 4. d. of the statutes is renumbered 218.0132 (2)
14 (d) 4. (intro.) and amended to read:

15 218.0132 **(2)** (d) 4. (intro.) If the franchise relates to a line make that is sold or
16 distributed in less than 13 states of the United States, establishes, in a proceeding
17 brought by the dealer or distributor alleging that the cancellation or nonrenewal
18 violates ~~sub. (3) (a) 17. s. 218.0116 (1) (i)~~, that the all of the following:

19 a. The continued distribution of the line make in this state would cause it
20 economic loss ~~and that, after,~~

21 b. After the effective date of the franchise cancellation or nonrenewal, neither
22 the manufacturer, importer or distributor nor any owner, assignee or licensee of the
23 trademarks or service marks used for the purpose of designating, making known or
24 distinguishing the line make covered by the franchise will use ~~such~~ those trademarks
25 or service marks, either alone or in conjunction with other marks, in designating,

ASSEMBLY BILL 969**SECTION 201**

1 making known or distinguishing any line make of motor vehicle sold or distributed
2 in this state, except that, if the line make covered by the franchise has been first
3 distributed in this state less than 2 years before the effective date of the cancellation
4 or nonrenewal, ~~such~~ those trademarks and service marks may be used in this state
5 after 6 years from the effective date of the cancellation or nonrenewal.

6 **SECTION 202.** 218.01 (3n) (b) 4. e. of the statutes is renumbered 218.0132 (2)
7 (d) 5. (intro.) and amended to read:

8 218.0132 (2) (d) 5. (intro.) Establishes, in a proceeding brought by the dealer
9 or distributor alleging that the cancellation or nonrenewal violates sub. (3) (a) 17. s.
10 218.0116 (1) (i), ~~that the~~ all of the following:

11 a. The continued distribution of the line make in this state is prohibited by law
12 or by an order of a court or agency with jurisdiction to issue the order ~~and that the~~.

13 b. The continued distribution of the line make in this state cannot be made to
14 comply with the law or order through the reasonable efforts of the manufacturer,
15 importer or distributor ~~and that, after~~.

16 c. After the effective date of the franchise cancellation or nonrenewal, neither
17 the manufacturer, importer or distributor nor any owner, assignee or licensee of the
18 trademarks or service marks used for the purpose of designating, making known or
19 distinguishing the line make covered by the franchise will use ~~such~~ those trademarks
20 or service marks, either alone or in conjunction with other marks, in designating,
21 making known or distinguishing any comparable line make of motor vehicle sold or
22 distributed in this state.

23 **SECTION 203.** 218.01 (3r) (title) of the statutes is renumbered 218.0133 (title).

24 **SECTION 204.** 218.01 (3r) (a) (intro.) of the statutes is renumbered 218.0133 (1)
25 (intro.) and amended to read:

ASSEMBLY BILL 969**SECTION 204**

1 218.0133 (1) (intro.) In this subsection ~~section~~ section:

2 **SECTION 205.** 218.01 (3r) (a) 1. of the statutes is renumbered 218.0133 (1) (a).

3 **SECTION 206.** 218.01 (3r) (a) 2. of the statutes is renumbered 218.0133 (1) (b).

4 **SECTION 207.** 218.01 (3r) (b) 1. of the statutes is renumbered 218.0133 (2) (a)

5 and amended to read:

6 218.0133 (2) (a) Except as provided in ~~par. (e) sub. (5)~~ and subject to ~~par. (e) sub.~~

7 ~~(3)~~, when a grantor or motor vehicle dealer terminates, cancels or does not renew an

8 agreement a grantor shall pay a motor vehicle dealer all of the termination benefits

9 under ~~subds. 2. to 5. pars. (b) to (e).~~

10 **SECTION 208.** 218.01 (3r) (b) 2. of the statutes is renumbered 218.0133 (2) (b)

11 1. (intro.) and amended to read:

12 218.0133 (2) (b) 1. (intro.) A grantor shall repurchase from the motor vehicle

13 dealer any unsold new motor vehicles vehicle that have meets all of the following

14 criteria:

15 a. The motor vehicle has not been structurally modified by a motor vehicle

16 dealer, ~~that have.~~

17 b. The motor vehicle has not been operated more than 300 miles for

18 manufacturer's tests, predelivery tests and motor vehicle dealer exchange in

19 addition to operation required for motor vehicle delivery from the grantor ~~and that~~

20 ~~the.~~

21 c. The motor vehicle dealer was acquired by the motor vehicle dealer as part

22 of the motor vehicle dealer's original inventory or was acquired by the motor vehicle

23 dealer from the grantor or from another motor vehicle dealer of the same line make

24 and who acquired the motor vehicle from the grantor. ~~In addition, a grantor may not~~

25 ~~be required to repurchase a motor vehicle under this subdivision unless the date on~~

ASSEMBLY BILL 969**SECTION 208**

1 ~~the original dealer invoice is within 12 months of the date on which the motor vehicle~~
2 ~~dealer terminates, cancels or does not renew an agreement or is within 18 months~~
3 ~~of the date on which the grantor terminates, cancels or does not renew an agreement.~~

4 2. The repurchase price for a new motor vehicle shall be the motor vehicle
5 invoice price from the grantor, plus destination, delivery or distribution charges and
6 sales taxes incurred by the motor vehicle dealer, less allowances paid or credited to
7 the motor vehicle dealer by the grantor. A grantor may subtract from a new motor
8 vehicle repurchase price an amount equal to the diminution in wholesale value
9 caused by damages to a new motor vehicle before the motor vehicle dealer delivers
10 the new motor vehicle to the grantor.

11 **SECTION 209.** 218.01 (3r) (b) 3. of the statutes is renumbered 218.0133 (2) (c) 1.
12 (intro.) and amended to read:

13 218.0133 (2) (c) 1. (intro.) A grantor shall repurchase from the motor vehicle
14 dealer any unused, undamaged and unsold parts and accessories and unopened
15 appearance and maintenance materials and paints that if those items meet all of the
16 following criteria:

17 a. The items are in the motor vehicle dealer's inventory or subject to a
18 noncancelable order to the grantor on the effective date of the termination,
19 cancellation or nonrenewal, ~~that~~ and are in original packaging, or, if sheet metal or
20 body panels, ~~that~~ are in a comparable substitute for original packaging, ~~and that the,~~

21 b. The items were acquired by the motor vehicle dealer acquired from the
22 grantor or from ~~its~~ the motor vehicle dealer's predecessor motor vehicle dealer if and
23 the parts, accessories and materials and paints items are listed for sale in the
24 grantor's price schedules in effect on the effective date of the termination,
25 cancellation or nonrenewal ~~or,~~ the items are part of the motor vehicle dealer's

ASSEMBLY BILL 969**SECTION 209**

1 original inventory acquired from the grantor or ~~are the items were~~ acquired by the
2 motor vehicle dealer from the grantor within 4 years before the effective date of the
3 termination, cancellation or nonrenewal. ~~However, a grantor may not be required~~
4 ~~to repurchase items that are not listed for sale in the grantor's price schedules in~~
5 ~~effect on the effective date of the termination, cancellation or nonrenewal if, within~~
6 ~~2 years before the effective date of the termination, cancellation or nonrenewal, the~~
7 ~~grantor permitted a motor vehicle dealer to return obsolete parts and accessories, or~~
8 ~~a reasonable percentage of parts and accessories, for an amount that is equal to or~~
9 ~~greater than the price at which those items were listed for sale, less any allowances,~~
10 ~~at the time the return was permitted.~~

11 2. The repurchase price for parts, accessories and, materials and paints
12 repurchased under subd. 1. shall be the price at which those items are listed for sale
13 in the grantor's price schedules in effect on the effective date of the termination,
14 cancellation or nonrenewal, or, if an item is not listed, the motor vehicle dealer's
15 original invoice cost, plus destination, delivery or distribution charges, and sales
16 taxes incurred by the motor vehicle dealer, less allowances paid or credited to the
17 motor vehicle dealer by the grantor. If a motor vehicle dealer inventories, handles
18 and packages repurchased items for delivery to the grantor, the grantor shall
19 reimburse the motor vehicle dealer an additional amount equal to 2% of the
20 repurchase price under this subdivision.

21 **SECTION 210.** 218.01 (3r) (b) 4. of the statutes is renumbered 218.0133 (2) (d).

22 **SECTION 211.** 218.01 (3r) (b) 5. of the statutes is renumbered 218.0133 (2) (e).

