



Legislative Update

MADA is pleased to announce the 2009 franchise protection legislation has successfully passed both the House and Senate chambers. A signature by Governor O'Malley is all that stands behind this bill and the force of law. Senator Jamie Raskin and Delegate Barbara Frush were huge advocates for dealers as sponsors of this legislation. They fought off opponents until the very last day of session. MADA will issue a memo to dealers in the near future with information on how to thank these legislators.

Meanwhile, the provisions of this franchise bill are as follows:

- Prohibits a manufacturer from denying a benefit made available to other same line make dealers due to one dealers' failure to participate in a manufacturer program. This action is now considered coercion by the manufacturer.
- Adds the term "affiliate" to Maryland franchise law which gives a dealer standing to sue a captive finance company.
- Provides Maryland dealers with a legal claim against a manufacturer if a dealer believes the performance standards, sales objectives or any program for measuring dealership performance are not based on fair and reasonable demographic and geographic characteristics.
- Requires all consumer rebates, dealer incentives, price, interest rate deductions or finance terms be made available to all same line make dealers.
- Prohibits a Manufacturer from requiring a dealer to alter or replace an existing facility or offer special price, financing or interest rate terms to a dealer who builds a new facility, maintains an exclusive facility or participates in floor plan lending with the manufacturer.
- Requires all dealers to be able to purchase vehicle and truck component parts at the same price and with the right to the same incentive payments.
- Prohibits a manufacturer from exercising the right of first refusal when the prospective purchaser is a member of the dealer's immediate family, a qualified manager with at least 2 years of managerial experience, an existing dealer in good standing, or a business entity controlled by one of the individuals listed above. If a manufacturer does exercise the right, they are required to pay the reasonable expenses, including attorney's fees, of the

prospective purchaser. Requires manufacturer to notify dealer within 45 days.

- Prohibits a manufacturer from imposing a condition on the sale of a dealership if condition would violate law if imposed on an existing dealer.
- Provides for a 3rd party dealership purchase applicant to pursue an action for damages against the manufacturer if a denial is issued. There is a two year statute of limitation period.
- Modifies sales incentive audit period to 6 months from the payment of the incentive or reimbursement.
- Prohibits a manufacturer from penalizing a dealer for an exported vehicle unless the manufacturer can prove the dealer knew or should have known the vehicle was going to be exported.
- Mandates that any manufacturer gift, cash payment or anything of value totaling over \$200 given to a dealer employee in a calendar year be made to the dealer so that the appropriate tax deductions can be made through the payroll process.
- Requires manufacturer to reimburse dealer for any facility upgrades required by manufacturer within 2 years of dealer termination.
- Requires manufacturer to repurchase all new vehicles purchased within last 18 months of dealer termination, suspension, refusal to renew, closure or refusal to supply.
- Requires manufacturer to pay acquisition cost of parts and fair market value of signs, tools and special equipment if dealer is terminated.
- Effective date of this legislation is June 1, 2009.