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SENATE BILL 17-240

BY SENATOR(S) Jahn and Tate;
also REPRESENTATIVE(S) Winter, Rosenthal.

CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO SELL VEHICLES IN THE ORDINARY COURSE OF BUSINESS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS OF THE SUNSET REPORT OF THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (12)(a)(II) and (12)(a)(III); and **add** (28) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (12) (a) The following agencies, functions, or both, will repeal on July 1, 2017:

(II) ~~The motor vehicle dealer board created in section 12-6-103, C.R.S., and the functions of the executive director of the department of revenue, including licensing, specified in part 1 of article 6 of title 12, C.R.S.;~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~(III) The regulation of powersports vehicles by the motor vehicle dealer board created in section 12-6-103, C.R.S.;~~

(28) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, ARE SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2027:

(I) THE REGULATION OF MOTOR VEHICLE AND POWERSPORTS VEHICLE SALES BY THE MOTOR VEHICLE DEALER BOARD AND THE DIRECTOR OF THE AUTO INDUSTRY DIVISION, UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, IN ACCORDANCE WITH PARTS 1, 2, 3, AND 5 OF ARTICLE 6 OF TITLE 12.

(b) THIS SUBSECTION (28) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2029.

SECTION 2. In Colorado Revised Statutes, **repeal** 12-6-124 as follows:

12-6-124. Repeal of article. ~~This article is repealed, effective July 1, 2017. Prior to such repeal, the motor vehicle dealer board and the functions of the executive director, including licensing, shall be reviewed as provided for in section 24-34-104, C.R.S.~~

SECTION 3. In Colorado Revised Statutes, **add** 12-6-133 as follows:

12-6-133. Repeal of part. THIS PART 1 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027. BEFORE ITS REPEAL, THIS PART 1 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 4. In Colorado Revised Statutes, **add** 12-6-214 as follows:

12-6-214. Repeal of part. THIS PART 2 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027. BEFORE ITS REPEAL, THIS PART 2 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 5. In Colorado Revised Statutes, **add** 12-6-304 as follows:

12-6-304. Repeal of part. THIS PART 3 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027. BEFORE ITS REPEAL, THIS PART 3 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 6. In Colorado Revised Statutes, **repeal** 12-6-533 as follows:

12-6-533. Repeal of part. ~~This part 5 is repealed, effective July 1, 2017. Prior to the repeal, the functions of the motor vehicle dealer board and the executive director under this part 5, including licensing, shall be reviewed as provided for in section 24-34-104, C.R.S.~~

SECTION 7. In Colorado Revised Statutes, **add** 12-6-539 as follows:

12-6-539. Repeal of part. THIS PART 5 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027. BEFORE ITS REPEAL, THIS PART 5 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 8. In Colorado Revised Statutes, **amend** 12-6-102 as follows:

12-6-102. Definitions. As used in this part 1, and in part 5 of this ~~article~~ ARTICLE 6, unless the context or section 12-6-502 otherwise requires:

~~(1) (Deleted by amendment, L. 92, p. 1841, § 2, effective July 1, 1992.)~~

~~(1.5)~~ (1) "ADVERTISE" OR "advertisement" means any commercial message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television, or a public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, on a computer display, or in any point-of-transaction literature or price tag that is delivered or made available to a customer or prospective customer in any manner; ~~whatsoever~~; except that ~~such~~ THE term does not include materials required to be displayed by federal or state law.

(2) "Board" means the motor vehicle dealer board.

~~(2.4)~~ (3) "Business incidental thereto" means a business owned by the motor vehicle dealer or used motor vehicle dealer related to the sale of motor vehicles, including ~~without limitation~~, motor vehicle part sales, motor vehicle repair, motor vehicle recycling, motor vehicle security interest assignment, and motor vehicle towing.

~~(2.5)(a)(I)~~ (4) (a) "Buyer agent" means any person required to be licensed pursuant to this part 1 who is retained or hired by a consumer for a fee or other thing of value to assist, represent, or act on behalf of ~~such~~ THE consumer in connection with the purchase or lease of a motor vehicle.

~~(H)~~ "Consumer", as used in this subsection ~~(2.5)~~, means a purchaser or lessee of a motor vehicle, which vehicle is primarily used for business, personal, family, or household purposes. "Consumer" does not include a purchaser of motor vehicles who purchases said motor vehicles primarily for resale.

(b) (I) "Buyer agent" does not include a person whose business includes the purchase of motor vehicles primarily for resale or lease; except that nothing in this subsection ~~(2.5)~~ shall be construed to prohibit (4) PROHIBITS a buyer agent from assisting a consumer regarding the disposal of a trade-in motor vehicle that is incident to the purchase or lease of a vehicle if the buyer agent does not advertise the sale of, or sell, ~~such~~ THE vehicle to the general public, directs interested dealers and wholesalers to communicate their offers directly to the consumer or to the consumer via the buyer agent, does not handle or transfer titles or funds between the consumer and the purchaser, receives no compensation from a dealer or wholesaler purchasing a consumer's vehicle, and identifies himself or herself as a buyer agent to dealers and wholesalers interested in the consumer's vehicle.

(II) A "buyer agent" licensed ~~pursuant to~~ UNDER this part 1 shall not be employed by or receive a fee from a person whose business includes the purchase of motor vehicles primarily for resale or lease, a motor vehicle manufacturer, a motor vehicle dealer, or a used motor vehicle dealer.

~~(3)~~ (5) "Coerce" means to compel or attempt to compel by threatening, retaliating, OR EXERTING economic force or by not performing or complying with any terms or provisions of the franchise or agreement; except that recommendation, exposition, persuasion, urging, or argument

~~shall not be deemed to~~ DO NOT constitute coercion.

~~(4) "Community" means a franchisee's area of responsibility as set out in the franchise.~~

(6) "CONSUMER" MEANS A PURCHASER OR LESSEE OF A MOTOR VEHICLE USED FOR BUSINESS, PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES. "CONSUMER" DOES NOT INCLUDE A PURCHASER OF MOTOR VEHICLES PRIMARILY FOR RESALE.

~~(4.5)~~ (7) (a) "Custom trailer" means any motor vehicle ~~which~~ THAT is not driven or propelled by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and ~~which~~ THAT is uniquely designed and manufactured for a specific purpose or customer.

(b) "Custom trailer" does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

(8) "DIRECTOR" MEANS THE DIRECTOR OF THE AUTO INDUSTRY DIVISION CREATED IN SECTION 12-6-105.

~~(5)~~ (9) "Distributor" means a person, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives.

~~(6) and (7) (Deleted by amendment, L. 2003, p. 1300, § 1, effective April 22, 2003.)~~

~~(7.5)~~ (10) "Executive director" means the executive director of the department of revenue charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, manufacturer representatives, and manufacturers.

~~(8) and (9) (Deleted by amendment, L. 2003, p. 1300, § 1, effective April 22, 2003.)~~

~~(9.5)~~ (11) "Fire truck" means a vehicle intended for use in the extermination of fires, with features that may include ~~but shall not be limited to~~, a fire pump, a water tank, an aerial ladder, an elevated platform,

or any combination thereof.

~~(9.7)~~ (12) "Franchise" means the authority to sell or service and repair motor vehicles of a designated line-make granted through a sales, service, and parts agreement with a manufacturer, distributor, or manufacturer representative.

~~(10)~~ (13) "Good faith" means the duty of each party to any franchise and all officers, employees, or agents thereof to act in a fair and equitable manner toward each other so as to guarantee the one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party. Recommendation, endorsement, exposition, persuasion, urging, or argument shall not be deemed to constitute a lack of good faith.

~~(10.5)~~ (14) "Line-make" means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer's trademark, trade name, or logo.

~~(11)~~ (15) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motor vehicles; except that "manufacturer" shall DOES not include:

(a) ~~Any~~ A person who only manufactures utility trailers that weigh less than two thousand pounds and does not manufacture any other type of motor vehicle; and

(b) ~~Any~~ A person, other than a manufacturer operating a MOTOR VEHICLE dealer pursuant to IN ACCORDANCE WITH section 12-6-120.5, who is a licensed dealer selling motor vehicles that ~~such~~ THE person has manufactured.

~~(11.5)~~ (16) "Manufacturer representative" means a representative employed by a person who manufactures or assembles motor vehicles for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers or prospective dealers.

~~(12)~~ (17) "Motor vehicle" means every vehicle intended primarily for use ~~and operation~~ on the public highways that is self-propelled and every vehicle intended primarily for operation on the public highways that

is not ~~driven or propelled by its own power~~ SELF-PROPELLED but is designed to be attached to, ~~or~~ become a part of, or ~~to~~ be drawn by a self-propelled vehicle, not including farm tractors and other machines and tools used in the production, harvesting, and care of farm products. "Motor vehicle" includes ~~without limitation~~; a low-power scooter or autocycle as either is defined in section 42-1-102. ~~C.R.S.~~

~~(12.5) (Deleted by amendment, L. 92, p. 1841, § 2, effective July 1, 1992.)~~

~~(12.6)~~ (18) "Motor vehicle auctioneer" means any person, not otherwise required to be licensed pursuant to this part 1, who is engaged in the business of offering to sell, or selling, used motor vehicles owned by persons other than the auctioneer at public auction only. Any auctioning of motor vehicles by an auctioneer ~~shall~~ MUST be incidental to the primary business of auctioning goods.

~~(13)~~ (19) "Motor vehicle dealer" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, leases, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles or who is engaged wholly or in part in the business of selling or leasing new or new and used motor vehicles, whether or not ~~such~~ THE motor vehicles are owned by ~~such~~ THE person. The sale or lease of three or more new or new and used motor vehicles or the offering for sale or lease of more than three new or new and used motor vehicles at the same address or telephone number in any one calendar year ~~shall be~~ IS prima facie evidence that a person is engaged in the business of selling or leasing new or new and used motor vehicles. "Motor vehicle dealer" includes an owner of real property who allows more than three new or new and used motor vehicles to be offered for sale or lease on ~~such~~ THE property during one calendar year unless said property is leased to a licensed motor vehicle dealer. "Motor vehicle dealer" does not include:

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

(b) Public officers while performing their official duties;

(c) Employees of ~~persons enumerated in the definition of~~ A motor vehicle dealer when engaged in the specific performance of their duties as ~~such~~ employees;

(d) A wholesaler ~~as defined in subsection (18) of this section~~, or anyone selling motor vehicles solely to wholesalers;

(e) Any person engaged in the selling of a fire truck; OR

(f) A motor vehicle auctioneer. ~~as defined in subsection (12.6) of this section.~~

~~(14)~~ (20) "Motor vehicle salesperson" means a natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by a motor vehicle dealer or used motor vehicle dealer to sell, lease, purchase, or exchange or to negotiate for the sale, lease, purchase, or exchange of motor vehicles.