23 **SECTION 212.** 218.01 (3r) (c) of the statutes is renumbered 218.0133 (3) and
24 amended to read:

ASSEMBLY BILL 969**SECTION 212**

1 218.0133 (3) (a) The grantor shall provide a list of the motor vehicles, parts,
2 accessories, materials and paints, signs, tools, equipment and furnishings that the
3 motor vehicle dealer is authorized to return to the grantor within 30 days after the
4 grantor receives a written inventory of the property that the motor vehicle dealer
5 intends to return or within 30 days after the effective date of the termination,
6 cancellation or nonrenewal, whichever is later. Within 60 days after the property is
7 actually returned by the motor vehicle dealer to the grantor, f.o.b. dealership
8 facilities, the grantor shall pay the motor vehicle dealer the reimbursement amount
9 under ~~par. (b) 2. to 5. sub. (2) (b) to (e)~~, except that the grantor may apply the
10 reimbursement amount first to pay any amount owed by the motor vehicle dealer to
11 the grantor.

12 (b) If a repurchase price under ~~par. (b) sub. (2)~~ depends on a purchase date or
13 original cost or includes an associated cost, the motor vehicle dealer shall have the
14 burden of proving by documentary evidence the purchase date, original cost or
15 associated cost.

16 **SECTION 213.** 218.01 (3r) (d) 1. of the statutes is renumbered 218.0133 (4) (a)
17 and amended to read:

18 218.0133 (4) (a) Except as provided in ~~par. (e) sub. (5)~~ and subject to ~~subd. 4.~~
19 ~~par. (d)~~, when a grantor terminates, cancels or does not renew an agreement a
20 grantor shall, upon request, pay a motor vehicle dealer the termination benefits
21 under ~~subd. 2. or 3. par. (b) or (c)~~. If a motor vehicle dealer receives benefits under
22 ~~subd. 2. or 3. par. (b) or (c)~~, the grantor shall be entitled to the possession and use of
23 the dealership facilities for the period that the termination benefits payment covers.

24 **SECTION 214.** 218.01 (3r) (d) 2. of the statutes is renumbered 218.0133 (4) (b).

25 **SECTION 215.** 218.01 (3r) (d) 3. of the statutes is renumbered 218.0133 (4) (c).

ASSEMBLY BILL 969**SECTION 216**

1 **SECTION 216.** 218.01 (3r) (d) 4. of the statutes is renumbered 218.0133 (4) (d)
2 and amended to read:

3 218.0133 (4) (d) ~~Subdivisions 2. and 3. Paragraphs (b) and (c)~~ apply only to
4 dealership facilities that are used in performing sales and service obligations under
5 an agreement before the motor vehicle dealer receives notice of the termination,
6 cancellation or nonrenewal of the agreement.

7 **SECTION 217.** 218.01 (3r) (e) 1. (intro.) of the statutes is renumbered 218.0133
8 (5) (a) (intro.) and amended to read:

9 218.0133 (5) (a) (intro.) ~~Paragraphs (b) and (d)~~ Subsections (2) and (4) do not
10 apply to any of the following:

11 **SECTION 218.** 218.01 (3r) (e) 1. a. of the statutes is renumbered 218.0133 (5) (a)
12 1.

13 **SECTION 219.** 218.01 (3r) (e) 1. b. of the statutes is renumbered 218.0133 (5) (a)
14 2.

15 **SECTION 220.** 218.01 (3r) (e) 1. c. of the statutes is renumbered 218.0133 (5) (a)
16 3.

17 **SECTION 221.** 218.01 (3r) (e) 1. d. of the statutes is renumbered 218.0133 (5) (a)
18 4.

19 **SECTION 222.** 218.01 (3r) (e) 1. e. of the statutes is renumbered 218.0133 (5) (a)
20 5. and amended to read:

21 218.0133 (5) (a) 5. A motor vehicle dealer who terminates, cancels or fails to
22 renew an agreement to sell motor homes, as defined in s. 340.01 (33m), unless a court,
23 a licenser or the division of hearings and appeals determines that the grantor has not
24 acted in good faith or has materially violated the agreement or a provision of ~~this~~
25 ~~section~~ ss. 218.0101 to 218.0163 and determines that the motor vehicle dealer has

ASSEMBLY BILL 969**SECTION 222**

1 not acted in bad faith or has not violated the agreement or a provision of ~~this section~~
2 ss. 218.0101 to 218.0163.

3 **SECTION 223.** 218.01 (3r) (e) 1. f. of the statutes is renumbered 218.0133 (5) (a)
4 6.

5 **SECTION 224.** 218.01 (3r) (e) 2. of the statutes is renumbered 218.0133 (5) (b)
6 and amended to read:

7 218.0133 (5) (b) ~~Paragraph (b)~~ Subsection (2) does not apply to a motor vehicle
8 dealer who is unable to convey clear title to property under ~~par. (b) 2. to 5. sub. (2)~~
9 (b) to (e) on the date on which the grantor takes delivery of the property.

10 **SECTION 225.** 218.01 (3r) (e) 3. of the statutes is renumbered 218.0133 (5) (c)
11 and amended to read:

12 218.0133 (5) (c) ~~Paragraph (b)~~ Subsection (2) does not apply to property under
13 ~~par. (b) 2. to 5. sub. (2) (b) to (e)~~ that is acquired by a motor vehicle dealer from another
14 motor vehicle dealer if the property is acquired after the motor vehicle dealer receives
15 or gives notice of termination, cancellation or nonrenewal or if the property was
16 acquired other than in the ordinary course of the motor vehicle dealer's business.

17 **SECTION 226.** 218.01 (3r) (e) 4. of the statutes is renumbered 218.0133 (5) (d)
18 and amended to read:

19 218.0133 (5) (d) ~~Paragraph (d)~~ Subsection (4) does not apply if a grantor
20 terminates, cancels or fails to renew an agreement in compliance with ~~sub. (3) (a) 17.~~
21 s. 218.0116 (1) (i), unless the primary ground for termination, cancellation or
22 nonrenewal is inadequate sales performance by the motor vehicle dealer.

23 **SECTION 227.** 218.01 (3r) (f) of the statutes is renumbered 218.0133 (6) and
24 amended to read:

ASSEMBLY BILL 969**SECTION 227**

1 218.0133 **(6)** (a) This ~~subsection~~ section does not restrict the right of a motor
2 vehicle dealer to pursue any other remedy available against a grantor who
3 terminates, cancels or does not renew an agreement.

4 (b) A grantor may not make the termination benefits payments under ~~par. (b)~~
5 ~~or (d)~~ sub. (2) or (4) contingent on the motor vehicle dealer releasing or waiving any
6 rights, claims or remedies.

7 **SECTION 228.** 218.01 (3x) (title) of the statutes is renumbered 218.0134 (title).

8 **SECTION 229.** 218.01 (3x) (a) of the statutes is renumbered 218.0134 (1) and
9 amended to read:

10 218.0134 **(1)** In this ~~subsection~~ section, “affected grantor” means a
11 manufacturer on direct dealerships, a distributor on indirect dealerships or an
12 importer on direct dealerships that has entered into an agreement with a motor
13 vehicle dealer and that is directly affected by an action proposed to be undertaken
14 by the dealer under this ~~subsection~~ section.

15 **SECTION 230.** 218.01 (3x) (b) of the statutes is renumbered 218.0134 (2) and
16 amended to read:

17 218.0134 **(2)** (a) If a motor vehicle dealer’s agreement with an affected grantor
18 requires the grantor’s prior approval of an action proposed to be undertaken by the
19 dealer under this ~~subsection~~ section, a dealer may not voluntarily change its
20 ownership or executive management, transfer its dealership assets to another
21 person, add another franchise at the same location as its existing franchise or
22 relocate a franchise without giving prior written notice of the proposed action to the
23 affected grantor and to the department of transportation. Within 20 days after
24 receiving the notice, the affected grantor may serve the dealer with a written list of
25 the information not already known or in the possession of the grantor that is

ASSEMBLY BILL 969**SECTION 230**

1 reasonably necessary in order for the grantor to determine whether the proposed
2 action should be approved. The grantor shall, in good faith, confirm in writing to the
3 dealer the date on which it has received from the dealer or from other sources all the
4 information specified on the list.

5 (b) An affected grantor who does not approve of the proposed action shall,
6 within 30 days after receiving the dealer's written notice of the proposed action or
7 within 30 days after receiving all the information specified in a written list served
8 on the dealer under ~~subd. 1. par. (a)~~, whichever is later, file with the department of
9 transportation and serve upon the dealer a written statement of the reasons for its
10 disapproval. The reasons given for the disapproval or any explanation of those
11 reasons by the manufacturer, distributor or importer shall not subject the
12 manufacturer, distributor or importer to any civil liability unless the reasons given
13 or explanations made are malicious and published with the sole intent to cause harm
14 to the dealer or a transferee of the dealer. Failure to file and serve a statement within
15 the applicable period shall, notwithstanding the terms of any agreement, constitute
16 approval of the proposed action by the grantor. If an affected grantor files a written
17 statement within the applicable period, the dealer may not voluntarily undertake
18 the proposed action unless it receives an order permitting it to do so from the division
19 of hearings and appeals under ~~par. (e) 2. sub. (3) (b)~~.