(21) "NEW MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT HAS BEEN TRANSFERRED ON A MANUFACTURER'S STATEMENT OF ORIGIN AND THAT HAS SUFFICIENTLY LOW MILEAGE TO BE CONSIDERED NEW, AS DETERMINED BY THE BOARD.

~~(15)~~ (22) "Person" means any natural person, estate, trust, limited liability company, partnership, association, corporation, or other legal entity, including ~~without limitation~~, a registered limited liability partnership.

~~(16)~~ (23) "Principal place of business" means a site or location devoted exclusively to the business for which the motor vehicle dealer or used motor vehicle dealer is licensed, and businesses incidental thereto, sufficiently designated to admit of definite description, with ADEQUATE CONTIGUOUS space ~~thereon or contiguous thereto adequate~~ to permit the display of one or more new or used motor vehicles, ~~and on which there shall be located or erected~~ WITH a permanent enclosed building or structure large enough to accommodate the office of the dealer and to provide a safe place to keep the books and other records of the business of ~~such~~ THE dealer, at which site or location the principal portion of ~~such~~ THE dealer's business shall be conducted and the books and records thereof kept and maintained; except that a dealer may keep its books and records at an

off-site location in Colorado after notifying the board in writing of ~~such~~ THE location at least thirty days in advance.

~~(16.5)~~ (24) "Recreational vehicle" means a camping trailer, fifth wheel trailer, motor home, recreational park trailer, travel trailer, or truck camper, all as defined in section 24-32-902, ~~C.R.S.~~, or multipurpose trailer, as defined in section 42-1-102. ~~C.R.S.~~

~~(16.6)~~ (25) "Sales, service, and parts agreement" means an agreement between a manufacturer, distributor, or manufacturer representative and a motor vehicle or powersports dealer authorizing the dealer to sell and service a line-make of motor or powersports vehicles or imposing any duty on the dealer in consideration for the right to have or competitively operate a franchise, including any amendments or additional related agreements thereto. Each amendment, modification, or addendum that materially affects the rights, responsibilities, or obligations of the contracting parties creates a new sales, service, and parts agreement.

~~(16.7)~~ (26) "Site control provision" means an agreement that applies to real property owned or leased by ~~the~~ A franchisee and that gives a motor vehicle or powersports vehicle manufacturer, distributor, or manufacturer representative the right to:

- (a) Control the use and development of the real property;
- (b) Require the franchisee to establish or maintain an exclusive dealership facility at the real property; or
- (c) Restrict the franchisee from transferring, selling, leasing, developing, or changing the use of the real property.

~~(17)~~ (27) "Used motor vehicle dealer" means ~~any~~ A person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used motor vehicles, or attempts to negotiate a sale, exchange, or lease of used ~~and new~~ motor vehicles, or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not ~~such~~ THE motor vehicles are owned by ~~such~~ THE person. The sale of three or more used motor vehicles or the offering for sale of more than three used motor vehicles at the same address or telephone number in any one calendar year ~~shall be~~ IS prima

facie evidence that a person is engaged in the business of selling used motor vehicles. "Used motor vehicle dealer" includes ~~any~~ AN owner of real property who allows more than three used motor vehicles to be offered for sale on ~~such~~ THE property during one calendar year unless said property is leased to a licensed used motor vehicle dealer. "Used motor vehicle dealer" does not include:

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

(b) Public officers while performing their official duties;

(c) Employees of ~~persons enumerated in the definition of~~ A used motor vehicle dealer when engaged in the specific performance of their duties as ~~such~~ employees;

(d) A wholesaler ~~as defined in subsection (18) of this section~~, or anyone selling motor vehicles solely to wholesalers;

(e) Mortgagees or secured parties as to sales in any one year of not more than twelve motor vehicles constituting collateral on a mortgage or security agreement, if ~~such~~ THE mortgagees or secured parties ~~shall~~ DO not realize for their own account ~~from such sales~~ any ~~moneys~~ MONEY in excess of the outstanding balance secured by ~~such~~ THE mortgage or security agreement, plus costs of collection;

(f) ~~Any~~ A person who only sells or exchanges no more than four motor vehicles that are collector's items under part 3 or 4 of article 12 of title 42; ~~C.R.S.~~;

(g) A motor vehicle auctioneer; ~~as defined in subsection (12.6) of this section~~; OR

(h) An operator, as defined in section 42-4-2102 (5), ~~C.R.S.~~, who sells a motor vehicle pursuant to section 42-4-2104. ~~C.R.S.~~

~~(17.5)~~ (28) "Wholesale motor vehicle auction dealer" means ~~any~~ A person or firm that provides auction services in wholesale transactions in which the purchasers are motor vehicle dealers licensed by this state or any

other jurisdiction or in consumer transactions of government vehicles at a time and place that does not conflict with a wholesale motor vehicle auction conducted by that licensee.

~~(18)~~ (29) "Wholesaler" means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles solely to motor vehicle dealers or used motor vehicle dealers.

SECTION 9. In Colorado Revised Statutes, 12-6-104, **amend** (3)(a.5), (3)(d)(II), (3)(e)(I), (3)(f), (3)(k)(IV), and (3)(m)(I)(A) as follows:

12-6-104. Board - oath - meetings - powers and duties - rules.

(3) The board is authorized and empowered:

(a.5) To delegate to the board's executive secretary, employed pursuant to section 12-6-105 ~~(1)(b)~~ (2)(b), the authority to execute all actions within the power of the board, carry out the directives of the board, and make recommendations to the board on all matters within the authority of the board;

(d) (II) To permit the executive director or the ~~executive director's designee~~; DIRECTOR to issue licenses pursuant to rules ~~and regulations~~ adopted by the board pursuant to ~~paragraph (a) of this subsection~~ (3) SUBSECTION (3)(a) OF THIS SECTION;

(e) (I) After due notice and a hearing, to review the findings of an administrative law judge or a hearing officer from a hearing conducted pursuant to this part 1 to revoke and suspend or to order the ~~executive director~~ to issue or to reinstate, on such terms and conditions and for such period of time as to the board ~~shall~~ appear fair and just, any license issued under ~~and pursuant to the terms and provisions of this part 1~~. The board may direct a letter of admonition for minor violations or may issue a letter of reprimand to any licensee for a violation of this part 1. A letter of admonition does not become a part of the licensee's record with the board. A letter of reprimand is a part of the licensee's record with the board for a period of two years after issuance and may be considered in aggravation of any subsequent violation by the licensee. When a letter of reprimand is sent to a licensee of the board, ~~such~~ THE licensee shall be notified in writing

regarding the right to request in writing, within twenty days after receipt of such letter, that formal disciplinary proceedings be initiated against ~~such~~ THE licensee to adjudicate the propriety of the conduct upon which the letter of reprimand is based. If a request is made within ~~such time~~ THE TWENTY-DAY period, the letter of reprimand is deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.

(f) (I) To investigate through the ~~executive~~ director, on its own motion or upon the written and signed complaint of any person, any suspected or alleged violation by ~~any~~ A motor vehicle dealer, motor vehicle salesperson, used motor vehicle dealer, wholesale motor vehicle auction dealer, or wholesaler licensee of any of the terms and provisions of this part 1 or of any rule ~~or regulation~~ promulgated by the board under the authority conferred upon it in this section. The board shall order an investigation of all written and signed complaints, ~~shall have the authority to~~ MAY issue subpoenas, and ~~to~~ MAY delegate the authority to issue subpoenas to the ~~executive~~ director, and the ~~executive~~ director shall make an investigation of all ~~such~~ complaints transmitted by the board pursuant to section 12-6-105 ~~(1)(d)~~ (3). The board ~~has the authority to~~ MAY seek to resolve disputes before beginning an investigation or hearing through its own action or by direction to the ~~executive~~ director.

(II) After an investigation by the ~~executive~~ director or the ~~executive~~ director's designee, if the board determines that there is probable cause to believe a violation of this ~~article~~ ARTICLE 6 has occurred, it may order that an administrative hearing be held pursuant to section 24-4-105, ~~C.R.S.~~, or may designate one of the board's members as a hearing officer to conduct a hearing pursuant to section ~~24-4-105, C.R.S.~~

(k) (IV) ~~To~~ THE BOARD MAY require a licensee to include with a consumer sales contract a written notice that provides to the consumer the contact information of the board and information about the board's authority over consumer motor vehicle sales.

(m) (I) (A) ~~If a hearing is held before an administrative law judge or a hearing officer designated by the board from within the board's membership, after due notice and a hearing by such judge or hearing officer pursuant to section 24-4-105, C.R.S., to review the findings of law and fact and the fairness of any fine imposed and to uphold such fine, to impose an administrative fine upon its own initiative, which shall not exceed ten~~

~~thousand dollars for each separate offense by any licensee, or to vacate the fine imposed by the judge or hearing officer; except that, for motor vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred pounds, the fine for each separate offense shall not exceed one thousand dollars~~ AFTER FINAL ACTION IS TAKEN ON A HEARING HELD BEFORE AN ADMINISTRATIVE LAW JUDGE OR A HEARING OFFICER, TO REVIEW THE FINDINGS OF LAW AND FACT AND THE FAIRNESS OF ANY FINE IMPOSED AND TO UPHOLD THE FINE, TO IMPOSE AN ADMINISTRATIVE FINE UPON ITS OWN INITIATIVE, NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH OFFENSE BY ANY LICENSEE, OR TO VACATE THE FINE IMPOSED BY THE JUDGE OR HEARING OFFICER; EXCEPT THAT, FOR MOTOR VEHICLE DEALERS WHO SELL PRIMARILY MOTOR VEHICLES THAT WEIGH UNDER ONE THOUSAND FIVE HUNDRED POUNDS, THE FINE FOR EACH OFFENSE MUST NOT EXCEED ONE THOUSAND DOLLARS. Whenever a hearing is heard by an administrative law judge, the maximum fine that may be imposed is ten thousand dollars for each ~~separate~~ offense by any person licensed by the board ~~pursuant to~~ UNDER this part 1; except that, for motor vehicle dealers who sell primarily vehicles that weigh under one thousand five hundred pounds, the fine for each ~~separate~~ offense ~~may~~ MUST not exceed one thousand dollars. Whenever a licensing hearing is conducted by a hearing officer, the sanctions that may be recommended by the hearing officer are limited to the denial or grant of an unrestricted license or a restricted license under such terms as the hearing officer deems appropriate. Whenever a disciplinary hearing is conducted by a hearing officer, the hearing officer may only recommend a probationary period of no more than twelve months, a fine of no more than five hundred dollars, or both ~~such~~ A probationary period and fine for each ~~separate~~ violation committed by a person licensed by the board.

SECTION 10. In Colorado Revised Statutes, **amend** 12-6-105 as follows:

12-6-105. Auto industry division - creation - powers and duties of executive director and director. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF REVENUE THE AUTO INDUSTRY DIVISION, THE HEAD OF WHICH IS THE DIRECTOR OF THE DIVISION. THE DIRECTOR IS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT AND SERVES AT THE PLEASURE OF THE EXECUTIVE DIRECTOR. THE DIVISION SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF THE DIVISION WERE TRANSFERRED TO THE DEPARTMENT

BY A **TYPE 2** TRANSFER AS DESCRIBED IN SECTION 24-1-105.

~~(H)~~ (2) The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, manufacturer representatives, and ~~motor vehicle~~ manufacturers, and ~~shall have~~ HAS the following powers and duties:

(a) To promulgate, amend, and repeal reasonable rules ~~and regulations~~ relating to those functions the executive director is mandated to carry out pursuant to this part 1 and the laws of the state of Colorado that the executive director deems necessary to ~~carry out the duties of the office of the executive director pursuant to~~ IMPLEMENT this part 1;

(b) To employ, subject to the laws of the state of Colorado and after consultation with the board, an executive secretary for the board, ~~The executive secretary shall be~~ WHO IS accountable to the board and shall, pursuant to delegation by the board, discharge the responsibilities of the board under this part 1; ~~The executive director may also employ such clerks, deputies, and assistants as the executive director considers necessary to discharge the duties imposed upon the executive director by this part 1 and to designate the duties of such clerks, deputies, and assistants.~~

(c) To issue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under standards established and set forth in this part 1, to refuse to issue to any applicant any license the executive director is authorized to issue by this part 1;

~~(d) (I) To investigate upon the executive director's own initiative, upon the written and signed complaint of any person, or upon request by the board pursuant to section 12-6-104 (3)(f)(I), any suspected or alleged violation by any person licensed by the executive director pursuant to this part 1 of any of the terms and provisions of this part 1 or of any rule or regulation promulgated by the executive director under the authority conferred upon the executive director in this section;~~

~~(H) The investigators and their supervisors utilized by the executive director, pursuant to subparagraph (I) of this paragraph (d), while actually engaged in performing their duties, shall have the authority as delegated by the executive director to issue subpoenas in relation to performance of their duties relating to licensees who are under the jurisdiction of the executive~~

~~director and the authority as delegated by the executive director to issue summonses for violations of sections 12-6-120 (2) and 42-6-142, C.R.S., to issue misdemeanor summonses for violations of section 12-6-119.5 (1)(a), and to procure criminal records during an investigation.~~

~~(e)~~ (d) To prescribe the forms to be used for applications for licenses to be issued by the executive director under the provisions of this part 1 and to require of such applicants, as a condition precedent to the issuance of such licenses, such information concerning the applicant's fitness to be licensed under this part 1 as the executive director considers necessary;

~~(f)~~ (e) (I) To summarily issue cease-and-desist orders on such terms and conditions and for such period of time as to the executive director appears fair and just to any person who is licensed by the executive director pursuant to this part 1 if such orders are followed by notice and a hearing pursuant to section 12-6-104 (3)(e)(I);

(II) To issue cease-and-desist orders to persons acting as ~~motor vehicle~~ manufacturers without the manufacturer's license required by this part 1; AND

(III) To impose a fine, not to exceed one thousand dollars per day, for each violation of section 12-6-120 (1) after a notice and hearing subject to section 24-4-105. ~~C.R.S.~~

~~(g) (Deleted by amendment, L. 92, p. 1847, § 5, effective July 1, 1992.)~~

(3) (a) THE DIRECTOR MAY:

(I) EMPLOY SUCH CLERKS, DEPUTIES, AND ASSISTANTS AS THE DIRECTOR CONSIDERS NECESSARY TO DISCHARGE THE DUTIES IMPOSED UPON THE DIRECTOR OR EXECUTIVE DIRECTOR BY THIS PART 1 AND TO DESIGNATE THE DUTIES OF SUCH CLERKS, DEPUTIES, AND ASSISTANTS;

(II) INVESTIGATE, UPON THE DIRECTOR'S OWN INITIATIVE, UPON THE WRITTEN AND SIGNED COMPLAINT OF ANY PERSON, OR UPON REQUEST BY THE BOARD UNDER SECTION 12-6-104 (3)(f)(I), ANY SUSPECTED OR ALLEGED VIOLATION BY A PERSON LICENSED UNDER THIS PART 1 OR OF ANY

RULE PROMULGATED UNDER THIS ARTICLE 6.

(b) THE INVESTIGATORS AND THEIR SUPERVISORS UTILIZED BY THE DIRECTOR, WHILE ACTUALLY ENGAGED IN PERFORMING THEIR DUTIES, HAVE THE AUTHORITY AS DELEGATED BY THE DIRECTOR TO ISSUE SUBPOENAS IN RELATION TO PERFORMANCE OF THEIR DUTIES ENFORCING THIS PART 1 AND THE AUTHORITY AS DELEGATED BY THE DIRECTOR TO ISSUE SUMMONSES FOR VIOLATIONS OF SECTIONS 12-6-120 (2) AND 42-6-142, TO ISSUE MISDEMEANOR SUMMONSES FOR VIOLATIONS OF SECTION 12-6-119.5 (1)(a), AND TO PROCURE CRIMINAL RECORDS DURING AN INVESTIGATION.

~~(2)~~ (4) ~~In the event~~ IF any person fails to comply with a cease-and-desist order issued pursuant to this section, the executive director may bring a suit for injunction to prevent any further and continued violation of such order. In any such suit, the final proceedings of the executive director, based upon evidence in record, ~~shall be~~ ARE prima facie evidence of the facts found therein.

~~(3)~~ (5) The executive director may impose a civil fine of not less than ten thousand dollars and not more than twenty-five thousand dollars on a ~~motor vehicle~~ manufacturer, distributor, or manufacturer representative who knowingly violates section 12-6-120.3 (5). Each day that a manufacturer, distributor, or manufacturer representative violates section 12-6-120.3 (5) by failing to offer the right of first refusal or failing to make a payment required by section 12-6-120.3 (5) is a separate offense.

SECTION 11. In Colorado Revised Statutes, **amend** 12-6-106 as follows:

12-6-106. Records as evidence. Copies of all records and papers in the office of the board, DIRECTOR, or executive director, duly authenticated under the hand and seal of the board, DIRECTOR, or executive director, shall be received in evidence in all cases equally and with like effect as the original thereof.

SECTION 12. In Colorado Revised Statutes, 12-6-107, **amend** (1) as follows:

12-6-107. Attorney general to advise and represent. (1) The attorney general of this state shall represent the board, DIRECTOR, and

executive director and shall give opinions on all questions of law relating to the interpretation of this part 1 or arising out of the administration thereof and shall appear for and in behalf of the board, DIRECTOR, and executive director in all actions brought by or against them, whether under ~~the provisions of this part 1~~ or otherwise.

SECTION 13. In Colorado Revised Statutes, 12-6-108, **amend** (1) introductory portion and (1)(c) as follows:

12-6-108. Classes of licenses. (1) THE FOLLOWING CLASSES OF licenses ARE issued under ~~the provisions of this part 1: shall be of the following classes:~~

(c) A motor vehicle salesperson's license ~~shall permit~~ PERMITS the licensee to engage in the activities of a motor vehicle salesperson WHILE EMPLOYED BY A LICENSED MOTOR VEHICLE DEALER OR USED MOTOR VEHICLE DEALER.

SECTION 14. In Colorado Revised Statutes, **amend** 12-6-108.5 as follows:

12-6-108.5. Temporary motor vehicle dealer license. (1) (a) If a licensed MOTOR vehicle dealer has entered into a written agreement to sell a dealership to a purchaser and the purchaser has been awarded a new dealership franchise, the board may issue a temporary motor vehicle dealer's license to ~~such~~ THE purchaser or prospective purchaser. The ~~executive~~ director shall issue the temporary license only after the board has received the applications for both a temporary motor vehicle dealer's license and a motor vehicle dealer's license, the appropriate application fee for the motor vehicle dealer's application, evidence of a passing test score, and evidence that the franchise has been awarded to the applicant by the manufacturer. ~~Such~~

(b) A temporary motor vehicle dealer's license ~~shall authorize~~ AUTHORIZES the licensee to act as a motor vehicle dealer. ~~Such~~ Temporary licenses ~~shall be~~ ARE subject to ~~all the provisions of this article~~ ARTICLE 6 and to all applicable rules ~~and regulations~~ adopted by the executive director or the board. ~~Such~~ A temporary motor vehicle dealer's license ~~shall be~~ IS effective for up to sixty days or until the board acts on ~~such~~ THE licensee's application for a motor vehicle dealer's license, whichever is

sooner.

(2) For the purpose of enabling an out-of-state dealer to sell vehicles on a temporary basis during specifically identified events, the ~~executive~~ director may issue, upon direction by the board, a temporary MOTOR VEHICLE dealer's license, which ~~shall be~~ IS effective for thirty days. ~~Such~~ THE temporary ~~license shall~~ LICENSEE IS subject ~~the licensee to~~ ~~compliance with~~ TO THE rules and ~~regulations~~ adopted by the executive director or the board.

SECTION 15. In Colorado Revised Statutes, **amend** 12-6-109 as follows:

12-6-109. Display, form, custody, and use of licenses. (1) The board and the executive director shall prescribe the form of the license to be issued by the executive director and ~~each license shall have imprinted thereon~~ IMPRINT ON EACH LICENSE the seal of their offices. ~~The license of~~ THE EXECUTIVE DIRECTOR SHALL MAIL THE LICENSE TO THE BUSINESS ADDRESS WHERE THE MOTOR VEHICLE SALESPERSON IS LICENSED. Each motor vehicle salesperson shall ~~be mailed to the business address where the salesperson is licensed under this article and shall be kept by the salesperson at such~~ KEEP A COPY OF THE LICENSE AT THE salesperson's place of employment for inspection by employers, consumers, THE DIRECTOR, the executive director, or the board. ~~It is the duty of~~ Each motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, wholesale motor vehicle auction dealer, or used motor vehicle dealer ~~to~~ SHALL display conspicuously ~~such~~ EACH person's ~~own license in such person's~~ LICENSE AT THE place of business FOR WHICH THE LICENSE WAS ISSUED.