20 (c) A dealer who is served with a written statement by an affected grantor under
21 ~~subd. 2. par. (b)~~ may file with the department of transportation and the division of
22 hearings and appeals and serve upon the affected grantor a complaint for the
23 determination of whether there is good cause for permitting the proposed action to
24 be undertaken. The division of hearings and appeals shall promptly schedule a

ASSEMBLY BILL 969**SECTION 230**

1 hearing and decide the matter. The proposed action may not be undertaken pending
2 the determination of the matter.

3 **SECTION 231.** 218.01 (3x) (c) of the statutes is renumbered 218.0134 (3).

4 **SECTION 232.** 218.01 (3x) (d) (intro.) of the statutes is renumbered 218.0134 (4)
5 (intro.) and amended to read:

6 218.0134 (4) (intro.) This subsection section does not apply to:

7 **SECTION 233.** 218.01 (3x) (d) 1. of the statutes is renumbered 218.0134 (4) (a).

8 **SECTION 234.** 218.01 (3x) (d) 2. of the statutes is renumbered 218.0134 (4) (b)
9 and amended to read:

10 218.0134 (4) (b) A proposed action that would require an affected grantor to
11 give notice under ~~sub. (3) (f) 1.~~ s. 218.0116 (7) (a), except that the dealer must have
12 the affected grantor's written approval before undertaking any such proposed action.

13 **SECTION 235.** 218.01 (3x) (d) 3. (intro.) of the statutes is renumbered 218.0134
14 (4) (c) (intro.).

15 **SECTION 236.** 218.01 (3x) (d) 3. a. of the statutes is renumbered 218.0134 (4)
16 (c) 1.

17 **SECTION 237.** 218.01 (3x) (d) 3. b. of the statutes is renumbered 218.0134 (4)
18 (c) 2. (intro.) and amended to read:

19 218.0134 (4) (c) 2. (intro.) The proposed change of ownership or transfer of
20 dealership assets does not involve the transfer of assets or the transfer or issuance
21 of stock by the dealer or one or more dealer owners to one or more immediate family
22 members of one or more dealer owners or to a qualifying member of the dealer's
23 management or to a partnership, limited liability company or corporation controlled
24 by such those persons. In this ~~subd. 3. b.~~ subdivision, ~~“immediate;~~

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1 a. “Immediate family member” means the spouse, child, grandchild, spouse of
2 a child or grandchild, brother, sister or parent of the dealer owner; and ~~“qualifying~~.

3 b. “Qualifying member of the dealer’s management” means an individual who
4 has been employed by the dealer for at least 2 years and who otherwise qualifies as
5 a dealer operator.

6 **SECTION 238.** 218.01 (3x) (d) 3. c. of the statutes is renumbered 218.0134 (4) (c)
7 3. and amended to read:

8 218.0134 (4) (c) 3. The affected grantor agrees to pay the reasonable expenses,
9 including reasonable attorney fees that do not exceed the usual, customary and
10 reasonable fees charged for similar work done for other clients, incurred by the
11 proposed new owner or transferee before the grantor’s exercise of its right of first
12 refusal in negotiating and implementing the contract for the proposed change of
13 ownership or transfer of dealership assets. Notwithstanding this ~~subd. 3. c.~~
14 subdivision, no payment of expenses and attorney fees shall be required if the dealer
15 has not submitted or caused to be submitted an accounting of those expenses within
16 7 days after the dealer’s receipt of the affected grantor’s written request for an
17 accounting.

18 **SECTION 239.** 218.01 (3x) (d) 4. of the statutes is renumbered 218.0134 (4) (d).

19 **SECTION 240.** 218.01 (4) of the statutes is renumbered 218.0151 and amended
20 to read:

21 **218.0151 Advisory committee.** The licensor may appoint annually one or
22 more local advisory committees and one general advisory committee, each consisting
23 of not more than 9 members. The committees upon request of the licensor may advise
24 and assist the licensor in the administration of ~~this section~~ ss. 218.0101 to 218.0163.

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1 The members of said the local advisory committees and the general advisory
2 committee shall receive no compensation for their services or expenses.

3 **SECTION 241.** 218.01 (5) (title) of the statutes is renumbered 218.0152 (title).

4 **SECTION 242.** 218.01 (5) (a) of the statutes is renumbered 218.0152 (1) and
5 amended to read:

6 218.0152 (1) The licensor shall promote the interests of retail buyers and
7 lessees of motor vehicles relating to default, delinquency, repossession or collection
8 charges and the refund of the finance charge and insurance premium on prepayment
9 of the instalment contract or consumer lease. It may define unfair practices in the
10 motor vehicle industry and trade between licensees or between any licensees and
11 retail buyers, lessees or prospective lessees of motor vehicles, but may not limit the
12 price at which licensees may sell, assign or transfer receivables, contracts or other
13 evidence of any obligation arising out of an instalment sale or consumer lease made
14 under ~~this section~~ ss. 218.0101 to 218.0163.

15 **SECTION 243.** 218.01 (5) (b) 1. of the statutes is renumbered 218.0152 (2) (a)
16 (intro.) and amended to read:

17 218.0152 (2) (a) (intro.) The division of banking, department of transportation
18 and division of hearings and appeals shall have the power in hearings arising under
19 this chapter to ~~determine~~ do all of the following:

20 1. Determine the place, in this state, where ~~they~~ the hearings shall be held; to
21 subpoena.

22 2. Subpoena witnesses and documents; ~~to take.~~

23 3. Take and permit the taking of depositions of witnesses residing in or outside
24 of this state and to otherwise permit the discovery and preservation of evidence

ASSEMBLY BILL 969**SECTION 243**

1 before hearing, in the manner provided for in civil actions in courts of record; ~~to pay~~
2 ~~such.~~

3 4. Pay the witnesses described in subd. 2 the fees and mileage for their
4 attendance ~~as is~~ that are provided for witnesses in civil actions in courts of record;
5 ~~and to administer.~~

6 5. Administer oaths.

7 **SECTION 244.** 218.01 (5) (b) 2. of the statutes is renumbered 218.0152 (2) (b) and
8 amended to read:

9 218.0152 (2) (b) If the licensor has reason to believe that a violation of ~~this~~
10 ~~section~~ ss. 218.0101 to 218.0163 has occurred, the licensor may issue subpoenas to
11 compel the attendance of persons to be examined or the production of materials
12 regarding the violation. Subpoenas shall be issued and served in accordance with
13 ch. 885.

14 **SECTION 245.** 218.01 (5) (b) 3. of the statutes is renumbered 218.0152 (2) (c) and
15 amended to read:

16 218.0152 (2) (c) A person providing information under this ~~paragraph~~
17 subsection may request that the information be designated as a trade secret, as
18 defined in s. 134.90 (1) (c), or as confidential business information. The division of
19 hearings and appeals or licensor shall approve the designation if the person
20 providing the information demonstrates that the release of the information would
21 adversely affect the person's competitive position. At least 15 days before any
22 information designated as a trade secret or as confidential business information is
23 disclosed to any other person, the division of hearings and appeals or licensor shall
24 notify the person providing the information. The person providing the information
25 may seek a court order limiting or prohibiting the disclosure. ~~In such cases, the~~ The

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1 court shall weigh the need for confidentiality of the information against the public
2 interest in disclosure in determining whether to issue the order. Confidentiality is
3 waived if the person providing the information consents in writing to disclosure.

4 **SECTION 246.** 218.01 (5) (c) of the statutes is renumbered 218.0152 (3) and
5 amended to read:

6 218.0152 (3) The licensor may ~~make promulgate~~ such rules and regulations as
7 ~~it shall deem~~ as it considers necessary or proper for the effective administration and
8 enforcement of ~~this section~~ ss. 218.0101 to 218.0163, but no licensee shall be subject
9 to examination or audit by the licensor except as provided in ~~sub. (3) (d)~~ s. 218.0116
10 (5).

11 **SECTION 247.** 218.01 (5m) (title) of the statutes is renumbered 218.0141 (title).

12 **SECTION 248.** 218.01 (5m) (a) of the statutes is renumbered 218.0141.

13 **SECTION 249.** 218.01 (6) (title) of the statutes is renumbered 218.0142 (title).

14 **SECTION 250.** 218.01 (6) (a) of the statutes is renumbered 218.0142 (1).

15 **SECTION 251.** 218.01 (6) (b) of the statutes is renumbered 218.0142 (2) (a)
16 (intro.) and amended to read:

17 218.0142 (2) (a) (intro.) Prior to or concurrent with any instalment sale, the
18 seller shall deliver to the buyer a written statement describing clearly ~~the~~ all of the
19 following:

20 1. The motor vehicle sold to the buyer, ~~the~~

21 2. The cash sale price, ~~the~~

22 3. The cash paid down by the buyer, ~~the~~

23 4. The amount credited the buyer for any trade-in ~~and a~~

24 5. A description of the cost to the retail buyer of any insurance, ~~the~~

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1 6. The amount financed which may include the cost of insurance, and sales and
2 use taxes, the.

3 7. The amount of the finance charge, the.

4 8. The amount of any other charge specifying its purpose, the.

5 9. The total of payments due from the buyer, the.

6 10. The terms of ~~the~~ payment of such the total, the of payments due from the
7 buyer.

8 11. The amount and date of each payment necessary finally to pay the total and
9 a.

10 12. A summary of any insurance coverage to be effected. ~~The division of~~
11 ~~banking may determine the form of the statement.~~

12 (b) If a written order is taken from a prospective purchaser in connection with
13 any instalment sale, the written statement described in par. (a) shall be given to the
14 purchaser prior to or concurrent with the signing of the order by the purchaser.

15 **SECTION 252.** 218.01 (6) (bp) of the statutes is renumbered 218.0142 (3).

16 **SECTION 253.** 218.01 (6) (c) of the statutes is renumbered 218.0142 (4) and
17 amended to read:

18 218.0142 (4) An exact copy of the instalment sale contract and any note or notes
19 given in connection ~~therewith~~ with the contract shall be furnished by the seller to the
20 buyer at the time the buyer signs such the contract. The buyer's copy of the contract
21 shall contain the signature of the seller identical with the signature on the original
22 contract. No contract shall be signed in blank except that a detailed description of
23 the motor vehicle including the serial number or other identifying marks of the
24 vehicle sold which are not available at the time of execution of such the contract may
25 be filled in before final delivery of the motor vehicle.

ASSEMBLY BILL 969**SECTION 254**

1 **SECTION 254.** 218.01 (6) (d) of the statutes is renumbered 218.0142 (5) and
2 amended to read:

3 218.0142 **(5)** A violation of ~~par. (a), (b) or (bp)~~ sub. (1), (2) or (3) bars recovery
4 of any finance charge by the seller, or an assignee of the seller who, at the time of the
5 assignment, had knowledge of the violation, in any suit upon a sales contract arising
6 from the sale where the violation occurred.

7 **SECTION 255.** 218.01 (6) (e) of the statutes is renumbered 218.0142 (6) (a)
8 (intro.) and amended to read:

9 218.0142 **(6)** (a) (intro.) Prior to 30 days after acquisition of any retail
10 instalment contract from a retail seller, every finance company shall ~~mail~~ do all of
11 the following:

12 1. Mail or deliver to the retail buyer a written notice that ~~it~~ the finance company
13 has acquired the retail instalment contract from the retail seller, ~~and shall also mail.~~

14 2. Mail or cause to be mailed with the notice described in subd. 1. a statement
15 of the particulars of the retail instalment contract price required under ~~par. (b)~~ sub.
16 (2) to be stated by the retail seller, in accordance with the finance company's records
17 respecting ~~such~~ the particulars of the retail instalment contract, including the
18 amount of the finance charge.

19 **(b)** Every finance company, if insurance is provided by ~~it~~ the finance company,
20 shall also within ~~the~~ 30 days after acquisition of the retail instalment contract send
21 or cause to be sent to the retail buyer a policy of insurance clearly setting forth the
22 exact nature of the insurance coverage and the amount of the premiums, each stated
23 separately, which shall be filed with the commissioner of insurance in accordance
24 with ch. 625. The cancellation and rewriting of any ~~such~~ policy provided by the
25 finance company shall comply with the requirements of s. 631.69.

ASSEMBLY BILL 969**SECTION 256**

1 **SECTION 256.** 218.01 (6) (em) of the statutes is renumbered 218.0142 (7) and
2 amended to read:

3 218.0142 (7) In the event that the dealer shall finance the instalment sale
4 contract, the division of banking may permit the dealer to combine the information
5 required by ~~pars. (b) and (e) last above~~ subs. (2) and (6) in one statement under such
6 rules and regulations as that the division of banking may from time to time ~~prescribe~~
7 promulgate.

8 **SECTION 257.** 218.01 (6) (f) of the statutes is renumbered 218.0142 (8) and
9 amended to read:

10 218.0142 (8) Any retail buyer of a motor vehicle, resident in the this state of
11 ~~Wisconsin~~, at the time of purchase, under a retail instalment contract, shall have a
12 valid defense in any action or proceeding at law to enforce said the contract by any
13 finance company that is not licensed ~~hereunder~~ and which has purchased or
14 otherwise acquired such the contract, if such the finance company has wilfully failed
15 or refused to comply with ~~par. (e)~~ sub. (6).

16 **SECTION 258.** 218.01 (6) (g) of the statutes is renumbered 218.0142 (9) and
17 amended to read:

18 218.0142 (9) Any retail buyer of a motor vehicle, resident of the this state of
19 ~~Wisconsin~~ at the time of purchase, under a retail instalment contract made in this
20 state, shall have a valid defense against the recovery of the principal, finance charge
21 and other fees included in the contract, in any action or proceeding at law to enforce
22 the contract by any person who has purchased or otherwise acquired the contract,
23 if the person has failed or refused prior to the purchase or acquisition to be licensed
24 as a sales finance company under ~~this section~~, ss. 218.0101 to 218.0163 and the
25 person is actually engaged in business, in whole or in part as a sales finance company.

ASSEMBLY BILL 969**SECTION 259**

1 **SECTION 259.** 218.01 (6) (h) of the statutes is renumbered 218.0142 (10) and
2 amended to read:

3 218.0142 **(10)** All transactions which constitute consumer transactions (s.
4 421.301 (13)) are subject to chs. 421 to 427, in addition to ~~this section~~ ss. 218.0101
5 to 218.0163.

6 **SECTION 260.** 218.01 (6) (k) of the statutes is renumbered 218.0142 (11) and
7 amended to read:

8 218.0142 **(11)** This ~~subsection~~ section does not apply to a retail instalment sale
9 of a motor vehicle made on or after November 1, 1981, if the motor vehicle is to be used
10 primarily for business or commercial purposes and not for the buyer's personal,
11 family or household use.

12 **SECTION 261.** 218.01 (6m) of the statutes is renumbered 218.0143 and amended
13 to read:

14 **218.0143 Notice of insurance to buyer under instalment sales contract.**

15 Whenever a person sells or agrees to sell any motor vehicle at retail under a retail
16 instalment contract ~~wherein~~ in which provision is made for insurance coverage, or
17 a charge is made ~~therefor, such~~ for insurance coverage, the policy so issued or
18 provided for, shall include public liability coverage protecting the driver of ~~such~~ the
19 motor vehicle against damages resulting from the negligent use ~~thereof~~ of the
20 vehicle, or the seller shall, in writing, notify the buyer at the time of making ~~such~~ the
21 retail instalment contract that the motor vehicle is not covered by public liability
22 insurance protecting the driver against damages resulting from the negligent use
23 ~~thereof~~ of the vehicle. The seller shall obtain, on a form separate from the retail
24 instalment contract, the signed acknowledgment of the buyer that he or she has been

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1 notified that the contract does or does not include ~~such~~ public liability insurance
2 protecting the driver against damages resulting from the negligent use of the vehicle.

3 **SECTION 262.** 218.01 (6x) (title) and (a) to (d) of the statutes are renumbered
4 218.0144 (title) and (1) to (4), and 218.0144 (4), as renumbered, is amended to read:

5 218.0144 (4) A prospective lessor may cancel a prelease agreement that, with
6 regard to the lease terms disclosed in the prelease agreement, is contingent upon
7 approval of the prospective lessee's credit by a sales finance company to whom the
8 prospective lessor intends to assign the consumer lease, if the prelease agreement
9 contains a provision requiring the prospective lessor to give the prospective lessee
10 written notice of ~~such~~ the cancellation within 10 business days of execution of the
11 prelease agreement and the notice is given to the prospective lessee.

12 **SECTION 263.** 218.01 (6x) (e) of the statutes, as affected by 1997 Wisconsin Act
13 48, is renumbered 218.0144 (5).