(2) Each license issued ~~pursuant to~~ UNDER this part 1 is separate and distinct. It ~~shall be~~ IS a violation of this part 1 for a person to exercise any of the privileges granted under a license that ~~such~~ THE person does not hold, or for a licensee to knowingly allow such an exercise of privileges.

SECTION 16. In Colorado Revised Statutes, 12-6-110, **amend** (2), (2.5), and (3)(b); and **repeal** (3)(d) as follows:

12-6-110. Fees - disposition - expenses - expiration of licenses. (2) All ~~such~~ fees shall be paid to the state treasurer, who shall credit the

~~same~~ FEES to the auto dealers license fund CREATED IN SECTION 12-6-123.

(2.5) If an application for a buyer agent's, motor vehicle dealer's, used motor vehicle dealer's, wholesaler's, or MOTOR VEHICLE salesperson's license is withdrawn by the applicant prior to issuance of the license, THE DIRECTOR SHALL REFUND one-half of the license fee. ~~shall be refunded.~~

(3) (b) Thirty days ~~prior to~~ BEFORE the expiration of ~~such licenses~~ A LICENSE, the ~~executive~~ director shall mail to ~~any such~~ THE licensee's business address of record a notice stating when ~~such~~ THE person's license is due to expire and the fee necessary to renew ~~such~~ THE license. For a salesperson or manufacturer representative, the notice shall be mailed to the address of the dealer or manufacturer where ~~such~~ THE person is licensed.

(d) ~~A transition procedure for licensees licensed prior to July 1, 1992, shall be established by the board or the executive director by rule and regulation.~~

SECTION 17. In Colorado Revised Statutes, **amend** 12-6-112.7 as follows:

12-6-112.7. Notice of claims honored against bond. (1) ~~Any~~ A corporate surety ~~which~~ THAT has provided a bond to a licensee pursuant to ~~the requirements of~~ section 12-6-111, 12-6-112, or 12-6-112.2 shall provide notice to the board and executive director of any claim ~~which~~ THAT is honored against ~~such~~ THE bond ~~Such notice shall be provided to the board and executive director~~ within thirty days after a THE claim is honored.

(2) A notice provided by a corporate surety pursuant to ~~the requirement of~~ subsection (1) of this section ~~shall~~ MUST be in ~~such~~ THE form as required by the ~~executive~~ director, subject to approval by the board, and ~~shall~~ MUST include ~~but shall not be limited to,~~ the name of the licensee, the name and address of the claimant, the amount of the honored claim, and the nature of the claim against the licensee.

SECTION 18. In Colorado Revised Statutes, **amend** 12-6-114 as follows:

12-6-114. Filing of written warranties. ~~All~~ EACH licensed

~~manufacturers~~ MANUFACTURER shall file with the ~~executive~~ director all written warranties and changes in written warranties that ~~such~~ THE manufacturer makes on any motor vehicle or parts thereof. ~~All~~ EACH licensed ~~manufacturers~~ MANUFACTURER shall file with the ~~executive~~ director a copy of the delivery and preparation obligations of a ~~manufacturer's dealer~~ ITS DEALERS, and these warranties and obligations ~~shall~~ constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from any express or implied warranties of the manufacturer ~~shall~~ constitute the manufacturer's product or warranty liability, and the manufacturer shall reasonably compensate any authorized dealer who performs work to rectify ~~said~~ THE manufacturer's product or warranty defects.

SECTION 19. In Colorado Revised Statutes, 12-6-115, **amend** (4), (5)(a) introductory portion, (5)(a)(I), (5)(b), and (7)(h); and **add** (8) as follows:

12-6-115. Application - prelicensing education - fingerprint-based background check - rules. (4) ~~All persons applying for a motor~~ TO BE LICENSED AS A MOTOR vehicle ~~dealer's license shall~~ DEALER, A PERSON MUST file with the board a certified copy of a certificate of appointment as a dealer from a manufacturer.

(5) (a) Each person applying for a manufacturer's or distributor's license ~~shall~~ MUST:

(I) File with the ~~executive~~ director a certified copy of ~~their~~ A typical sales, service, and parts agreement with all motor vehicle dealers; and

(b) Within sixty days after amending or modifying or adding an addendum to the sales, service, or parts agreement of more than one motor vehicle dealer, a licensed manufacturer or distributor shall file a certified copy of the new sales, service, and parts agreement, including the changes, with the ~~executive~~ director if the amendment, modification, or addendum materially alters the rights and obligations of the contracting parties.

(7) (h) An approved prelicensing program provider shall submit a certificate to the ~~executive~~ director for each person who successfully completes the prelicensing education program. The certificate may be

transmitted electronically.

(8) (a) WITH THE SUBMISSION OF AN APPLICATION FOR ANY LICENSE ISSUED UNDER THIS PART 1, EACH APPLICANT SHALL SUBMIT A COMPLETE SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION OR THE AUTO INDUSTRY DIVISION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE BOARD OR THE EXECUTIVE DIRECTOR SHALL USE THE INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO BE LICENSED. THE BOARD OR THE EXECUTIVE DIRECTOR MAY VERIFY THE INFORMATION AN APPLICANT IS REQUIRED TO SUBMIT. THE APPLICANT SHALL PAY THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO THE COLORADO BUREAU OF INVESTIGATION.

(b) THIS SUBSECTION (8) DOES NOT APPLY TO A PUBLICLY TRADED COMPANY OR THE COMPANY'S SUBSIDIARY.

SECTION 20. In Colorado Revised Statutes, 12-6-116, **amend** (2); and **add** (6) as follows:

12-6-116. Notice of change of address or status. (2) (a) ~~Should~~ ~~the~~ IF A motor vehicle dealer ~~change~~ CHANGES to a new ~~line~~ LINE-MAKE of motor vehicles, ~~add~~ ADDS another franchise for the sale of new motor vehicles, or ~~cancel~~ CANCELS or, for any cause whatever, otherwise ~~lose~~ LOSES a franchise for the sale of new motor vehicles, ~~such~~ THE dealer shall immediately so notify the board. In the case of a cancellation or loss of franchise, the board shall determine whether ~~or not by reason thereof such~~ THE dealer WHO LOST THE FRANCHISE should be licensed as a used motor vehicle dealer. ~~in which case~~

(b) IF THE MOTOR VEHICLE DEALER NO LONGER POSSESSES A FRANCHISE TO SELL NEW MOTOR VEHICLES, the board shall take up, and the motor vehicle dealer shall deliver to ~~it such~~ THE BOARD, THE dealer's license, and the board shall direct the ~~executive~~ director to ~~thereupon~~ issue ~~to such~~ THE dealer a used motor vehicle dealer's license.

(c) Upon the cancellation or loss of a franchise to sell new motor vehicles and the relicensing of ~~such~~ A dealer as a used motor vehicle dealer, ~~such~~ THE dealer may continue in the business ~~for which~~ OF a motor vehicle dealer is licensed for a time, not exceeding six months ~~from~~ AFTER the date of the relicensing of ~~such~~ THE dealer, to enable ~~such~~ THE dealer to dispose of the stock of new motor vehicles on hand at the time of ~~such~~ relicensing, but not otherwise.

(6)(a) EXCEPT AS SPECIFIED IN SUBSECTION (6)(d) OF THIS SECTION:

(I) A PERSON HOLDING AN OWNERSHIP INTEREST IN A LICENSED CORPORATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR OTHER BUSINESS ENTITY SHALL NOT SELL THE INTEREST TO A PERSON WHO DOES NOT ALREADY OWN AN INTEREST IN THE BUSINESS ENTITY UNTIL THE OWNER APPLIES TO THE BOARD TO BE APPROVED TO HOLD AN OWNERSHIP INTEREST IN THE BUSINESS ENTITY AND THE BOARD APPROVES THE PERSON TO HOLD THE INTEREST.

(II) A LICENSED CORPORATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR OTHER BUSINESS ENTITY SHALL NOTIFY THE BOARD WITHIN TEN DAYS AFTER A TRANSFER, OTHER THAN A SALE, OF ANY OWNERSHIP THAT RESULTS IN A NEW PERSON HOLDING AN INTEREST IN THE BUSINESS ENTITY. TO CONTINUE TO HOLD OWNERSHIP IN THE BUSINESS, THE TRANSFEREE SHALL APPLY TO THE BOARD FOR APPROVAL TO CONTINUE HOLDING AN OWNERSHIP INTEREST IN THE BUSINESS ENTITY.

(b) TO BE APPROVED BY THE BOARD TO HOLD AN OWNERSHIP INTEREST IN A LICENSED BUSINESS ENTITY, THE NEW OWNER MUST DEMONSTRATE THE QUALIFICATIONS NECESSARY FOR LICENSING, INCLUDING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK, IN ACCORDANCE WITH THIS PART 1.

(c) (I) IF THE BOARD DOES NOT APPROVE A PERSON TO HOLD AN OWNERSHIP INTEREST IN A LICENSED BUSINESS ENTITY, THE PERSON SHALL TRANSFER THE INTEREST WITHIN SIX MONTHS AFTER ACQUIRING THE OWNERSHIP INTEREST.

(II) THIS SUBSECTION (6)(c) DOES NOT AUTHORIZE A PERSON TO HOLD AN INTEREST IN A LICENSED BUSINESS ENTITY WHEN THE PERSON ACQUIRED THE INTEREST AS THE RESULT OF A SALE THAT VIOLATES

SUBSECTION (6)(a)(I) OF THIS SECTION.

(d) (I) THIS SUBSECTION (6) DOES NOT APPLY TO THE SALE OR TRANSFER OF AN INTEREST IN A PUBLICLY TRADED COMPANY.

(II) THIS SUBSECTION (6) DOES NOT APPLY TO THE SALE OF AN INTEREST TO AN INSTITUTIONAL INVESTOR OF A BUSINESS ENTITY THAT IS SUBJECT TO THE REPORTING REQUIREMENTS OF THE "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC. 78a ET SEQ., AS AMENDED. FOR THE PURPOSES OF THIS SUBSECTION (6)(d)(II), "INSTITUTIONAL INVESTOR" MEANS AN ENTITY, SUCH AS A PENSION FUND, ENDOWMENT FUND, INSURANCE COMPANY, COMMERCIAL BANK, OR MUTUAL FUND, THAT INVESTS MONEY ON BEHALF OF ITS MEMBERS OR CLIENTS AND THAT IS REQUIRED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION TO FILE A FORM 13F, OR ITS SUCCESSOR FORM, TO REPORT QUARTERLY HOLDINGS.

SECTION 21. In Colorado Revised Statutes, 12-6-118, **add** (4.5) and (9) as follows:

12-6-118. Licenses - grounds for denial, suspension, or revocation. (4.5) THE LICENSE OF A MOTOR VEHICLE DEALER MAY BE DENIED, REVOKED, SUSPENDED, OR OTHERWISE SUBJECT TO DISCIPLINE IMPOSED UNDER THIS PART 1 IF AN OWNER IS ACTING AS A SALESPERSON WITHOUT A MOTOR VEHICLE SALESPERSON LICENSE AND THE OWNER COMMITS ANY OF THE ACTS OR OMISSIONS THAT SUBJECT A SALESPERSON'S LICENSE TO DENIAL, REVOCATION, OR SUSPENSION UNDER SUBSECTION (5) OF THIS SECTION.

(9) A PERSON WHOSE LICENSE ISSUED UNDER THIS PART 1 IS REVOKED OR WHO SURRENDERS A LICENSE TO AVOID DISCIPLINE IS INELIGIBLE TO APPLY FOR A NEW LICENSE UNDER THIS PART 1 FOR ONE YEAR AFTER THE DATE OF REVOCATION OR SURRENDER OF THE LICENSE.

SECTION 22. In Colorado Revised Statutes, 12-6-120, **amend** (2) as follows:

12-6-120. Unlawful acts. (2) It is unlawful for any person to act as a motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, used motor vehicle dealer, buyer agent,

wholesale motor vehicle auction dealer, or motor vehicle salesperson unless ~~such~~ THE person has been duly licensed under ~~the provisions of~~ this part 1, except for persons exempt from licensure as a manufacturer pursuant to UNDER section 12-6-102 ~~(H)~~ (15); however, ~~such persons~~ MANUFACTURERS EXEMPT FROM LICENSING shall comply with all other applicable requirements for manufacturers, including ~~but not limited to,~~ those pertaining to vehicle identification numbers and manufacturers' statements of origin.

SECTION 23. In Colorado Revised Statutes, 12-6-120.3, **amend** (4)(a) introductory portion, (4)(b)(I) introductory portion, (4)(b)(I)(A), (4)(b)(I)(C), and (4)(b)(I)(D) as follows:

12-6-120.3. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (4) (a) If a licensee or former licensee whose franchise was terminated, cancelled, or not renewed by the manufacturer, distributor, or manufacturer representative in the previous five years due to the insolvency of the manufacturer or distributor brings an action or proceeding before the executive director ~~or a court~~ pursuant to this ~~part~~ SECTION, the manufacturer ~~shall have~~ HAS the burden of proof on the following issues:

(b) (I) In addition to the powers specified in section 12-6-105, the executive director has jurisdiction to resolve actions or proceedings brought before the executive director pursuant to this part 1 that allege a violation of this part 1 or rules promulgated pursuant to this part 1. The executive director may promulgate rules to facilitate the administration of such actions or proceedings, including provisions specifying procedures for the executive director or the ~~executive director's designee~~ DIRECTOR to:

(A) Conduct an investigation pursuant to section 12-6-105 ~~(1)(d)~~ (3) of an alleged violation of this part 1 or rules promulgated pursuant to this part 1, including issuance of a notice of violation;

(C) Issue an order, including a cease-and-desist order issued pursuant to section 12-6-105 ~~(1)(f)~~ (1)(e), to resolve the notice of violation; and

(D) Impose a fine pursuant to section 12-6-105 ~~(1)(f)(III)~~ (1)(e)(III).

SECTION 24. In Colorado Revised Statutes, 12-6-123, **amend** (1) introductory portion as follows:

12-6-123. Disposition of fees - auto dealers license fund - created. (1) All ~~moneys~~ MONEY received under this part 1, except fines awarded pursuant to ~~section~~ SECTIONS 12-6-121.5 AND 12-6-121.6(2), shall be deposited with the state treasurer by the department of revenue, subject to ~~the provisions of section 24-35-101, C.R.S.,~~ together with a detailed statement of such receipts, and ~~such funds~~ THE MONEY deposited with the state treasurer ~~shall constitute~~ CONSTITUTES a fund to be known as the auto dealers license fund, which fund is hereby created. ~~and which~~ THE FUND shall be used under the direction of the board in the following manner:

SECTION 25. In Colorado Revised Statutes, **amend** 12-6-125 as follows:

12-6-125. Advertisement - inclusion of dealer name. ~~No motor~~ A MOTOR vehicle dealer or used motor vehicle dealer or any agent of ~~either of said~~ THE dealers shall NOT advertise any offer for the sale, lease, or purchase of a motor vehicle or a used motor vehicle ~~which~~ THAT creates the false impression that the vehicle is being offered by a private party or by a ~~motor vehicle~~ BUYER'S agent or ~~which~~ THAT does not contain the name of the dealer or the word "dealer" or, if the name is contained in the offer and does not clearly reflect that the business is a dealer, both the name of the dealer and the word "dealer".

SECTION 26. In Colorado Revised Statutes, **amend** 12-6-131 as follows:

12-6-131. Termination appeal. (1) A motor vehicle dealer who has reason to believe that a manufacturer, distributor, or manufacturer representative has violated section 12-6-120 (1)(d) or (1)(w) may appeal ~~to the board~~ by filing a complaint with the executive director. Upon receiving the complaint and upon a showing of specific facts that a violation has occurred, the executive director shall summarily issue a cease-and-desist order under section 12-6-105 ~~(1)(f)~~ (2)(e) staying the termination, elimination, modification, or nonrenewal of the franchise agreement.

(2) The cease-and-desist order remains in effect until the hearing required by section 12-6-105 ~~(1)(f)~~ (2)(e) is held. If a determination is made

at the hearing required by section 12-6-105 ~~(1)(f)~~ (2)(e) that a violation occurred, the executive director shall make the cease-and-desist order permanent and take any actions authorized by section 12-6-104 (3).

(3) A motor vehicle dealer who appeals to the executive director maintains all rights under the franchise agreement until the later of the executive director issuing a decision or ninety days after the manufacturer, distributor, or ~~manufacturer's~~ MANUFACTURER representative provides the notice of termination unless the executive director finds that the termination, cancellation, or nonrenewal was for fraud, a misrepresentation, or committing a crime within the scope of the franchise agreement or in the operation of the dealership. ~~in which case~~ IF THE EXECUTIVE DIRECTOR FINDS FRAUD, MISREPRESENTATION, OR A CRIME, the franchise rights terminate immediately.

SECTION 27. In Colorado Revised Statutes, 24-1-117, **amend** (4)(a)(VII) and (4)(a)(IX); and **add** (4)(a)(X) as follows:

24-1-117. Department of revenue - creation. (4) (a) The department of revenue shall consist of the following divisions:

(VII) Division of gaming, including the Colorado limited gaming control commission; ~~and~~

(IX) Such other groups, divisions, sections, and units as the executive director of the department of revenue may create pursuant to section 24-35-103; AND

(X) THE AUTO INDUSTRY DIVISION CREATED IN SECTION 12-6-105. THE DIVISION SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT OF REVENUE AS IF THE DIVISION WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER AS DESCRIBED IN SECTION 24-1-105.

SECTION 28. In Colorado Revised Statutes, 12-6-502, **add** (4.5) as follows:

12-6-502. Definitions. As used in this part 5, unless the context otherwise requires:

(4.5) "DIRECTOR" MEANS THE DIRECTOR OF THE AUTO INDUSTRY DIVISION CREATED IN SECTION 12-6-105.

SECTION 29. In Colorado Revised Statutes, 12-6-504, **amend** (1)(b), (1)(d)(II), (1)(e)(I)(B), and (1)(f) as follows:

12-6-504. Board - oath - meetings - powers and duties - rules.

(1) In addition to the duties and powers of the board under section 12-6-104, the board may:

(b) Delegate to the board's executive secretary, employed pursuant to section 12-6-105 ~~(1)(b)~~ (2)(b), the authority to execute all actions within the power of the board, carry out the directives of the board, and make recommendations to the board on all matters within the authority of the board;

(d) (II) Permit the ~~executive~~ director to issue licenses pursuant to rules adopted by the board under ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION;

(e) (I) After due notice and a hearing:

(B) Revoke and suspend or order the ~~executive~~ director to issue or to reinstate, on such terms and conditions and for such period of time as the board deems fair and just, any license issued pursuant to this part 5;

(f) (I) Investigate, with the assistance of the ~~executive~~ director, on its own motion or upon a written and signed complaint from any person, a suspected or alleged violation by a wholesaler, powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle salesperson of this part 5 or a rule promulgated by the board;

(II) Issue subpoenas or delegate the authority to issue subpoenas to the ~~executive~~ director;

(III) Require the ~~executive~~ director to investigate complaints transmitted by the board pursuant to section 12-6-505 ~~(1)(e) and (1)(f)~~ (3)(b) AND (3)(c);

(IV) Seek to resolve disputes before beginning an investigation or

hearing through its own action or by direction of the ~~executive~~ director;

(V) If the board determines that there is probable cause to believe a violation of this ~~article~~ ARTICLE 6 has occurred after an investigation by the ~~executive~~ director, order an administrative hearing be held pursuant to section 24-4-105, C.R.S., ~~or designate one of the board's members as a hearing officer to conduct a hearing pursuant to section 24-4-105, C.R.S.;~~

SECTION 30. In Colorado Revised Statutes, 12-6-505, **amend** (1) introductory portion; **repeal** (1)(c), (1)(e), and (1)(f); and **add** (3) as follows:

12-6-505. Powers and duties of executive director and director.