14 **SECTION 264.** 218.01 (7) of the statutes is renumbered 218.0145 and amended
15 to read:

16 **218.0145 Prohibited acts. (1)** No manufacturer of ~~motor vehicles, no~~
17 wholesaler or distributor of ~~motor vehicles,~~ and no officer, agent or representative of
18 either a manufacturer, wholesaler or distributor, shall induce or coerce, or attempt
19 to induce or coerce, any retail motor vehicle dealer or prospective retail motor vehicle
20 dealer in this state to sell, assign or transfer any retail instalment sales contract,
21 obtained by ~~such~~ the dealer in connection with the sale by the dealer in this state of
22 motor vehicles manufactured or sold by ~~such~~ the manufacturer, wholesaler or
23 distributor, to a specified sales finance company or class of ~~such~~ finance companies,
24 or to any other specified person, by any of the following acts or means ~~hereinafter set~~
25 ~~forth, namely:~~

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1 (a) By any express or implied statement, suggestion, promise or threat, made
2 directly or indirectly, that ~~such~~ the manufacturer, wholesaler or distributor will in
3 any manner benefit or injure ~~such~~ the dealer, ~~whether such statement, suggestion,~~
4 ~~threat or promise is express or implied, or made directly or indirectly.~~

5 (b) By any act that will benefit or injure ~~such~~ the dealer.

6 (c) By any contract, or any express or implied offer of contract, made directly
7 or indirectly to ~~such~~ the dealer, for handling ~~such~~ motor vehicles manufactured or
8 sold by the manufacturer, wholesaler or distributor, on the condition that ~~such~~ the
9 dealer sell, assign or transfer the dealer's retail instalment ~~contract thereon~~
10 contracts on motor vehicles manufactured or sold by the manufacturer, wholesaler
11 or distributor, in this state, to a specified sales finance company or class of ~~such~~
12 finance companies, or to any other specified person.

13 (d) By any express or implied statement or representation, made directly or
14 indirectly, that ~~such~~ the dealer is under any obligation ~~whatsoever~~ to sell, assign or
15 transfer any of the dealer's retail sales contracts, in this state, on motor vehicles
16 manufactured or sold by ~~such~~ the manufacturer, wholesaler or distributor to ~~such~~ a
17 sales finance company, or class of finance companies, or other specified person,
18 because of any relationship or affiliation between ~~such~~ the manufacturer, wholesaler
19 or distributor and ~~such~~ the finance company or companies or ~~such~~ the specified
20 person ~~or persons~~.

21 **(2)** Any ~~such~~ statements, threats, promises, acts, contracts or offers of
22 contracts, set forth in ~~par. (a)~~ sub. (1) are declared unfair trade practices and unfair
23 competition and against the policy of this state, are unlawful and are prohibited.

24 **(3)** No sales finance company, and no officer, agent or representative thereof
25 of a sales finance company, shall induce or coerce or attempt to induce or coerce any

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1 retail motor vehicle dealer to transfer to ~~such~~ the sales finance company any of the
2 dealer's retail instalment sales contracts in this state of ~~such dealer~~ on any motor
3 vehicle by any of the following acts or means, ~~namely~~:

4 (a) By any statement or representation, express or implied, made directly or
5 indirectly, that the manufacturer, wholesaler or distributor of ~~such~~ the motor
6 vehicles will grant ~~such~~ the dealer a franchise to handle ~~such~~ the manufacturer's,
7 wholesaler's or distributor's motor vehicles if ~~such~~ the dealer ~~shall~~ will sell, assign
8 or transfer all or part of such retail sales contracts to such sales finance company.

9 (b) By any statement or representation, express or implied, made directly or
10 indirectly, that the manufacturer, wholesaler or distributor of ~~such motor vehicles~~
11 will in any manner benefit or injure ~~such~~ the dealer if ~~such~~ the dealer ~~shall~~ does or
12 ~~shall~~ does not sell, assign or transfer all or part of ~~such~~ the dealer's retail sales
13 contracts to ~~such~~ the sales finance company.

14 (c) By an express or implied statement or representation made directly or
15 indirectly, that there is an express or implied obligation on the part of ~~such~~ the dealer
16 to so sell, assign or transfer all or part of ~~such~~ the dealer's retail sales contracts on
17 ~~such~~ the manufacturer's, wholesaler's or distributor's motor vehicles to ~~such~~ the
18 sales finance company because of any relationship or affiliation between ~~such~~ the
19 sales finance company and the manufacturer, wholesaler or distributor of ~~such motor~~
20 ~~vehieles~~.

21 (4) Any ~~such~~ statement or representations set forth in ~~par. (c)~~ sub. (3) are
22 declared to be unfair trade practices ~~and~~, unfair competition and against the policy
23 of this state, and are unlawful and are prohibited.

24 (5) Any retail motor vehicle dealer who, pursuant to any inducement,
25 statement, promise or threat ~~hereinbefore~~ declared unlawful under this section,

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1 shall sell, assign or transfer any or all of the dealer's retail instalment contracts shall
2 not be guilty of any unlawful act and may be compelled to testify to each such
3 unlawful act.

4 (6) No manufacturer shall directly or indirectly pay or give, or contract to pay
5 or give, anything of service or value to any sales finance company licensee in this
6 state, and no such sales finance company licensee in this state shall accept or receive
7 or contract or agree to accept or receive directly or indirectly any payment or thing
8 of service of or value from any manufacturer, if the effect of the payment or the giving
9 of any such the thing of service or value by the manufacturer, or the acceptance or
10 receipt thereof of the payment or thing of service or value by the sales finance
11 company licensee, may be to lessen or eliminate competition or tend to grant an
12 unfair trade advantage or create a monopoly in the sales finance company licensee
13 ~~who accepts or receives the payment, thing or service of value or contracts or agrees~~
14 ~~to accept or receive the same.~~

15 **SECTION 265.** 218.01 (7a) of the statutes, as affected by 1997 Wisconsin Act 27,
16 is renumbered 218.0146.

17 **SECTION 266.** 218.01 (7b) (title) of the statutes is renumbered 218.0147 (title).

18 **SECTION 267.** 218.01 (7b) of the statutes is renumbered 218.0147 (1) and
19 amended to read:

20 218.0147 (1) No minor shall may purchase or lease any motor vehicle unless
21 the minor, at the time of purchase or lease, submits to the seller or lessor a statement
22 verified before a person authorized to administer oaths and made and signed by
23 either parent of the purchaser or lessee, if such the signing parent has custody of the
24 minor or, if neither parent has custody, then by the person having custody, setting
25 forth that the purchaser or lessee has consent to purchase or lease the vehicle. The

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1 signature on the statement shall not impute any liability for the purchase price of
2 the motor vehicle or for any payments under the consumer lease to the consenting
3 person. The statement shall not adversely affect any other arrangement for the
4 assumption of liability for the purchase price or any lease payments which the
5 consenting person may make.

6 **(2)** If a motor vehicle is purchased by a minor, the signed statement described
7 in sub. (1) shall accompany the application for a certificate of title and shall be filed
8 by the department of transportation with the application. Failure to obtain the
9 consent or to forward it, together with the application for a certificate of title in the
10 event of the purchase of a motor vehicle, shall not void the contract of sale or
11 consumer lease of a motor vehicle in the hands of an innocent holder, without notice,
12 for value and in the ordinary course of business.

13 **(3)** Any person who knowingly sells or leases a motor vehicle to a minor ~~with~~
14 ~~knowledge of such fact~~ without procuring such a the statement described in sub. (1)
15 may be fined not more than \$200 or imprisoned for not more than 6 months or both.

16 **SECTION 268.** 218.01 (7m) (title) of the statutes is renumbered 218.0136 (title).

17 **SECTION 269.** 218.01 (7m) (a) of the statutes is renumbered 218.0136 (1) and
18 amended to read:

19 218.0136 (1) A licensee may not file a complaint or petition with the division
20 of hearings and appeals or bring an action under ~~sub. (9) (a)~~ s. 218.0163 (1), based
21 on an alleged violation of ~~this section ss. 218.0101 to 218.0163~~ by any other licensee
22 or ~~pursuant to sub. (3) (f) or (fm), (3c) or (3x)~~ under s. 218.0116 (7) or (8), 218.0131
23 or 218.0134, unless the licensee serves a demand for mediation upon the other
24 licensee before or contemporaneous with the filing of the complaint or petition or the
25 bringing of the action. A demand for mediation shall be in writing and served upon

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1 the other licensee by certified mail at an address designated for that licensee in the
2 licensor's records. The demand for mediation shall contain a brief statement of the
3 dispute and the relief sought by the licensee filing the demand.

4 **SECTION 270.** 218.01 (7m) (b) of the statutes is renumbered 218.0136 (2).