(1) The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of powersports vehicle distributors, powersports vehicle manufacturer representatives, and powersports vehicle manufacturers, and ~~shall have~~ HAS the following powers and duties:

~~(c) To employ and assign duties to clerks, deputies, and assistants, which duties the executive director considers necessary to discharge the duties imposed upon the executive director by this part 5;~~

~~(e) To investigate, upon the executive director's own initiative, upon the written and signed complaint of any person, or upon request by the board pursuant to section 12-6-504 (1)(f)(I), any suspected or alleged violation of this part 5, or of any rule promulgated by the executive director under this section, by any person licensed by the executive director pursuant to this part 5;~~

~~(f) To delegate authority to persons for the purpose of investigating alleged or suspected violations of this part 5. The investigators and their supervisors utilized by the executive director, while actually engaged in performing their duties, shall have the authority as delegated by the executive director;~~

~~(I) To issue subpoenas, in accordance with the performance of their duties, to licensees who are under the jurisdiction of the executive director;~~

~~(H) To issue summonses for violations of section 12-6-523 (2);~~

~~(HH) To issue misdemeanor summonses for violations of section 12-6-522 (1)(a); and~~

~~(IV) To procure criminal records during an investigation;~~

(3) THE DIRECTOR MAY:

(a) EMPLOY SUCH CLERKS, DEPUTIES, AND ASSISTANTS AS THE DIRECTOR CONSIDERS NECESSARY TO DISCHARGE THE DUTIES IMPOSED UPON THE DIRECTOR OR EXECUTIVE DIRECTOR BY THIS PART 5 AND TO DESIGNATE THE DUTIES OF SUCH CLERKS, DEPUTIES, AND ASSISTANTS;

(b) INVESTIGATE, UPON THE DIRECTOR'S OWN INITIATIVE, UPON THE WRITTEN AND SIGNED COMPLAINT OF ANY PERSON, OR UPON REQUEST BY THE BOARD UNDER SECTION 12-6-504 (1)(f)(I), ANY SUSPECTED OR ALLEGED VIOLATION OF THIS PART 5 OR OF ANY RULE PROMULGATED UNDER THIS ARTICLE 6;

(c) DELEGATE AUTHORITY TO PERSONS FOR THE PURPOSE OF INVESTIGATING ALLEGED OR SUSPECTED VIOLATIONS OF THIS PART 5. THE INVESTIGATORS AND THEIR SUPERVISORS UTILIZED BY THE DIRECTOR, WHILE ACTUALLY ENGAGED IN PERFORMING THEIR DUTIES, HAVE THE AUTHORITY AS DELEGATED BY THE DIRECTOR:

(I) TO ISSUE SUBPOENAS, IN ACCORDANCE WITH THE PERFORMANCE OF THEIR DUTIES, TO LICENSEES WHO ARE UNDER THE JURISDICTION OF THE EXECUTIVE DIRECTOR OR THE BOARD;

(II) TO ISSUE SUMMONSES FOR VIOLATIONS OF SECTION 12-6-523 (2);

(III) TO ISSUE MISDEMEANOR SUMMONSES FOR VIOLATIONS OF SECTION 12-6-522 (1)(a); AND

(IV) TO PROCURE CRIMINAL RECORDS DURING AN INVESTIGATION.

SECTION 31. In Colorado Revised Statutes, **amend** 12-6-506 as follows:

12-6-506. Records as evidence. Copies of all records and papers

in the office of the board, DIRECTOR, or ~~the~~ executive director, duly authenticated under the hand and seal of the board, DIRECTOR, or executive director, shall be received in evidence in all cases equally and with like effect as the original.

SECTION 32. In Colorado Revised Statutes, 12-6-507, **amend** (1) as follows:

12-6-507. Attorney general to advise and represent. (1) The attorney general shall represent the board, DIRECTOR, and executive director and shall give opinions on questions of law relating to the interpretation of this part 5 or arising out of the administration thereof and shall appear for and on behalf of the board, DIRECTOR, and executive director in all actions brought by or against them, whether under ~~the provisions of this part 5 or~~ otherwise.

SECTION 33. In Colorado Revised Statutes, 12-6-508, **amend** (1) introductory portion and (1)(c) as follows:

12-6-508. Classes of licenses. (1) THE FOLLOWING CLASSES OF licenses ARE issued under this part 5: ~~shall be of the following classes:~~

(c) A powersports vehicle salesperson's license ~~shall permit~~ PERMITS the licensee to engage in the activities of a powersports vehicle salesperson WHILE EMPLOYED BY A LICENSED POWERSPORTS VEHICLE DEALER OR USED POWERSPORTS VEHICLE DEALER.

SECTION 34. In Colorado Revised Statutes, **amend** 12-6-509 as follows:

12-6-509. Temporary powersports vehicle dealer license. (1) (a) If a licensed powersports vehicle dealer has entered into a written agreement to sell a dealership to a purchaser and the purchaser has been awarded a new franchise, the board may issue a temporary powersports vehicle dealer's license to ~~such~~ THE purchaser or prospective purchaser. The ~~executive~~ director shall issue the temporary license only after the board has received the applications for both a temporary powersports vehicle dealer's license and a powersports vehicle dealer's license, the appropriate application fee for the powersports vehicle dealer's application, evidence of a passing score of the written examination described in section 12-6-515,

and evidence that the franchise has been awarded to the applicant by the powersports vehicle manufacturer.

(b) A temporary powersports vehicle dealer's license ~~shall authorize~~ AUTHORIZES the licensee to act as a powersports vehicle dealer and ~~subject~~ SUBJECTS the licensee to this ~~article~~ ARTICLE 6 and to all rules adopted by the executive director or the board. A temporary powersports vehicle dealer's license ~~shall be~~ IS effective for up to sixty days or until the board acts on ~~such~~ THE licensee's application for a powersports vehicle dealer's license, whichever is sooner.

(2) For the purpose of enabling an out-of-state dealer to sell powersports vehicles on a temporary basis during specifically identified events, the ~~executive~~ director may issue, upon direction by the board, a temporary powersports vehicle dealer's license that ~~shall be~~ IS effective for thirty days. The temporary ~~license shall~~ LICENSEE IS ~~subject the licensee to~~ ~~compliance with~~ TO THE rules adopted by the executive director or the board.

SECTION 35. In Colorado Revised Statutes, **amend** 12-6-510 as follows:

12-6-510. Display, form, custody, and use of licenses. (1) The board and the executive director shall prescribe the form of the license to be issued by the executive director, and ~~each license shall have imprinted thereon~~ IMPRINT ON EACH LICENSE the seal of their offices. ~~The license of~~ THE EXECUTIVE DIRECTOR SHALL MAIL THE LICENSE TO THE BUSINESS ADDRESS WHERE THE POWERSPORTS VEHICLE SALESPERSON IS LICENSED. Each powersports vehicle salesperson shall ~~be mailed to the business address where the salesperson is licensed and shall be kept by the salesperson at such~~ KEEP A COPY OF THE LICENSE AT THE salesperson's place of employment for inspection by employers, consumers, THE DIRECTOR, the executive director, or the board. A powersports vehicle dealer or wholesaler shall display conspicuously the person's license in the person's place of business.

(2) Each license issued ~~pursuant to~~ UNDER this part 5 is separate and distinct. It ~~shall be~~ IS a violation of this part 5 for a person to exercise any of the privileges granted under a license that ~~such~~ THE person does not hold, or for a licensee to knowingly allow such an exercise of privileges.

SECTION 36. In Colorado Revised Statutes, 12-6-511, **amend** (4)(b) as follows:

12-6-511. Fees - disposition - expenses - expiration of licenses.

(4) (b) Thirty days ~~prior to~~ BEFORE the expiration of a license, the ~~executive~~ director shall mail to the licensee's business address of record a notice stating when the person's license is due to expire and the fee necessary to renew ~~such~~ THE license. For a powersports vehicle salesperson or powersports vehicle manufacturer representative, the notice shall be mailed to the address of the powersports vehicle dealer, used powersports vehicle dealer, or powersports vehicle manufacturer where the person is licensed.

SECTION 37. In Colorado Revised Statutes, **amend** 12-6-514 as follows:

12-6-514. Notice of claims honored against bond. (1) A corporate surety that has provided a bond to a licensee pursuant to section 12-6-512 or 12-6-513 shall provide notice to the board and ~~executive~~ director of any claim that is honored against the bond ~~The notice shall be provided to the board and executive director~~ within thirty days after a THE claim is honored.

(2) A notice provided by a corporate surety pursuant to subsection (1) of this section ~~shall~~ MUST be in the form required by the ~~executive~~ director, subject to approval by the board, and ~~shall~~ MUST include ~~without limitation~~, the name of the licensee, the name and address of the claimant, the amount of the honored claim, and the nature of the claim against the licensee.

SECTION 38. In Colorado Revised Statutes, **amend** 12-6-516 as follows:

12-6-516. Filing of written warranties. A licensed powersports vehicle manufacturer shall file with the ~~executive~~ director all written warranties and changes in written warranties the manufacturer makes on powersports ~~vehicle~~ VEHICLES or parts thereof. A licensed powersports vehicle manufacturer shall file with the ~~executive~~ director a copy of the delivery and preparation obligations of a powersports vehicle manufacturer's dealer, and these warranties and obligations ~~shall~~ constitute

the powersports vehicle dealer's only responsibility for product liability as between the powersports vehicle dealer and the powersports vehicle manufacturer. Any mechanical, body, or parts defects arising from express or implied warranties of the powersports vehicle manufacturer ~~shall~~ constitute the powersports vehicle manufacturer's product or warranty liability, and the powersports vehicle manufacturer shall reasonably compensate any authorized powersports vehicle dealer who performs work to rectify a powersports vehicle manufacturer's product or warranty defects.

SECTION 39. In Colorado Revised Statutes, 12-6-517, **amend** (2), (5)(a) introductory portion, (5)(a)(I), (5)(b), and (7)(h); and **add** (8) as follows:

12-6-517. Application - fingerprint-based background check - rules. (2) An application for a powersports vehicle distributor, powersports vehicle manufacturer representative, or powersports vehicle manufacturer license shall be submitted to the ~~executive~~ director.

(5) (a) A person applying for a powersports vehicle manufacturer's or distributor's license ~~shall~~ **MUST**:

(I) File with the ~~executive~~ director a certified copy of a typical sales, service, and parts agreement with all powersports vehicle dealers; and

(b) Within sixty days after amending or modifying or adding an addendum to the sales, service, or parts agreement of more than one powersports dealer, a licensed manufacturer or distributor shall file a certified copy of the new sales, service, and parts agreement, including the changes, with the ~~executive~~ director if the amendment, modification, or addendum materially alters the rights and obligations of the contracting parties.

(7) (h) An approved prelicensing program provider shall submit a certificate to the ~~executive~~ director for each person who successfully completes the prelicensing education program. The certificate may be transmitted electronically.

(8) (a) WITH THE SUBMISSION OF AN APPLICATION FOR ANY LICENSE ISSUED UNDER THIS PART 5, EACH APPLICANT SHALL SUBMIT A COMPLETE SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION OR THE

AUTO INDUSTRY DIVISION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE BOARD OR THE EXECUTIVE DIRECTOR SHALL USE THE INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO BE LICENSED. THE BOARD OR THE EXECUTIVE DIRECTOR MAY VERIFY THE INFORMATION AN APPLICANT IS REQUIRED TO SUBMIT. THE APPLICANT SHALL PAY THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO THE COLORADO BUREAU OF INVESTIGATION.

(b) THIS SUBSECTION (8) DOES NOT APPLY TO A PUBLICLY TRADED COMPANY OR THE COMPANY'S SUBSIDIARY.

SECTION 40. In Colorado Revised Statutes, 12-6-518, **amend** (2); and **add** (5) as follows:

12-6-518. Notice of change of address or status. (2) (a) ~~Should~~ ~~the~~ If A powersports vehicle dealer ~~change~~ CHANGES to a new ~~line~~ LINE-MAKE of powersports vehicles, ~~add~~ ADDS another franchise for the sale of new powersports vehicles, or ~~cancel~~ CANCELS or otherwise ~~lose~~ LOSES a franchise for the sale of new powersports vehicles, the dealer shall immediately notify the board. If a franchise is canceled or lost, the board shall determine whether the dealer should be licensed as a used powersports vehicle dealer.

(b) If ~~so~~ THE POWERSPORTS VEHICLE DEALER NO LONGER POSSESSES A FRANCHISE TO SELL NEW POWERSPORTS VEHICLES, the board shall cancel and the powersports vehicle dealer shall deliver to it the dealer's license, and the board shall direct the ~~executive~~ director to issue to the dealer a used powersports vehicle dealer's license.

(c) Upon the cancellation or loss of a franchise to sell new powersports vehicles and the relicensing of the dealer as a used powersports vehicle dealer, the dealer may continue in the business ~~for~~ ~~which~~ OF a powersports vehicle dealer is licensed for a time, not exceeding six months after the relicensing of the dealer, to enable the dealer to dispose

of the stock of new powersports vehicles on hand at the time of the relicensing, but not otherwise.

(5)(a) EXCEPT AS SPECIFIED IN SUBSECTION (5)(d) OF THIS SECTION:

(I) A PERSON HOLDING AN OWNERSHIP INTEREST IN A LICENSED CORPORATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR OTHER BUSINESS ENTITY SHALL NOT SELL THE INTEREST TO A PERSON WHO DOES NOT ALREADY OWN AN INTEREST IN THE BUSINESS ENTITY UNTIL THE OWNER APPLIES TO THE BOARD TO BE APPROVED TO HOLD AN OWNERSHIP INTEREST IN THE BUSINESS ENTITY AND THE BOARD APPROVES THE PERSON TO HOLD THE INTEREST.

(II) A LICENSED CORPORATION, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, OR OTHER BUSINESS ENTITY SHALL NOTIFY THE BOARD WITHIN TEN DAYS AFTER A TRANSFER, OTHER THAN A SALE, OF ANY OWNERSHIP THAT RESULTS IN A NEW PERSON HOLDING AN INTEREST IN THE BUSINESS ENTITY. TO CONTINUE TO HOLD OWNERSHIP IN THE BUSINESS, THE TRANSFEREE SHALL APPLY TO THE BOARD FOR APPROVAL TO CONTINUE HOLDING AN OWNERSHIP INTEREST IN THE BUSINESS ENTITY.

(b) TO BE APPROVED BY THE BOARD TO HOLD AN OWNERSHIP INTEREST IN A LICENSED BUSINESS ENTITY, THE NEW OWNER MUST DEMONSTRATE THE QUALIFICATIONS NECESSARY FOR LICENSING, INCLUDING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK, IN ACCORDANCE WITH THIS PART 5.

(c) (I) IF THE BOARD DOES NOT APPROVE A PERSON TO HOLD AN OWNERSHIP INTEREST IN A LICENSED BUSINESS ENTITY, THE PERSON SHALL TRANSFER THE INTEREST WITHIN SIX MONTHS AFTER ACQUIRING THE OWNERSHIP INTEREST.

(II) THIS SUBSECTION (5)(c) DOES NOT AUTHORIZE A PERSON TO HOLD AN INTEREST IN A LICENSED BUSINESS ENTITY WHEN THE PERSON ACQUIRED THE INTEREST AS THE RESULT OF A SALE THAT VIOLATES SUBSECTION (5)(a)(I) OF THIS SECTION.

(d) (I) THIS SUBSECTION (5) DOES NOT APPLY TO THE SALE OR TRANSFER OF AN INTEREST IN A PUBLICLY TRADED COMPANY.

(II) THIS SUBSECTION (5) DOES NOT APPLY TO THE SALE OF AN INTEREST TO AN INSTITUTIONAL INVESTOR OF A BUSINESS ENTITY THAT IS SUBJECT TO THE REPORTING REQUIREMENTS OF THE "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC. 78a ET SEQ., AS AMENDED. FOR THE PURPOSES OF THIS SUBSECTION (5)(d)(II), "INSTITUTIONAL INVESTOR" MEANS AN ENTITY, SUCH AS A PENSION FUND, ENDOWMENT FUND, INSURANCE COMPANY, COMMERCIAL BANK, OR MUTUAL FUND, THAT INVESTS MONEY ON BEHALF OF ITS MEMBERS OR CLIENTS AND THAT IS REQUIRED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION TO FILE A FORM 13F, OR ITS SUCCESSOR FORM, TO REPORT QUARTERLY HOLDINGS.

SECTION 41. In Colorado Revised Statutes, 12-6-520, **add** (5.5) and (7) as follows:

12-6-520. Licenses - grounds for denial, suspension, or revocation. (5.5) THE LICENSE OF A POWERSPORTS VEHICLE DEALER MAY BE DENIED, REVOKED, SUSPENDED, OR OTHERWISE SUBJECT TO DISCIPLINE IMPOSED UNDER THIS PART 5 IF AN OWNER IS ACTING AS A SALESPERSON WITHOUT A MOTOR VEHICLE SALESPERSON LICENSE AND THE OWNER COMMITS ANY OF THE ACTS OR OMISSIONS THAT SUBJECT A SALESPERSON'S LICENSE TO DENIAL, REVOCATION, OR SUSPENSION UNDER SUBSECTION (5) OF THIS SECTION.

(7) A PERSON WHOSE LICENSE ISSUED UNDER THIS PART 5 IS REVOKED OR WHO SURRENDERS A LICENSE TO AVOID DISCIPLINE IS INELIGIBLE TO APPLY FOR A NEW LICENSE UNDER THIS PART 5 FOR ONE YEAR AFTER THE DATE OF REVOCATION OR SURRENDER OF THE LICENSE.

SECTION 42. In Colorado Revised Statutes, 12-6-524, **amend** (4)(a) introductory portion, (4)(b)(I) introductory portion, and (4)(b)(I)(A) as follows:

12-6-524. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (4) (a) If a licensee or former licensee whose franchise was terminated, cancelled, or not renewed by the manufacturer, distributor, or manufacturer representative in the previous five years due to the insolvency of the manufacturer or distributor brings an action or proceeding before the executive director ~~or a court~~ pursuant to this ~~part 5~~ SECTION, the

powersports vehicle manufacturer ~~shall have~~ HAS the burden of proof on the following issues:

(b) (I) In addition to the powers specified in section 12-6-505, the executive director has jurisdiction to resolve actions or proceedings brought before the executive director pursuant to this part 5 that allege a violation of this part 5 or rules promulgated pursuant to this part 5. The executive director may promulgate rules to facilitate the administration of the actions or proceedings, including provisions specifying procedures for the executive director or the ~~executive director's designee~~ DIRECTOR to:

(A) Conduct an investigation pursuant to section 12-6-505 ~~(1)(e) and (1)(f)~~ (3)(b) AND (3)(c) of an alleged violation of this part 5 or rules promulgated pursuant to this part 5, including issuance of a notice of violation;

SECTION 43. In Colorado Revised Statutes, 6-1-102, **amend** the introductory portion and (5.5) as follows:

6-1-102. Definitions. As used in this ~~article~~ ARTICLE 1, unless the context otherwise requires:

(5.5) "Motor vehicle" ~~shall have~~ HAS the same meaning as set forth in section 12-6-102. ~~(12), C.R.S.~~

SECTION 44. In Colorado Revised Statutes, **amend** 16-2.5-121 as follows:

16-2.5-121. Executive director of the department of revenue - senior director of enforcement for the department of revenue. The executive director and the senior director of enforcement of the department of revenue are peace officers while engaged in the performance of their duties whose authority includes the enforcement of laws and rules regarding automobile dealers pursuant to section 12-6-105 ~~(1)(d)(H), C.R.S.~~ (3), the lottery pursuant to sections 24-35-205 (3) and 24-35-206 (7), ~~C.R.S.~~, medical marijuana pursuant to article 43.3 of title 12, ~~C.R.S.~~, limited gaming pursuant to section 12-47.1-204, ~~C.R.S.~~, liquor pursuant to section 12-47-904 (1), ~~C.R.S.~~, and racing events pursuant to section 12-60-203 (1), ~~C.R.S.~~, and the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.

SECTION 45. In Colorado Revised Statutes, 6-1-708, **amend** (1) as follows:

6-1-708. Vehicle sales and leases - deceptive trade practice.

(1) A person engages in a deceptive trade practice when, in the course of ~~such~~ THE person's business, vocation, or occupation, such person:

(a) Commits any of the following acts pertaining to the sale or lease of a motor vehicle, ~~or a~~ used motor vehicle, POWERSPORTS VEHICLE, OR USED POWERSPORTS VEHICLE:

(I) Guarantees to a purchaser or lessee of a motor vehicle, ~~or~~ used motor vehicle, POWERSPORTS VEHICLE, OR USED POWERSPORTS VEHICLE who conditions ~~such~~ THE purchase or lease on the approval of a consumer credit transaction as defined in section 5-1-301 (12) ~~C.R.S.~~; that such purchaser or lessee has been approved for a consumer credit transaction if ~~such~~ THE approval is not final. For purposes of this ~~subparagraph~~ ~~(I)~~ SUBSECTION (1)(a)(I), "guarantee" means a written document or oral representation between the purchaser or lessee and the person selling or leasing the vehicle that leads such purchaser or lessee to a reasonable good faith belief that the financing of ~~such~~ THE vehicle is certain.