5 **SECTION 271.** 218.01 (7m) (c) of the statutes is renumbered 218.0136 (3) and
6 amended to read:

7 218.0136 (3) The service of a demand for mediation under ~~par. (a)~~ sub. (1) shall
8 stay the time for the filing of any complaint or petition with the division of hearings
9 and appeals or for bringing an action under ~~sub. (9) (a)~~ s. 218.0163 (1), based on an
10 alleged violation of ~~this section ss. 218.0101 to 218.0163~~ by the other licensee or
11 ~~pursuant to sub. (3) (f) or (fm), (3e) or (3x)~~ under s. 218.0116 (7) or (8), 218.0131 or
12 218.0134, until the representatives of both licensees have met with a mutually
13 selected mediator for the purpose of attempting to resolve the dispute. If a complaint
14 or petition is filed before the meeting, the division of hearings and appeals or the
15 court shall enter an order suspending the proceeding or action until the meeting has
16 occurred and may, upon the written stipulation of all parties to the proceeding or
17 action that they wish to continue to mediate under ~~this subsection~~ section, enter an
18 order suspending the proceeding or action for as long a period as the division of
19 hearings and appeals or court considers to be appropriate. A suspension order issued
20 under ~~this paragraph~~ subsection may be revoked upon motion of any party or upon
21 motion of the division of hearings and appeals or the court.

22 **SECTION 272.** 218.01 (7m) (d) of the statutes is renumbered 218.0136 (4) and
23 amended to read:

24 218.0136 (4) The licensor shall encourage licensees under ~~this subsection~~
25 section to establish, maintain and administer a panel of mediators who have the

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1 character, ability and training to serve as mediators and who have knowledge of the
2 motor vehicle industry.

3 **SECTION 273.** 218.01 (7r) of the statutes is renumbered 218.0137 and amended
4 to read:

5 **218.0137 Arbitration of disputes between licensees.** A manufacturer,
6 importer or distributor and a dealer may agree to submit a dispute arising under a
7 franchise agreement or under ~~this section~~ ss. 218.0101 to 218.0163 to binding
8 arbitration. Unless agreed otherwise in an agreement that complies with ~~subs. (2)~~
9 ~~(bm) 2. and (3) (a) 36. d.~~ ss. 218.0114 (9) (b) and 218.0116 (1) (qm) 4., any arbitration
10 proceeding shall be voluntary, initiated by serving a written demand for arbitration
11 on the other party, and shall be conducted under the provisions of the state of
12 Wisconsin arbitration plan administered by representatives of the licensees.

13 **SECTION 274.** 218.01 (7t) of the statutes is renumbered 218.0138 and amended
14 to read:

15 **218.0138 Immunity and presumption of good faith.** A mediator or
16 arbitrator is immune from civil liability for any good faith act or omission within the
17 scope of the mediator's or arbitrator's performance of his or her powers and duties
18 under ~~sub. (7m)~~ s. 218.0136 or the arbitration plan referred to in ~~sub. (7r)~~ s. 218.0137.
19 Every act or omission of a mediator or arbitrator is presumed to be a good faith act
20 or omission. This presumption may be overcome only by clear and convincing
21 evidence.

22 **SECTION 275.** 218.01 (8) of the statutes is renumbered 218.0161 and amended
23 to read:

24 **218.0161 Penalties.** Except for ~~sub. (3) (a) 1., 3., 6., 7., 11., 12., 13., 20., 25.,~~
25 ~~29. and 30.~~ s. 218.0116 (1) (a), (b), (cm), (d), (f), (fm), (g), (jm), (m), (o) and (om), any

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1 person violating ~~this section~~ ss. 218.0101 to 218.0163 may be required to forfeit not
2 less than \$25 nor more than \$500 for each violation.

3 **SECTION 276.** 218.01 (8m) of the statutes is renumbered 218.0162 and amended
4 to read:

5 **218.0162 Commencement of action.** Upon the request of the licensor, the
6 department of justice or the district attorney may commence an action in the name
7 of the state to recover a forfeiture under ~~sub. (8)~~ s. 218.0161. An action under ~~sub.~~
8 ~~(8)~~ s. 218.0161 shall be commenced within 3 years after the occurrence of the
9 unlawful act or practice which is the subject of the action.

10 **SECTION 277.** 218.01 (9) of the statutes is renumbered 218.0163 and amended
11 to read:

12 **218.0163 Civil damages. (1)** Without exhausting any administrative remedy
13 available under an agreement or ~~this section~~ ss. 218.0101 to 218.0163, except as
14 provided in ~~sub. (3) (f) and (fm)~~ s. 218.0116 (7) and (8), a licensee may recover
15 damages in a court of competent jurisdiction for pecuniary loss, together with actual
16 costs including a reasonable attorney fee ~~fees~~, if the pecuniary loss is caused by any
17 of the following:

18 (a) A violation by any other licensee of ~~sub. (3) (a) 4., 11., 15., 16., 17., 22., 23.,~~
19 ~~24., 26., 32., 35., 36., 37., 38., 39., 40., 41. or 43~~ s. 218.0116 (1) (bm), (f), (h), (hm), (i),
20 (km), (L), (Lm), (mm), (pm), (q), (qm), (r), (rm), (s), (sm), (t) or (u).

21 (b) Any unfair practice found by a licensor or the division of hearings and
22 appeals under ~~sub. (5) (a)~~ s. 218.0152 (1).

23 **(1m)** If a court finds that a violation or practice described in ~~par. (a) 1. or 2.~~ sub.
24 (1) (a) or (b) is wilful, a licensee shall recover damages in an amount equal to 3 times
25 the pecuniary loss, together with actual costs including reasonable attorney fees.

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1 **(2)** Any retail buyer, lessee or prospective lessee suffering pecuniary loss
2 because of a violation by a licensee of sub. (3) (a) 4., 5., 6., 8., 9., 10., 11., 18., 25. or
3 ~~31.~~ s. 218.0116 (1) (bm), (c), (cm), (dm), (e), (em), (f), (im), (m) or (p) may recover
4 damages for the loss in any court of competent jurisdiction together with costs,
5 including reasonable attorney fees.

6 **SECTION 278.** 218.0116 (7) (d) 1d. of the statutes is created to read:

7 218.0116 **(7)** (d) 1d. "Closed" means the effective date of the termination or
8 expiration of a dealership's or outlet's license or franchise, whichever is earlier.

9 **SECTION 279.** 218.0133 (2) (b) 3. of the statutes is created to read:

10 218.0133 **(2)** (b) 3. Notwithstanding subd. 1., a grantor may not be required to
11 repurchase a motor vehicle under subd. 1. unless the date on the original dealer
12 invoice is within 12 months of the date on which the motor vehicle dealer terminates,
13 cancels or does not renew an agreement or is within 18 months of the date on which
14 the grantor terminates, cancels or does not renew an agreement.

15 **SECTION 280.** 218.0133 (2) (c) 3. of the statutes is created to read:

16 218.0133 **(2)** (c) 3. Notwithstanding subd. 1., a grantor may not be required to
17 repurchase parts, accessories, materials and paints that are not listed for sale in the
18 grantor's price schedules in effect on the effective date of the termination,
19 cancellation or nonrenewal if, within 2 years before the effective date of the
20 termination, cancellation or nonrenewal, the grantor permitted a motor vehicle
21 dealer to return obsolete parts and accessories, or a reasonable percentage of parts
22 and accessories, for an amount that is equal to or greater than the price at which
23 those items were listed for sale, less any allowances, at the time the return was
24 permitted.

25 **SECTION 281.** 218.0142 (2) (c) of the statutes is created to read:

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1 218.0142 **(2)** (c) The division of banking may determine the form of the
2 statement required under par. (a).

3 **SECTION 282.** 218.015 of the statutes is renumbered 218.0171, and 218.0171
4 (1) (c) and (e), as renumbered, are amended to read:

5 218.0171 **(1)** (c) “Manufacturer” means a manufacturer as defined in s. ~~218.01~~
6 ~~(1) (L)~~ 218.0101 (20) and agents of the manufacturer, including an importer, a
7 distributor, factory branch, distributor branch and any warrantors of the
8 manufacturer’s motor vehicles, but not including a motor vehicle dealer.

9 (e) “Motor vehicle dealer” has the meaning given under s. ~~218.01 (1) (n)~~
10 218.0101 (23) (a).

11 **SECTION 283.** 218.017 of the statutes is renumbered 218.0172, and 218.0172
12 (1) (b), (c), (d) and (e), as renumbered, are amended to read:

13 218.0172 **(1)** (b) “Consumer” has the meaning given in s. ~~218.015~~ 218.0171 (1)
14 (b).

15 (c) “Manufacturer” has the meaning given in s. ~~218.015~~ 218.0171 (1) (c).

16 (d) “Motor vehicle” has the meaning given in s. ~~218.015~~ 218.0171 (1) (d).

17 (e) “Motor vehicle dealer” means a motor vehicle dealer, as defined in s. ~~218.01~~
18 ~~(1) (n)~~ 218.0101 (23) (a), that sells new motor vehicles.

19 **SECTION 284.** 218.12 (5) of the statutes is amended to read:

20 218.12 **(5)** The provision of s. ~~218.01 (3)~~ 218.0116 relating to the denial,
21 suspension and revocation of a motor vehicle salesperson’s license shall apply to the
22 denial, suspension and revocation of a mobile home salesperson’s license so far as
23 applicable.

24 **SECTION 285.** 218.12 (6) of the statutes is amended to read:

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1 218.12 (6) The provisions of s. ~~218.01 (3) (g) and (5)~~ ss. 218.0116 (9) and
2 218.0152 shall apply to this section, mobile home sales practices and the regulation
3 of travel trailer or mobile home salespersons, as far as applicable.

4 **SECTION 286.** 218.205 (2) (a) of the statutes is amended to read:

5 218.205 (2) (a) Motor vehicle dealers licensed under s. ~~218.01 (2)~~ 218.0114 who
6 remove, but do not sell, as such, parts of motor vehicles prior to sale of such vehicles
7 to motor vehicle salvage dealers or scrap metal processors.

8 **SECTION 287.** 218.21 (1m) of the statutes is amended to read:

9 218.21 (1m) The department may not require information relating to the
10 applicant's solvency or financial standing if the applicant provides a bond in the
11 amount provided in sub. (4) and under conditions specified in s. ~~218.01 (2) (h) 2.~~
12 218.0114 (20) (b).

13 **SECTION 288.** 218.21 (4) (a) of the statutes is amended to read:

14 218.21 (4) (a) Unless the applicant furnishes a bond, or other adequate
15 collateral as security, of not less than \$25,000 under conditions provided by s. ~~218.01~~
16 ~~(2) (h) 2.~~ 218.0114 (20) (b), every application shall be accompanied by a current
17 financial statement to determine the applicant's solvency as required under sub. (1).
18 Except as provided in par. (b), this paragraph does not apply to the application of a
19 scrap metal processor.

20 **SECTION 289.** 218.21 (6) of the statutes is amended to read:

21 218.21 (6) A bond may be required under conditions as provided by s. ~~218.01~~
22 ~~(2) (h) 2.~~ 218.0114 (20) (b).

23 **SECTION 290.** 218.22 (1) (intro.) of the statutes is amended to read:

24 218.22 (1) (intro.) The department shall issue a license to the applicant for a
25 motor vehicle salvage dealer's license upon the receipt of a properly completed

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1 application form accompanied by the fee required under sub. (2) (c) or (d), upon being
2 satisfied that the applicant is financially solvent or that the applicant has furnished
3 a bond, or other adequate collateral as security, of not less than \$25,000 under
4 conditions provided by s. ~~218.01(2)(h)~~ 2. 218.0114 (20) (b), and of good character and:

5 **SECTION 291.** 218.22 (3) (m) of the statutes is amended to read:

6 218.22 (3) (m) Having sold a retail instalment contract to a sales finance
7 company not licensed under s. ~~218.01~~ ss. 218.0101 to 218.0163.

8 **SECTION 292.** 218.22 (5) of the statutes is amended to read:

9 218.22 (5) No salvage dealer licensed under ss. 218.205 to 218.23 shall be
10 licensed as a dealer under s. ~~218.01(2)~~ 218.0114 at his or her salvage dealer location,
11 provided that nothing herein shall prohibit licensing and transacting of both
12 businesses at the same location where the salvage operations are physically
13 separated.

14 **SECTION 293.** 218.40 (3) of the statutes is amended to read:

15 218.40 (3) "Moped dealer" means any person, firm or corporation, who is
16 engaged wholly or in part in the business of selling mopeds. ~~Provided, however,~~
17 except that a person, firm or corporation who is also a motor vehicle dealer under s.
18 ~~218.01~~ ss. 218.0101 to 218.0163 shall be governed and regulated by the provisions
19 of s. ~~218.01~~ ss. 218.0101 to 218.0163 and not this section.

20 **SECTION 294.** 218.505 of the statutes is amended to read:

21 **218.505 Salvage pools to be licensed as wholesalers.** No motor vehicle
22 salvage pool may engage in business as such unless licensed as a wholesaler under
23 s. ~~218.01~~ ss. 218.0101 to 218.0163.

24 **SECTION 295.** 220.285 (1) of the statutes is amended to read:

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1 220.285 (1) Any state bank, trust company bank, licensee under ~~s. ss.~~ ss. 138.09,
2 138.12, ~~218.01~~ 218.0101 to 218.0163, 218.02, 218.04 or 218.05 or ch. 217 or credit
3 union may cause any or all records kept by such bank, licensee or credit union to be
4 recorded, copied or reproduced by any photostatic, photographic or miniature
5 photographic process or by optical imaging if the process employed correctly,
6 accurately and permanently copies, reproduces or forms a medium for copying,
7 reproducing or recording the original record on a film or other durable material. A
8 bank, licensee or credit union may thereafter dispose of the original record after first
9 obtaining the written consent of the division. This section, excepting that part of it
10 which requires written consent of the division, is applicable to national banking
11 associations insofar as it does not contravene federal law.

12 **SECTION 296.** 227.43 (1) (bg) of the statutes is amended to read:

13 227.43 (1) (bg) Assign a hearing examiner to preside over any hearing or review
14 under ss. 84.30 (18), 84.31 (6) (a), 85.013 (1), 86.073 (3), 86.16 (5), 86.195 (9) (b), 86.32
15 (1), 114.134 (4) (b), 114.135 (9), 114.20 (19), 175.05 (4) (b), 194.145 (1), 194.46, ~~218.01~~
16 ~~(2) (bd) 2. and (c) 2., (3) (b), (c), (f) 1., (fm) 1. and (h) and (3e) (d)~~ 218.0114 (7) (d) and
17 (12) (b), 218.0116 (2), (4), (7) (a), (8) (a) and (10), 218.0131 (3), 218.11 (7) (a) and (b),
18 218.22 (4) (a) and (b), 218.32 (4) (a) and (b), 218.41 (4), 218.51 (5) (a) and (b), 341.09
19 (2m) (d), 342.26, 343.69 and 348.25 (9).

20 **SECTION 297.** 340.01 (11) (d) of the statutes is amended to read:

21 340.01 (11) (d) A finance company licensed under ~~s. ss.~~ ss. 138.09 or ~~218.01~~
22 218.0101 to 218.0163 who sells or offers for sale motor vehicles repossessed or
23 foreclosed by it under the terms of a security contract.

24 **SECTION 298.** 340.01 (28e) of the statutes is amended to read:

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1 340.01 (28e) “Manufacturers buyback vehicle” means a motor vehicle
2 repurchased by its manufacturer, or by an authorized distributor or dealer with
3 compensation from the manufacturer, because of a nonconformity that was not
4 corrected after a reasonable attempt to repair the nonconformity under s. 218.015
5 218.0171 or under a similar law of another state.

6 **SECTION 299.** 340.01 (35e) of the statutes is amended to read:

7 340.01 (35e) “Motor vehicle dealer” has the meaning given in s. 218.01 (1) (n)
8 218.0101 (23) (a).

9 **SECTION 300.** 340.01 (74t) of the statutes is amended to read:

10 340.01 (74t) “Wholesaler” has the meaning given in s. 218.01 (1) (e) 218.0101
11 (6).

12 **SECTION 301.** 341.51 (6) of the statutes is amended to read:

13 341.51 (6) A person licensed under s. ~~218.01~~ ss. 218.0101 to 218.0163 or 218.41
14 as a dealer, distributor or manufacturer of only mopeds may, but need not, apply for
15 registration under this section.

16 **SECTION 302.** 341.57 (1) of the statutes is amended to read:

17 341.57 (1) Any motor vehicle owned or being repossessed by a finance company
18 licensed under s. ss. 138.09 or 218.01 218.0101 to 218.0163, by a credit union licensed
19 under ch. 186, by a savings bank organized under ch. 214, by a savings and loan
20 association organized under ch. 215 or by a state bank or a national bank with offices
21 in this state, may be operated on the highways of this state for any necessary purpose
22 in repossessing, reconditioning or reselling such vehicle without such vehicle being
23 registered if the vehicle has displayed upon it a valid registration plate issued to such
24 licensee pursuant to this section.

25 **SECTION 303.** 341.57 (2) of the statutes is amended to read:

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1 341.57 (2) A finance company licensed under s. ~~ss. 138.09 or 218.01~~ 218.0101
2 to 218.0163, a credit union licensed under ch. 186, a savings bank organized under
3 ch. 214, a savings and loan association organized under ch. 215 or a state bank or a
4 national bank with offices in this state may apply to the department for registration
5 on such form as the department provides. Upon receipt of the application together
6 with a registration fee of \$75, the department shall register the applicant and shall
7 issue one registration plate containing the registration number assigned to the
8 applicant. The department, upon receiving a fee of \$5 for each additional plate
9 desired by the applicant, shall issue additional plates as the applicant orders.
10 Section 341.52 applies to the design of the plates. The registration and plates are
11 valid only during the calendar year for which issued. A plate is transferable from one
12 motor vehicle to another. The department may charge a fee of \$2 per plate for
13 replacing lost, damaged or illegible plates issued under this subsection.

14 **SECTION 304.** 342.12 (3) (a) of the statutes is amended to read:

15 342.12 (3) (a) The applicant is a dealer licensed under s. ~~218.01~~ ss. 218.0101
16 to 218.0163 or 218.11 and is financially responsible as substantiated by the last
17 financial statement on file with the licensor, a finance company licensed under s. ss.
18 138.09 or 218.01 218.0101 to 218.0163, a bank organized under the laws of this state,
19 or a national bank located in this state; or

20 **SECTION 305.** 342.18 (4) (a) of the statutes is amended to read:

21 342.18 (4) (a) Whenever application therefor accompanied by the required fee
22 is made by a finance company licensed under s. ss. 138.09 or 218.01 218.0101 to
23 218.0163, a bank organized under the laws of this state, or a national bank located
24 in this state, and the vehicle in question is a used vehicle for which the department

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1 had issued a certificate of title to the previous owner or a vehicle previously
2 registered in another jurisdiction or is a mobile home.

3 **SECTION 306.** 344.572 (2) of the statutes is amended to read:

4 344.572 (2) Sections 344.574, 344.576 and 344.578 do not apply to a rental
5 agreement under which a person rents from a motor vehicle dealer licensed under
6 ~~s. 218.01~~ ss. 218.0101 to 218.0163 a private passenger vehicle owned by the dealer
7 if the private passenger vehicle is rented only for use while a vehicle owned or leased
8 by the person or which the person has agreed to purchase is being serviced, repaired,
9 manufactured or delivered.

10 **SECTION 307.** 345.11 (1g) of the statutes is amended to read:

11 345.11 (1g) The uniform traffic citation may be used for violations of s. 218.01
12 ~~(2)-(a)~~ 218.0114 (1). The report of conviction shall be forwarded to the department.

13 **SECTION 308.** 345.11 (5) of the statutes is amended to read:

14 345.11 (5) Notwithstanding any other provision of the statutes, the use of the
15 uniform traffic citation promulgated under sub. (4) by any peace officer in connection
16 with the enforcement of any state traffic laws, any local traffic ordinances in strict
17 conformity with the state traffic laws or s. 218.01 ~~(2)-(a)~~ 218.0114 (1) shall be deemed
18 adequate process to give the appropriate court jurisdiction over the person upon the
19 filing with or transmitting to the court of the uniform traffic citation.

20 **SECTION 309.** 422.201 (3) of the statutes is amended to read:

21 422.201 (3) For licensees under s. 138.09 and under s. 218.01 ~~ss. 218.0101 to~~
22 218.0163, the finance charge, calculated according to those sections, may not exceed
23 the maximums permitted in ss. 138.09 and ~~218.01~~ 218.0101 to 218.0163,
24 respectively.

25 **SECTION 310.** 422.202 (3) (c) of the statutes is amended to read:

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1 422.202 (3) (c) A merchant may not, in the same transaction, be subject to the
2 penalty in s. 138.09 (9) (b), ~~218.01~~(8) 218.0161 or 425.305 and the penalty in s.
3 425.304, based on the assessment of the same additional charges.

4 **SECTION 311.** 425.301 (4) of the statutes is amended to read:

5 425.301 (4) The liability of a merchant under chs. 421 to 427 is in lieu of and
6 not in addition to any liability under the federal consumer credit protection act and
7 s. ss. 138.09 or ~~218.01~~ 218.0101 to 218.0163. An action by a person alleging a
8 violation under chs. 421 to 427 may not be maintained if a final judgment has been
9 rendered for or against that person with respect to the same violation under the
10 federal consumer credit protection act or s. ss. 138.09 or ~~218.01~~ 218.0101 to 218.0163.
11 If a final judgment is entered against any merchant under chs. 421 to 427 and the
12 federal consumer credit protection act or s. ss. 138.09 or ~~218.01~~ 218.0101 to 218.0163
13 for the same violation, the merchant has a cause of action for appropriate relief to
14 the extent necessary to avoid double liability.

15 **SECTION 312.** 429.102 (1) of the statutes is amended to read:

16 429.102 (1) To the extent that s. ~~218.01~~ ss. 218.0101 to 218.0163 and chs. 411
17 and 421 to 427 are inconsistent with this chapter, the provisions of this chapter shall
18 apply.

19 **SECTION 313.** 429.102 (2) of the statutes is amended to read:

20 429.102 (2) Unless superseded by the particular provisions of this chapter,
21 parties to a motor vehicle consumer lease have all of the obligations, duties, rights
22 and remedies provided in s. ~~218.01~~ ss. 218.0101 to 218.0163 and chs. 411 and 421 to
23 427 that apply to the transaction.

24 **SECTION 314.** 429.104 (13m) of the statutes, as affected by 1997 Wisconsin Act
25 48, is amended to read:

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1 429.104 (13m) “Gross capitalized cost” means the sum of all amounts
2 capitalized in the consumer lease that, after subtracting the capitalized cost
3 reduction, amortizes to the residual value by the depreciation portion of the periodic
4 lease payments over the scheduled term of the lease or, for a single-payment lease,
5 the single payment. These amounts may include taxes; fees for registration, license,
6 acquisition, administration and assignment; other fees; charges for insurance,
7 service contracts and extended warranties; and charges for a waiver of the
8 contractual obligation to pay the gap amount, for accessories and their installation,
9 for other services and benefits incidental to the consumer lease, and for delivering,
10 servicing, repairing or improving the vehicle. With respect to a vehicle or other
11 property traded in connection with a consumer lease, the term may include the
12 outstanding unpaid balance of the amount financed under a consumer loan, as
13 defined in s. 421.301 (12), or a retail instalment contract, as defined in s. ~~218.01 (1)~~
14 ~~(t)~~ 218.0101 (32), or the unpaid balance of any early termination costs under a lease
15 or other obligation of the lessee. The term does not include any rent charge.

16 **SECTION 315.** 429.104 (19) of the statutes is amended to read:

17 429.104 (19) “Motor vehicle” has the meaning given in s. ~~218.01 (1) (m)~~
18 218.0101 (22).

19 **SECTION 316.** 429.104 (21) of the statutes is amended to read:

20 429.104 (21) “Prospective lessee” means a natural person who enters into a
21 prelease agreement under s. ~~218.01 (6x)~~ 218.0144 with a prospective lessor, or who
22 otherwise intends to become a lessee.

23 **SECTION 317.** 429.104 (21m) of the statutes is amended to read:

24 429.104 (21m) “Prospective lessor” means a person regularly engaged in the
25 business of leasing or selling vehicles who enters into a prelease agreement under

ASSEMBLY BILL 969**SECTION 317**

1 s. ~~218.01 (6x)~~ 218.0144 with a prospective lessee, or who otherwise intends to become
2 a lessor.

3 **SECTION 318.** 429.301 (2) of the statutes is amended to read:

4 429.301 (2) If a party to a consumer lease recovers damages or penalties under
5 this chapter for an act or omission, the party may not recover any damages or
6 penalties for the same act or omission under s. ~~218.01~~ ss. 218.0101 to 218.0163 or chs.
7 411 and 421 to 427.

8 **SECTION 319.** 553.235 (2) (a) of the statutes is amended to read:

9 553.235 (2) (a) The exemption under sub. (1) is not available for the sale of a
10 franchise in which the franchisee would be a motor vehicle dealer or a motor vehicle
11 distributor or wholesaler, as defined in s. ~~218.01 (1)~~ 218.0101.

12 **SECTION 320.** 779.85 (3) of the statutes is amended to read:

13 779.85 (3) "Goods" has the meaning set forth in s. 402.105 (1) (c) except that
14 this term does not include a "motor vehicle" as defined in s. ~~218.01 (1) (m)~~ 218.0101
15 (22).

16 **SECTION 321. Effective dates.** This act takes effect on the day after
17 publication, except as follows:

18 (1) The treatment of section 218.01 (7a) of the statutes takes effect on January
19 1, 1999.

20 (END)