(II) Accepts a used ~~motor~~ vehicle as a trade-in on the purchase or lease of a motor vehicle, ~~or~~ used motor vehicle, POWERSPORTS VEHICLE, OR USED POWERSPORTS VEHICLE and sells or leases ~~such used motor~~ THE vehicle THAT HAS BEEN TRADED IN before the purchaser or lessee has been approved for a consumer credit transaction as defined in section 5-1-301 (12) ~~C.R.S.~~; if ~~such~~ THE approval is a condition of the purchase or lease;

(III) Fails to return to the ~~purchaser or lessee~~ CONSUMER any collateral or down payment tendered by ~~such purchaser or lessee~~ THE CONSUMER conditioned upon a guarantee by a motor vehicle dealer, ~~or~~ used motor vehicle dealer, POWERSPORTS VEHICLE DEALER, OR USED POWERSPORTS VEHICLE DEALER that a consumer credit transaction as defined in section 5-1-301 (12) ~~C.R.S.~~; has been approved for ~~such purchaser or lessee~~; if ~~such~~ THE approval was a condition of the sale or lease and if ~~such~~ THE financing is not approved and the ~~purchaser or lessee~~ CONSUMER is required to return the vehicle;

(b) Fails to disclose in writing, prior to sale, to the purchaser that a

motor vehicle is a salvage vehicle, as defined in section 42-6-102 (17), ~~C.R.S.~~, or that a vehicle was repurchased by or returned to the manufacturer from a previous owner for inability to conform the motor vehicle to the manufacturer's warranty in accordance with article 10 of title 42 ~~C.R.S.~~, or with any other state or federal motor vehicle warranty law, or knowingly fails to disclose in writing, prior to sale, to the purchaser that a motor vehicle OR POWERSPORTS VEHICLE has sustained material damage at any one time from any one incident.

SECTION 46. In Colorado Revised Statutes, **amend** 16-2.5-122 as follows:

16-2.5-122. Auto industry investigator. THE DIRECTOR OF THE AUTO INDUSTRY DIVISION OR an auto industry investigator is a peace officer while engaged in the performance of his or her duties whose authority ~~shall~~ **be** IS limited to the enforcement of section 12-6-105 ~~(1)(d)(H), C.R.S.~~ (3).

SECTION 47. In Colorado Revised Statutes, 38-20-116, **amend** (2.5)(d)(II) as follows:

38-20-116. Abandoned property - notice of sale - definitions. (2.5) (d) (II) Nothing in this ~~paragraph (d) shall require~~ SUBSECTION (2.5)(d) REQUIRES a repair shop to be a licensed dealer pursuant to PART 1 OF article 6 of title 12 ~~C.R.S.~~, for purposes of selling a motor vehicle pursuant to this section.

SECTION 48. In Colorado Revised Statutes, 39-26-713, **amend** (2) introductory portion and (2)(b)(II) introductory portion as follows:

39-26-713. Tangible personal property. (2) The following ~~shall~~ **be** ARE exempt from taxation under ~~the provisions of~~ part 2 of this ~~article~~ ARTICLE 26:

(b) (II) For purposes of this ~~paragraph (b)~~ SUBSECTION (2)(b), any motor vehicle purchased and held for resale in this state by a licensed motor vehicle dealer, as defined in section 12-6-102, ~~(13), C.R.S.~~, who meets the eligibility requirements to receive a full-use dealer plate set forth in section 42-3-116 (6)(a)(I) ~~C.R.S.~~, shall be considered to be in the regular course of business and shall not be subject to taxation under part 2 of this ~~article~~ ARTICLE 26. A motor vehicle shall be considered to be purchased and held

for resale if:

SECTION 49. In Colorado Revised Statutes, 42-3-115, **amend** (2)(b)(III)(A) as follows:

42-3-115. Registration upon transfer. (2) (b) A transferee may operate a motor vehicle on the highway before registering it if:

(III) (A) The transferee has purchased the motor vehicle within the last thirty-six hours from a person who is not a motor vehicle dealer under PART 1 OF article 6 of title 12; ~~C.R.S.~~;

SECTION 50. In Colorado Revised Statutes, 42-3-116, **amend** (6)(e) as follows:

42-3-116. Manufacturers or dealers. (6) (e) As used in this subsection (6), "motor vehicle dealer or wholesaler" includes motor vehicle dealers, used motor vehicle dealers, and wholesalers as those terms are defined in section 12-6-102. ~~(13), (17), and (18), C.R.S.~~

SECTION 51. In Colorado Revised Statutes, 42-4-304, **amend** (19)(b)(I) as follows:

42-4-304. Definitions relating to automobile inspection and readjustment program. As used in sections 42-4-301 to 42-4-316, unless the context otherwise requires:

(19) (b) (I) Inspections conducted pursuant to section 42-4-309 (3) by a motor vehicle dealer test facility shall only be conducted on used motor vehicles inventoried or consigned in this state for retail sale by a motor vehicle dealer THAT IS licensed pursuant to PART 1 OF article 6 of title 12 ~~C.R.S.~~, and ~~which~~ THAT is a member of the state trade association operating the motor vehicle dealer test facility.

SECTION 52. In Colorado Revised Statutes, 42-4-309, **amend** (3)(a), (3)(b), (3)(d), and (6)(a) as follows:

42-4-309. Vehicle fleet owners - motor vehicle dealers - authority to conduct inspections - fleet inspection stations - motor vehicle dealer test facilities - contracts with licensed inspection-only

entities. (3) (a) Any person licensed as a motor vehicle dealer pursuant to PART 1 OF article 6 of title 12 ~~C.R.S.~~, in whose name twenty or more motor vehicles are registered or inventoried or consigned for retail sale in this state ~~which~~ THAT are required to be inspected shall comply with the requirements of section 42-4-310 for the issuance of a certificate of emissions compliance at the time of the retail sale of any such vehicle.

(b) Within the enhanced emissions program, motor vehicle dealers licensed pursuant to PART 1 OF article 6 of title 12 ~~C.R.S.~~, may contract for used motor vehicle inspection services by a licensed motor vehicle dealer test facility. Pursuant to ~~regulations~~ RULES of the commission, inspection procedures shall include a loaded mode transient dynamometer test cycle in combination with appropriate idle short tests pursuant to rules ~~and regulations~~ of the commission.

(d) Within the basic emissions program, any person licensed as a motor vehicle dealer pursuant to PART 1 OF article 6 of title 12 ~~C.R.S.~~, may be licensed to conduct inspections pursuant to subsections (1) and (2) of this section.

(6) (a) On and after June 1, 1996, a motor vehicle dealer or a used motor vehicle dealer licensed pursuant to PART 1 OF article 6 of title 12 ~~C.R.S.~~, that sells any vehicle subject to ~~the provisions of~~ the enhanced emissions program may comply with ~~the provisions of~~ sections 42-4-304 (3)(d) and 42-4-310 by providing the consumer of the vehicle a voucher purchased by the dealer from the contractor for the centralized enhanced emissions program, with or without charge to the consumer, up to the maximum amount charged for an emissions inspection at an enhanced inspection center. ~~Such~~ THE voucher shall cover the cost of an emissions inspection of the vehicle at an enhanced inspection center and shall entitle the consumer to such an emissions inspection.

SECTION 53. In Colorado Revised Statutes, 42-4-310, **amend** (1)(a)(I) as follows:

42-4-310. Periodic emissions control inspection required.

(1) (a) (I) Subject to subsection (4) of this section, a motor vehicle that is required to be registered in the program area shall not be sold, registered for the first time without a certification of emissions compliance, or reregistered unless such vehicle has passed a clean screen test or has a valid

certification of emissions control as required by the appropriate county. The provisions of this ~~paragraph (a) shall~~ SUBSECTION (1)(a) DO not apply to motor vehicle transactions at wholesale between motor vehicle dealers licensed pursuant to PART 1 OF article 6 of title 12. ~~C.R.S.~~ An inspection is not required prior to the sale of a motor vehicle with at least twelve months remaining before the vehicle's certification of emissions compliance expires if such certification was issued when the vehicle was new.

SECTION 54. In Colorado Revised Statutes, 42-4-1805, **amend** (4)(b) as follows:

42-4-1805. Appraisal of abandoned motor vehicles - sale. (4) (b) Nothing in this section ~~shall be deemed to require~~ REQUIRES an operator to be licensed pursuant to PART 1 OF article 6 of title 12 ~~C.R.S.~~, for purposes of conducting activities under this part 18.

SECTION 55. In Colorado Revised Statutes, 42-4-2104, **amend** (1)(b) as follows:

42-4-2104. Appraisal of abandoned motor vehicles - sale. (1) (b) Nothing in this section ~~shall require~~ REQUIRES that an operator must be a licensed dealer pursuant to PART 1 OF article 6 of title 12 ~~C.R.S.~~, for purposes of selling a motor vehicle pursuant to this part 21.

SECTION 56. In Colorado Revised Statutes, 42-5-105, **amend** (1)(b)(IV) as follows:

42-5-105. Daily record. (1) (b) The record shall be kept in a good businesslike manner in the form of invoices or in a book by the dealer or proprietor and shall contain the following:

(IV) The name, address, and a copy of the identification document of the driver and the owner of a motor vehicle received for any purpose; except that a licensed motor vehicle dealer or used motor vehicle dealer is not required to obtain or retain a copy of an identification document if such dealer complies with PART 1 OF article 6 of title 12; ~~C.R.S.~~

SECTION 57. In Colorado Revised Statutes, 42-6-201, **amend** (9) as follows:

42-6-201. Definitions. As used in this part 2, unless the context otherwise requires:

(9) "Used motor vehicle dealer" means any licensed motor vehicle dealer, used motor vehicle dealer, or wholesaler as defined by ~~the introductory portions to~~ section 12-6-102. ~~(13) and (17) and section 12-6-102 (18), C.R.S.~~

SECTION 58. Appropriation. (1) For the 2017-18 state fiscal year, \$70,011 is appropriated to the department of revenue. This appropriation is from the auto dealers license fund created in section 12-6-123 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$40,113 for use by motor vehicle dealer licensing board for personal services, which amount is based on an assumption that the board will require an additional 1.1 FTE;

(b) \$19,898 for use by motor vehicle dealer licensing board for operating expenses; and

(c) \$10,000 for tax administration IT system (GenTax) support.

(2) For the 2017-18 state fiscal year, \$162,983 is appropriated to the department of public safety for use by the biometric identification and records unit. This appropriation is from the Colorado bureau of investigation identification unit fund created in section 24-33.5-426, C.R.S., and is based on an assumption that the bureau will require an additional 0.8 FTE. To implement this act, the unit may use this appropriation to provide criminal history record checks.

SECTION 59. Effective date. This act takes effect July 1, 2017; except that section 23 of this act amending section 12-6-120.3, Colorado Revised Statutes, section 26 of this act amending section 12-6-131, Colorado Revised Statutes, and section 42 of this act amending section 12-6-524, Colorado Revised Statutes, take effect only if Senate Bill 17-298 does not become law.

SECTION 60. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO