

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0165.01 Jery Payne x2157

SENATE BILL 18-030

SENATE SPONSORSHIP

Holbert and Kagan,

HOUSE SPONSORSHIP

Foote and Willett,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED**
102 **TO SELF-PROPELLED VEHICLES FROM TITLE 12, COLORADO**
103 **REVISED STATUTES, AS PART OF THE ORGANIZATIONAL**
104 **RECODIFICATION OF TITLE 12.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Committee on Legal Services. Current law directs the office of legislative legal services to study the organizational recodification of title 12 of the Colorado Revised Statutes, which relates to professions and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

occupations. One recommendation of the study is to relocate laws located in title 12 that are administered by the department of revenue to a new title 44, which will consist solely of laws administered by the department of revenue that regulate a variety of activities. To implement this recommendation, **section 1** of the bill creates title 44 and **section 2** relocates laws related to the sale of motor vehicles and powersports vehicles from article 6 of title 12 to article 20 of title 44.

Section 3 relocates part 4 of article 6 of title 12 related to event data recorders to part 24 of article 4 of title 42.

Section 4 repeals the article where these laws were previously codified.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** title 44 as
3 follows:

4 **TITLE 44**

5 **ACTIVITIES REGULATED BY**

6 **THE DEPARTMENT OF REVENUE**

7 **ARTICLE 1**

8 **Common Provisions**

9 **44-1-101. Short title.** THE SHORT TITLE OF THIS TITLE 44 IS THE
10 "DEPARTMENT OF REVENUE ACTIVITIES REGULATION ACT".

11 **44-1-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
12 HEREBY FINDS AND DECLARES THAT:

13 (a) BEFORE THE ENACTMENT OF THIS TITLE 44, LAWS
14 ADMINISTERED BY THE DEPARTMENT OF REVENUE THAT REGULATE A
15 VARIETY OF ACTIVITIES WERE CODIFIED IN TWO TITLES OF THE COLORADO
16 REVISED STATUTES, MOST PROMINENTLY IN TITLE 12, WHICH GOVERNS
17 PROFESSIONS AND OCCUPATIONS;

18 (b) MOST PROFESSIONS AND OCCUPATIONS ARE REGULATED BY
19 THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO TITLE 12, BUT,

1 PRIOR TO THE 2017 LEGISLATIVE SESSION, TITLE 12 CONTAINED NUMEROUS
2 LAWS THAT DID NOT PERTAIN TO THE REGULATION OF PROFESSIONS AND
3 OCCUPATIONS AND WERE NOT ADMINISTERED BY THE DEPARTMENT OF
4 REGULATORY AGENCIES;

5 (c) WITH THE ENACTMENT OF SECTION 2-3-510 IN 2016, THE
6 GENERAL ASSEMBLY DIRECTED THE OFFICE OF LEGISLATIVE LEGAL
7 SERVICES TO STUDY AN ORGANIZATIONAL RECODIFICATION OF TITLE 12 OF
8 THE COLORADO REVISED STATUTES, INCLUDING RELOCATING LAWS THAT
9 DO NOT PERTAIN TO PROFESSIONS AND OCCUPATIONS AND ARE NOT
10 ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES;

11 (d) BASED ON RECOMMENDATIONS FROM THE TITLE 12
12 RECODIFICATION STUDY, THE GENERAL ASSEMBLY ENACTED SEVERAL
13 BILLS IN THE 2017 LEGISLATIVE SESSION TO RELOCATE OUT OF TITLE 12
14 MANY LAWS THAT ARE ADMINISTERED BY ENTITIES OTHER THAN THE
15 DEPARTMENT OF REGULATORY AGENCIES;

16 (e) THE STUDY ALSO RECOMMENDED CREATING A NEW TITLE 44
17 FOR PURPOSES OF CONSOLIDATING LAWS ADMINISTERED BY THE
18 DEPARTMENT OF REVENUE THAT REGULATE ACTIVITIES INTO A SINGLE
19 TITLE IN ORDER TO FACILITATE BOTH:

20 (I) THE PUBLIC'S AND REGULATED ENTITIES' UNDERSTANDING OF
21 THE LAWS THAT APPLY TO THEM; AND

22 (II) THE DEPARTMENT OF REVENUE'S ADMINISTRATION OF THESE
23 LAWS; AND

24 (f) CREATING A NEW TITLE 44 CONSISTING OF LAWS ADMINISTERED
25 BY THE DEPARTMENT OF REVENUE THAT REGULATE VARIOUS ACTIVITIES
26 IS NECESSARY TO IMPLEMENT THE RECOMMENDATIONS OF THE TITLE 12
27 RECODIFICATION STUDY AND FACILITATE THE REORGANIZATION OF TITLE

1 12 PERTAINING TO THE REGULATION OF PROFESSIONS AND OCCUPATIONS.

2 **44-1-103. Definitions.** AS USED IN THIS TITLE 44, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE
5 CREATED IN SECTION 24-1-117.

6 (2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
7 THE DEPARTMENT.

8 **SECTION 2.** In Colorado Revised Statutes, **add with amended**
9 **and relocated provisions** article 20 to title 44 as follows:

10 **ARTICLE 20**

11 **Sale of Self-propelled Vehicles**

12 **PART 1**

13 **MOTOR VEHICLE DEALERS**

14 **44-20-101. [Formerly 12-6-101] Legislative declaration.**

15 (1) The general assembly hereby declares that:

16 (a) The sale and distribution of motor vehicles affects the public
17 interest and a significant factor of inducement in making a sale of a motor
18 vehicle is the trust and confidence of the purchaser in the retail dealer
19 from whom the purchase is made and the expectancy that ~~such~~ THE dealer
20 will remain in business to provide service for the motor vehicle
21 purchased;

22 (b) Proper motor vehicle service is important to highway safety
23 and the manufacturers and distributors of motor vehicles have an
24 obligation to the public not to terminate or refuse to continue their
25 franchise agreements with retail dealers unless the manufacturer or
26 distributor has first established good cause for termination or
27 noncontinuance of ~~any such~~ THE agreement, to the end that there shall be

1 no diminution of locally available service;

2 (c) The licensing and supervision of motor vehicle dealers by the
3 motor vehicle dealer board are necessary for the protection of consumers,
4 and therefore, the sale of motor vehicles by unlicensed dealers or
5 salespersons, or by licensed dealers or salespersons who have
6 demonstrated unfitness, should be prevented;

7 (d) Consumer education concerning the rules ~~and regulations~~ of
8 the motor vehicle industry, the considerations when purchasing a motor
9 vehicle, and the role, functions, and actions of the motor vehicle dealer
10 board are necessary for the protection of the public and for maintaining
11 the trust and confidence of the public in the motor vehicle dealer board;
12 and

13 (e) Subject to the United States constitution and the Colorado
14 constitution, this ~~article~~ ARTICLE 20 applies to each sales, service, and
15 parts agreement in effect, regardless of when the agreement was adopted.

16 **44-20-102. [Formerly 12-6-102] Definitions.** As used in this part
17 1, and in ~~part 5 of this article 6~~ PART 4 OF THIS ARTICLE 20, unless the
18 context or section ~~12-6-502~~ 44-20-402 otherwise requires:

19 (1) "Advertise" or "advertisement" means any commercial
20 message in any newspaper, magazine, leaflet, flyer, or catalog, on radio,
21 television, or a public address system, in direct mail literature or other
22 printed material, on any interior or exterior sign or display, in any window
23 display, on a computer display, or in any point-of-transaction literature or
24 price tag that is delivered or made available to a customer or prospective
25 customer in any manner; except that the term does not include materials
26 required to be displayed by federal or state law.

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

1 (3) "Business incidental thereto" means a business owned by the
2 motor vehicle dealer or used motor vehicle dealer related to the sale of
3 motor vehicles, including motor vehicle part sales, motor vehicle repair,
4 motor vehicle recycling, motor vehicle security interest assignment, and
5 motor vehicle towing.

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

10 (b) (I) "Buyer agent" does not include a person whose business
11 includes the purchase of motor vehicles primarily for resale or lease;
12 except that nothing in this subsection (4) prohibits a buyer agent from
13 assisting a consumer regarding the disposal of a trade-in motor vehicle
14 that is incident to the purchase or lease of a vehicle if the buyer agent
15 does not advertise the sale of, or sell, the vehicle to the general public,
16 directs interested dealers and wholesalers to communicate their offers
17 directly to the consumer or to the consumer via the buyer agent, does not
18 handle or transfer titles or funds between the consumer and the purchaser,
19 receives no compensation from a dealer or wholesaler purchasing a
20 consumer's vehicle, and identifies himself or herself as a buyer agent to
21 dealers and wholesalers interested in the consumer's vehicle.

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

26 (5) "Coerce" means to compel or attempt to compel by
27 threatening, retaliating, or exerting economic force or by not performing

1 or complying with any terms or provisions of the franchise or agreement;
2 except that recommendation, exposition, persuasion, urging, or argument
3 do not constitute coercion.

4 (6) "Consumer" means a purchaser or lessee of a motor vehicle
5 used for business, personal, family, or household purposes. "Consumer"
6 does not include a purchaser of motor vehicles primarily for resale.

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

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

14 (8) "Director" means the director of the auto industry division
15 created in section ~~12-6-105~~ 44-20-105.

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

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

23 ~~(11)~~ (10) "Fire truck" means a vehicle intended for use in the
24 extermination of fires, with features that may include a fire pump, a water
25 tank, an aerial ladder, an elevated platform, or any combination thereof.

26 ~~(12)~~ (11) "Franchise" means the authority to sell or service and
27 repair motor vehicles of a designated line-make granted through a sales,

1 service, and parts agreement with a manufacturer, distributor, or
2 manufacturer representative.

3 ~~(13)~~ (12) "Good faith" means the duty of each party to any
4 franchise and all officers, employees, or agents thereof to act in a fair and
5 equitable manner toward each other so as to guarantee the one party
6 freedom from coercion, intimidation, or threats of coercion or
7 intimidation from the other party. Recommendation, endorsement,
8 exposition, persuasion, urging, or argument shall not be deemed to
9 constitute a lack of good faith.

10 ~~(14)~~ (13) "Line-make" means a group or series of motor vehicles
11 that have the same brand identification or brand name, based upon the
12 manufacturer's trademark, trade name, or logo.

13 ~~(15)~~ (14) "Manufacturer" means any person, firm, association,
14 corporation, or trust, resident or nonresident, who manufactures or
15 assembles new and unused motor vehicles; except that "manufacturer"
16 does not include:

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

20 (b) A person, other than a manufacturer operating a motor vehicle
21 dealer in accordance with section ~~12-6-120.5~~ 44-20-126, who is a
22 licensed dealer selling motor vehicles that the person has manufactured.

23 ~~(16)~~ (15) "Manufacturer representative" means a representative
24 employed by a person who manufactures or assembles motor vehicles for
25 the purpose of making or promoting the sale of its motor vehicles or for
26 supervising or contacting its dealers or prospective dealers.

27 ~~(17)~~ (16) "Motor vehicle" means every vehicle intended primarily

1 for use on the public highways that is self-propelled and every vehicle
2 intended primarily for operation on the public highways that is not
3 self-propelled but is designed to be attached to, become a part of, or be
4 drawn by a self-propelled vehicle, not including farm tractors and other
5 machines and tools used in the production, harvesting, and care of farm
6 products. "Motor vehicle" includes a low-power scooter or autocycle as
7 either is defined in section 42-1-102.

8 ~~(18)~~ (17) "Motor vehicle auctioneer" means any person, not
9 otherwise required to be licensed pursuant to this part 1, who is engaged
10 in the business of offering to sell, or selling, used motor vehicles owned
11 by persons other than the auctioneer at public auction only. Any
12 auctioning of motor vehicles by an auctioneer must be incidental to the
13 primary business of auctioning goods.

14 ~~(19)~~ (18) "Motor vehicle dealer" means a person who, for
15 commission or with intent to make a profit or gain of money or other
16 thing of value, sells, leases, exchanges, rents with option to purchase,
17 offers, or attempts to negotiate a sale, lease, or exchange of an interest in
18 new or new and used motor vehicles or who is engaged wholly or in part
19 in the business of selling or leasing new or new and used motor vehicles,
20 whether or not the motor vehicles are owned by the person. The sale or
21 lease of three or more new or new and used motor vehicles or the offering
22 for sale or lease of more than three new or new and used motor vehicles
23 at the same address or telephone number in any one calendar year is prima
24 facie evidence that a person is engaged in the business of selling or
25 leasing new or new and used motor vehicles. "Motor vehicle dealer"
26 includes an owner of real property who allows more than three new or
27 new and used motor vehicles to be offered for sale or lease on the

1 property during one calendar year unless ~~said~~ THE property is leased to a
2 licensed motor vehicle dealer. "Motor vehicle dealer" does not include:

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

6 (b) Public officers while performing their official duties;

7 (c) Employees of a motor vehicle dealer when engaged in the
8 specific performance of their duties as employees;

9 (d) A wholesaler or anyone selling motor vehicles solely to
10 wholesalers;

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

12 (f) A motor vehicle auctioneer.

13 ~~(20)~~ (19) "Motor vehicle salesperson" means a natural person
14 who, for a salary, commission, or compensation of any kind, is employed
15 either directly or indirectly, regularly or occasionally, by a motor vehicle
16 dealer or used motor vehicle dealer to sell, lease, purchase, or exchange
17 or to negotiate for the sale, lease, purchase, or exchange of motor
18 vehicles.

19 ~~(21)~~ (20) "New motor vehicle" means a motor vehicle that has
20 been transferred on a manufacturer's statement of origin and that has
21 sufficiently low mileage to be considered new, as determined by the
22 board.

23 ~~(22)~~ (21) "Person" means any natural person, estate, trust, limited
24 liability company, partnership, association, corporation, or other legal
25 entity, including a registered limited liability partnership.

26 ~~(23)~~ (22) "Principal place of business" means a site or location
27 devoted exclusively to the business for which the motor vehicle dealer or

1 used motor vehicle dealer is licensed, and businesses incidental thereto,
2 sufficiently designated to admit of definite description, with adequate
3 contiguous space to permit the display of one or more new or used motor
4 vehicles, with a permanent enclosed building or structure large enough to
5 accommodate the office of the dealer and to provide a safe place to keep
6 the books and other records of the business of the dealer, at which site or
7 location the principal portion of the dealer's business shall be conducted
8 and the books and records thereof kept and maintained; except that a
9 dealer may keep its books and records at an off-site location in Colorado
10 after notifying the board in writing of the location at least thirty days in
11 advance.

12 ~~(24)~~ (23) "Recreational vehicle" means a camping trailer, fifth
13 wheel trailer, motor home, recreational park trailer, travel trailer, or truck
14 camper, all as defined in section 24-32-902, or multipurpose trailer, as
15 defined in section 42-1-102.

16 ~~(25)~~ (24) "Sales, service, and parts agreement" means an
17 agreement between a manufacturer, distributor, or manufacturer
18 representative and a motor vehicle or powersports dealer authorizing the
19 dealer to sell and service a line-make of motor or powersports vehicles or
20 imposing any duty on the dealer in consideration for the right to have or
21 competitively operate a franchise, including any amendments or
22 additional related agreements thereto. Each amendment, modification, or
23 addendum that materially affects the rights, responsibilities, or obligations
24 of the contracting parties creates a new sales, service, and parts
25 agreement.

26 ~~(26)~~ (25) "Site control provision" means an agreement that applies
27 to real property owned or leased by a franchisee and that gives a motor

1 vehicle or powersports vehicle manufacturer, distributor, or manufacturer
2 representative the right to:

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

8 ~~(27)~~ (26) "Used motor vehicle dealer" means a person who, for
9 commission or with intent to make a profit or gain of money or other
10 thing of value, sells, exchanges, leases, or offers an interest in used motor
11 vehicles, or attempts to negotiate a sale, exchange, or lease of used motor
12 vehicles, or who is engaged wholly or in part in the business of selling
13 used motor vehicles, whether or not the motor vehicles are owned by the
14 person. The sale of three or more used motor vehicles or the offering for
15 sale of more than three used motor vehicles at the same address or
16 telephone number in any one calendar year is prima facie evidence that
17 a person is engaged in the business of selling used motor vehicles. "Used
18 motor vehicle dealer" includes an owner of real property who allows
19 more than three used motor vehicles to be offered for sale on the property
20 during one calendar year unless ~~said~~ THE property is leased to a licensed
21 used motor vehicle dealer. "Used motor vehicle dealer" does not include:

- 22 (a) Receivers, trustees, administrators, executors, guardians, or
23 other persons appointed by or acting under the judgment or order of any
24 court;
- 25 (b) Public officers while performing their official duties;
- 26 (c) Employees of a used motor vehicle dealer when engaged in the
27 specific performance of their duties as employees;

1 (d) A wholesaler or anyone selling motor vehicles solely to
2 wholesalers;

3 (e) Mortgagees or secured parties as to sales in any one year of not
4 more than twelve motor vehicles constituting collateral on a mortgage or
5 security agreement, if the mortgagees or secured parties do not realize for
6 their own account any money in excess of the outstanding balance
7 secured by the mortgage or security agreement, plus costs of collection;

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

10 (g) A motor vehicle auctioneer; or

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

13 ~~(28)~~ (27) "Wholesale motor vehicle auction dealer" means a
14 person or firm that provides auction services in wholesale transactions in
15 which the purchasers are motor vehicle dealers licensed by this state or
16 any other jurisdiction or in consumer transactions of government vehicles
17 at a time and place that does not conflict with a wholesale motor vehicle
18 auction conducted by that licensee.

19 ~~(29)~~ (28) "Wholesaler" means a person who, for commission or
20 with intent to make a profit or gain of money or other thing of value,
21 sells, exchanges, or offers or attempts to negotiate a sale, lease, or
22 exchange of an interest in new or new and used motor vehicles solely to
23 motor vehicle dealers or used motor vehicle dealers.

24 **44-20-103. [Formerly 12-6-103] Motor vehicle dealer board -**
25 **creation.** (1) There is hereby created and established the motor vehicle
26 dealer board, consisting of nine members who have been residents of this
27 state for at least five years, three of whom shall be licensed motor vehicle

1 dealers, three of whom shall be licensed used motor vehicle dealers, and
2 three of whom shall be members from the public at large. The members
3 representing the public at large shall not have a present or past financial
4 interest in a motor vehicle dealership. ~~The board shall assume its duties~~
5 ~~July 1, 1992, and all terms of the board members shall commence on that~~
6 ~~date.~~ The terms of office of the board members shall be three years. Any
7 vacancies shall be filled by appointment for the unexpired term.

8 (2) All board members shall be appointed by the governor.

9 (3) Each board member shall be reimbursed for actual and
10 necessary expenses incurred while engaged in the discharge of official
11 duties.

12 **44-20-104. [Formerly 12-6-104] Board - oath - meetings -**
13 **powers and duties - rules.** (1) Each member of the board, before
14 entering on the discharge of ~~such~~ THE member's duties and within thirty
15 days after the effective date of ~~such~~ THE member's appointment, shall
16 subscribe an oath for the faithful performance of ~~such~~ THE member's
17 duties before any officer authorized to administer oaths in this state and
18 shall file the same with the secretary of state.

19 (2) The board shall annually in the month of July elect from the
20 membership thereof a president, a first vice-president, and a second
21 vice-president. The board shall meet at such times as it deems necessary.
22 A majority of the board shall constitute a quorum at any meeting or
23 hearing.

24 (3) The board is authorized and empowered:

25 (a) To promulgate, amend, and repeal rules reasonably necessary
26 to implement this part 1, including the administration, enforcement,
27 issuance, and denial of licenses to motor vehicle dealers, motor vehicle

1 salespersons, used motor vehicle dealers, wholesale motor vehicle auction
2 dealers, and wholesalers, and the laws of the state of Colorado;

3 ~~(a.5)~~ (b) To delegate to the board's executive secretary, employed
4 pursuant to section ~~12-6-105 (2)(b)~~ 44-20-105 (2)(b), the authority to
5 execute all actions within the power of the board, carry out the directives
6 of the board, and make recommendations to the board on all matters
7 within the authority of the board;

8 ~~(a.7)~~ (c) To issue through the department of revenue a temporary
9 license to any person applying for any license issued by the board. The
10 temporary license shall permit the applicant to operate for a period not to
11 exceed one hundred twenty days while the board is completing its
12 investigation and determination of all facts relative to the qualifications
13 of the applicant for ~~such~~ THE license. A temporary license is terminated
14 when the applicant's license is issued or denied.

15 ~~(b) and (c) (Deleted by amendment, L. 92, p. 1842, § 4, effective~~
16 ~~July 1, 1992.)~~

17 (d) (I) To issue through the department of revenue and, for
18 reasonable cause shown or upon satisfactory proof of the unfitness of the
19 applicant under standards established and set forth in this part 1, to refuse
20 to issue to any applicant any license the board is authorized to issue by
21 this part 1;

22 (II) To permit the executive director or the director to issue
23 licenses pursuant to rules adopted by the board pursuant to subsection
24 (3)(a) of this section;

25 (e) (I) After due notice and a hearing, to review the findings of an
26 administrative law judge or a hearing officer from a hearing conducted
27 pursuant to this part 1 to revoke and suspend or to order the director to

1 issue or to reinstate, on such terms and conditions and for such period of
2 time as to the board appear fair and just, any license issued under this part
3 1. The board may direct a letter of admonition for minor violations or may
4 issue a letter of reprimand to any licensee for a violation of this part 1. A
5 letter of admonition does not become a part of the licensee's record with
6 the board. A letter of reprimand is a part of the licensee's record with the
7 board for a period of two years after issuance and may be considered in
8 aggravation of any subsequent violation by the licensee. When a letter of
9 reprimand is sent to a licensee of the board, the licensee shall be notified
10 in writing regarding the right to request in writing, within twenty days
11 after receipt of ~~such~~ THE letter, that formal disciplinary proceedings be
12 initiated against the licensee to adjudicate the propriety of the conduct
13 upon which the letter of reprimand is based. If a request is made within
14 the twenty-day period, the letter of reprimand is deemed vacated and the
15 matter shall be processed by means of formal disciplinary proceedings.

16 (II) The findings of the board pursuant to ~~subparagraph (I) of this~~
17 ~~paragraph (e)~~ SUBSECTION (3)(e)(I) OF THIS SECTION shall be final.

18 (f) (I) To investigate through the director, on its own motion or
19 upon the written and signed complaint of any person, any suspected or
20 alleged violation by a motor vehicle dealer, motor vehicle salesperson,
21 used motor vehicle dealer, wholesale motor vehicle auction dealer, or
22 wholesaler of any of the terms and provisions of this part 1 or of any rule
23 promulgated by the board under the authority conferred upon it in this
24 section. The board shall order an investigation of all written and signed
25 complaints, may issue subpoenas, and may delegate the authority to issue
26 subpoenas to the director, and the director shall make an investigation of
27 all complaints transmitted by the board pursuant to section ~~12-6-105 (3)~~

1 44-20-105 (3). The board may seek to resolve disputes before beginning
2 an investigation or hearing through its own action or by direction to the
3 director.

4 (II) After an investigation by the director or the director's
5 designee, if the board determines that there is probable cause to believe
6 a violation of this ~~article 6~~ ARTICLE 20 has occurred, it may order that an
7 administrative hearing be held pursuant to section 24-4-105.

8 ~~(f.5)~~(g) To summarily issue cease-and-desist orders on such terms
9 and conditions and for such period of time as to the board appears fair
10 and just to any person who is licensed by the board pursuant to this part
11 1 if ~~such~~ THE orders are followed by notice and a hearing pursuant to
12 section ~~12-6-119~~ 44-20-122;

13 ~~(g)~~ (h) To prescribe the forms to be used for applications for
14 motor vehicle dealers', motor vehicle salespersons', used motor vehicle
15 dealers', wholesale motor vehicle auction dealers', and wholesalers'
16 licenses to be issued and to require of ~~such~~ THE applicants, as a condition
17 precedent to the issuance of ~~such~~ THE licenses, such information
18 concerning their fitness to be licensed under this part 1 as it may consider
19 necessary. Every application for a motor vehicle dealer's license or used
20 motor vehicle dealer's license shall contain, in addition to such
21 information as the board may require, a statement of the following facts:

22 (I) The name and residence address of the applicant and the trade
23 name, if any, under which ~~such~~ THE applicant intends to conduct ~~such~~ THE
24 applicant's business and, if the applicant is a copartnership, the name and
25 residence address of each member thereof, whether a limited or general
26 partner, and the name under which the partnership business is to be
27 conducted and, if the applicant is a corporation, the name of the

1 corporation and the name and address of each of its principal officers and
2 directors;

3 (II) A complete description, including the city, town, or village,
4 the street and number, if any, of the principal place of business, and such
5 other and additional places of business as shall be operated and
6 maintained by the applicant in conjunction with the principal place of
7 business;

8 (III) If the application is for a motor vehicle dealer's license, the
9 names of the new motor vehicles that the applicant has been enfranchised
10 to sell or exchange and the name and address of the manufacturer or
11 distributor who has enfranchised the applicant;

12 (IV) The names and addresses of the persons who shall act as
13 salespersons under the authority of the license, if issued.

14 (h) (i) To adopt a seal with the words "motor vehicle dealer board"
15 and such other devices as the board may desire engraved thereon by
16 which it shall authenticate the acts of its office;

17 (h) (j) To require that a motor vehicle dealer's or used motor
18 vehicle dealer's principal place of business and such other sites or
19 locations as may be operated and maintained by ~~such~~ THE dealers in
20 conjunction with their principal place of business have erected or posted
21 thereon ~~such~~ THE signs or devices providing information relating to the
22 dealer's name, the location and address of ~~such~~ THE dealer's principal
23 place of business, the type of license held by the dealer, and the number
24 thereof, as the board shall consider necessary to enable any person doing
25 business with ~~such~~ THE dealer to identify ~~such~~ THE dealer properly, and
26 for this purpose to determine the size and shape of ~~such~~ THE signs or
27 devices, the lettering thereon, and other details thereof and to prescribe

1 rules and regulations for the location thereof;

2 ~~(j)~~ (k) To conduct or cause to be conducted written
3 examinations as prescribed by the board testing the competency of all
4 first-time applicants for a motor vehicle dealer's license, motor vehicle
5 salesperson's license, used motor vehicle dealer's license, wholesale motor
6 vehicle auction dealer's license, or wholesaler's license;

7 ~~(H) and (H)~~ (Deleted by amendment, L. 98, p. 592, § 4, effective
8 July 1, 1998.)

9 ~~(k)~~ (l) (I) To prescribe a form or forms to be used as a part of a
10 contract for the sale of a motor vehicle by any motor vehicle dealer or
11 motor vehicle salesperson, other than a retail installment sales contract
12 subject to the provisions of the "Uniform Consumer Credit Code", articles
13 1 to 9 of title 5, ~~C.R.S.~~, which shall include the following information in
14 addition to any other disclosures or information required by state or
15 federal law:

16 (A) In twelve-point bold-faced type or a size at least three points
17 larger than the smallest type appearing in the contract, an instruction that
18 the form is a legal instrument and that, if the purchaser of the motor
19 vehicle does not understand the form, ~~such~~ THE purchaser should seek
20 legal assistance;

21 (B) In bold-faced type, of the size specified in ~~sub-subparagraph~~
22 ~~(A) of this subparagraph~~ (I) SUBSECTION (3)(l)(I)(A) OF THIS SECTION, an
23 instruction that only those terms in written form embody the contract for
24 sale of a motor vehicle and that any conflicting oral representations made
25 to the purchaser are void;

26 (C) In bold-faced type, of the size specified in ~~sub-subparagraph~~
27 ~~(A) of this subparagraph~~ (I) SUBSECTION (3)(l)(I)(A) OF THIS SECTION, a

1 notice that fraud or misrepresentation in the sale of a motor vehicle is
2 punishable under the laws of this state;

3 (D) In bold-faced type, of the size specified in ~~sub-subparagraph~~
4 ~~(A) of this subparagraph (I)~~ SUBSECTION (3)(I)(A) OF THIS SECTION, if
5 the contract for the sale of a motor vehicle requires a single lump sum
6 payment of the purchase price, a clear disclosure to the purchaser of that
7 fact or, if the contract is contingent upon the approval of credit financing
8 for the purchaser arranged by or through the motor vehicle dealer, in
9 bold-faced type, a statement that the purchaser shall agree to purchase the
10 motor vehicle ~~which~~ THAT is the subject of the sale from the motor
11 vehicle dealer at not greater than a certain annual percentage rate of
12 financing, which annual percentage rate of financing shall be agreed upon
13 by the parties and entered in writing on the contract;

14 (E) Except as otherwise provided under part 1 of article 1 of title
15 6, ~~C.R.S.~~, where the purchase price of the motor vehicle is not paid to the
16 motor vehicle dealer in full at the time of consummation of the sale and
17 the purchaser and motor vehicle dealer elect that the motor vehicle dealer
18 shall deliver and the purchaser shall take possession of ~~such~~ THE motor
19 vehicle at such time, in bold-faced type, a statement that in the event
20 financing cannot be arranged in accordance with the provisions stated in
21 the contract, and the sale is not consummated, the purchaser shall agree
22 to pay a daily rate and a mileage rate for use of the motor vehicle until
23 such time as financing of the purchase price of ~~such~~ THE motor vehicle is
24 arranged for the obligor by or through the authorized motor vehicle dealer
25 or until the purchase price is paid to the authorized motor vehicle dealer
26 in full by or through the obligor, which daily rate and mileage rate shall
27 be specified and agreed upon by the parties and entered in writing on the

1 contract.

2 (II) The information required by ~~subparagraph (f) of this~~
3 ~~paragraph (k)~~ SUBSECTION (3)(1)(I) OF THIS SECTION shall be read and
4 initialed by both parties at the time of the consummation of the sale of a
5 motor vehicle.

6 (III) The use of the contract form required by ~~subparagraph (f) of~~
7 ~~this paragraph (k)~~ SUBSECTION (3)(1)(I) OF THIS SECTION shall be
8 mandatory for the sale of any motor vehicle.

9 (IV) The board may require a licensee to include with a consumer
10 sales contract a written notice that provides to the consumer the contact
11 information of the board and information about the board's authority over
12 consumer motor vehicle sales.

13 ~~(f) (Deleted by amendment, L. 98, p. 592, § 4, effective July 1,~~
14 ~~1998.)~~

15 (m) (I) (A) After final action is taken on a hearing held before an
16 administrative law judge or a hearing officer, to review the findings of
17 law and fact and the fairness of any fine imposed and to uphold the fine,
18 to impose an administrative fine upon its own initiative, not to exceed ten
19 thousand dollars for each offense by any licensee, or to vacate the fine
20 imposed by the judge or hearing officer; except that, for motor vehicle
21 dealers who sell primarily motor vehicles that weigh under one thousand
22 five hundred pounds, the fine for each offense must not exceed one
23 thousand dollars. Whenever a hearing is heard by an administrative law
24 judge, the maximum fine that may be imposed is ten thousand dollars for
25 each offense by any person licensed by the board under this part 1; except
26 that, for motor vehicle dealers who sell primarily vehicles that weigh
27 under one thousand five hundred pounds, the fine for each offense must

1 not exceed one thousand dollars. Whenever a licensing hearing is
2 conducted by a hearing officer, the sanctions that may be recommended
3 by the hearing officer are limited to the denial or grant of an unrestricted
4 license or a restricted license under such terms as the hearing officer
5 deems appropriate. Whenever a disciplinary hearing is conducted by a
6 hearing officer, the hearing officer may only recommend a probationary
7 period of no more than twelve months, a fine of no more than five
8 hundred dollars, or both a probationary period and fine for each violation
9 committed by a person licensed by the board.

10 (B) The board shall promulgate rules regarding circumstances in
11 which a board member should not act as a hearing officer in a particular
12 matter before the board because of business competition issues connected
13 with the parties involved in ~~such~~ THE matter.

14 (II) The findings of the board pursuant to ~~subparagraph (I) of this~~
15 ~~paragraph (m)~~ SUBSECTION (3)(m)(I) OF THIS SECTION shall be final.

16 (n) (~~Deleted by amendment, L. 2007, p. 1578, § 4, effective July~~
17 ~~1, 2007.~~)

18 (o) (n) (I) To impose a fine of up to one thousand dollars per day
19 per violation for any person found, after notice and hearing pursuant to
20 section 24-4-105, ~~C.R.S.~~, to have violated the provisions of section
21 ~~12-6-120 (2)~~ 44-20-124 (2). For the purposes of this ~~paragraph (o)~~
22 SUBSECTION (3)(n), the address for the notice to be given under section
23 24-4-105 ~~C.R.S.~~, is the last-known address for the person as indicated in
24 the state motor vehicle records; the last-known address for the owner of
25 the real property upon which motor vehicles are displayed in violation of
26 section ~~12-6-120 (2)~~ 44-20-124 (2) as indicated in the records of the
27 county assessor's office; or an address for service of process in

1 accordance with rule 4 of the Colorado rules of civil procedure.

2 (II) Any person who fails to pay a fine ordered by the board for a
3 violation of section ~~12-6-120 (2)~~ 44-20-124 (2) under this ~~paragraph (o)~~
4 SUBSECTION (3)(n) shall be subject to enforcement proceedings, by the
5 board through the attorney general, in the county or district court pursuant
6 to the Colorado rules of civil procedure. Any fines collected under the
7 provisions of this ~~paragraph (o)~~ SUBSECTION (3)(n) shall be disposed of
8 pursuant to section ~~12-6-123~~ 44-20-133.

9 (4) The board shall promulgate rules by January 1, 2008,
10 establishing enforcement and compliance standards to ensure that
11 administrative penalties are equitably assessed and commensurate with
12 the seriousness of the violation.

13 **44-20-105. [Formerly 12-6-105] Auto industry division -**
14 **creation - powers and duties of executive director and director.**

15 (1) There is hereby created in the department of revenue the auto industry
16 division, the head of which is the director of the division. The director is
17 appointed by the executive director of the department and serves at the
18 pleasure of the executive director. The division shall exercise its powers
19 and perform its duties and functions under the department as if the
20 division were transferred to the department by a **type 2** transfer as
21 described in section 24-1-105.

22 (2) The executive director is hereby charged with the
23 administration, enforcement, and issuance or denial of the licensing of
24 buyer agents, distributors, manufacturer representatives, and
25 manufacturers, and has the following powers and duties:

26 (a) To promulgate, amend, and repeal reasonable rules relating to
27 those functions the executive director is mandated to carry out pursuant

1 to this part 1 and the laws of the state of Colorado that the executive
2 director deems necessary to implement this part 1;

3 (b) To employ, subject to the laws of the state of Colorado and
4 after consultation with the board, an executive secretary for the board,
5 who is accountable to the board and shall, pursuant to delegation by the
6 board, discharge the responsibilities of the board under this part 1;

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

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

16 (e) (I) To summarily issue cease-and-desist orders on such terms
17 and conditions and for such period of time as to the executive director
18 appears fair and just to any person who is licensed by the executive
19 director pursuant to this part 1 if ~~such~~ THE orders are followed by notice
20 and a hearing pursuant to section ~~12-6-104(3)(e)(I)~~ 44-20-104 (3)(e)(I);

21 (II) To issue cease-and-desist orders to persons acting as
22 manufacturers without the manufacturer's license required by this part 1;
23 and

24 (III) To impose a fine, not to exceed one thousand dollars per day,
25 for each violation of section ~~12-6-120(1)~~ 44-20-124 (1) after a notice and
26 hearing subject to section 24-4-105.

27 (3) (a) The director may:

1 (I) Employ such clerks, deputies, and assistants as the director
2 considers necessary to discharge the duties imposed upon the director or
3 executive director by this part 1 and to designate the duties of ~~such~~ THE
4 clerks, deputies, and assistants;

5 (II) Investigate, upon the director's own initiative, upon the
6 written and signed complaint of any person, or upon request by the board
7 under section ~~12-6-104 (3)(f)(I)~~ 44-20-104 (3)(f)(I), any suspected or
8 alleged violation by a person licensed under this part 1 or of any rule
9 promulgated under this ~~article 6~~ ARTICLE 20.

10 (b) The investigators and their supervisors utilized by the director,
11 while actually engaged in performing their duties, have the authority as
12 delegated by the director to issue subpoenas in relation to performance of
13 their duties enforcing this part 1 and the authority as delegated by the
14 director to issue summonses for violations of sections ~~12-6-120 (2)~~
15 44-20-124 (2) and 42-6-142, to issue misdemeanor summonses for
16 violations of section ~~12-6-119.5 (1)(a)~~ 44-20-123 (1)(a), and to procure
17 criminal records during an investigation.

18 (4) If any person fails to comply with a cease-and-desist order
19 issued pursuant to this section, the executive director may bring a suit for
20 injunction to prevent any further and continued violation of ~~such~~ THE
21 order. In any such suit, the final proceedings of the executive director,
22 based upon evidence in record, are prima facie evidence of the facts
23 found therein.

24 ~~(5) Repealed.~~

25 **44-20-106. [Formerly 12-6-106] Records as evidence.** Copies
26 of all records and papers in the office of the board, director, or executive
27 director, duly authenticated under the hand and seal of the board, director,

1 or executive director, shall be received in evidence in all cases equally
2 and with like effect as the original thereof.

3 **44-20-107. [Formerly 12-6-107] Attorney general to advise and**
4 **represent.** (1) The attorney general of this state shall represent the board,
5 director, and executive director and shall give opinions on all questions
6 of law relating to the interpretation of this part 1 or arising out of the
7 administration thereof and shall appear for and in behalf of the board,
8 director, and executive director in all actions brought by or against them,
9 whether under this part 1 or otherwise.

10 (2) The board may request the attorney general to make civil
11 investigations and enforce rules and regulations of the board in cases of
12 civil violations and to bring and defend civil suits and proceedings for any
13 of the purposes necessary and proper for carrying out the functions of the
14 board.

15 **44-20-108. [Formerly 12-6-108] Classes of licenses.** (1) The
16 following classes of licenses are issued under this part 1:

17 (a) Motor vehicle dealer's license shall permit the licensee to
18 engage in the business of selling, exchanging, leasing, or offering new
19 and used motor vehicles, and this form of license shall permit not more
20 than two persons named therein who shall be owners or part owners of
21 the business of the licensee to act as motor vehicle salespersons.

22 (b) Used motor vehicle dealer's license shall permit the licensee
23 to engage in the business of selling, exchanging, leasing, or offering used
24 motor vehicles only. ~~Such~~ THE license shall also permit a licensee to
25 negotiate for a consumer the sale, exchange, or lease of used and new
26 motor vehicles not owned by the licensee, except those vehicles defined
27 in section 42-1-102 (55) ~~C.R.S.~~, as motorcycles and section 33-14.5-101

1 (3) ~~C.R.S.~~, as off-highway vehicles; however, prior to completion of ~~such~~
2 THE sale, exchange, or lease of a motor vehicle not owned by the licensee,
3 the licensee shall disclose in writing to the consumer whether the licensee
4 will receive any compensation from the consumer and whether the
5 licensee will receive any compensation from the owner of the motor
6 vehicle as a result of ~~such~~ THE transaction. If the licensee receives
7 compensation from the owner of the motor vehicle as a result of the
8 transaction, the licensee shall include in the written disclosure the name
9 of ~~such~~ THE owner from whom the licensee will receive compensation.
10 This form of license shall permit not more than two persons named
11 therein who shall be owners or part owners of the business of the licensee
12 to act as motor vehicle salespersons.

13 (c) A motor vehicle salesperson's license permits the licensee to
14 engage in the activities of a motor vehicle salesperson while employed by
15 a licensed motor vehicle dealer or used motor vehicle dealer.

16 ~~(c.1) (Deleted by amendment, L. 92, p. 1849, § 8, effective July~~
17 ~~1, 1992.)~~

18 (d) Manufacturer's or distributor's license shall permit the licensee
19 to engage in the activities of a manufacturer, distributor, factory branch,
20 or distributor branch and to sell fire trucks.

21 (e) Wholesaler's license shall permit the licensee to engage in the
22 activities of a wholesaler.

23 (f) Manufacturer representative's license shall permit the licensee
24 to engage in the activities of a manufacturer representative.

25 (g) Buyer agent's license shall permit the licensee to engage in the
26 activities of a buyer agent.

27 (h) (I) Wholesale motor vehicle auction dealer's license shall

1 permit a licensee to engage in the activities of a wholesale motor vehicle
2 auction dealer if the licensee provides auction services solely in
3 connection with wholesale transactions in which the purchasers are motor
4 vehicle dealers licensed by this state or any other jurisdiction or in
5 connection with the sale of government vehicles to consumers at a time
6 and place that does not conflict with a wholesale motor vehicle auction
7 conducted by that licensee. A wholesale motor vehicle auction dealer
8 shall abide by all laws and rules of the state of Colorado.

9 (II) A wholesale motor vehicle auction dealer shall maintain a
10 check and title insurance policy for the benefit of ~~such~~ THE dealer's
11 customers or, alternatively, a wholesale motor vehicle auction dealer shall
12 provide written guarantees of title to ~~such~~ THE dealer's purchasing
13 customers and written guarantees of payment to ~~such~~ THE dealer's selling
14 dealers with coverage and exclusions that are customary in check and title
15 insurance policies available to wholesale motor vehicle auction dealers.

16 (2) Any license issued by the executive director pursuant to law
17 in effect prior to July 1, 1992, shall be valid for the period for which
18 issued.

19 (3) The licensing requirements of this part 1 do not apply to
20 banks, savings banks, savings and loan associations, building and loan
21 associations, or credit unions or an affiliate or subsidiary of ~~such~~ THE
22 entities in offering to sell, or in the sale of, a motor vehicle that was
23 subject to a lease or that has been repossessed or foreclosed upon if the
24 repossession or foreclosure is in connection with a loan made or
25 originated in Colorado.

26 (4) The licensing requirements of this part 1 shall not apply to an
27 insurance company selling or offering to sell a motor vehicle through a

1 motor vehicle dealer or used motor vehicle dealer if the vehicle is
2 obtained by the company as a result of an insurance claim.

3 **44-20-109. [Formerly 12-6-108.5] Temporary motor vehicle**
4 **dealer license.** (1) (a) If a licensed motor vehicle dealer has entered into
5 a written agreement to sell a dealership to a purchaser and the purchaser
6 has been awarded a new dealership franchise, the board may issue a
7 temporary motor vehicle dealer's license to the purchaser or prospective
8 purchaser. The director shall issue the temporary license only after the
9 board has received the applications for both a temporary motor vehicle
10 dealer's license and a motor vehicle dealer's license, the appropriate
11 application fee for the motor vehicle dealer's application, evidence of a
12 passing test score, and evidence that the franchise has been awarded to
13 the applicant by the manufacturer.

14 (b) A temporary motor vehicle dealer's license authorizes the
15 licensee to act as a motor vehicle dealer. Temporary licensees are subject
16 to this ~~article 6~~ ARTICLE 20 and to all applicable rules adopted by the
17 executive director or the board. A temporary motor vehicle dealer's
18 license is effective for up to sixty days or until the board acts on the
19 licensee's application for a motor vehicle dealer's license, whichever is
20 sooner.

21 (2) For the purpose of enabling an out-of-state dealer to sell
22 vehicles on a temporary basis during specifically identified events, the
23 director may issue, upon direction by the board, a temporary motor
24 vehicle dealer's license, which is effective for thirty days. The temporary
25 licensee is subject to the rules adopted by the executive director or the
26 board.

27 **44-20-110. [Formerly 12-6-109] Display, form, custody, and**

1 **use of licenses.** (1) The board and the executive director shall prescribe
2 the form of the license to be issued by the executive director and shall
3 imprint on each license the seal of their offices. The executive director
4 shall mail the license to the business address where the motor vehicle
5 salesperson is licensed. Each motor vehicle salesperson shall keep a copy
6 of the license at the salesperson's place of employment for inspection by
7 employers, consumers, the director, the executive director, or the board.
8 Each motor vehicle dealer, manufacturer, distributor, wholesaler,
9 manufacturer representative, wholesale motor vehicle auction dealer, or
10 used motor vehicle dealer shall display conspicuously each person's
11 license at the place of business for which the license was issued.

12 (2) Each license issued under this part 1 is separate and distinct.
13 It is a violation of this part 1 for a person to exercise any of the privileges
14 granted under a license that the person does not hold, or for a licensee to
15 knowingly allow such an exercise of privileges.

16 **44-20-111. [Formerly 12-6-110] Fees - disposition - expenses**
17 **- expiration of licenses.** (1) There shall be collected with each
18 application the fee established pursuant to subsection (5) of this section
19 for each of the following licenses:

20 (a) (I) Motor vehicle dealer's or used motor vehicle dealer's
21 license;

22 (II) Motor vehicle dealer's or used motor vehicle dealer's license,
23 for each place of business in addition to the principal place of business;

24 (III) Renewal or reissue of motor vehicle dealer's or used motor
25 vehicle dealer's license after change in location or lapse in principal place
26 of business;

27 (b) Manufacturer's license;

- 1 (c) Distributor's license;
- 2 (d) Wholesaler's license;
- 3 ~~(e) (Deleted by amendment, L. 2003, p. 1302, § 5, effective April~~
4 ~~22, 2003.)~~
- 5 ~~(f)~~ (e) Manufacturer representative's license;
- 6 ~~(g)~~ (f) Motor vehicle salesperson's license including, but not
7 limited to, reissuing a license;
- 8 ~~(h) (Deleted by amendment, L. 92, p. 1851, § 11, effective July 1,~~
9 ~~1992.)~~
- 10 ~~(i)~~ (g) Buyer agent's license;
- 11 ~~(j)~~ (h) Wholesale motor vehicle auction dealer's license.
- 12 (2) All fees shall be paid to the state treasurer, who shall credit the
13 fees to the auto dealers license fund created in section ~~12-6-123~~
14 44-20-133.
- 15 ~~(2.5)~~ (3) If an application for a buyer agent's, motor vehicle
16 dealer's, used motor vehicle dealer's, wholesaler's, or motor vehicle
17 salesperson's license is withdrawn by the applicant prior to issuance of the
18 license, the director shall refund one-half of the license fee.
- 19 ~~(3)~~ (4) (a) ~~Such~~ Licenses, if the same have not been suspended or
20 revoked as provided in this part 1, shall be valid until one year following
21 the month of issuance thereof and shall then expire; except that any
22 license issued under this part 1 shall expire upon the voluntary surrender
23 thereof or upon the abandonment of the licensee's place of business for
24 a period of more than thirty days.
- 25 (b) Thirty days before the expiration of a license, the director shall
26 mail to the licensee's business address of record a notice stating when the
27 person's license is due to expire and the fee necessary to renew the

1 license. For a salesperson or manufacturer representative, the notice shall
2 be mailed to the address of the dealer or manufacturer where the person
3 is licensed.

4 (c) Upon the expiration of ~~such~~ THE license, unless suspended or
5 revoked, the same may be renewed upon the payment of the fees specified
6 in this section, which shall accompany applications, and ~~such~~ THE
7 renewal shall be made from year to year as a matter of right; except that,
8 if a motor vehicle dealer, used motor vehicle dealer, or wholesaler
9 voluntarily surrenders its license or abandons its place of business for a
10 period of more than thirty days, the licensee is required to file a new
11 application to renew its license.

12 ~~(d) Repealed.~~

13 ~~(e)~~ (d) Notwithstanding ~~paragraph (a) of this subsection (3)~~
14 SUBSECTION (4)(a) OF THIS SECTION, a person has a thirty-day grace
15 period after his or her license expires, and the person may renew the
16 license within ~~such~~ thirty days pursuant to ~~paragraph (c) of this subsection~~
17 ~~(3)~~ SUBSECTION (4)(c) OF THIS SECTION, so long as the person has a bond
18 in full force and effect that complies with the applicable bonding
19 requirements of section ~~12-6-111, 12-6-112, or 12-6-112.2~~ 44-20-112,
20 44-20-113, OR 44-20-114 during ~~such~~ THE thirty-day period. A person
21 applying during the thirty-day grace period shall pay a late fee established
22 pursuant to subsection (5) of this section.

23 ~~(4) (Deleted by amendment, L. 92, p. 1851, § 11, effective July 1,~~
24 ~~1992.)~~

25 (5) (a) The board shall propose, as part of its annual budget
26 request, an adjustment in the amount of each fee ~~which~~ THAT the board
27 is authorized by law to collect. The budget request and the adjusted fees

1 for the board shall reflect direct and indirect costs.

2 (b) Based upon the appropriation made and subject to the approval
3 of the executive director, the board shall adjust the fees collected by the
4 executive director so that the revenue generated from ~~said~~ THE fees covers
5 the direct and indirect costs of administering this ~~article~~. ~~Such~~ ARTICLE
6 20. THE fees shall remain in effect for the fiscal year for which the
7 appropriation is made.

8 (c) Whenever ~~moneys~~ MONEY appropriated to the board for its
9 activities for the prior fiscal year are unexpended, ~~said moneys~~ THE
10 MONEY shall be made a part of the appropriation to the board for the next
11 fiscal year, and ~~such~~ THE amount shall not be raised from fees collected
12 by the board or the executive director. If a supplemental appropriation is
13 made to the board for its activities, the fees of the board and the executive
14 director, when adjusted for the fiscal year next following that in which the
15 supplemental appropriation was made, shall be adjusted by an additional
16 amount ~~which~~ THAT is sufficient to compensate for ~~such~~ THE
17 supplemental appropriation. ~~Moneys~~ MONEY appropriated to the board in
18 the annual general appropriation bill shall be from the fund provided in
19 section ~~12-6-123~~ 44-20-133.

20 **44-20-112. [Formerly 12-6-111] Bond of licensee.** (1) Before
21 any motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction
22 dealer's, or used motor vehicle dealer's license shall be issued by the
23 board through the executive director to any applicant therefor, the ~~said~~
24 applicant shall procure and file with the board evidence of a savings
25 account, deposit, or certificate of deposit meeting the requirements of
26 section 11-35-101 ~~C.R.S.~~, or a good and sufficient bond with corporate
27 surety thereon duly licensed to do business within the state, approved as

1 to form by the attorney general of the state, and conditioned that ~~said~~ THE
2 applicant shall not practice fraud, make any fraudulent representation, or
3 violate any of the provisions of this part 1 that are designated by the board
4 by rule in the conduct of the business for which ~~such~~ THE applicant is
5 licensed. A motor vehicle dealer or used motor vehicle dealer shall not be
6 required to furnish an additional bond, savings account, deposit, or
7 certificate of deposit under this section if ~~such~~ THE dealer furnishes a
8 bond, savings account, deposit, or certificate of deposit under section
9 ~~12-6-512~~ 44-20-412.

10 (2) (a) The purpose of the bond procured by the applicant pursuant
11 to subsection (1) of this section and section ~~12-6-112.2(1)~~ 44-20-114 (1)
12 is to provide for the reimbursement for any loss or damage suffered by
13 any retail consumer caused by violation of this part 1 by a motor vehicle
14 dealer, used motor vehicle dealer, wholesale motor vehicle auction dealer,
15 or wholesaler. For a wholesale transaction, the bond is available to each
16 party to the transaction; except that, if a retail consumer is involved, ~~such~~
17 THE consumer shall have priority to recover from the bond. The amount
18 of the bond shall be fifty thousand dollars for a motor vehicle dealer
19 applicant, used motor vehicle dealer applicant, wholesale motor vehicle
20 auction dealer applicant, or wholesaler applicant except the amount of the
21 bond shall be five thousand dollars for those dealers who sell only small
22 utility trailers that weigh less than two thousand pounds. The aggregate
23 liability of the surety for all transactions shall not exceed the amount of
24 the bond, regardless of the number of claims or claimants.

25 (b) No corporate surety shall be required to make any payment to
26 any person claiming under ~~such~~ THE bond until a final determination of
27 fraud or fraudulent representation has been made by the board or by a

1 court of competent jurisdiction.

2 (3) All bonds required pursuant to this section shall be renewed
3 annually at such time as the bondholder's license is renewed. ~~Such~~ THE
4 renewal may be done through a continuation certificate issued by the
5 surety.

6 (4) Nothing in this part 1 shall interfere with the authority of the
7 courts to administer and conduct an interpleader action for claims against
8 a licensee's bond.

9 **44-20-113. [Formerly 12-6-112] Motor vehicle salesperson's**
10 **bond.** (1) Before any motor vehicle salesperson's license is issued by the
11 board through the executive director to any applicant therefor, the
12 applicant shall procure and file with the board evidence of a savings
13 account, deposit, or certificate of deposit meeting the requirements of
14 section 11-35-101, ~~C.R.S.~~, or a good and sufficient bond in the amount
15 of fifteen thousand dollars with corporate surety thereon duly licensed to
16 do business within the state, approved as to form by the attorney general
17 of the state, and conditioned that ~~said~~ THE applicant shall perform in good
18 faith as a motor vehicle salesperson without fraud or fraudulent
19 representation and without the violation of any of the provisions of this
20 part 1 that are designated by the board by rule. A motor vehicle
21 salesperson shall not be required to furnish an additional bond, savings
22 account, deposit, or certificate of deposit under this section if ~~such~~ THE
23 dealer furnishes a bond, savings account, deposit, or certificate of deposit
24 under section ~~12-6-513~~ 44-20-413.

25 (2) No corporate surety shall be required to make any payment to
26 any person claiming under ~~such~~ THE bond until a final determination of
27 fraud or fraudulent representation has been made by the board or by a

1 court of competent jurisdiction.

2 (3) All bonds required pursuant to this section shall be renewed
3 annually at such time as the bondholder's license is renewed. ~~Such~~ THE
4 renewal may be done through a continuation certificate issued by the
5 surety.

6 **44-20-114. [Formerly 12-6-112.2] Buyer agent bonds.** (1) A
7 buyer agent's license shall not be issued by the executive director to any
8 applicant therefor until ~~said~~ THE applicant procures and files with the
9 executive director evidence of a savings account, deposit, or certificate
10 of deposit meeting the requirements of section 11-35-101, ~~C.R.S.~~, or a
11 good and sufficient bond in the amount of five thousand dollars with a
12 corporate surety duly licensed to do business within the state and
13 approved as to form by the attorney general. The bond shall be available
14 to ensure that ~~said~~ THE applicant shall perform in good faith as a buyer
15 agent without fraud or fraudulent representation and without violating any
16 of the provisions of this part 1 that are designated by the executive
17 director by rule.

18 (2) All bonds required pursuant to this section shall be renewed
19 annually at such time as the bondholder's license is renewed. ~~Such~~ THE
20 renewal may be done through a continuation certificate issued by the
21 surety.

22 (3) No corporate surety shall be required to make any payment to
23 any person claiming under ~~such~~ THE bond until a final determination of
24 fraud or fraudulent representation has been made by the executive
25 director or by a court of competent jurisdiction.

26 **44-20-115. [Formerly 12-6-112.7] Notice of claims honored**
27 **against bond.** (1) A corporate surety that has provided a bond to a

1 licensee pursuant to section ~~12-6-111, 12-6-112, or 12-6-112.2~~
2 44-20-112, 44-20-113, OR 44-20-114 shall provide notice to the board and
3 executive director of any claim that is honored against the bond within
4 thirty days after the claim is honored.

5 (2) A notice provided by a corporate surety pursuant to subsection
6 (1) of this section must be in the form required by the director, subject to
7 approval by the board, and must include the name of the licensee, the
8 name and address of the claimant, the amount of the honored claim, and
9 the nature of the claim against the licensee.

10 **44-20-116. [Formerly 12-6-113] Testing licensees.** Persons
11 applying for a motor vehicle dealer's, used motor vehicle dealer's,
12 wholesaler's, wholesale motor vehicle auction dealer's, or motor vehicle
13 salesperson's license under this part 1 shall be examined for their
14 knowledge of the motor vehicle laws of the state of Colorado and the
15 rules promulgated pursuant to this part 1. If the applicant is a corporation,
16 the managing officer shall take ~~such~~ THE examination, and, if the
17 applicant is a partnership, all the general partners shall take ~~such~~ THE
18 examination. No license shall be issued except upon successful passing
19 of the examination. The board shall implement by January 1, 2008, a
20 psychometrically valid and reliable salesperson examination that
21 measures the minimum level of competence necessary to practice. This
22 section shall not apply to a powersports vehicle dealer, used powersports
23 vehicle dealer, or powersports salesperson licensed pursuant to ~~part 5~~
24 PART 4 of this ~~article~~ ARTICLE 20.

25 **44-20-117. [Formerly 12-6-114] Filing of written warranties.**
26 Each licensed manufacturer shall file with the director all written
27 warranties and changes in written warranties that the manufacturer makes

1 on any motor vehicle or parts thereof. Each licensed manufacturer shall
2 file with the director a copy of the delivery and preparation obligations of
3 its dealers, and these warranties and obligations constitute the dealer's
4 only responsibility for product liability as between the dealer and the
5 manufacturer. Any mechanical, body, or parts defects arising from any
6 express or implied warranties of the manufacturer constitute the
7 manufacturer's product or warranty liability, and the manufacturer shall
8 reasonably compensate any authorized dealer who performs work to
9 rectify the manufacturer's product or warranty defects.

10 **44-20-118. [Formerly 12-6-115] Application - prelicensing**
11 **education - fingerprint-based background check - rules.**

12 (1) Application for a motor vehicle dealer's, motor vehicle salesperson's,
13 used motor vehicle dealer's, wholesale motor vehicle auction dealer's, or
14 wholesaler's license shall be made to the board.

15 (2) Application for distributor's, manufacturer representative's, or
16 manufacturer's licenses shall be made to the executive director.

17 (3) All fees for licenses shall be paid at the time of the filing of
18 application for license.

19 (4) To be licensed as a motor vehicle dealer, a person must file
20 with the board a certified copy of a certificate of appointment as a dealer
21 from a manufacturer.

22 (5) (a) Each person applying for a manufacturer's or distributor's
23 license must:

24 (I) File with the director a certified copy of a typical sales, service,
25 and parts agreement with all motor vehicle dealers; and

26 (II) File evidence of the appointment of an agent for process in the
27 state of Colorado.

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

8 (6) All persons applying for a motor vehicle dealer's license, a
9 used motor vehicle dealer's license, a wholesaler's license, a motor vehicle
10 auctioneer's license, or a motor vehicle ~~salesman's~~ SALESPERSON'S license
11 shall file with the board a good and sufficient instrument in writing in
12 which ~~he~~ THE APPLICANT shall appoint the secretary of the board as the
13 true and lawful agent of ~~said~~ THE applicant upon whom all process may
14 be served in any action which may thereafter be commenced against ~~said~~
15 THE applicant arising out of any claim for damages suffered by any firm,
16 person, association, or corporation by reason of the violation of ~~said~~ THE
17 applicant of any of the terms and provisions of this part 1 or any condition
18 of the applicant's bond.

19 (7)(a) A person applying for a used motor vehicle dealer's license,
20 a wholesale motor vehicle auction dealer's license, or a wholesaler's
21 license shall file with the board a certification that the applicant has met
22 the educational requirements for licensure under this subsection (7). This
23 subsection (7) shall not apply to a person who has held a license within
24 the last three years as a motor vehicle dealer, used motor vehicle dealer,
25 wholesaler, wholesale motor vehicle auction dealer, powersports vehicle
26 dealer, or used powersports vehicle dealer under this part 1 or ~~part 5~~ PART
27 4 of this ~~article~~ ARTICLE 20.

1 (b) An applicant for a used motor vehicle dealer's license, a
2 wholesale motor vehicle auction dealer's license, or a wholesaler's license
3 shall not be licensed unless one of the following persons has completed
4 an eight-hour prelicensing education program:

5 (I) The managing officer if the applicant is a corporation or
6 limited liability company;

7 (II) All of the general partners if the applicant is any form of
8 partnership; or

9 (III) The owner or managing officer if the applicant is a sole
10 proprietorship.

11 (c) The prelicensing education program shall include, without
12 limitation, state and federal statutes and rules governing the sale of motor
13 vehicles.

14 (d) A prelicensing education program shall not fulfill the
15 requirements of this section unless approved by the board. The board
16 shall approve any program with a curriculum that reasonably covers the
17 material required by this section within eight hours.

18 (e) The board may adopt rules establishing reasonable fees to be
19 charged for the prelicensing education program.

20 (f) The board may adopt reasonable rules to implement this
21 section, including, without limitation, rules that govern:

22 (I) The content and subject matter of education;

23 (II) The criteria, standards, and procedures for the approval of
24 courses and course instructors;

25 (III) The training facility requirements; and

26 (IV) The methods of instruction.

27 (g) An approved prelicensing program provider shall issue a

1 certificate to a person who successfully completes the approved
2 prelicensing education program. The current certificate of completion, or
3 a copy of the certificate, shall be posted conspicuously at the dealership's
4 principal place of business.

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

9 (8) (a) With the submission of an application for any license
10 issued under this part 1, each applicant shall submit a complete set of
11 fingerprints to the Colorado bureau of investigation or the auto industry
12 division for the purpose of conducting fingerprint-based criminal history
13 record checks. The Colorado bureau of investigation shall forward the
14 fingerprints to the federal bureau of investigation for the purpose of
15 conducting fingerprint-based criminal history record checks. The board
16 or the executive director shall use the information resulting from the
17 fingerprint-based criminal history record check to investigate and
18 determine whether an applicant is qualified to be licensed. The board or
19 the executive director may verify the information an applicant is required
20 to submit. The applicant shall pay the costs associated with the
21 fingerprint-based criminal history record check to the Colorado bureau of
22 investigation.

23 (b) This subsection (8) does not apply to a publicly traded
24 company or the company's subsidiary.

25 **44-20-119. [Formerly 12-6-116] Notice of change of address or**
26 **status.** (1) The board, through the executive director, shall not issue a
27 motor vehicle dealer's license or used motor vehicle dealer's license to any

1 applicant therefor who has no principal place of business as is defined in
2 this part 1. Should the motor vehicle dealer or used motor vehicle dealer
3 change the site or location of ~~such~~ THE dealer's principal place of
4 business, ~~such~~ THE dealer shall immediately upon making ~~such~~ THE
5 change so notify the board in writing, and thereupon a new license shall
6 be granted for the unexpired portion of the term of ~~such~~ THE license at a
7 fee established pursuant to section ~~12-6-110~~ 44-20-111. Should a motor
8 vehicle dealer or used motor vehicle dealer, for any reason whatsoever,
9 cease to possess a principal place of business, as defined in this part 1,
10 from and on which ~~such~~ THE dealer conducts the business for which ~~such~~
11 THE dealer is licensed, ~~such~~ THE dealer shall immediately so notify in
12 writing the board and, upon demand therefor by the board, shall deliver
13 to it ~~such~~ THE dealer's license, which shall be held and retained until it
14 appears to the board that ~~such~~ THE licensee again possesses a principal
15 place of business; whereupon, ~~such~~ THE dealer's license shall be reissued.
16 Nothing in this part 1 shall be construed to prevent a motor vehicle dealer
17 or used motor vehicle dealer from conducting the business for which ~~such~~
18 THE dealer is licensed at one or more sites or locations not contiguous to
19 ~~such~~ THE dealer's principal place of business but operated and maintained
20 in conjunction therewith.

21 (2) (a) If a motor vehicle dealer changes to a new line-make of
22 motor vehicles, adds another franchise for the sale of new motor vehicles,
23 or cancels or, for any cause whatever, otherwise loses a franchise for the
24 sale of new motor vehicles, the dealer shall immediately so notify the
25 board. In the case of a cancellation or loss of franchise, the board shall
26 determine whether the dealer who lost the franchise should be licensed as
27 a used motor vehicle dealer.

1 (b) If the motor vehicle dealer no longer possesses a franchise to
2 sell new motor vehicles, the board shall take up, and the motor vehicle
3 dealer shall deliver to the board, the dealer's license, and the board shall
4 direct the director to issue the dealer a used motor vehicle dealer's license.

5 (c) Upon the cancellation or loss of a franchise to sell new motor
6 vehicles and the relicensing of a dealer as a used motor vehicle dealer, the
7 dealer may continue in the business of a motor vehicle dealer for a time,
8 not exceeding six months after the date of the relicensing of the dealer,
9 to enable the dealer to dispose of the stock of new motor vehicles on hand
10 at the time of relicensing, but not otherwise.

11 (3) If a motor vehicle salesperson is discharged, leaves an
12 employer, or changes a place of employment, the motor vehicle dealer or
13 used motor vehicle dealer who last employed the salesperson shall
14 confiscate and return ~~such~~ THE salesperson's license to the board. Upon
15 being reemployed as a motor vehicle salesperson, the motor vehicle
16 salesperson shall notify the board. Upon receiving ~~such~~ THE notification,
17 the board shall issue a new license for the unexpired portion of ~~such~~ THE
18 returned license after collecting a fee set pursuant to section ~~12-6-110 (5)~~
19 44-20-111 (5). It shall be unlawful for ~~such~~ THE salesperson to act as a
20 motor vehicle salesperson until a new license is procured.

21 (4) Should a wholesaler, for any reason whatsoever, change ~~such~~
22 THE wholesaler's place of business or business address during any license
23 year, ~~such~~ THE wholesaler shall immediately so notify the board.

24 (5) Any wholesale motor vehicle auction dealer who changes a
25 place of business or business address during any license year shall notify
26 the board immediately of ~~such~~ THE dealer's new business address.

27 (6) (a) Except as specified in subsection (6)(d) of this section:

1 (I) A person holding an ownership interest in a licensed
2 corporation, limited liability company, limited liability partnership, or
3 other business entity shall not sell the interest to a person who does not
4 already own an interest in the business entity until the owner applies to
5 the board to be approved to hold an ownership interest in the business
6 entity and the board approves the person to hold the interest.

7 (II) A licensed corporation, limited liability company, limited
8 liability partnership, or other business entity shall notify the board within
9 ten days after a transfer, other than a sale, of any ownership that results
10 in a new person holding an interest in the business entity. To continue to
11 hold ownership in the business, the transferee shall apply to the board for
12 approval to continue holding an ownership interest in the business entity.

13 (b) To be approved by the board to hold an ownership interest in
14 a licensed business entity, the new owner must demonstrate the
15 qualifications necessary for licensing, including a fingerprint-based
16 criminal history record check, in accordance with this part 1.

17 (c) (I) If the board does not approve a person to hold an ownership
18 interest in a licensed business entity, the person shall transfer the interest
19 within six months after acquiring the ownership interest.

20 (II) This subsection (6)(c) does not authorize a person to hold an
21 interest in a licensed business entity when the person acquired the interest
22 as the result of a sale that violates subsection (6)(a)(I) of this section.

23 (d) (I) This subsection (6) does not apply to the sale or transfer of
24 an interest in a publicly traded company.

25 (II) This subsection (6) does not apply to the sale of an interest to
26 an institutional investor of a business entity that is subject to the reporting
27 requirements of the "Securities Exchange Act of 1934", 15 U.S.C. sec.

1 78a et seq., as amended. For the purposes of this subsection (6)(d)(II),
2 "institutional investor" means an entity, such as a pension fund,
3 endowment fund, insurance company, commercial bank, or mutual fund,
4 that invests money on behalf of its members or clients and that is required
5 by the United States securities and exchange commission to file a form
6 13F, or its successor form, to report quarterly holdings.

7 **44-20-120. [Formerly 12-6-117] Principal place of business -**
8 **requirements.** (1) The building or structure required to be located on a
9 principal place of business shall have electrical service and adequate
10 sanitary facilities.

11 (2) (a) In no event shall a room in a hotel, rooming house, or
12 apartment house building or a part of any single or multiple unit dwelling
13 house be considered a "principal place of business" within the terms and
14 provisions of this part 1, unless the entire ground floor of ~~such~~ THE hotel,
15 apartment house, or rooming house building or ~~such~~ THE dwelling house
16 is devoted principally to and occupied for commercial purposes and the
17 office of the dealer is located on the ground floor thereof.

18 (b) A motor vehicle dealer who operates ~~such~~ THE motor vehicle
19 dealer's business from his or her primary residence and who has been a
20 resident of Colorado for the immediately preceding twelve-month period
21 and is a motor vehicle dealer only because ~~such~~ THE dealer sells custom
22 trailers for one or more manufacturers and maintains an inventory of
23 fewer than four vehicles at all times shall be exempt from ~~paragraph (a)~~
24 ~~of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION. Any motor
25 vehicle dealer who is issued dealer plates in accordance with ~~this~~
26 ~~paragraph (b) pursuant to~~ THIS SUBSECTION (2)(b) AND section 42-3-116
27 ~~C.R.S.~~, shall only use ~~such~~ THE plates on trailers.

1 ~~(3) Repealed.~~

2 ~~(4)~~ (3) Nothing in this section shall be construed to exempt a
3 motor vehicle dealer from local zoning ordinances.

4 **44-20-121. [Formerly 12-6-118] Licenses - grounds for denial,**
5 **suspension, or revocation.** (1) A manufacturer's or distributor's license
6 may be denied, suspended, or revoked on the following grounds:

7 ~~(a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1,~~
8 ~~1992.)~~

9 ~~(b)~~ (a) Material misstatement in an application for a license;

10 ~~(c)~~ (b) Willful failure to comply with this part 1 or any rule
11 promulgated by the executive director;

12 ~~(d)~~ (c) Engaging, in the past or present, in any illegal business
13 practice.

14 (2) A manufacturer representative's license may be denied,
15 suspended, or revoked on the following grounds:

16 ~~(a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1,~~
17 ~~1992.)~~

18 ~~(b)~~ (a) Material misstatement in an application for a license;

19 ~~(c)~~ (b) Willful failure to comply with any provision of this part 1
20 or any rule ~~or regulation~~ promulgated by the executive director under this
21 part 1;

22 ~~(d)~~ (c) Having indulged in any unconscionable business practice
23 pursuant to title 4; ~~C.R.S.;~~

24 ~~(e)~~ (d) Having coerced or attempted to coerce any motor vehicle
25 dealer to accept delivery of any motor vehicle, parts or accessories
26 therefor, or any other commodities or services ~~which~~ THAT have not been
27 ordered by ~~said~~ THE dealer;

1 ~~(f)~~ (e) Having coerced or attempted to coerce any motor vehicle
2 dealer to enter into any agreement to do any act unfair to ~~said~~ THE dealer
3 by threatening to cause the cancellation of the franchise of ~~said~~ THE
4 dealer;

5 ~~(g)~~ (f) Having withheld, threatened to withhold, reduced, or
6 delayed without just cause an order for motor vehicles, parts or
7 accessories therefor, or any other commodities or services ~~which~~ THAT
8 have been ordered by a motor vehicle dealer;

9 ~~(h)~~ (g) Engaging, in the past or present, in any illegal business
10 practice.

11 (3) A motor vehicle dealer's, wholesale motor vehicle auction
12 dealer's, wholesaler's, buyer agent's, or used motor vehicle dealer's license
13 may be denied, suspended, or revoked on the following grounds:

14 ~~(a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1,~~
15 ~~1992.)~~

16 ~~(b)~~ (a) Material misstatement in an application for a license;

17 ~~(c)~~ (b) Violation of any of the terms and provisions of this part 1
18 or any rule ~~or regulation~~ promulgated by the board under this part 1;

19 ~~(d)~~ (c) Having been convicted of or pled nolo contendere to any
20 felony, or any crime pursuant to article 3, 4, or 5 of title 18, ~~C.R.S.~~, or any
21 like crime pursuant to federal law or the law of any other state. A certified
22 copy of the judgment of conviction by a court of competent jurisdiction
23 shall be conclusive evidence of ~~such~~ THE conviction in any hearing held
24 pursuant to this ~~article~~ ARTICLE 20.

25 ~~(e)~~ (d) Defrauding any buyer, seller, motor vehicle salesperson, or
26 financial institution to ~~such~~ THE person's damage;

27 ~~(f)~~ (e) Intentional or negligent failure to perform any written

- 1 agreement with any buyer or seller;
- 2 ~~(g)~~ (f) Failure or refusal to furnish and keep in force any bond
3 required under this part 1;
- 4 ~~(h)~~ (g) Having made a fraudulent or illegal sale, transaction, or
5 repossession;
- 6 ~~(i)~~ (h) Willful misrepresentation, circumvention, or concealment
7 of or failure to disclose, through whatsoever subterfuge or device, any of
8 the material particulars or the nature thereof required to be stated or
9 furnished to the buyer;
- 10 ~~(j) Repealed.~~
- 11 ~~(k)~~ (i) To intentionally publish or circulate any advertising ~~which~~
12 THAT is misleading or inaccurate in any material particular or ~~which~~ THAT
13 misrepresents any of the products sold or furnished by a licensed dealer;
- 14 ~~(l)~~ (j) To knowingly purchase, sell, or otherwise acquire or dispose
15 of a stolen motor vehicle;
- 16 ~~(m)~~ (k) For any licensed motor vehicle dealer or used motor
17 vehicle dealer, to engage in the business for which ~~such~~ THE dealer is
18 licensed without at all times maintaining a principal place of business as
19 required by this part 1 during reasonable business hours;
- 20 ~~(n)~~ (l) Engaging in ~~such~~ THE business through employment of an
21 unlicensed motor vehicle salesperson;
- 22 ~~(o)~~ (m) To willfully violate any state or federal law respecting
23 commerce or motor vehicles, or any lawful rule ~~or regulation~~ respecting
24 commerce or motor vehicles promulgated by any licensing or regulating
25 authority pertaining to motor vehicles, under circumstances in which the
26 act constituting the violation directly and necessarily involves commerce
27 or motor vehicles;

1 ~~(p) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1,~~
2 ~~1992.)~~

3 ~~(q) Repealed.~~

4 ~~(r) (n) Representing or selling as a new and unused motor vehicle~~
5 ~~any motor vehicle which THAT the dealer or salesperson knows has been~~
6 ~~used and operated for demonstration purposes or which the dealer or~~
7 ~~salesperson knows is otherwise a used motor vehicle;~~

8 ~~(s) (o) Violating any state or federal statute or regulation issued~~
9 ~~thereunder dealing with odometers;~~

10 ~~(t) (H) (p) Selling to a retail customer a motor vehicle which THAT~~
11 ~~is not equipped or in proper condition and adjustment as required by part~~
12 ~~2 of article 4 of title 42 C.R.S.; unless such THE vehicle is sold as a tow~~
13 ~~away, not to be driven;~~

14 ~~(H) Repealed.~~

15 ~~(t.1) Repealed.~~

16 ~~(u) (q) Committing a fraudulent insurance act pursuant to section~~
17 ~~10-1-128; C.R.S.;~~

18 ~~(v) (r) Failure to give notice to a prospective buyer of the~~
19 ~~acceptance or rejection of a motor vehicle purchase order agreement~~
20 ~~within a reasonable time period, as determined by the board, when the~~
21 ~~licensee is working with the prospective buyer on a finance sale or a~~
22 ~~consignment sale.~~

23 (4) A wholesaler's or wholesale motor vehicle auction dealer's
24 license may be denied, suspended, or revoked for the selling, leasing, or
25 offering or attempting to negotiate the sale, lease, or exchange of an
26 interest in motor vehicles by such THE wholesaler or wholesale motor
27 vehicle auction dealer to persons other than motor vehicle dealers, used

1 motor vehicle dealers, or other wholesalers or wholesale motor vehicle
2 auction dealers.

3 ~~(4.5)~~ (5) The license of a motor vehicle dealer may be denied,
4 revoked, suspended, or otherwise subject to discipline imposed under this
5 part 1 if an owner is acting as a salesperson without a motor vehicle
6 salesperson license and the owner commits any of the acts or omissions
7 that subject a salesperson's license to denial, revocation, or suspension
8 under ~~subsection (5)~~ SUBSECTION (6) of this section.

9 ~~(5)~~ (6) The license of a motor vehicle salesperson may be denied,
10 revoked, or suspended on the following grounds:

11 ~~(a) (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1,~~
12 ~~1992.)~~

13 ~~(b)~~ (a) Material misstatement in an application for a license;

14 ~~(c)~~ (b) Failure to comply with any provision of this part 1 or any
15 rule ~~or regulation~~ promulgated by the board or executive director under
16 this part 1;

17 ~~(d)~~ (c) To engage in the business for which ~~such~~ THE licensee is
18 licensed without having in force and effect a good and sufficient bond
19 with corporate surety as provided in this part 1;

20 ~~(e)~~ (d) To intentionally publish or circulate any advertising ~~which~~
21 THAT is misleading or inaccurate in any material particular or ~~which~~ THAT
22 misrepresents any motor vehicle products sold or attempted to be sold by
23 ~~such~~ THE salesperson;

24 ~~(f)~~ (e) Having indulged in any fraudulent business practice;

25 ~~(g)~~ (f) Selling, offering, or attempting to negotiate the sale,
26 exchange, or lease of motor vehicles for any motor vehicle dealer or used
27 motor vehicle dealer for which ~~such~~ THE salesperson is not licensed;

1 except that negotiation with a motor vehicle dealer for the sale, exchange,
2 or lease of new and used motor vehicles, except those vehicles defined in
3 section 42-1-102 (55) ~~C.R.S.~~, as motorcycles and section 33-14.5-101 (3)
4 ~~C.R.S.~~, as off-highway vehicles, by a salesperson compensated for ~~said~~
5 THE negotiation by the used motor vehicle dealer for which ~~such~~ THE
6 salesperson is licensed shall not be grounds for denial, revocation, or
7 suspension;

8 ~~(h)~~ (g) Representing oneself as a salesperson for any motor
9 vehicle dealer or used motor vehicle dealer when ~~such~~ THE salesperson
10 is not so employed and licensed;

11 ~~(i)~~ (Deleted by amendment, L. 92, p. 1857, § 20, effective July 1,
12 1992.)

13 ~~(j)~~ (h) Having been convicted of or pled nolo contendere to any
14 felony, or any crime pursuant to article 3, 4, or 5 of title 18, ~~C.R.S.~~, or any
15 like crime pursuant to federal law or the law of any other state. A certified
16 copy of the judgment of conviction by a court of competent jurisdiction
17 shall be conclusive evidence of ~~such~~ THE conviction in any hearing held
18 pursuant to this ~~article~~ ARTICLE 20.

19 ~~(k)~~ (i) Having knowingly purchased, sold, or otherwise acquired
20 or disposed of a stolen motor vehicle;

21 ~~(l)~~ (j) Employing an unlicensed motor vehicle salesperson;

22 ~~(m)~~ (k) Violating any state or federal statute or regulation issued
23 thereunder dealing with odometers;

24 ~~(n)~~ (l) Defrauding any retail buyer to ~~such~~ THE person's damage;

25 ~~(o)~~ (m) Representing or selling as a new and unused motor vehicle
26 any motor vehicle ~~which~~ THAT the salesperson knows has been used and
27 operated for demonstration purposes or ~~which~~ THAT the salesperson

1 knows is otherwise a used motor vehicle;

2 ~~(p)~~(n) Selling to a retail customer a motor vehicle ~~which~~ THAT
3 is not equipped or in proper condition and adjustment as required by part
4 2 of article 4 of title 42 ~~C.R.S.~~, unless ~~such~~ THE vehicle is sold as a tow
5 away, not to be driven;

6 ~~(H) Repealed.~~

7 ~~(p.1) Repealed.~~

8 ~~(q)~~ (o) Willfully violating any state or federal law respecting
9 commerce or motor vehicles, or any lawful rule ~~or regulation~~ respecting
10 commerce or motor vehicles promulgated by any licensing or regulating
11 authority pertaining to motor vehicles, under circumstances in which the
12 act constituting the violation directly and necessarily involves commerce
13 or motor vehicles;

14 ~~(r)~~ (p) Improperly withholding, misappropriating, or converting
15 to ~~such~~ THE salesperson's own use any money belonging to customers or
16 other persons, received in the course of employment as a motor vehicle
17 salesperson.

18 ~~(6)~~ (7) Any license issued pursuant to this part 1 may be denied,
19 revoked, or suspended if unfitness of ~~such~~ THE licensee or licensee
20 applicant is shown in the following:

21 (a) The licensing character or record of the licensee or licensee
22 applicant;

23 (b) The criminal character or record of the licensee or licensee
24 applicant;

25 (c) The financial character or record of the licensee or licensee
26 applicant;

27 (d) Violation of any lawful order of the board.

1 ~~(7)~~(8) (a) Any license issued or for which an application has been
2 made pursuant to this part 1 shall be revoked or denied if the licensee or
3 applicant has been convicted of or pleaded no contest to any of the
4 following offenses in this state or any other jurisdiction during the
5 previous ten years:

6 (I) A felony in violation of article 3, 4, or 5 of title 18 ~~C.R.S.~~, or
7 any similar crime under federal law or the law of any other state; or

8 (II) A crime involving odometer fraud, salvage fraud, motor
9 vehicle title fraud, or the defrauding of a retail consumer in a motor
10 vehicle sale or lease transaction.

11 (b) A certified copy of a judgment of conviction by a court of
12 competent jurisdiction of an offense under ~~paragraph (a) of this~~
13 ~~subsection (7)~~ SUBSECTION (8)(a) OF THIS SECTION is conclusive evidence
14 of ~~such~~ THE conviction in any hearing held pursuant to this ~~article~~
15 ARTICLE 20.

16 ~~(8)~~(9) In any disciplinary hearing, action, or order of the board
17 involving a violation of section 42-6-112 or 42-6-119 (3), ~~C.R.S.~~, it is an
18 affirmative defense that the dealer has taken every reasonable action
19 necessary to deliver or facilitate the delivery of the certificate of title
20 within thirty days. To qualify as having taken every reasonable action to
21 deliver or facilitate the delivery of the certificate of title, the dealer must
22 have, at a minimum:

23 (a) Processed and mailed any required loan payoffs in a
24 reasonable amount of time;

25 (b) Contacted the prior lender and taken any actions necessary to
26 obtain a certificate of title or duplicate certificate of title, either of which
27 must be free of liens;

1 (c) Taken any action necessary to obtain information or signatures
2 from the prior owner necessary to have a new certificate of title issued for
3 the motor vehicle;

4 (d) Submitted all paperwork that the dealer has obtained to the
5 authorized agent and that is necessary to have a new certificate of title
6 issued for the motor vehicle; and

7 (e) Corrected any errors in any filings with the department in a
8 reasonable amount of time.

9 ~~(9)~~ (10) A person whose license issued under this part 1 is
10 revoked or who surrenders a license to avoid discipline is ineligible to
11 apply for a new license under this part 1 for one year after the date of
12 revocation or surrender of the license.

13 **44-20-122. [Formerly 12-6-119] Procedure for denial,**
14 **suspension, or revocation of license - judicial review.** (1) The denial,
15 suspension, or revocation of licenses issued under this part 1 shall be in
16 accordance with the provisions of sections 24-4-104 and 24-4-105;
17 ~~C.R.S.~~; except that the discovery available under rule 26 (b)(2) of the
18 Colorado rules of civil procedure is available in any proceeding.

19 (2) (a) (I) The board shall appoint an administrative law judge
20 pursuant to part 10 of article 30 of title 24 ~~C.R.S.~~, to conduct any hearing
21 concerning the licensing or discipline of a motor vehicle dealer, used
22 motor vehicle dealer, wholesaler, buyer's agent, or wholesale motor
23 vehicle auction dealer; except that the board may, upon a unanimous vote
24 of the members present when the vote is taken, conduct the hearing in lieu
25 of appointing an administrative law judge.

26 (II) Beginning July 1, 2008, the board shall issue an annual report
27 to the executive director detailing the number of hearings held pursuant

1 to this ~~paragraph (a)~~ SUBSECTION (2)(a) and the number of ~~such~~ THE
2 hearings conducted by the board. If the board conducts greater than forty
3 percent of the hearings, the executive director shall analyze the hearing
4 procedures and acts and issue a report to the general assembly, which
5 shall include any recommendations of the executive director.

6 (b) The board shall assign a hearing concerning the licensing or
7 discipline of a motor vehicle salesperson to the executive director who
8 shall appoint an officer to conduct a hearing.

9 (3) Hearings conducted before an administrative law judge shall
10 be in accordance with the rules of procedure of the office of
11 administrative courts. Hearings conducted before an officer appointed by
12 the executive director shall be in accordance with the rules of procedure
13 established by the executive director.

14 (4) The board may summarily suspend a licensee required to post
15 a bond under this ~~article~~ ARTICLE 20 if ~~such~~ THE licensee does not have
16 a bond in full force and effect as required by this ~~article~~ ARTICLE 20. The
17 suspension shall become effective upon the earlier of the licensee
18 receiving notice of the suspension or within three days after the notice of
19 suspension is mailed to a licensee's last-known address on file with the
20 board. The notice may be effected by certified mail or personal delivery.

21 (5) The court of appeals shall have initial jurisdiction to review all
22 final actions and orders that are subject to judicial review of the board.
23 ~~Such~~ THE proceedings shall be conducted in accordance with section
24 24-4-106 (11). ~~C.R.S.~~

25 **44-20-123. [Formerly 12-6-119.5] Sales activity following**
26 **license denial, suspension, or revocation - unlawful act - penalty.**

27 (1) (a) It shall be unlawful and a violation of this part 1 for any person

1 whose motor vehicle dealer's, used motor vehicle dealer's, motor vehicle
2 wholesaler's, or motor vehicle salesperson's license has been denied,
3 suspended, or revoked to exercise any of the privileges of the license that
4 was denied, suspended, or revoked.

5 (b) A violation of ~~paragraph (a) of this subsection (1)~~ SUBSECTION
6 (1)(a) OF THIS SECTION shall be punishable in accordance with section
7 ~~12-6-121 44-20-128~~; except that a second or subsequent violation of ~~said~~
8 ~~paragraph (a)~~ SUBSECTION (1)(a) OF THIS SECTION shall be a class 6
9 felony.

10 (c) In any trial for a violation of ~~paragraph (a) of this subsection~~
11 ~~(1)~~ SUBSECTION (1)(a) OF THIS SECTION:

12 (I) A duly authenticated copy of the board's order of denial,
13 suspension, or revocation shall constitute prima facie evidence of ~~such~~
14 THE denial, suspension, or revocation;

15 (II) A duly authenticated invoice, buyer's order, or other
16 customary, written sales or purchase document or instrument proven to
17 be signed by the defendant and indicating the defendant's role in the
18 purchase or sale of a motor vehicle at any motor vehicle auction,
19 wholesale motor vehicle sales location, or retail motor vehicle sales
20 location, as applicable, shall constitute prima facie evidence of the
21 defendant's exercise of a privilege of licensure;

22 (III) It shall be an affirmative defense that the defendant bought
23 or sold a motor vehicle that was, at all relevant times, intended for the
24 defendant's own use and not bought or sold for the purpose of profit or
25 gain; and

26 (IV) The fact that the defendant has a motor vehicle dealer's, used
27 motor vehicle dealer's, motor vehicle wholesaler's, or motor vehicle

1 salesperson's license, or any other license to buy and sell motor vehicles,
2 that is issued by a state or jurisdiction other than Colorado shall not
3 constitute a defense.

4 (2) Upon the defendant's conviction by entry of a plea of guilty or
5 nolo contendere or judgment or verdict of guilt in connection with a
6 violation of ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this
7 section or of section ~~12-6-120 (2)~~ 44-20-124 (2) or 42-6-142 (1), ~~C.R.S.~~,
8 the court shall immediately give the executive director written notice of
9 ~~such~~ THE conviction. In addition, the court shall forward to the executive
10 director copies of documentation of any conviction on a lesser included
11 offense and any amended charge, plea bargain, deferred prosecution,
12 deferred sentence, or deferred judgment in connection with the original
13 charge.

14 (3) Upon receiving notice of a conviction or other disposition
15 pursuant to subsection (2) of this section, the executive director or his or
16 her designee shall forward ~~such~~ THE notice to the ~~motor vehicle dealer~~
17 board, which shall immediately examine its files to determine whether in
18 fact the defendant's license was denied, suspended, or revoked at the time
19 of the offense to which the conviction or other disposition relates. If in
20 fact the defendant's license was denied, suspended, or revoked at the time
21 of ~~such~~ THE offense, the board:

22 (a) Shall not issue or reinstate any license to the defendant until
23 one year after the time the defendant would otherwise have been eligible
24 to receive a new or reinstated license; and

25 (b) Shall revoke or suspend any other licenses held by the
26 defendant until at least one year after the date of the conviction or other
27 disposition.

1 **44-20-124. [Formerly 12-6-120] Unlawful acts.** (1) It is
2 unlawful and a violation of this part 1 for any manufacturer, distributor,
3 or manufacturer representative:

4 (a) To willfully fail to perform or cause to be performed any
5 written warranties made with respect to any motor vehicle or parts
6 thereof;

7 (b) To coerce or attempt to coerce any motor vehicle dealer to
8 perform or allow to be performed any act that could be financially
9 detrimental to the dealer or that would impair the dealer's goodwill or to
10 enter into any agreement with a manufacturer or distributor that would be
11 financially detrimental to the dealer or impair the dealer's goodwill, by
12 threatening to cancel or not renew any franchise between a manufacturer
13 or distributor and ~~said~~ THE dealer;

14 (c) To coerce or attempt to coerce any motor vehicle dealer to
15 accept delivery of any motor vehicle, parts or accessories therefor, or any
16 commodities or services ~~which~~ THAT have not been ordered by ~~said~~ THE
17 dealer;

18 (d) (I) To cancel or cause to be canceled, directly or indirectly,
19 without just cause, the franchise of any motor vehicle dealer, and the
20 nonrenewal of a franchise or selling agreement without just cause is a
21 violation of this ~~paragraph (d)~~ SUBSECTION (1)(d) and shall constitute an
22 unfair cancellation.

23 (II) As used in this ~~paragraph (d)~~ SUBSECTION (1)(d), "just cause"
24 shall be determined in the context of all circumstances surrounding the
25 cancellation or nonrenewal, including but not limited to:

26 (A) The amount of business transacted by the motor vehicle
27 dealer;

1 (B) The investments necessarily made and obligations incurred by
2 the motor vehicle dealer, including but not limited to goodwill, in the
3 performance of its duties under the franchise agreement, together with the
4 duration and permanency of ~~such~~ THE investments and obligations;

5 (C) The potential for harm to consumers as a result of disruption
6 of the business of the motor vehicle dealer;

7 (D) The motor vehicle dealer's failure to provide adequate service
8 of facilities, equipment, parts, and qualified service personnel;

9 (E) The motor vehicle dealer's failure to perform warranty work
10 on behalf of the manufacturer, subject to reimbursement by the
11 manufacturer; and

12 (F) The motor vehicle dealer's failure to substantially comply, in
13 good faith, with requirements of the franchise that are determined to be
14 reasonable and material.

15 (III) The following conduct by a motor vehicle dealer shall
16 constitute just cause for termination without consideration of other
17 factors:

18 (A) Conviction of, or a plea of guilty or nolo contendere to, a
19 felony;

20 (B) A continuing pattern of fraudulent conduct against the
21 manufacturer or consumers; or

22 (C) Continuing failure to operate for ten days or longer.

23 (e) To withhold, reduce, or delay unreasonably or without just
24 cause delivery of motor vehicles, motor vehicle parts and accessories,
25 commodities, or ~~moneys~~ MONEY due motor vehicle dealers for warranty
26 work done by any motor vehicle dealer;

27 (f) To withhold, reduce, or delay unreasonably or without just

1 cause services contracted for by motor vehicle dealers;

2 (g) To coerce any motor vehicle dealer to provide installment
3 financing with a specified financial institution;

4 (h) To violate any duty imposed by, or fail to comply with, any
5 provision of section ~~12-6-120.3, 12-6-120.5, or 12-6-120.7~~ 44-20-125,
6 44-20-126, OR 44-20-127;

7 (i) (I) To fail to provide to the motor vehicle dealer, within twenty
8 days after receipt of a notice of intent from a motor vehicle dealer, the list
9 of documents and information necessary to approve the sale or transfer
10 of the ownership of a dealership by sale of the business or by stock
11 transfer or the change in executive management of the dealership;

12 (II) To fail to confirm within twenty days after receipt of all
13 documents and information listed in ~~subparagraph (I) of this paragraph (i)~~
14 SUBSECTION (1)(i)(I) OF THIS SECTION that ~~such~~ THE documentation and
15 information has been received;

16 (III) To refuse to approve, unreasonably, the sale or transfer of the
17 ownership of a dealership by sale of the business or by stock transfer
18 within sixty days after the manufacturer has received all documents and
19 information necessary to approve the sale or transfer of ownership, or to
20 refuse to approve, unreasonably, the change in executive management of
21 the dealership within sixty days after the manufacturer has received all
22 information necessary to approve the change in management; except that
23 nothing in this part 1 shall authorize the sale, transfer, or assignment of
24 a franchise or a change of the principal operator without the approval of
25 the manufacturer or distributor unless the manufacturer or distributor fails
26 to send notice of the disapproval within sixty days after receiving all
27 documents and information necessary to approve the sale or transfer of

1 ownership; or

2 (IV) To condition the sale, transfer, relocation, or renewal of a
3 franchise agreement, or to condition sales, services, parts, or finance
4 incentives, upon site control or an agreement to renovate or make
5 improvements to a facility; except that voluntary acceptance of ~~such~~ THE
6 conditions by the dealer shall not constitute a violation;

7 (j) (I) (A) To fail or refuse to offer to its same line-make
8 franchised dealers all models manufactured for that line-make except as
9 a result of a strike or labor difficulty, lack of manufacturing capacity,
10 shortage of materials, freight embargo, or other cause over which the
11 manufacturer has no control; or

12 ~~(H)~~ (B) To require a dealer to pay an unreasonable fee, purchase
13 unreasonable advertising displays or other materials, or comply with
14 unreasonable training or facilities requirements as a prerequisite to
15 receiving any particular model of that same line-make. For purposes of
16 this ~~subparagraph (H)~~ SUBSECTION (1)(j)(I)(B), reasonableness shall be
17 judged based on the circumstances of the individual dealer and the
18 conditions of the market served by the dealer.

19 ~~(HH)~~ (II) This ~~paragraph (j)~~ SUBSECTION (1)(j) shall not apply to
20 manufacturers of recreational vehicles nor to manufacturers of vehicles
21 with a passenger capacity of thirty-two or more.

22 (k) To require, coerce, or attempt to coerce any motor vehicle
23 dealer to refrain from participation in the management of, investment in,
24 or acquisition of any other line-make of new motor vehicles or related
25 products; except that this ~~paragraph (k)~~ SUBSECTION (1)(k) shall not apply
26 unless the motor vehicle dealer:

27 (I) Maintains a reasonable line of credit for each make or line of

1 new motor vehicle;

2 (II) Remains in compliance with reasonable capital standards and
3 reasonable facilities requirements specified by the manufacturer; except
4 that "reasonable facilities requirements" shall not include a requirement
5 that a motor vehicle dealer establish or maintain exclusive facilities,
6 personnel, or display space; and

7 (III) Provides written notice to the manufacturer, distributor, or
8 manufacturer's representative, no less than ninety days prior to the dealer's
9 intent to participate in the management of, investment in, or acquisition
10 of another line-make of new motor vehicles or related products;

11 (I) (I) To fail to pay to a motor vehicle dealer, within ninety days
12 after the termination, cancellation, or nonrenewal of a franchise, all of the
13 following:

14 (A) The dealer cost, plus any charges made by the manufacturer
15 for distribution, delivery, and taxes, less all allowances paid or credited
16 to the motor vehicle dealer by the manufacturer, of unused, undamaged,
17 and unsold motor vehicles in the motor vehicle dealer's inventory that
18 were acquired from the manufacturer or from another motor vehicle
19 dealer of the same line-make in the ordinary course of business within the
20 previous twelve months;

21 (B) The dealer cost, less all allowances paid or credited to the
22 motor vehicle dealer by the manufacturer, for all unused, undamaged, and
23 unsold supplies, parts, and accessories in original packaging and listed in
24 the manufacturer's current parts catalog;

25 (C) The fair market value of each undamaged sign owned by the
26 motor vehicle dealer and bearing a common name, trade name, or
27 trademark of the manufacturer if acquisition of ~~such~~ THE sign was

1 required by the manufacturer;

2 (D) The fair market value of all special tools and equipment that
3 were acquired from the manufacturer or from sources approved and
4 required by the manufacturer and that are in good and usable condition,
5 excluding normal wear and tear; and

6 (E) The cost of transporting, handling, packing, and loading the
7 motor vehicles, supplies, parts, accessories, signs, special tools,
8 equipment, and furnishings described in this ~~paragraph (F)~~ SUBSECTION
9 (1)(I).

10 (II) This ~~paragraph (F)~~ SUBSECTION (1)(I) shall only apply to
11 manufacturers of recreational vehicles in cases where the manufacturer
12 terminates, cancels, or fails to renew the recreational vehicle dealer
13 franchise; and this ~~paragraph (F)~~ SUBSECTION (1)(I) shall not apply to
14 manufacturers of vehicles with a passenger capacity of thirty-two or
15 more.

16 (m) To require, coerce, or attempt to coerce any motor vehicle
17 dealer to close or change the location of the motor vehicle dealer, or to
18 make any substantial alterations to the dealer premises or facilities when
19 doing so would be unreasonable or without written assurance of a
20 sufficient supply of motor vehicles so as to justify ~~such~~ THE changes, in
21 light of the current market and economic conditions;

22 (n) (I) To authorize or permit a person to perform warranty service
23 repairs on motor vehicles unless the person is:

24 (A) A motor vehicle dealer with whom the manufacturer has
25 entered into a franchise agreement for the sale and service of the
26 manufacturer's motor vehicles; or

27 (B) A person or government entity that has purchased new motor

1 vehicles pursuant to a manufacturer's fleet discount program and is
2 performing the warranty service repairs only on vehicles owned by ~~such~~
3 THE person or entity.

4 (II) This ~~paragraph (n)~~ SUBSECTION (1)(n) shall not apply to
5 manufacturers of recreational vehicles nor to manufacturers of vehicles
6 with a passenger capacity of thirty-two or more.

7 (o) To require, coerce, or attempt to coerce any motor vehicle
8 dealer to prospectively agree to a release, assignment, novation, waiver,
9 or estoppel that would relieve any person of a duty or liability imposed
10 under this ~~article~~ ARTICLE 20 except in settlement of a bona fide dispute;

11 (p) To discriminate between or refuse to offer to its same
12 line-make franchised dealers all models manufactured for that line-make
13 based upon unreasonable sales and service standards;

14 (q) To fail to make practically available any incentive, rebate,
15 bonus, or other similar benefit to a motor vehicle dealer that is offered to
16 another motor vehicle dealer of the same line-make within this state;

17 (r) To fail to pay to a motor vehicle dealer:

18 (I) Within ninety days after the termination, cancellation, or
19 nonrenewal of a franchise for the failure of a dealer to meet performance
20 sales and service obligations or after the termination, elimination, or
21 cessation of a line-make, the cost of the lease for the facilities used for the
22 franchise or line-make for the unexpired term of the lease, not to exceed
23 one year; except that:

24 (A) If the motor vehicle dealer owns the facilities, the value of
25 renting ~~such~~ THE facilities for one year, prorated for each line-make based
26 upon total sales volume for the previous twelve months before the
27 involuntary termination;

1 (B) If the dealer sells recreational vehicles and a subsequent
2 manufacturer or distributor that manufactures or distributes recreational
3 vehicles replaces any portion of the vacated facilities, the lease or rental
4 value shall be prorated on a monthly basis unless the dealer sells motor
5 vehicles that are not recreational vehicles;

6 (C) Nothing in this ~~subparagraph (f)~~ SUBSECTION (1)(r)(I) shall be
7 construed to limit the application of ~~paragraph (d) of this subsection (1)~~
8 SUBSECTION (1)(d) OF THIS SECTION;

9 (II) Within ninety days after the termination, elimination, or
10 cessation of a line-make or the termination of a franchise due to the
11 insolvency of the manufacturer or distributor, the fair market value of the
12 motor vehicle dealer's goodwill for the line-make as of the date the
13 manufacturer or distributor announces the action that results in the
14 termination, elimination, or cessation, not including any amounts paid
15 under ~~sub-subparagraphs (A) to (E) of subparagraph (f) of paragraph (1)~~
16 ~~of this subsection (1)~~ SUBSECTIONS (1)(l)(I)(A) TO (1)(l)(I)(E) OF THIS
17 SECTION;

18 (s) To condition a franchise agreement on improvements to a
19 facility unless reasonably required by the technology of a motor vehicle
20 being sold at the facility;

21 (t) To sell or offer for sale a low-speed electric vehicle, as defined
22 by section 42-1-102, ~~C.R.S.~~, for use on a roadway unless the vehicle
23 complies with part 2 of article 4 of title 42; ~~C.R.S.~~;

24 (u) To charge back, deny motor vehicle allocation, withhold
25 payments, or take other actions against a motor vehicle dealer if a motor
26 vehicle sold by the motor vehicle dealer is exported from Colorado unless
27 the manufacturer, distributor, or manufacturer representative proves that

1 the motor vehicle dealer knew or reasonably should have known a motor
2 vehicle was intended to be exported, which shall operate as a rebuttable
3 presumption that the motor vehicle dealer did not have ~~such~~ THE
4 knowledge;

5 (v) Within ninety days after the termination, elimination, or
6 cessation of a line-make or the termination, cancellation, or nonrenewal
7 of a franchise by the manufacturer, distributor, or manufacturer
8 representative, for any reason other than that the motor vehicle dealer
9 commits fraud, makes a misrepresentation, or commits any other crime
10 within the scope of the franchise agreement or in the operation of the
11 dealership, to fail to reimburse a motor vehicle dealer for the cost
12 depreciated by five percent per year of any upgrades or alterations to the
13 motor vehicle dealer's facilities required by the manufacturer, distributor,
14 or manufacturer representative within the previous five years;

15 (w) To fail to notify a motor vehicle dealer at least ninety days
16 before the following and to provide the specific reasons for the following:

17 (I) Directly or indirectly terminating, cancelling, or not renewing
18 a franchise agreement; or

19 (II) Modifying, replacing, or attempting to modify or replace the
20 franchise or selling agreement of a motor vehicle dealer, including a
21 change in the dealer's geographic area upon which sales or service
22 performance is measured, if the modification would substantially and
23 adversely alter the rights or obligations of the dealer under the current
24 franchise or selling agreement or would substantially impair the sales or
25 service obligations or the dealer's investment; ~~and~~

26 (x) To require, coerce, or attempt to coerce a motor vehicle dealer
27 to substantially alter a facility or premises if:

1 (I) The facility or premises has been altered within the last ten
2 years at a cost of more than two hundred fifty thousand dollars and the
3 alteration was required and approved by the manufacturer, distributor, or
4 manufacturer representative unless subsection (1)(x)(II) of this section
5 applies to the dealer; except that this subsection (1)(x) does not apply to
6 improvements made to comply with health or safety laws, to
7 improvements made to accommodate the technology requirements
8 necessary to sell or service a line-make, to technological improvements
9 related to electric, automated, compressed natural gas, and fuel-cell motor
10 vehicles, or to improvements made to install or upgrade electric vehicle
11 charging equipment; or

12 (II) The motor vehicle dealer sells only motorcycles or
13 motorcycles and powersports vehicles, the facility or premises has been
14 altered within the last ten years at a cost of more than twenty-five
15 thousand dollars, and the alteration was required and approved by the
16 manufacturer, distributor, or manufacturer representative; except that this
17 subsection (1)(x) does not apply to improvements made to comply with
18 health or safety laws, to improvements made to accommodate the
19 technology requirements necessary to sell or service a line-make, to
20 technological improvements related to electric, automated, compressed
21 natural gas, and fuel-cell motor motorcycles and powersports vehicles, or
22 to improvements made to install or upgrade electric vehicle charging
23 equipment;

24 (y) (I) To sell or offer to sell new motor vehicles to a franchised
25 motor vehicle dealer with whom the manufacturer has a franchise
26 agreement at a lower actual price than the actual price offered to any
27 other motor vehicle dealer with whom the manufacturer has a franchise

1 agreement for the same motor vehicle similarly equipped; except that this
2 subsection (1)(y) does not apply to:

3 (A) Resale to any government;

4 (B) Donation or use by the dealer in a driver education program;

5 or

6 (C) A price change made in the ordinary course of business if
7 made available to all motor vehicle dealers when the price changes.

8 (II) This subsection (1)(y) does not prohibit a manufacturer,
9 distributor, or manufacturer representative from offering incentive
10 programs, sales-promotion plans, or other discounts if the incentives or
11 discounts are reasonably available to all motor vehicle dealers with whom
12 the manufacturer has a franchise agreement.

13 (z) To require a motor vehicle dealer to grant a manufacturer,
14 distributor, or manufacturer representative the following or to enforce the
15 following if the exercise of the contractual right would stop the transfer
16 of the motor vehicle dealer ownership from an owner to an immediate
17 family member of the owner:

18 (I) A right of first refusal to purchase the motor vehicle dealer; or

19 (II) An option to purchase the motor vehicle dealer; AND

20 (aa) (I) To use an unreasonable, arbitrary, or unfair performance
21 standard in determining a motor vehicle dealer's compliance with a
22 franchise agreement;

23 (II) To fail to communicate, upon the request of the dealer, any
24 performance standard in a clear and concise writing to a motor vehicle
25 dealer before applying the standard to the motor vehicle dealer.

26 (2) It is unlawful for any person to act as a motor vehicle dealer,
27 manufacturer, distributor, wholesaler, manufacturer representative, used

1 motor vehicle dealer, buyer agent, wholesale motor vehicle auction
2 dealer, or motor vehicle salesperson unless the person has been duly
3 licensed under this part 1, except for:

4 (a) Persons exempt from licensure as a manufacturer under section
5 ~~12-6-102 (15)~~ 44-20-102 (14); however, manufacturers exempt from
6 licensing shall comply with all other applicable requirements for
7 manufacturers, including those pertaining to vehicle identification
8 numbers and manufacturers' statements of origin; and

9 (b) Business owners selling a vehicle if the vehicle has been
10 owned for more than one year, the vehicle has been used exclusively for
11 business purposes, the vehicle is titled in the name of the business, all
12 applicable taxes related to the vehicle have been paid, and the total
13 number of vehicles sold by a business owner over a two-year period does
14 not exceed twenty vehicles.

15 (3) It is unlawful and a violation of this part 1 for a buyer's agent
16 to engage in the following:

17 (a) To make a material misstatement in an application for a
18 license;

19 (b) To willfully fail to perform or cause to be performed any
20 written agreement with respect to any motor vehicle or parts thereof;

21 (c) To defraud any buyer, seller, motor vehicle salesperson, or
22 financial institution;

23 (d) To intentionally enter into a financial agreement with a seller
24 of a motor vehicle for the buyer agent's own benefit;

25 (e) To coerce any motor vehicle dealer into providing installment
26 financing with a specified financial institution.

27 **44-20-125. [Formerly 12-6-120.3] New, reopened, or relocated**

1 **dealer - notice required - grounds for refusal of dealer license -**

2 **definitions - rules.** (1) No manufacturer shall establish an additional

3 motor vehicle dealer, reopen a previously existing motor vehicle dealer,

4 or authorize an existing motor vehicle dealer to relocate without first

5 providing at least sixty days' notice to all of its franchised dealers within

6 whose relevant market area the new, reopened, or relocated dealer would

7 be located. The notice must state:

8 (a) The specific location at which the additional, reopened, or
9 relocated motor vehicle dealer will be established;

10 (b) The date on or after which the manufacturer intends to be
11 engaged in business with the additional, reopened, or relocated motor
12 vehicle dealer at the proposed location; and

13 (c) The identity of all motor vehicle dealers who are franchised to
14 sell the same line-make of vehicles with licensed locations in the relevant
15 market area where the additional, reopened, or relocated motor vehicle
16 dealer is proposed to be located.

17 ~~(d) Repealed.~~

18 ~~(1.5)~~ (2) A manufacturer shall approve or disapprove of a motor
19 vehicle dealer facility initial site location, relocation, or reopening request
20 within sixty days after the request or after sending the notice required by
21 subsection (1) of this section to all of its franchised dealers, whichever is
22 later.

23 ~~(2)~~ (3) Subsection (1) of this section shall not apply to:

24 (a) The relocation of an existing dealer within two miles of its
25 current location; or

26 (b) The establishment of a replacement dealer, within two years,
27 either at the former location or within two miles of the former location.

1 ~~(3)~~ (4) As used in this section:

2 (a) "Manufacturer" means a motor vehicle manufacturer,
3 distributor, or manufacturer representative.

4 (b) "Relevant market area" means the greater of the following:

5 (I) The geographic area of responsibility defined in the franchise
6 agreement of an existing dealer; or

7 (II) The geographic area within a radius of ten miles of any
8 existing dealer of the same line-make of vehicle as the proposed
9 additional motor vehicle dealer.

10 ~~(c) Repealed.~~

11 ~~(4) and (5) Repealed.~~

12 ~~(6)~~ (5) (a) An existing motor vehicle dealer adversely affected by
13 a reopening or relocation of an existing same line-make motor vehicle
14 dealer or the addition of a same line-make motor vehicle dealer may,
15 within ninety days after receipt of the notice required in subsection (1) of
16 this section, file a legal action in a district court of competent jurisdiction
17 or file an administrative complaint with the executive director to prevent
18 or enjoin the relocation, reopening, or addition of the proposed motor
19 vehicle dealer. An existing motor vehicle dealer is adversely impacted if:

20 (I) The dealer is located within the relevant market area of the
21 proposed relocated, reopened, or additional dealership described in the
22 notice required in subsection (1) of this section; or

23 (II) The existing dealer or dealers of the same line-make show
24 that, during any twelve-month period of the thirty-six months preceding
25 the receipt of the notice required in subsection (1) of this section, the
26 dealer or dealers, or a dealer's predecessor, made at least twenty-five
27 percent of the dealer's retail sales of new motor vehicles to persons whose

1 addresses are located within ten miles of the location of the proposed
2 relocated, reopened, or additional dealership.

3 (b) The executive director shall refer a complaint filed under this
4 section to an administrative law judge with the office of administrative
5 courts for final agency action.

6 (c) In any court or administrative action, the manufacturer has the
7 burden of proof on each of the following issues:

8 (I) The change in population;

9 (II) The relevant vehicle buyer profiles;

10 (III) The relevant historical new motor vehicle registrations for the
11 line-make of vehicles versus the manufacturer's actual competitors in the
12 relevant market area;

13 (IV) Whether the opening of the proposed additional, reopened,
14 or relocated motor vehicle dealer is materially beneficial to the public
15 interest or the consumers in the relevant market area;

16 (V) Whether the motor vehicle dealers of the same line-make in
17 the relevant market area are providing adequate representation and
18 convenient customer care, including the adequacy of sales and service
19 facilities, equipment, parts, and qualified service personnel, for motor
20 vehicles of the same line-make in the relevant market area;

21 (VI) The reasonably expected market penetration of the
22 line-make, given the factors affecting penetration; and

23 (VII) Whether the additional, reopened, or relocated dealership is
24 reasonable and justifiable based on expected economic and market
25 conditions within the relevant market area.

26 (d) In any court or administrative action, the motor vehicle dealer
27 has the burden of proof on each of the following issues:

1 (I) Whether the manufacturer has engaged in any action or
2 omission that, directly or indirectly, denied the existing motor vehicle
3 dealer of the same line-make the opportunity for reasonable growth or
4 market expansion;

5 (II) Whether the manufacturer has coerced or attempted to coerce
6 any existing motor vehicle dealer or dealers into consenting to additional
7 or relocated franchises of the same line-make in the community or
8 territory or relevant market area; and

9 (III) The size and permanency of the investment of and
10 obligations incurred by the existing motor vehicle dealers of the same
11 line-make located in the relevant market area.

12 (e) (I) In a legal or administrative action challenging the
13 relocating, reopening, or addition of a motor vehicle dealer, the district
14 court or administrative law judge shall make a determination of whether
15 the relocation, reopening, or addition of a motor vehicle dealer is, based
16 on the factors identified in ~~subsections (6)(c) and (6)(d)~~ SUBSECTIONS
17 (5)(c) AND (5)(d) of this section:

18 (A) In the public interest; and

19 (B) Fair and equitable to the existing motor vehicle dealers.

20 (II) The district court or the executive director shall deny any
21 proposed relocating, reopening, or addition of a motor vehicle dealer
22 unless the manufacturer shows by a preponderance of the evidence that
23 the existing motor vehicle dealer or dealers of the same line-make in the
24 relevant market area of the proposed dealership are not providing
25 adequate representation of the line-make motor vehicles. A determination
26 to deny, prevent, or enjoin the relocating, reopening, or addition of a
27 motor vehicle dealer is effective for at least eighteen months.

1 **44-20-126. [Formerly 12-6-120.5] Independent control of**

2 **dealer - definitions.** (1) Except as otherwise provided in this section, no
3 manufacturer shall own, operate, or control any motor vehicle dealer or
4 used motor vehicle dealer in Colorado.

5 (2) Notwithstanding subsection (1) of this section, the following
6 activities are not prohibited:

7 (a) (I) Except as provided in ~~subparagraph (II) of this paragraph~~
8 ~~(a)~~ SUBSECTION (2)(a)(II) OF THIS SECTION, operation of a dealer for a
9 temporary period, not to exceed twelve months, during the transition from
10 one owner or operator to another independent owner or operator; except
11 that the executive director may extend the period, not to exceed
12 twenty-four months, upon showing by the manufacturer or distributor of
13 the need to operate the dealership for such time to achieve a transition
14 from an owner or operator to another independent third-party owner or
15 operator;

16 (II) Operation of a dealer that sells recreational vehicles for not
17 more than eighteen months during the transition from one owner or
18 operator to another independent owner or operator;

19 (b) Ownership or control of a dealer while the dealer is being sold
20 under a bona fide contract or purchase option to the operator of the
21 dealer;

22 (c) Participation in the ownership of the dealer solely for the
23 purpose of providing financing or a capital loan that will enable the dealer
24 to become the majority owner of the dealer in less than seven years;

25 (d) Operation of a motor vehicle dealer if the manufacturer has no
26 other dealers of the same line-make in this state;

27 (e) Ownership, operation, or control of a used motor vehicle

1 dealer if the manufacturer owned, operated, or controlled the used motor
2 vehicle dealer on January 1, 2009, and has continuously operated or
3 controlled the used motor vehicle facilities after January 1, 2009; and

4 (f) Operation of a motor vehicle dealer if the manufacturer was
5 operating the dealer on January 1, 2009, so long as the dealer is in
6 continuous operation after January 1, 2009.

7 (3) As used in this section:

8 (a) "Control" means to possess, directly, the power to direct or
9 cause the direction of the management or policies of a person, whether
10 through the ownership of voting securities, by contract, or otherwise;
11 except that "control" does not include the relationship between a
12 manufacturer and a motor vehicle dealer under a franchise agreement.

13 (b) "Manufacturer" means a motor vehicle manufacturer,
14 distributor, or manufacturer representative.

15 (c) "Operate" means to directly or indirectly manage a motor
16 vehicle dealer.

17 (d) "Own" means to hold any beneficial ownership interest of one
18 percent or more of any class of equity interest in a dealer, whether as a
19 shareholder, partner, limited liability company member, or otherwise. To
20 "hold" an ownership interest means to have possession of, title to, or
21 control of the ownership interest, either directly or through a fiduciary or
22 agent.

23 (4) This section shall not apply to manufacturers of vehicles with
24 a passenger capacity of thirty-two or more.

25 **44-20-127. [Formerly 12-6-120.7] Successor under existing**
26 **franchise agreement - duties of manufacturer.** (1) If a licensed motor
27 vehicle dealer under franchise by a manufacturer dies or becomes

1 incapacitated, the manufacturer shall act in good faith to allow a
2 successor, which may include a family member, designated by the
3 deceased or incapacitated motor vehicle dealer to succeed to ownership
4 and operation of the dealer under the existing franchise agreement if:

5 (a) Within ninety days after the motor vehicle dealer's death or
6 incapacity, the designated successor gives the manufacturer written notice
7 of an intent to succeed to the rights of the deceased or incapacitated motor
8 vehicle dealer in the franchise agreement;

9 (b) The designated successor agrees to be bound by all of the
10 terms and conditions of the existing franchise agreement; and

11 (c) The designated successor meets the criteria generally applied
12 by the manufacturer in qualifying motor vehicle dealers.

13 (2) A manufacturer may refuse to honor the existing franchise
14 agreement with the designated successor only for good cause. The
15 manufacturer may request in writing from a designated successor the
16 personal and financial data that is reasonably necessary to determine
17 whether the existing franchise agreement should be honored, and the
18 designated successor shall supply such THE data promptly upon request.

19 (3) (a) If a manufacturer believes that good cause exists for
20 refusing to honor the requested succession, the manufacturer shall send
21 the designated successor, by certified or overnight mail, notice of its
22 refusal to approve the succession within sixty days after the later of:

23 (I) Receipt of the notice of the designated successor's intent to
24 succeed the motor vehicle dealer in the ownership and operation of the
25 dealer; or

26 (II) The receipt of the requested personal and financial data.

27 (b) Failure to serve the notice pursuant to ~~paragraph (a) of this~~

1 ~~subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION shall be considered
2 approval of the designated successor, and the franchise agreement is
3 considered amended to reflect the approval of the succession the day
4 following the last day of the notice period specified in ~~said paragraph (a)~~
5 SUBSECTION (3)(a) OF THIS SECTION.

6 (c) If the manufacturer gives notice of refusal to approve the
7 succession, ~~such~~ THE notice shall state the specific grounds for the refusal
8 and shall state that the franchise agreement shall be discontinued not less
9 than ninety days after the date the notice of refusal is served unless the
10 proposed successor files an action in the district court to enjoin ~~such~~ THE
11 action.

12 (4) This section shall not be construed to prohibit a motor vehicle
13 dealer from designating a person as the successor in advance, by written
14 instrument filed with the manufacturer. If the motor vehicle dealer files
15 such an instrument, that instrument governs the succession rights to the
16 management and operation of the dealer subject to the designated
17 successor satisfying the manufacturer's qualification requirements as
18 described in this section.

19 (5) This section shall not apply to manufacturers of vehicles with
20 a passenger capacity of thirty-two or more.

21 **44-20-128. [Formerly 12-6-121] Penalty.** (1) Except as provided
22 in subsection (2) of this section, any person who willfully violates this
23 part 1 or who willfully commits any offense in this part 1 declared to be
24 unlawful commits a class 1 misdemeanor and shall be punished as
25 provided in section 18-1.3-501.

26 (2) (a) Any person who willfully violates section ~~12-6-120 (2)~~
27 44-20-124 (2) by acting as a manufacturer, distributor, or manufacturer

1 representative without proper authorization commits a class 3
2 misdemeanor and, upon conviction thereof, shall be punished by a fine of
3 not less than one hundred dollars or more than one thousand dollars for
4 each separate offense; except that, if the violator is a corporation, the fine
5 shall be not less than five hundred dollars or more than two thousand five
6 hundred dollars for each separate offense. A second conviction shall be
7 punished by a fine of two thousand five hundred dollars.

8 (b) Any person who willfully violates section ~~12-6-120~~ (2)
9 44-20-124 (2) by acting as a motor vehicle dealer, wholesaler, used motor
10 vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, or
11 motor vehicle salesperson without proper authorization commits a class
12 3 misdemeanor and, upon conviction thereof, shall be punished by a fine
13 of not less than one thousand dollars and a penalty of twenty-five hours
14 of useful public service, neither of which the court may suspend, for each
15 separate offense; except that, if the violator is a corporation, the
16 corporation shall be punished by a fine of not less than five thousand
17 dollars nor more than twenty-five thousand dollars for each separate
18 offense. A second conviction for an individual shall be punished by a fine
19 of not less than five thousand dollars nor more than twenty-five thousand
20 dollars for each separate offense, which the court may not suspend.

21 **44-20-129. [Formerly 12-6-121.5] Fines - disposition -**
22 **unlicensed sales.** Of any fine collected for a violation of section ~~12-6-120~~
23 ~~(2)~~ 44-20-124 (2), half shall be awarded to the law enforcement agency
24 that investigated and issued the citation for the violation and half shall be
25 credited to the auto dealers license fund created in section ~~12-6-123~~
26 44-20-133.

27 **44-20-130. [Formerly 12-6-121.6] Drafts not honored for**

1 **payment - penalties.** (1) If a motor vehicle dealer, wholesaler, or used
2 motor vehicle dealer issues a draft or check to a motor vehicle dealer,
3 wholesaler, used motor vehicle dealer, motor vehicle auction house, or
4 consignor and fails to honor ~~such~~ THE draft or check, then the license of
5 ~~such~~ THE licensee shall be subject to suspension pursuant to section
6 ~~12-6-104 (3)(e)(I)~~ 44-20-104 (3)(e)(I). The license suspension shall be
7 effective upon the date of any final decision against ~~such~~ THE licensee
8 based upon the unpaid draft or check. A licensee whose license has been
9 suspended pursuant to the provisions of this subsection (1) shall not be
10 eligible for reinstatement of ~~such~~ THE license and shall not be eligible to
11 apply for any other license issued under this part 1 unless it is
12 demonstrated to the board that the unpaid draft or check has been paid in
13 full and that any fine imposed on the licensee pursuant to subsection (2)
14 of this section has been paid in full.

15 (2) Any motor vehicle dealer, wholesaler, or used motor vehicle
16 dealer ~~which~~ THAT issues a draft or check to a motor vehicle dealer,
17 wholesaler, used motor vehicle dealer, motor vehicle auction house, or
18 consignor and who fails to honor ~~such~~ THE draft or check, causing loss to
19 a third party, commits a misdemeanor and shall be punished by a fine of
20 two thousand five hundred dollars. Any fine collected for a violation of
21 this subsection (2) shall be awarded to the law enforcement agency ~~which~~
22 THAT investigated and issued the citation for ~~said~~ THE violation.

23 **44-20-131. [Formerly 12-6-122] Right of action for loss.** (1) If
24 any person suffers loss or damage by reason of any fraud practiced on
25 ~~such~~ THE person or fraudulent representation made to ~~such~~ THE person by
26 a licensed dealer or one of the dealer's salespersons acting for the dealer
27 on ~~such~~ THE dealer's behalf or within the scope of the employment of the

1 salesperson or suffers any loss or damage by reason of the violation by
2 ~~such~~ THE dealer or salesperson of any of the provisions of this part 1 that
3 are designated by the board by rule, whether or not ~~such~~ THE violation is
4 the basis for denial, suspension, or revocation of a license, ~~such~~ THE
5 person shall have a right of action against the dealer, ~~such~~ THE dealer's
6 motor vehicle salespersons, and the sureties upon their respective bonds.
7 The right of a person to recover for loss or damage as provided in this
8 subsection (1) against the dealer or salesperson shall not be limited to the
9 amount of their respective bonds.

10 (2) If any person suffers any loss or damage by reason of any
11 unlawful act as provided in section ~~12-6-120 (1)(a)~~, ~~such~~ 44-20-124
12 (1)(a), THE person shall have a right of action against the manufacturer,
13 distributor, or manufacturer representative. In any court action wherein
14 a manufacturer, distributor, or manufacturer representative has been
15 found liable in damages to any person under this part 1, the amount of
16 damages so determined shall be trebled and shall be recoverable by the
17 person so damaged. Any person so damaged shall also be entitled to
18 recover reasonable attorney fees as part of his or her damages.

19 (3) If any licensee suffers any loss or damage because of a
20 violation of section ~~12-6-120 (1)~~ 44-20-124 (1), the licensee shall have a
21 right of action against the manufacturer, distributor, or manufacturer
22 representative. In any court action wherein a manufacturer, distributor, or
23 manufacturer representative has been found liable in damages to any
24 licensee under this part 1, any licensee so damaged shall also be entitled
25 to recover reasonable attorney fees and costs as part of his or her
26 damages.

27 **44-20-132. [Formerly 12-6-122.5] Contract disputes - venue -**

1 **choice of law.** (1) In the event of a dispute between a motor vehicle
2 dealer and a manufacturer under a franchise agreement, notwithstanding
3 any provision of the agreement to the contrary:

4 (a) At the option of the motor vehicle dealer, venue shall be
5 proper in the county or judicial district where the dealer resides or has its
6 principal place of business; and

7 (b) Colorado law shall govern, both substantively and
8 procedurally.

9 **44-20-133. [Formerly 12-6-123] Disposition of fees - auto**
10 **dealers license fund - created.** (1) All money received under this part
11 1, except fines awarded pursuant to sections ~~12-6-121.5 and 12-6-121.6~~
12 ~~(2)~~ 44-20-129 AND 44-20-130 (2), shall be deposited with the state
13 treasurer by the department, ~~of revenue~~, subject to section 24-35-101,
14 together with a detailed statement of ~~such~~ THE receipts, and the money
15 deposited with the state treasurer constitutes a fund to be known as the
16 auto dealers license fund, which fund is hereby created. The fund shall be
17 used under the direction of the board in the following manner:

18 ~~(a) Repealed.~~

19 ~~(b)~~ (a) (I) For the payment of the expenses of the administration
20 of the board as the general assembly deems necessary by making an
21 appropriation therefor on an annual fiscal-year basis commencing July 1,
22 1971, and thereafter.

23 (II) Any money remaining in ~~said~~ THE fund on December 31,
24 1971, and at the close of each calendar year thereafter, after costs of
25 administration of the law as provided in this part 1, shall remain in the
26 auto dealers license fund to be used for educational and enforcement
27 purposes as appropriated by the general assembly.

1 ~~(e)~~ (b) To pay the department of revenue for the administration of
2 actions or proceedings brought before the executive director pursuant to
3 section ~~12-6-120~~ 44-20-124.

4 ~~(d)~~ (c) To enforce section ~~12-6-120 (2)~~ 44-20-124 (2).

5 ~~(2) Repealed.~~

6 **44-20-134. [Formerly 12-6-125] Advertisement - inclusion of**
7 **dealer name.** A motor vehicle dealer or used motor vehicle dealer or any
8 agent of the dealers shall not advertise any offer for the sale, lease, or
9 purchase of a motor vehicle or a used motor vehicle that creates the false
10 impression that the vehicle is being offered by a private party or by a
11 buyer's agent or that does not contain the name of the dealer or the word
12 "dealer" or, if the name is contained in the offer and does not clearly
13 reflect that the business is a dealer, both the name of the dealer and the
14 word "dealer".

15 **44-20-135. [Formerly 12-6-126] Audit reimbursement**
16 **limitations - dealer claims.** (1) (a) A manufacturer, distributor, or
17 manufacturer representative shall have the right to audit warranty, sales,
18 or incentive claims of a motor vehicle dealer for nine months after the
19 date the claim was submitted.

20 (b) A manufacturer, distributor, or manufacturer representative
21 shall not require documentation for warranty, sales, or incentive claims
22 or audit warranty, sales, or incentive claims of a motor vehicle dealer
23 more than fifteen months after the date the claim was submitted, nor shall
24 the manufacturer require a charge back, reimbursement, or credit against
25 a future transaction arising out of an audit or request for documentation
26 arising more than nine months after the date the claim was submitted.

27 (2) The motor vehicle dealer shall have nine months after making

1 a sale or providing service to submit warranty, sales, or incentive claims
2 to the manufacturer, distributor, or manufacturer representative.

3 (3) Subsection (1) of this section shall not limit any action for
4 fraud instituted in a court of competent jurisdiction.

5 (4) A motor vehicle dealer may request a determination from the
6 executive director, within thirty days, that a charge back, reimbursement,
7 or credit required violates subsection (1) of this section. If a
8 determination is requested within the thirty-day period, then the charge
9 back, reimbursement, or credit shall be stayed pending the decision of the
10 executive director. If the executive director determines after a hearing that
11 the charge back, reimbursement, or credit violates subsection (1) of this
12 section, the charge back, reimbursement, or credit shall be void.

13 **44-20-136. [Formerly 12-6-127] Reimbursement for right of**
14 **first refusal.** A manufacturer or distributor shall pay reasonable attorney
15 fees, not to exceed the usual and customary fees charged for the transfer
16 of a franchise, and reasonable expenses that are incurred by the proposed
17 owner or transferee before the manufacturer or distributor exercised its
18 right of first refusal in negotiating and implementing the contract for the
19 proposed change of ownership or the transfer of assets. Payment of
20 attorney fees and expenses is not required if the claimant has failed to
21 submit an accounting of attorney fees and expenses within twenty days
22 after the receipt of the manufacturer's or dealer's written request for an
23 accounting. An expense accounting may be requested by the manufacturer
24 or distributor before exercising its right of first refusal.

25 **44-20-137. [Formerly 12-6-128] Payout exemption to**
26 **execution.** A motor vehicle dealer's right to receive payments from a
27 manufacturer or distributor required by section ~~12-6-120 (1)(l) and (1)(r)~~

1 44-20-124 (1)(l) AND (1)(r) is not liable to attachment or execution and
2 may not otherwise be seized, taken, appropriated, or applied in a legal or
3 equitable process or by operation of law to pay the debts or liabilities of
4 the manufacturer or distributor. This section shall not prohibit a secured
5 creditor from exercising rights accrued pursuant to a security agreement
6 if the right arose as a result of the manufacturer or distributor voluntarily
7 creating a security interest before paying existing debts or liabilities of the
8 manufacturer or distributor. This section shall not prohibit a manufacturer
9 or distributor from withholding a portion of ~~such~~ THE payments necessary
10 to cover an amount of money owed to the manufacturer or distributor as
11 an offset to ~~such~~ THE payments if the manufacturer or distributor provides
12 the motor vehicle dealer written notice thereof.

13 **44-20-138. [Formerly 12-6-129] Site control extinguishes.** If a
14 manufacturer, distributor, or manufacturer representative has terminated,
15 eliminated, or not renewed a franchise agreement containing a site control
16 provision, the motor vehicle dealer may void a site control provision of
17 a franchise agreement by returning any money the dealer has accepted in
18 exchange for site control prorated by the time remaining before the
19 agreement expires over the time period between the agreement being
20 signed and the agreement expiring. This section does not apply if the
21 termination, elimination, or nonrenewal is for just cause in accordance
22 with section ~~12-6-120 (1)(d)~~ 44-20-124 (1)(d).

23 **44-20-139. [Formerly 12-6-130] Modification voidable.** If a
24 manufacturer, distributor, or manufacturer representative fails to comply
25 with section ~~12-6-120 (1)(w)(H)~~ 44-20-124 (1)(w)(II), the motor vehicle
26 dealer may void the modification or replacement of the franchise
27 agreement.

1 **44-20-140. [Formerly 12-6-131] Termination appeal.** (1) A
2 motor vehicle dealer who has reason to believe that a manufacturer,
3 distributor, or manufacturer representative has violated section ~~12-6-120~~
4 ~~(1)(d) or (1)(w)~~ 44-20-124 (1)(d) OR (1)(w) may appeal to the board by
5 filing a complaint with:

- 6 (a) The executive director; or
- 7 (b) A district court if neither the executive director nor the
8 administrative law judge, appointed in accordance with this section, holds
9 a hearing concerning the complaint within sixty days after the complaint
10 was filed.

11 (2) Upon filing of a verified complaint alleging with specific facts
12 that a violation has occurred under this section, the termination,
13 elimination, modification, or nonrenewal of the franchise agreement is
14 automatically stayed, without the motor vehicle dealer posting a bond,
15 until a final determination is made on each issue raised in the complaint;
16 except that the executive director, administrative law judge, or court may
17 cancel the stay upon finding that the cancellation, termination, or
18 nonrenewal of the franchise agreement was for any of the reasons
19 specified in section ~~12-6-120 (1)(d)(II)~~ 44-20-124 (1)(d)(III). The
20 automatic stay maintains all rights under the franchise agreement until the
21 final determination of the issues raised in the verified complaint. The
22 manufacturer, distributor, or manufacturer representative shall not name
23 a replacement motor vehicle dealer for the market or location until a final
24 order is entered.

25 (3) If a verified complaint is filed with the executive director, the
26 executive director shall refer the complaint to an administrative law judge
27 with the office of administrative courts for final agency action.

1 (4) In resolving a termination complaint, the manufacturer,
2 distributor, or manufacturer representative has the burden of proving any
3 claim made that the factors listed in section ~~12-6-120(1)(d)(H)~~ 44-20-124
4 (1)(d)(II) apply to the termination, cancellation, or nonrenewal.

5 (5) The prevailing party in a claim that a termination, cancellation,
6 or nonrenewal violates section ~~12-6-120(1)(d) or (1)(w)~~ 44-20-124 (1)(d)
7 OR (1)(w) is entitled to recover attorney fees and costs, including expert
8 witness fees, incurred in the termination protest.

9 **44-20-141. [Formerly 12-6-132] Stop-sale directives - used**
10 **motor vehicles - definitions.** (1) As used in this section, unless the
11 context otherwise requires:

12 (a) "Average trade-in value" means the value of a used motor
13 vehicle as established by a generally accepted, published, third-party used
14 vehicle resource.

15 (b) "Stop-sale directive" means an unconditional directive from
16 a manufacturer or distributor to a motor vehicle dealer to stop selling a
17 type of motor vehicle manufactured by the manufacturer or distributed by
18 the distributor because of a safety defect.

19 (2) A manufacturer or distributor shall reimburse a motor vehicle
20 dealer in accordance with subsection (3) of this section if:

21 (a) The manufacturer or distributor issues a stop-sale directive for
22 a motor vehicle manufactured or distributed by the issuer of the stop-sale
23 directive;

24 (b) The motor vehicle dealer holds an active sales, service, and
25 parts agreement with the manufacturer or distributor for the line-make of
26 the used motor vehicle covered by the stop-sale directive;

27 (c) The used motor vehicle covered by the stop-sale directive is

1 held in the inventory of the motor vehicle dealer on the date the stop-sale
2 directive is issued or taken by the dealer as a trade-in vehicle on a
3 consumer purchase of the same line-make; and

4 (d) The manufacturer or distributor has not provided a remedy
5 procedure or made parts available to repair the used motor vehicle for
6 more than thirty days after the stop-sale directive is issued.

7 (3) If the conditions in subsection (2) of this section are met, the
8 manufacturer or distributor shall, upon application by the motor vehicle
9 dealer, pay or credit the dealer one and one-half percent per month of the
10 average trade-in value of the used motor vehicle's model prorated from
11 thirty days after the stop-sale directive was issued to the earlier of:

12 (a) The date when the manufacturer or distributor provides the
13 motor vehicle dealer with a remedy procedure and any necessary parts for
14 ordering to repair the used motor vehicle; or

15 (b) The date the motor vehicle dealer transfers the motor vehicle.

16 (4) A manufacturer or distributor may determine a reasonable
17 manner and method required for a motor vehicle dealer to demonstrate the
18 inventory status of a used motor vehicle to determine eligibility for
19 reimbursement.

20 (5) (a) This section applies only to used motor vehicles.

21 (b) This section is not intended to prevent a manufacturer or
22 distributor from requiring that a motor vehicle not be subject to an open
23 recall or stop-sale directive for the motor vehicle to be qualified or sold
24 as a certified preowned vehicle or substantially similar designation.

25 (c) This section does not require a manufacturer or distributor to
26 provide total compensation to a motor vehicle dealer that would exceed
27 the total average trade-in valuation of the affected used motor vehicle.

1 (d) This section does not preclude a motor vehicle dealer and a
2 manufacturer or distributor from agreeing to reimbursement terms that
3 differ from those specified in this section.

4 (e) Compensation provided to a motor vehicle dealer under this
5 section is exclusive and may not be combined with any other remedy
6 under state or federal law.

7 **44-20-142. [Formerly 12-6-133] Repeal of part.** This part 1 is
8 repealed, effective September 1, 2027. Before its repeal, this part 1 is
9 scheduled for review in accordance with section 24-34-104.

10 PART 2

11 ANTIMONOPOLY FINANCING LAW

12 **44-20-201. [Formerly 12-6-201] Definitions.** As used in this part
13 2, unless the context otherwise requires:

14 (1) "Person" means any individual, firm, corporation, partnership,
15 association, trustee, receiver, or assignee for the benefit of creditors.

16 (2) "Sell", "sold", "buy", and "purchase" include exchange, barter,
17 gift, and offer or contract to sell or buy.

18 **44-20-202. [Formerly 12-6-202] Exclusive finance agreements**
19 **void - when.** It is unlawful for any person who is engaged, either directly
20 or indirectly, in the manufacture or distribution of motor vehicles, to sell
21 or enter into contract to sell motor vehicles, whether patented or
22 unpatented, to any person who is engaged or intends to engage in the
23 business of selling ~~such~~ THE motor vehicles at retail in this state, on the
24 condition or with an agreement or understanding, either express or
25 implied, that ~~such~~ THE person so engaged in selling motor vehicles at
26 retail in any manner shall finance the purchase or sale of any one or
27 number of motor vehicles only with or through a designated person or

1 class of persons or shall sell and assign the conditional sales contracts,
2 chattel mortgages, or leases arising from the sale of motor vehicles or any
3 one or number thereof only to a designated person or class of persons,
4 when the effect of the condition, agreement, or understanding so entered
5 into may be to lessen or eliminate competition, or create or tend to create
6 a monopoly in the person or class of persons who are designated, by
7 virtue of ~~such~~ THE condition, agreement, or understanding to finance the
8 purchase or sale of motor vehicles or to purchase ~~such~~ conditional sales
9 contracts, chattel mortgages, or leases. Any such condition, agreement,
10 or understanding is declared to be void and against the public policy of
11 this state.

12 **44-20-203. [Formerly 12-6-203] Threat prima facie evidence**
13 **of violation.** Any threat, expressed or implied, made directly or indirectly
14 to any person engaged in the business of selling motor vehicles at retail
15 in this state by any person engaged, either directly or indirectly, in the
16 manufacture or distribution of motor vehicles, that ~~such~~ THE person will
17 discontinue or cease to sell, or refuse to enter into a contract to sell, or
18 will terminate a contract to sell motor vehicles, whether patented or
19 unpatented, to ~~such~~ THE person who is so engaged in the business of
20 selling motor vehicles at retail, unless ~~such~~ THE person finances the
21 purchase or sale of any one or number of motor vehicles only with or
22 through a designated person or class of persons or sells and assigns the
23 conditional sales contracts, chattel mortgages, or leases arising from his
24 OR HER retail sales of motor vehicles or any one or number thereof only
25 to a designated person or class of persons shall be prima facie evidence
26 of the fact that ~~such~~ THE person so engaged in the manufacture or
27 distribution of motor vehicles has sold or intends to sell the same on the

1 condition or with the agreement or understanding prohibited in section
2 ~~12-6-202~~ 44-20-202.

3 **44-20-204. [Formerly 12-6-204] Threat by agent as evidence**
4 **of violation.** Any threat, expressed or implied, made directly or indirectly
5 to any person engaged in the business of selling motor vehicles at retail
6 in this state by any person, or any agent of ~~any such~~ THE person, who is
7 engaged in the business of financing the purchase or sale of motor
8 vehicles or of buying conditional sales contracts, chattel mortgages, or
9 leases on motor vehicles in this state and is affiliated with or controlled
10 by any person engaged, directly or indirectly, in the manufacture or
11 distribution of motor vehicles, that ~~such~~ THE person so engaged in ~~such~~
12 THE manufacture or distribution shall terminate his OR HER contract with
13 or cease to sell motor vehicles to ~~such~~ THE person engaged in the sale of
14 motor vehicles at retail in this state unless ~~such~~ THE person finances the
15 purchase or sale of any one or number of motor vehicles only or through
16 a designated person or class of persons or sells and assigns the
17 conditional sales contracts, chattel mortgages, or leases arising from his
18 OR HER retail sale of motor vehicles or any one or any number thereof
19 only to ~~such~~ THE person so engaged in financing the purchase or sale of
20 motor vehicles or in buying conditional sales contracts, chattel mortgages,
21 or leases on motor vehicles, shall be presumed to be made at the direction
22 of and with the authority of ~~such~~ THE person so engaged in ~~such~~ THE
23 manufacture or distribution of motor vehicles, and shall be prima facie
24 evidence of the fact that ~~such~~ THE person so engaged in the manufacture
25 or distribution of motor vehicles has sold or intends to sell the same on
26 the condition or with the agreement or understanding prohibited in section
27 ~~12-6-202~~ 44-20-202.

1 **44-20-205. [Formerly 12-6-205] Offering consideration to**
2 **eliminate competition.** It is unlawful for any person who is engaged,
3 directly or indirectly, in the manufacture or wholesale distribution only of
4 motor vehicles, whether patented or unpatented, to pay or give, or
5 contract to pay or give, any thing or service of value to any person who
6 is engaged in the business of financing the purchase or sale of motor
7 vehicles or of buying conditional sales contracts, chattel mortgages, or
8 leases on motor vehicles sold at retail within this state if the effect of any
9 such payment or the giving of any such thing or service of value may be
10 to lessen or eliminate competition, or tend to create or create a monopoly
11 in the person or class of persons who receive or accept ~~such~~ THE thing or
12 service of value.

13 **44-20-206. [Formerly 12-6-206] Accepting consideration to**
14 **eliminate competition.** It is unlawful for any person who is engaged in
15 the business of financing the purchase or sale of motor vehicles or of
16 buying conditional sales contracts, chattel mortgages, or leases on motor
17 vehicles sold at retail within this state to accept or receive, or contract or
18 agree to accept or receive, either directly or indirectly, any payment,
19 thing, or service of value from any person who is engaged, either directly
20 or indirectly, in the manufacture of or wholesale distribution only of
21 motor vehicles, whether patented or unpatented, if the effect of the
22 acceptance or receipt of any such payment, thing, or service of value may
23 be to lessen or eliminate competition, or to create or tend to create a
24 monopoly in the person who accepts or receives such payment, thing, or
25 service of value or contracts or agrees to accept or receive the same.

26 **44-20-207. [Formerly 12-6-207] Recipient of consideration**
27 **shall not buy mortgages.** It is unlawful for any person who hereafter so

1 accepts or receives, either directly or indirectly, any payment, thing, or
2 service of value, as set forth in section ~~12-6-206~~ 44-20-206, or contracts,
3 either directly or indirectly, to receive any such payment, or thing, or
4 service of value to thereafter finance or attempt to finance the purchase
5 or sale of any motor vehicle or buy or attempt to buy any conditional sales
6 contracts, chattel mortgages, or leases on motor vehicles sold at retail in
7 this state.

8 **44-20-208. [Formerly 12-6-208] Quo warranto action.** For a
9 violation of any of the provisions of this part 2 by any corporation or
10 association mentioned in this part 2, it is the duty of the attorney general
11 or the district attorney of the proper county to institute proper suits or an
12 action in the nature of quo warranto in any court of competent jurisdiction
13 for the forfeiture of its charter rights, franchises, or privileges and powers
14 exercised by such corporation or association, and for the dissolution of
15 the same under the general statutes of the state.

16 **44-20-209. [Formerly 12-6-209] Violation by foreign**
17 **corporation - penalty.** Every foreign corporation and every foreign
18 association exercising any of the powers, franchises, or functions of a
19 corporation in this state violating any of the provisions of this part 2 is
20 denied the right and prohibited from doing any business in this state, and
21 it is the duty of the attorney general to enforce this provision by bringing
22 proper proceedings by injunction or otherwise. The secretary of state is
23 authorized to revoke the license of any such corporation or association
24 heretofore authorized by him to do business in this state.

25 **44-20-210. [Formerly 12-6-210] Penalty.** Any person who
26 violates any of the provisions of this part 2, any person who is a party to
27 any agreement or understanding, or to any contract prescribing any

1 condition, prohibited by this part 2, and any employee, agent, or officer
2 of any such person who participates, in any manner, in making, executing,
3 enforcing, or performing, or in urging, aiding, or abetting in the
4 performance of, any such contract, condition, agreement, or
5 understanding and any person who pays or gives or contracts to pay or
6 give any thing or service of value prohibited by this part 2, and any
7 person who receives or accepts or contracts to receive or accept any thing
8 or service of value prohibited by this part 2 commits a class 6 felony and
9 shall be punished as provided in section 18-1.3-401. ~~C.R.S.~~ Each day's
10 violation of this provision shall constitute a separate offense.

11 **44-20-211. [Formerly 12-6-211] Contract void.** Any contract or
12 agreement in violation of the provisions of this part 2 shall be absolutely
13 void and shall not be enforceable either in law or equity.

14 **44-20-212. [Formerly 12-6-212] Provisions cumulative.** The
15 provisions of this part 2 shall be held cumulative of each other and of all
16 other laws in any way affecting them now in force in this state.

17 **44-20-213. [Formerly 12-6-213] Damages.** In addition to the
18 criminal and civil penalties provided in this part 2, any person who is
19 injured in his OR HER business or property by any other person or
20 corporation or association or partnership, by reason of any thing
21 forbidden or declared to be unlawful by this part 2, may sue therefor in
22 any court having jurisdiction thereof in the county where the defendant
23 resides or is found, or any agent resides or is found, or where service may
24 be obtained, without respect to the amount of controversy, and to recover
25 twofold the damages sustained by him OR HER, and the costs of suit.
26 When it appears to the court before which any proceedings under this part
27 2 are pending that the ends of justice require that other parties shall be

1 brought before the court, the court may cause them to be made parties
2 defendant and summoned, whether they reside in the county where such
3 action is pending or not.

4 **44-20-214. [Formerly 12-6-214] Repeal of part.** This part 2 is
5 repealed, effective September 1, 2027. Before its repeal, this part 2 is
6 scheduled for review in accordance with section 24-34-104.

7 PART 3

8 SUNDAY CLOSING LAW

9 **44-20-301. [Formerly 12-6-301] Definitions.** As used in this part
10 3, unless the context otherwise requires:

11 (1) "Motor vehicle" means every self-propelled vehicle intended
12 primarily for use and operation on the public highways and every vehicle
13 intended primarily for operation on the public highways ~~which~~ THAT is
14 not driven or propelled by its own power, but which is designed either to
15 be attached to or become a part of a self-propelled vehicle; it does not
16 include farm tractors and other machines and tools used in the production,
17 harvesting, and care of farm products.

18 **44-20-302. [Formerly 12-6-302] Sunday closing.** No person,
19 firm, or corporation, whether owner, proprietor, agent, or employee, shall
20 keep open, operate, or assist in keeping open or operating any place or
21 premises or residences, whether open or closed, for the purpose of selling,
22 bartering, or exchanging or offering for sale, barter, or exchange any
23 motor vehicle, whether new, used, or secondhand, on the first day of the
24 week commonly called Sunday. This part 3 shall not apply to the opening
25 of an establishment or place of business on the ~~said~~ first day of the week
26 for other purposes, such as the sale of petroleum products, tires, or
27 automobile accessories, or for the purpose of operating and conducting

1 a motor vehicle repair shop, or for the purpose of supplying such services
2 as towing or wrecking. The provisions of this part 3 shall not apply to the
3 opening of an establishment or place of business on the ~~said~~ first day of
4 the week for the purpose of selling, bartering, or exchanging or offering
5 for sale, barter, or exchange any boat, boat trailer, snowmobile, or
6 snowmobile trailer.

7 **44-20-303. [Formerly 12-6-303] Penalties.** Any person, firm,
8 partnership, or corporation who violates any of the provisions of this part
9 3 is guilty of a misdemeanor and, upon conviction thereof, shall be
10 punished by a fine of not less than seventy-five dollars nor more than one
11 thousand dollars, or by imprisonment in the county jail for not more than
12 six months, or the court, in its discretion, may suspend or revoke the
13 Colorado motor vehicle dealer's license issued under the provisions of
14 part 1 of this ~~article~~ ARTICLE 20, or by such fine and imprisonment and
15 suspension or revocation.

16 **44-20-304. [Formerly 12-6-304] Repeal of part.** This part 3 is
17 repealed, effective September 1, 2027. Before its repeal, this part 3 is
18 scheduled for review in accordance with section 24-34-104.

19 PART 4

20 POWERSPORTS VEHICLES

21 **44-20-401. [Formerly 12-6-501] Legislative declaration.**

22 (1) The general assembly hereby declares that:

23 (a) The sale and distribution of powersports vehicles affects the
24 public interest, and a significant factor of inducement in making a sale of
25 a powersports vehicle is the trust and confidence of the purchaser in the
26 dealer from whom the purchase is made and the expectancy that the
27 dealer will remain in business to provide service for the vehicle;

1 (b) The proper sale and service of a powersports vehicle are
2 important to consumer safety, and the manufacturers and distributors of
3 powersports vehicles have an obligation to the public not to terminate or
4 refuse to continue their franchise agreements with retail powersports
5 vehicle dealers unless the powersports vehicle manufacturer or distributor
6 has first established good cause for termination of any such agreement,
7 to the end that there shall be no diminution of locally available service;

8 (c) The licensing and supervision of powersports vehicle dealers
9 by the motor vehicle dealer board are necessary for the protection of
10 consumers, and therefore, the sale of powersports vehicles by unlicensed
11 dealers or salespersons, or by licensed dealers or salespersons who have
12 demonstrated unfitness, should be prevented; and

13 (d) Consumer education concerning the rules ~~and regulations~~ of
14 the powersports vehicle industry, the considerations when purchasing a
15 powersports vehicle, and the role, functions, and actions of the motor
16 vehicle dealer board are necessary for the protection of the public and for
17 maintaining the trust and confidence of the public in the motor vehicle
18 dealer board.

19 **44-20-402. [Formerly 12-6-502] Definitions.** As used in this part
20 5 PART 4, unless the context otherwise requires:

21 (1) "ANSI/SVIA-1-2001" means the American national standards
22 institute's, or its successor organization's, provisions for four-wheel
23 all-terrain vehicles, equipment configuration, and performance
24 requirements, developed by the specialty vehicle institute of America, or
25 its successor organization.

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

27 (3) "Consumer" means a purchaser, renter, or lessee of a

1 powersports vehicle that is primarily used for business, personal, family,
2 or household purposes. "Consumer" does not include a purchaser of
3 powersports vehicles primarily for resale.

4 (4) "Custom trailer" means a vehicle that is not driven or
5 propelled by its own power and is designed to be attached to, become a
6 part of, or be drawn by a motor vehicle and that is uniquely designed and
7 manufactured for a specific purpose or customer. "Custom trailer" does
8 not include manufactured housing, farm tractors, and other machines and
9 tools used in the production, harvest, and care of farm products.

10 ~~(4.5)~~ (5) "Director" means the director of the auto industry
11 division created in section ~~12-6-105~~ 44-20-105.

12 ~~(5)~~ "Executive director" means the executive director of the
13 department of revenue.

14 ~~(5.5)~~ (6) "Franchise" means the authority to sell or service and
15 repair powersports vehicles of a designated line-make granted through a
16 sales, service, and parts agreement with a manufacturer, distributor, or
17 manufacturer representative.

18 ~~(6)~~ (7) "Line-make" means a group or series of powersports
19 vehicles that have the same brand identification or brand name, based
20 upon the powersports vehicle manufacturer's trademark, trade name, or
21 logo.

22 ~~(7)~~ (8) "New powersports vehicle" mean a powersports vehicle
23 that has been transferred on a manufacturer's statement of origin and for
24 which an ownership registration card has been submitted by the original
25 owner to the powersports vehicle manufacturer.

26 ~~(8)~~ (9) "Off-highway vehicle" means any self-propelled vehicle
27 that is designed to travel on wheels or tracks in contact with the ground,

1 designed primarily for use off of the public highways, and generally and
2 commonly used to transport persons for recreational purposes.

3 "Off-highway vehicle" does not include the following:

- 4 (a) Military vehicles;
- 5 (b) Golf carts;
- 6 (c) Vehicles designed and used to carry persons with disabilities;

7 and

- 8 (d) Vehicles designed and used specifically for agricultural,
9 logging, or mining purposes.

10 ~~(9)~~ (10) "Personal watercraft" means a motorboat that is designed
11 to be operated by a person sitting, standing, or kneeling on the vessel,
12 rather than the conventional manner of sitting or standing inside the
13 vessel, and that is designed primarily for use off of the public highways,
14 and that uses either of the following as the primary source of motive
15 power:

- 16 (a) An inboard motor powering a water jet pump; or
- 17 (b) An outboard motor-driven propeller.

18 ~~(10)~~ (11) "Powersports vehicle" means any of the following:

- 19 (a) An off-highway vehicle;
- 20 (b) A personal watercraft; or
- 21 (c) A snowmobile.

22 ~~(11)~~ (12) "Powersports vehicle dealer" means a person who, for
23 commission or with intent to make a profit or gain of money or other
24 thing of value, sells, leases, exchanges, rents with option to purchase,
25 offers, or attempts to negotiate a sale, lease, or exchange of an interest in
26 new or new and used powersports vehicles or who is engaged wholly or
27 in part in the business of selling or leasing new or new and used

1 powersports vehicles, whether or not the powersports vehicles are owned
2 by ~~such~~ THE person. The sale or lease of ten or more new or new and used
3 powersports vehicles or the offering for sale or lease of more than ten
4 new or new and used powersports vehicles at the same address or
5 telephone number in any one calendar year shall be prima facie evidence
6 that a person is engaged in the business of selling or leasing new or new
7 and used powersports vehicles. "Powersports vehicle dealer" includes an
8 owner of real property who allows more than ten new or new and used
9 powersports vehicles to be offered for sale or lease on ~~such~~ THE property
10 during one calendar year unless ~~said~~ THE property is leased to a licensed
11 powersports vehicle dealer. "Powersports vehicle dealer" does not
12 include:

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

16 (b) Public officers while performing their official duties;

17 (c) Employees of persons enumerated in the definition of
18 "powersports vehicle dealer" when engaged in the specific performance
19 of their duties as ~~such~~ employees;

20 (d) A wholesaler or anyone selling powersports vehicles solely to
21 wholesalers; or

22 (e) A wholesale motor vehicle auctioneer.

23 ~~(12)~~ (13) "Powersports vehicle distributor" means a person,
24 resident or nonresident, who, in whole or in part, sells or distributes new
25 powersports vehicles to powersports vehicle dealers or who maintains
26 powersports vehicle distributor representatives.

27 ~~(13)~~ (14) "Powersports vehicle manufacturer" means any person,

1 firm, association, corporation, or trust, resident or nonresident, who
2 manufactures or assembles new powersports vehicles.

3 ~~(14)~~ (15) "Powersports vehicle manufacturer representative"
4 means a representative employed by a person who manufactures or
5 assembles powersports vehicles for the purpose of making or promoting
6 the sale of the person's powersports vehicles or for supervising or
7 contacting its dealers or prospective dealers.

8 ~~(15)~~ (16) "Powersports vehicle salesperson" means a natural
9 person who, for a salary, commission, or compensation of any kind, is
10 employed either directly or indirectly, regularly or occasionally, by a
11 powersports vehicle dealer to sell, lease, purchase, or exchange or to
12 negotiate for the sale, lease, purchase, or exchange of powersports
13 vehicles.

14 ~~(16)~~ (17) "Principal place of business" means a site or location for
15 which the powersports vehicle dealer is licensed, sufficiently designated
16 to admit of definite description, with space thereon or contiguous thereto
17 adequate to permit the display of one or more new or used powersports
18 vehicles, and including a permanent enclosed building or structure to
19 accommodate the office of the dealer and to provide a safe place to keep
20 the books and other records of the business of ~~such~~ THE dealer, at which
21 site or location the principal portion of ~~such~~ THE dealer's business shall
22 be conducted and the books and records thereof kept and maintained;
23 except that a dealer may keep its books and records at an off-site location
24 in Colorado after notifying the board in writing of ~~such~~ THE location at
25 least thirty days in advance. Motor vehicle and used motor vehicle dealers
26 shall be authorized to offer both motor vehicles and powersports vehicles
27 from the same principal place of business. In the case of motor vehicle

1 dealers, ~~such~~ THE principal place of business shall be at the address set
2 forth in the dealer's sales agreement.

3 ~~(17)~~ (18) "Snowmobile" means a self-propelled vehicle primarily
4 designed or altered for travel on snow or ice when supported in part by
5 skis, belts, or cleats and designed primarily for use off of the public
6 highways. "Snowmobile" shall not include machinery used strictly for the
7 grooming of snowmobile trails or ski slopes.

8 ~~(18)~~ (19) "Used powersports vehicle" means a powersports
9 vehicle that is not a new powersports vehicle.

10 ~~(19)~~ (20) "Used powersports vehicle dealer" means any person
11 who, for commission or with intent to make a profit or gain of money or
12 other thing of value, sells, exchanges, leases, or offers an interest in used
13 powersports vehicles, or attempts to negotiate a sale or lease of new and
14 used powersports vehicles or who is engaged wholly or in part in the
15 business of selling used powersports vehicles, whether or not ~~such~~ THE
16 used powersports vehicles are owned by ~~such~~ THE person. The sale of ten
17 or more used powersports vehicles or the offering for sale of more than
18 ten used powersports vehicles at the same address or telephone number
19 in any one calendar year shall be prima facie evidence that a person is
20 engaged in the business of selling used powersports vehicles. "Used
21 powersports vehicle dealer" includes an owner of real property who
22 allows more than ten used powersports vehicles to be offered for sale on
23 ~~such~~ THE property during one calendar year unless the property is leased
24 to a licensed used powersports vehicle dealer. "Used powersports vehicle
25 dealer" does not include:

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

1 court;

2 (b) Public officers while performing their official duties;

3 (c) Employees of used powersports vehicle dealers when engaged
4 in the specific performance of their duties;

5 (d) Anyone selling powersports vehicles solely to wholesalers;

6 (e) Mortgagees or secured parties as to powersports vehicles
7 constituting collateral on a mortgage or security agreement, if ~~such~~ THE
8 mortgagees or secured parties shall not realize for their own account from
9 ~~such~~ THE sales any ~~moneys~~ MONEY in excess of the outstanding balance
10 secured by ~~such~~ THE mortgage or security agreement, plus costs of
11 collection; or

12 (f) A motor vehicle auctioneer.

13 ~~(20)~~ (21) "Wholesaler" means a person who, for commission or
14 with intent to make a profit or gain of money or other thing of value,
15 sells, exchanges, or offers or attempts to negotiate a sale, lease, or
16 exchange of an interest in a new or new and used powersports vehicle
17 solely to powersports vehicle dealers or used powersports vehicle dealers.

18 **44-20-403. [Formerly 12-6-503] Motor vehicle dealer board.**
19 Powersports vehicle dealers, used powersports vehicle dealers,
20 powersports manufacturers, distributors, representatives, and powersports
21 vehicle salespersons shall be subject to the jurisdiction of the ~~motor~~
22 ~~vehicle dealer~~ board.

23 **44-20-404. [Formerly 12-6-504] Board - powers and duties -**
24 **rules.** (1) In addition to the duties and powers of the board under section
25 ~~12-6-104~~ 44-20-104, the board may:

26 (a) Promulgate, amend, and repeal rules reasonably necessary to
27 implement this ~~part 5~~ PART 4, including, without limitation, the

1 administration, enforcement, issuance, and denial of licenses to
2 wholesalers, powersports vehicle dealers, powersports vehicle
3 salespersons, and used powersports vehicle dealers;

4 (b) Delegate to the board's executive secretary, employed pursuant
5 to section ~~12-6-105 (2)(b)~~ 44-20-405 (1)(b), the authority to execute all
6 actions within the power of the board, carry out the directives of the
7 board, and make recommendations to the board on all matters within the
8 authority of the board;

9 (c) Issue through the department of revenue a temporary license
10 to an applicant seeking a license issued by the board, which temporary
11 license shall permit the applicant to operate for not more than one
12 hundred twenty days, during which time the board may complete its
13 investigation and determination of all facts relative to the qualifications
14 of the applicant for ~~such~~ THE license;

15 (d) (I) Issue through the department of revenue and, for
16 reasonable cause shown or upon satisfactory proof of the unfitness of the
17 applicant under this ~~part 5~~, to PART 4, refuse to issue to any applicant any
18 license the board is authorized to issue by this ~~part 5~~ PART 4;

19 (II) Permit the director to issue licenses pursuant to rules adopted
20 by the board under subsection (1)(a) of this section;

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

22 (A) Review the findings of an administrative law judge or hearing
23 officer from a hearing conducted pursuant to this ~~part 5~~ PART 4; or

24 (B) Revoke and suspend or order the director to issue or to
25 reinstate, on such terms and conditions and for such period of time as the
26 board deems fair and just, any license issued pursuant to this ~~part 5~~ PART
27 4;

1 (II) Issue a letter of admonition for a minor violation of this ~~part~~
2 5 PART 4 that does not become a part of the licensee's record with the
3 board;

4 (III) Issue a letter of reprimand and a notice of the right to request
5 formal disciplinary proceedings, in writing within twenty days, to a
6 licensee for a violation of this ~~part 5~~ PART 4, which letter is a part of the
7 licensee's record with the board for a period of two years after issuance
8 and may be considered in aggravation of any subsequent violation by the
9 licensee; except that the letter shall be vacated and a formal disciplinary
10 proceeding shall be instituted upon a written request within twenty days
11 after the letter is issued;

12 (f) (I) Investigate, with the assistance of the director, on its own
13 motion or upon a written and signed complaint from any person, a
14 suspected or alleged violation by a wholesaler, powersports vehicle
15 dealer, used powersports vehicle dealer, or powersports vehicle
16 salesperson of this ~~part 5~~ PART 4 or a rule promulgated by the board;

17 (II) Issue subpoenas or delegate the authority to issue subpoenas
18 to the director;

19 (III) Require the director to investigate complaints transmitted by
20 the board pursuant to section ~~12-6-505(3)(b) and (3)(c)~~ 44-20-405 (3)(b)
21 AND (3)(c);

22 (IV) Seek to resolve disputes before beginning an investigation or
23 hearing through its own action or by direction of the director;

24 (V) If the board determines that there is probable cause to believe
25 a violation of this ~~article 6~~ ARTICLE 20 has occurred after an investigation
26 by the director, order an administrative hearing be held pursuant to
27 section 24-4-105.

1 (g) Summarily issue to any person who is licensed by the board
2 pursuant to this ~~part 5~~ PART 4 cease-and-desist orders on such terms and
3 conditions and for such time as the board deems fair and just, if ~~such~~ THE
4 orders are followed by notice and a hearing pursuant to this section;

5 (h) (I) Prescribe the forms to be used for applications for persons
6 licensed under this ~~part 5~~ PART 4;

7 (II) Require of an applicant, as a requisite to the issuance of a
8 license, information concerning the applicant's fitness to be licensed
9 under this ~~part 5~~ PART 4 as the board considers necessary;

10 (i) Adopt a seal with the words "motor vehicle dealer board" and
11 such other devices as the board may desire engraved thereon by which it
12 shall authenticate the acts of its office;

13 (j) Require that a powersports vehicle dealer's or used powersports
14 vehicle dealer's principal place of business and such other sites or
15 locations operated by the dealer have signs or devices giving notice of the
16 dealer's name, the location and address of the dealer's principal place of
17 business, and the type and number of license held by the dealer, as the
18 board considers necessary to notify any person doing business with the
19 dealer to identify ~~such~~ THE dealer, and for this purpose to promulgate
20 rules determining the size, shape, lettering, and location of ~~such~~ THE signs
21 or devices;

22 (k) Cause to be conducted written examinations, as prescribed by
23 the board, to test the competency of all first-time applicants for a
24 wholesaler's license, powersports vehicle dealer's license, used
25 powersports vehicle dealer's license, or powersports vehicle salesperson's
26 license;

27 (l) Promulgate rules requiring off-highway vehicles sold by

1 persons licensed under this ~~part 5~~ PART 4 to comply with
2 ANSI/SVIA-1-2001 or a successor standard promulgated by the
3 American national standards institute or its successor organization if ~~such~~
4 THE rules do not conflict with the ANSI standards or set standards more
5 stringent than those set by ANSI;

6 (m) (I) Prescribe forms to be used as a part of a contract for the
7 sale of a powersports vehicle by a powersports vehicle dealer or
8 powersports vehicle salesperson, other than a retail installment sales
9 contract subject to the provisions of the "Uniform Consumer Credit
10 Code", articles 1 to 9 of title 5, ~~C.R.S.~~, that shall include the following
11 information in addition to any other disclosures or information required
12 by state or federal law:

13 (A) In twelve-point, bold-faced type, or at least three points larger
14 than the smallest type appearing in the contract, an instruction that the
15 form is a legal instrument and that, if the purchaser of the powersports
16 vehicle does not understand the form, ~~such~~ THE purchaser should seek
17 legal assistance;

18 (B) In the type and size specified in ~~sub-subparagraph (A) of this~~
19 ~~subparagraph (I)~~ SUBSECTION (1)(m)(I)(A) OF THIS SECTION, an
20 instruction that only those terms in written form embody the contract for
21 sale of a powersports vehicle and that any conflicting oral representations
22 made to the purchaser are void;

23 (C) In the type and size specified in ~~sub-subparagraph (A) of this~~
24 ~~subparagraph (I)~~ SUBSECTION (1)(m)(I)(A) OF THIS SECTION, a notice that
25 fraud or misrepresentation in the sale of a powersports vehicle is
26 punishable under the laws of this state;

27 (D) In the type and size specified in ~~sub-subparagraph (A) of this~~

1 ~~subparagraph (f)~~ SUBSECTION (1)(m)(I)(A) OF THIS SECTION, if the
2 contract for the sale of a powersports vehicle requires a single, lump sum
3 payment of the purchase price, a clear disclosure to the purchaser of this
4 fact or, if the contract is contingent upon the approval of credit financing
5 for the purchaser arranged by or through the powersports vehicle dealer,
6 a statement that the purchaser shall agree to purchase the powersports
7 vehicle that is the subject of the sale from the powersports vehicle dealer
8 at not greater than a certain annual percentage rate of financing that shall
9 be agreed upon by the parties and entered in writing on the contract;

10 (E) Except as otherwise provided under this ~~part 5~~ PART 4, if the
11 purchase price of the powersports vehicle is not paid to the powersports
12 vehicle dealer in full at the time of consummation of the sale and the
13 vehicle dealer delivers and the purchaser takes possession of the vehicle
14 at such time, a statement in bold-faced type that, if financing cannot be
15 arranged in accordance with the contract and the sale is not consummated,
16 the purchaser shall agree to pay a daily rate for use of the vehicle until
17 financing of the purchase price of the vehicle is arranged for the obligor
18 by or through the authorized powersports vehicle dealer or until the
19 purchase price is paid in full by or through the obligor, which daily rate
20 shall be agreed upon in writing on the contract.

21 (II) The information required by ~~subparagraph (f) of this~~
22 ~~paragraph (m)~~ SUBSECTION (1)(m)(I) OF THIS SECTION shall be read and
23 initialed by both parties at the time of ~~the consummation of~~ the sale of a
24 powersports vehicle.

25 (III) The use of the contract form required by ~~subparagraph (f) of~~
26 ~~this paragraph (m)~~ SUBSECTION (1)(m)(I) OF THIS SECTION shall be
27 mandatory for the sale of a powersports vehicle.

1 (n) After final action is taken on a hearing held before an
2 administrative law judge or a hearing officer designated by the board
3 from within the board's membership, review the findings of law and fact
4 and the fairness of any fine imposed and to uphold ~~such~~ THE fine, impose
5 an administrative fine upon its own initiative that shall not exceed ten
6 thousand dollars for each separate offense by any licensee, or vacate the
7 fine imposed by the judge or hearing officer; except that, for powersports
8 vehicle dealers who sell primarily vehicles that weigh under one thousand
9 five hundred pounds, the fine for each separate offense shall not exceed
10 one thousand dollars; and

11 (o) Impose a fine of up to one thousand dollars per day per
12 violation for any person found, after notice and hearing pursuant to
13 section 24-4-105, ~~C.R.S.~~, to have violated the provisions of section
14 ~~12-6-523 (2)~~ 44-20-423 (2).

15 (2) The board shall:

16 (a) Order an investigation of all written and signed complaints;

17 (b) Require an application for a powersports vehicle dealer's
18 license or used powersports vehicle dealer's license to contain, in addition
19 to such information as the board may require, a statement of the following
20 facts:

21 (I) The name and residence address of the applicant and any trade
22 name under which the applicant intends to conduct business;

23 (II) If the applicant is a partnership, the name and residence
24 address of each member, whether a limited or general partner, and the
25 name under which the partnership business is to be conducted;

26 (III) If the applicant is a corporation, the name of the corporation
27 and the name and address of each of its principal officers and directors;

1 (IV) A complete description, including the municipality, street,
2 and number, if any, of the principal place of business, and any other
3 additional places of business as shall be operated and maintained by the
4 applicant;

5 (V) If the application is for a powersports vehicle dealer's license,
6 the names of the new powersports vehicles that the applicant has been
7 enfranchised to sell or exchange and the name and address of the
8 powersports manufacturer or distributor who has enfranchised the
9 applicant; and

10 (VI) The name and address of any person who will act as a
11 salesperson under the authority of the license, if issued.

12 (3) The findings of the board under subsection (1) of this section
13 shall be final.

14 (4) (a) For the purposes of ~~paragraphs (e) and (g) of subsection (1)~~
15 ~~SUBSECTIONS (1)(e) AND (1)(g)~~ of this section, the address for the notice
16 to be given under section 24-4-105 ~~C.R.S.~~, is the last-known address for
17 the person as indicated in the state motor vehicle records; the last-known
18 address for the owner of the real property upon which powersports
19 vehicles are displayed in violation of section ~~12-6-523 (2)~~ 44-20-423 (2),
20 as indicated in the records of the county assessor's office; or any address
21 for service of process in accordance with rule 4 of the Colorado rules of
22 civil procedure.

23 (b) A person who fails to pay a fine ordered by the board for a
24 violation of section ~~12-6-523 (2)~~ 44-20-423 (2) under ~~paragraph (o) of~~
25 ~~subsection (1)~~ SUBSECTION (1)(o) of this section shall be subject to
26 enforcement proceedings, by the board through the attorney general, in
27 the county or district court pursuant to the Colorado rules of civil

1 procedure. Fines collected under this subsection (4) shall be disposed of
2 pursuant to section ~~12-6-528~~ 44-20-430.

3 (5) (a) If a hearing is conducted by an administrative law judge,
4 the maximum fine that may be imposed is ten thousand dollars for each
5 separate offense by any person licensed by the board pursuant to this ~~part~~
6 ~~5~~ PART 4; except that, for a powersports vehicle dealer who sells primarily
7 vehicles that weigh under one thousand five hundred pounds, the fine for
8 each separate offense may not exceed one thousand dollars.

9 (b) (I) If a licensing hearing is conducted by a hearing officer, the
10 sanctions that may be recommended by the hearing officer are limited to
11 the denial or grant of an unrestricted license or a restricted license under
12 such terms as the hearing officer deems appropriate.

13 (II) If a disciplinary hearing is conducted by a hearing officer, the
14 hearing officer may only recommend a probationary period of no more
15 than twelve months, a fine of no more than five hundred dollars, or both
16 such probationary period and fine for each separate violation committed
17 by a person licensed by the board.

18 **44-20-405. [Formerly 12-6-505] Powers and duties of executive**
19 **director and director.** (1) The executive director is hereby charged with
20 the administration, enforcement, and issuance or denial of the licensing
21 of powersports vehicle distributors, powersports vehicle manufacturer
22 representatives, and powersports vehicle manufacturers, and has the
23 following powers and duties:

24 (a) To promulgate, amend, and repeal rules reasonably necessary
25 to undertake the functions the executive director is mandated to carry out
26 pursuant to this ~~part 5~~ PART 4 and to administer the laws of this state that
27 the executive director deems necessary to carry out the duties of the office

1 of the executive director pursuant to this ~~part 5~~ PART 4;

2 (b) To employ, subject to the laws of this state and after
3 consultation with the board, an executive secretary for the board, who
4 shall be accountable to the board and shall, pursuant to delegation by the
5 board, discharge the responsibilities of the board under this ~~part 5~~ PART
6 4;

7 ~~(c) Repealed.~~

8 ~~(d)~~ (c) To issue and, for reasonable cause shown or upon
9 satisfactory proof of the unfitness of the applicant under this ~~part 5~~ PART
10 4, to refuse to issue to an applicant any license the executive director is
11 authorized to issue by this ~~part 5~~ PART 4;

12 ~~(e) and (f) Repealed.~~

13 ~~(g)~~ (d) To prescribe the forms to be used for applications for
14 licenses to be issued by the executive director under this ~~part 5~~ PART 4
15 and to require of applicants, as a condition precedent to the issuance of
16 a license, such information concerning the applicant's fitness to be
17 licensed under this ~~part 5~~ PART 4 as the executive director considers
18 necessary;

19 ~~(h)~~ (e) (I) To summarily issue cease-and-desist orders on such
20 terms and conditions, and for such period of time as the executive director
21 deems fair and just, to any person who is licensed by the executive
22 director pursuant to this ~~part 5~~ PART 4 if ~~such~~ THE orders are followed by
23 notice and a hearing pursuant to section ~~12-6-504 (4)(a)~~ 44-20-421;

24 (II) To issue cease-and-desist orders to persons acting as
25 powersports vehicle manufacturers without the powersports vehicle
26 manufacturer's license required by this ~~part 5~~ PART 4; and

27 (III) To impose a fine, not to exceed one thousand dollars per day,

1 for each violation of section ~~12-6-523 (1)~~ 44-20-423 (1), after a notice
2 and hearing subject to section 24-4-105. ~~C.R.S.~~

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

8 (3) The director may:

9 (a) Employ such clerks, deputies, and assistants as the director
10 considers necessary to discharge the duties imposed upon the director or
11 executive director by this ~~part 5~~ PART 4 and to designate the duties of ~~such~~
12 THE clerks, deputies, and assistants;

13 (b) Investigate, upon the director's own initiative, upon the written
14 and signed complaint of any person, or upon request by the board under
15 section ~~12-6-504 (1)(f)(I)~~ 44-20-404 (1)(f)(I), any suspected or alleged
16 violation of this ~~part 5~~ PART 4 or of any rule promulgated under this
17 ~~article 6~~ ARTICLE 20;

18 (c) Delegate authority to persons for the purpose of investigating
19 alleged or suspected violations of this ~~part 5~~ PART 4. The investigators
20 and their supervisors utilized by the director, while actually engaged in
21 performing their duties, have the authority as delegated by the director:

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

25 (II) To issue summonses for violations of section ~~12-6-523 (2)~~
26 44-20-423 (2);

27 (III) To issue misdemeanor summonses for violations of section

1 ~~12-6-522 (1)(a)~~ 44-20-422 (1)(a); and

2 (IV) To procure criminal records during an investigation.

3 **44-20-406. [Formerly 12-6-506] Records as evidence.** Copies
4 of all records and papers in the office of the board, director, or executive
5 director, duly authenticated under the hand and seal of the board, director,
6 or executive director, shall be received in evidence in all cases equally
7 and with like effect as the original.

8 **44-20-407. [Formerly 12-6-507] Attorney general to advise and**
9 **represent.** (1) The attorney general shall represent the board, director,
10 and executive director and shall give opinions on questions of law
11 relating to the interpretation of this ~~part 5~~ PART 4 or arising out of the
12 administration thereof and shall appear for and on behalf of the board,
13 director, and executive director in all actions brought by or against them,
14 whether under this ~~part 5~~ PART 4 or otherwise.

15 (2) The board may request the attorney general to make civil
16 investigations and enforce rules ~~and regulations~~ of the board in cases of
17 civil violations and to bring and defend civil suits and proceedings for any
18 of the purposes necessary and proper for carrying out the functions of the
19 board.

20 **44-20-408. [Formerly 12-6-508] Classes of licenses.** (1) The
21 following classes of licenses are issued under this ~~part 5~~ PART 4:

22 (a) A powersports vehicle dealer's license shall permit the licensee
23 to engage in the business of selling, exchanging, leasing, or offering new
24 and used powersports vehicles, which license shall not permit more than
25 two persons named therein as owners of the business of the licensee to act
26 as powersports vehicle salespersons.

27 (b) A used powersports vehicle dealer's license shall permit the

1 licensee to engage in the business of selling, exchanging, leasing, or
2 offering used powersports vehicles only. ~~Such~~ THE license shall also
3 permit a licensee to negotiate for a consumer the sale, exchange, or lease
4 of used and new powersports vehicles not owned by the licensee. Prior to
5 completion of a sale, exchange, or lease of a powersports vehicle not
6 owned by the licensee, the licensee shall disclose in writing to the
7 consumer whether the licensee will receive compensation from the
8 consumer or the owner of the powersports vehicle as a result of ~~such~~ THE
9 transaction. If the licensee receives compensation from the owner of the
10 powersports vehicle as a result of the transaction, the licensee shall
11 include in the written disclosure the name of ~~such~~ THE owner from whom
12 the licensee will receive compensation. This license shall not permit more
13 than two persons named therein who shall be owners of the business of
14 the licensee to act as powersports vehicle salespersons.

15 (c) A powersports vehicle salesperson's license permits the
16 licensee to engage in the activities of a powersports vehicle salesperson
17 while employed by a licensed powersports vehicle dealer or used
18 powersports vehicle dealer.

19 (d) A powersports vehicle manufacturer's or distributor's license
20 shall permit the licensee to engage in the activities of a powersports
21 manufacturer or distributor.

22 (e) A powersports vehicle manufacturer representative's license
23 shall permit the licensee to engage in the activities of a powersports
24 vehicle manufacturer representative.

25 (f) A wholesaler's license shall permit the licensee to engage in
26 the activities of a wholesaler.

27 (2) (a) A person who is licensed as a motor vehicle salesperson

1 pursuant to part 1 of this ~~article~~ ARTICLE 20 shall be deemed to be
2 licensed as a powersports vehicle salesperson under this ~~part 5~~ PART 4.

3 (b) A person who is licensed as a motor vehicle manufacturer or
4 distributor pursuant to part 1 of this ~~article~~ ARTICLE 20 shall be deemed
5 to be licensed as a powersports vehicle manufacturer or distributor under
6 this ~~part 5~~ PART 4.

7 (c) A person who is licensed as a motor vehicle manufacturer
8 pursuant to part 1 of this ~~article~~ ARTICLE 20 shall be deemed to be
9 licensed as a powersports vehicle manufacturer under this ~~part 5~~ PART 4.

10 **44-20-409. [Formerly 12-6-509] Temporary powersports**
11 **vehicle dealer license.** (1) (a) If a licensed powersports vehicle dealer
12 has entered into a written agreement to sell a dealership to a purchaser
13 and the purchaser has been awarded a new franchise, the board may issue
14 a temporary powersports vehicle dealer's license to the purchaser or
15 prospective purchaser. The director shall issue the temporary license only
16 after the board has received the applications for both a temporary
17 powersports vehicle dealer's license and a powersports vehicle dealer's
18 license, the appropriate application fee for the powersports vehicle
19 dealer's application, evidence of a passing score of the written
20 examination described in section ~~12-6-515~~ 44-20-415, and evidence that
21 the franchise has been awarded to the applicant by the powersports
22 vehicle manufacturer.

23 (b) A temporary powersports vehicle dealer's license authorizes
24 the licensee to act as a powersports vehicle dealer and subjects the
25 licensee to this ~~article 6~~ ARTICLE 20 and to all rules adopted by the
26 executive director or the board. A temporary powersports vehicle dealer's
27 license is effective for up to sixty days or until the board acts on the

1 licensee's application for a powersports vehicle dealer's license,
2 whichever is sooner.

3 (2) For the purpose of enabling an out-of-state dealer to sell
4 powersports vehicles on a temporary basis during specifically identified
5 events, the director may issue, upon direction by the board, a temporary
6 powersports vehicle dealer's license that is effective for thirty days. The
7 temporary licensee is subject to the rules adopted by the executive
8 director or the board.

9 **44-20-410. [Formerly 12-6-510] Display, form, custody, and**
10 **use of licenses.** (1) The board and the executive director shall prescribe
11 the form of the license to be issued by the executive director, and shall
12 imprint on each license the seal of their offices. The executive director
13 shall mail the license to the business address where the powersports
14 vehicle salesperson is licensed. Each powersports vehicle salesperson
15 shall keep a copy of the license at the salesperson's place of employment
16 for inspection by employers, consumers, the director, the executive
17 director, or the board. A powersports vehicle dealer or wholesaler shall
18 display conspicuously the person's license in the person's place of
19 business.

20 (2) Each license issued under this ~~part 5~~ PART 4 is separate and
21 distinct. It is a violation of this ~~part 5~~ PART 4 for a person to exercise any
22 of the privileges granted under a license that the person does not hold, or
23 for a licensee to knowingly allow such an exercise of privileges.

24 **44-20-411. [Formerly 12-6-511] Fees - disposition - expenses**
25 **- expiration of licenses.** (1) The fee established pursuant to subsection
26 (5) of this section shall be collected with each application for each of the
27 following:

1 (a) (I) Powersports vehicle dealer's license or used powersports
2 vehicle dealer's license;

3 (II) Powersports vehicle dealer's or used powersports vehicle
4 dealer's license for each place of business in addition to the principal
5 place of business;

6 (III) Renewal or reissue of powersports vehicle dealer's license or
7 used dealer's license after change in location or lapse in principal place
8 of business;

9 (b) Powersports vehicle manufacturer's license;

10 (c) Powersports vehicle distributor's license;

11 (d) Powersports vehicle manufacturer representative's license;

12 (e) Powersports vehicle salesperson's license including, without
13 limitation, reissuing a license;

14 (f) Wholesaler's license.

15 (2) Fees shall be paid to the state treasurer who shall credit the
16 same to the auto dealers license fund created in section ~~12-6-123~~
17 44-20-133.

18 (3) If an application for a wholesaler's license, powersports
19 vehicle dealer's, used powersports vehicle dealer's, or powersports
20 salesperson's license is withdrawn by the applicant prior to issuance of the
21 license, one-half of the license fee shall be refunded.

22 (4) (a) Licenses issued under this ~~part 5~~ PART 4, if not suspended
23 or revoked, shall be valid until one year following the month of issuance
24 thereof and shall then expire; except that any license issued under this
25 ~~part 5~~ PART 4 shall expire upon the voluntary surrender thereof or upon
26 the abandonment of the licensee's place of business for a period of more
27 than thirty days.

1 (b) Thirty days before the expiration of a license, the director shall
2 mail to the licensee's business address of record a notice stating when the
3 person's license is due to expire and the fee necessary to renew the
4 license. For a powersports vehicle salesperson or powersports vehicle
5 manufacturer representative, the notice shall be mailed to the address of
6 the powersports vehicle dealer, used powersports vehicle dealer, or
7 powersports vehicle manufacturer where the person is licensed.

8 (c) Upon the expiration of a license, unless suspended or revoked,
9 it may be renewed upon the payment of the application fees specified in
10 this section and renewal shall be made from year to year as a matter of
11 right; except that, if a wholesaler or powersports vehicle dealer
12 voluntarily surrenders its license or abandons its place of business for a
13 period of more than thirty days, the licensee is required to file a new
14 application to renew its license.

15 (d) Notwithstanding ~~paragraph (a) of this subsection (4)~~
16 SUBSECTION (4)(a) OF THIS SECTION, a person has a thirty-day grace
17 period after the license expires in which the license may be renewed
18 pursuant to ~~paragraph (c) of this subsection (4)~~ SUBSECTION (4)(c) OF THIS
19 SECTION, so long as the person has a bond in full force and effect that
20 complies with the applicable bonding requirements of section ~~12-6-512~~
21 ~~or 12-6-513~~ 44-20-412 OR 44-20-413 during the thirty-day period. A
22 person applying during the thirty-day grace period shall pay a late fee
23 established pursuant to subsection (5) of this section.

24 (5) (a) The board shall propose, as part of its annual budget
25 request, an adjustment in the amount of each fee that the board is
26 authorized by law to collect. The budget request and the adjusted fees for
27 the board shall reflect direct and indirect costs.

1 (b) Based upon any appropriation made and subject to the
2 approval of the executive director, the board shall adjust the fees
3 collected by the executive director so that the revenue generated from
4 fees covers the direct and indirect costs of administering this ~~part 5. Such~~
5 PART 4. THE fees shall remain in effect for the fiscal year for which the
6 appropriation is made.

7 (c) In any year, if ~~moneys~~ MONEY appropriated by the general
8 assembly to the board for its activities for the prior fiscal year are
9 unexpended, the ~~moneys~~ MONEY shall be made a part of the appropriation
10 to the board for the next fiscal year, and the amount shall not be raised
11 from fees collected by the board or the executive director. If a
12 supplemental appropriation is made by the general assembly to the board
13 for its activities, the fees of the board and the executive director, when
14 adjusted for the fiscal year next following that in which the supplemental
15 appropriation was made, shall be adjusted by an additional amount that
16 is sufficient to compensate for ~~such~~ THE supplemental appropriation.
17 ~~Moneys~~ MONEY appropriated to the board in the annual general
18 appropriation bill shall be from the fund provided in section ~~12-6-123~~
19 44-20-133.

20 **44-20-412. [Formerly 12-6-512] Bond of licensee.** (1) A
21 wholesaler's license, powersports vehicle dealer's license, or used
22 powersports vehicle dealer's license shall not be issued to any applicant
23 unless the applicant procures and files with the board evidence of a
24 savings account, deposit, or certificate of deposit meeting the
25 requirements of section 11-35-101, ~~C.R.S.~~, or a good and sufficient bond
26 with corporate surety thereon duly licensed to do business within the
27 state, approved as to form by the attorney general, and conditioned that

1 the applicant shall not make any fraudulent representation or violate any
2 of the provisions of this ~~part 5~~ PART 4 or any rule promulgated by the
3 board under this ~~part 5~~ PART 4. A powersports vehicle dealer or used
4 powersports vehicle dealer shall not be required to furnish an additional
5 bond, savings account, deposit, or certificate of deposit under this section
6 if ~~such~~ THE dealer furnishes a bond, savings account, deposit, or
7 certificate of deposit under section ~~12-6-111~~ 44-20-112.

8 (2) (a) The purpose of the bond procured by the applicant pursuant
9 to subsection (1) of this section and section ~~12-6-513~~ 44-20-413 is to
10 provide for the reimbursement for any loss or damage suffered by any
11 retail consumer caused by violation of this ~~part 5~~ PART 4 by a wholesaler,
12 powersports vehicle dealer, or used powersports vehicle dealer. For a
13 wholesale transaction, the bond is available to each party to the
14 transaction; except that, if a retail consumer is involved, ~~such~~ THE
15 consumer shall have priority to recover from the bond. The amount of the
16 bond shall be fifty thousand dollars for each wholesaler applicant,
17 powersports vehicle dealer applicant, and used powersports vehicle dealer
18 applicant. The aggregate liability of the surety for all transactions shall
19 not exceed the amount of the bond, regardless of the number of claims or
20 claimants.

21 (b) No corporate surety shall be required to make a payment to
22 any person making a claim under ~~such~~ THE bond until a final
23 determination of fraud or fraudulent representation has been made by the
24 board or by a court of competent jurisdiction.

25 (3) Bonds required pursuant to this section shall be renewed
26 annually when the bondholder's license is renewed. Bonds may be
27 renewed through a continuation certificate issued by the surety.

1 (4) Nothing in this ~~part 5~~ PART 4 shall interfere with the authority
2 of the courts to administer and conduct an interpleader action for claims
3 against a licensee's bond.

4 **44-20-413. [Formerly 12-6-513] Powersports vehicle**
5 **salesperson's bond.** (1) A powersports vehicle salesperson's license
6 shall not be issued unless the applicant has procured and filed with the
7 board evidence of a savings account, deposit, or certificate of deposit
8 meeting the requirements of section 11-35-101, ~~C.R.S.~~, or a good and
9 sufficient bond in the amount of fifteen thousand dollars with corporate
10 surety thereon duly licensed to do business within the state, approved as
11 to form by the attorney general, and conditioned that the applicant shall
12 perform in good faith as a powersports vehicle salesperson without fraud
13 or fraudulent representation and without violating this ~~part 5~~ PART 4 or
14 any rule promulgated by the board under this ~~part 5~~ PART 4. The board
15 shall implement by January 1, 2008, a psychometrically valid and reliable
16 salesperson exam that measures the minimum level of competence
17 necessary to practice. A powersports vehicle salesperson shall not be
18 required to furnish an additional bond, savings account, deposit, or
19 certificate of deposit under this section if ~~such~~ THE salesperson furnishes
20 a bond, savings account, deposit, or certificate of deposit under section
21 ~~12-6-112~~ 44-20-113.

22 (2) No corporate surety shall be required to make a payment to
23 any person claiming under ~~such~~ THE bond until a final determination of
24 fraud or fraudulent representation has been made by the board or by a
25 court of competent jurisdiction.

26 (3) Bonds required under this section shall be renewed annually
27 when the bondholder's license is renewed. Bonds may be renewed

1 through a continuation certificate issued by the surety.

2 **44-20-414. [Formerly 12-6-514] Notice of claims honored**
3 **against bond.** (1) A corporate surety that has provided a bond to a
4 licensee pursuant to section ~~12-6-512 or 12-6-513~~ 44-20-412 OR
5 44-20-413 shall provide notice to the board and director of any claim that
6 is honored against the bond within thirty days after the claim is honored.

7 (2) A notice provided by a corporate surety pursuant to subsection
8 (1) of this section must be in the form required by the director, subject to
9 approval by the board, and must include the name of the licensee, the
10 name and address of the claimant, the amount of the honored claim, and
11 the nature of the claim against the licensee.

12 **44-20-415. [Formerly 12-6-515] Testing licensees.** All persons
13 applying for a wholesaler's, powersports vehicle dealer's, used
14 powersports vehicle dealer's, or powersports vehicle salesperson's license
15 under this ~~part 5~~ PART 4 shall be examined for their knowledge of the
16 powersports vehicle laws of the state of Colorado and the rules
17 promulgated pursuant to this ~~part 5~~ PART 4. If the applicant is a
18 corporation, the managing officer shall take the examination, and, if the
19 applicant is a partnership, all the general partners shall take ~~such~~ THE
20 examination. No license shall be issued except upon successful passing
21 of the examination. This section shall not apply to a motor vehicle dealer,
22 used motor vehicle dealer, or motor vehicle salesperson licensed pursuant
23 to part 1 of this ~~article~~ ARTICLE 20.

24 **44-20-416. [Formerly 12-6-516] Filing of written warranties.**
25 A licensed powersports vehicle manufacturer shall file with the director
26 all written warranties and changes in written warranties the manufacturer
27 makes on powersports vehicles or parts thereof. A licensed powersports

1 vehicle manufacturer shall file with the director a copy of the delivery and
2 preparation obligations of a powersports vehicle manufacturer's dealer,
3 and these warranties and obligations constitute the powersports vehicle
4 dealer's only responsibility for product liability as between the
5 powersports vehicle dealer and the powersports vehicle manufacturer.
6 Any mechanical, body, or parts defects arising from express or implied
7 warranties of the powersports vehicle manufacturer constitute the
8 powersports vehicle manufacturer's product or warranty liability, and the
9 powersports vehicle manufacturer shall reasonably compensate any
10 authorized powersports vehicle dealer who performs work to rectify a
11 powersports vehicle manufacturer's product or warranty defects.

12 **44-20-417. [Formerly 12-6-517] Application -**
13 **fingerprint-based background check - rules.** (1) An application for a
14 wholesaler's license, powersports vehicle dealer's license, used
15 powersports vehicle dealer's license, or powersports vehicle salesperson's
16 license shall be submitted to the board.

17 (2) An application for a powersports vehicle distributor,
18 powersports vehicle manufacturer representative, or powersports vehicle
19 manufacturer license shall be submitted to the director.

20 (3) Fees for licenses shall be paid at the time of the filing of
21 application for license.

22 (4) Persons applying for a powersports vehicle dealer's license
23 shall file with the board a certified copy of a certificate of appointment as
24 a powersports vehicle dealer from a powersports vehicle manufacturer.

25 (5)(a) A person applying for a powersports vehicle manufacturer's
26 or distributor's license must:

27 (I) File with the director a certified copy of a typical sales, service,

1 and parts agreement with all powersports vehicle dealers; and

2 (II) File evidence of the appointment of an agent for process in the
3 state of Colorado.

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

11 (6) Persons applying for a wholesaler's, powersports vehicle
12 dealer's, used powersports vehicle dealer's, or a powersports vehicle
13 salesperson's license shall file with the board a written instrument in
14 which the applicant shall appoint the secretary of the board as the agent
15 of the applicant upon whom all process may be served in any action
16 against the applicant arising out of a claim for damages suffered by a
17 violation of this ~~part 5~~ PART 4, rules promulgated under this ~~part 5~~ PART
18 4, or any condition of the applicant's bond.

19 (7) (a) A person applying for a wholesaler's license or used
20 powersports vehicle dealer's license shall file with the board a
21 certification that the applicant has met the educational requirements for
22 licensure under this subsection (7), unless the applicant is licensed as a
23 motor vehicle dealer or a used motor vehicle dealer. This subsection (7)
24 shall not apply to a person who has held a license, within the last three
25 years, as a motor vehicle dealer, used motor vehicle dealer, wholesaler,
26 wholesale motor vehicle auction dealer, powersports vehicle dealer, or
27 used powersports vehicle dealer under this ~~part 5~~ PART 4 or part 1 of this

1 ~~article~~ ARTICLE 20.

2 (b) An applicant for a wholesaler's license or used powersports
3 vehicle dealer's license shall not be licensed unless one of the following
4 persons has completed an eight-hour prelicensing education program:

5 (I) The managing officer if the applicant is a corporation or
6 limited liability company;

7 (II) All of the general partners if the applicant is any form of
8 partnership; or

9 (III) The owner or managing officer if the applicant is a sole
10 proprietorship.

11 (c) The prelicensing education program shall include, without
12 limitation, state and federal statutes and rules governing the sale of
13 powersports vehicles.

14 (d) A prelicensing education program shall not fulfill the
15 requirements of this section unless approved by the board. The board
16 shall approve any program with a curriculum that reasonably covers the
17 material required by this section within eight hours.

18 (e) The board may adopt rules establishing reasonable fees to be
19 charged for the prelicensing education program.

20 (f) The board may adopt reasonable rules to implement this
21 section, including, without limitation, rules that govern:

22 (I) The content and subject matter of education;

23 (II) The criteria, standards, and procedures for the approval of
24 courses and course instructors;

25 (III) The training facility requirements; and

26 (IV) The methods of instruction.

27 (g) An approved prelicensing program provider shall issue a

1 certificate to a person who successfully completes the approved
2 prelicensing education program. The current certificate of completion, or
3 a copy of the certificate, shall be posted conspicuously at the dealership's
4 principal place of business.

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

9 (8) (a) With the submission of an application for any license
10 issued under this ~~part 5~~ PART 4, each applicant shall submit a complete set
11 of fingerprints to the Colorado bureau of investigation or the auto
12 industry division for the purpose of conducting fingerprint-based criminal
13 history record checks. The Colorado bureau of investigation shall forward
14 the fingerprints to the federal bureau of investigation for the purpose of
15 conducting fingerprint-based criminal history record checks. The board
16 or the executive director shall use the information resulting from the
17 fingerprint-based criminal history record check to investigate and
18 determine whether an applicant is qualified to be licensed. The board or
19 the executive director may verify the information an applicant is required
20 to submit. The applicant shall pay the costs associated with the
21 fingerprint-based criminal history record check to the Colorado bureau of
22 investigation.

23 (b) This subsection (8) does not apply to a publicly traded
24 company or the company's subsidiary.

25 **44-20-418. [Formerly 12-6-518] Notice of change of address or**
26 **status.** (1) The board, through the executive director, shall not issue a
27 powersports vehicle dealer's license or used powersports vehicle dealer's

1 license to an applicant who has no principal place of business. If a
2 powersports vehicle dealer or used powersports vehicle dealer changes
3 the site or location of the dealer's principal place of business, the dealer
4 shall immediately notify the board in writing, and thereupon, a new
5 license shall be granted for the unexpired portion of the term of the
6 existing license at a fee established pursuant to section ~~12-6-511~~
7 44-20-411. If a powersports vehicle dealer or used powersports vehicle
8 dealer ceases to possess a principal place of business where the dealer
9 conducts the business for which the dealer is licensed, the dealer shall
10 immediately notify the board in writing and, upon demand by the board,
11 shall deliver the dealer's license, which shall be held and retained until it
12 appears to the board that the licensee possesses a principal place of
13 business; whereupon, the dealer's license shall be reissued. Nothing in
14 this ~~part 5~~ PART 4 shall be construed to prevent a powersports vehicle
15 dealer or used powersports vehicle dealer from conducting the business
16 for which the dealer is licensed at one or more sites or locations not
17 contiguous to the dealer's principal place of business but operated and
18 maintained in conjunction therewith.

19 (2) (a) If a powersports vehicle dealer changes to a new line-make
20 of powersports vehicles, adds another franchise for the sale of new
21 powersports vehicles, or cancels or otherwise loses a franchise for the
22 sale of new powersports vehicles, the dealer shall immediately notify the
23 board. If a franchise is canceled or lost, the board shall determine whether
24 the dealer should be licensed as a used powersports vehicle dealer.

25 (b) If the powersports vehicle dealer no longer possesses a
26 franchise to sell new powersports vehicles, the board shall cancel and the
27 powersports vehicle dealer shall deliver to it the dealer's license, and the

1 board shall direct the director to issue to the dealer a used powersports
2 vehicle dealer's license.

3 (c) Upon the cancellation or loss of a franchise to sell new
4 powersports vehicles and the relicensing of the dealer as a used
5 powersports vehicle dealer, the dealer may continue in the business of a
6 powersports vehicle dealer for a time, not exceeding six months after the
7 relicensing of the dealer, to enable the dealer to dispose of the stock of
8 new powersports vehicles on hand at the time of relicensing, but not
9 otherwise.

10 (3) If a powersports vehicle salesperson is discharged, leaves an
11 employer, or changes a place of employment, the powersports vehicle
12 dealer who last employed the salesperson shall confiscate and return the
13 salesperson's license to the board. Upon being reemployed as a
14 powersports vehicle salesperson, the powersports vehicle salesperson
15 shall notify the board. Upon receiving the notification, the board shall
16 issue a new license for the unexpired portion of the returned license after
17 collecting a fee set pursuant to section ~~12-6-511(5)~~ 44-20-411 (5). It shall
18 be unlawful for the salesperson to act as a powersports vehicle
19 salesperson until a new license is procured.

20 (4) Upon a change of place of business or business address, a
21 wholesaler shall immediately notify the board of the change.

22 (5) (a) Except as specified in subsection (5)(d) of this section:

23 (I) A person holding an ownership interest in a licensed
24 corporation, limited liability company, limited liability partnership, or
25 other business entity shall not sell the interest to a person who does not
26 already own an interest in the business entity until the owner applies to
27 the board to be approved to hold an ownership interest in the business

1 entity and the board approves the person to hold the interest.

2 (II) A licensed corporation, limited liability company, limited
3 liability partnership, or other business entity shall notify the board within
4 ten days after a transfer, other than a sale, of any ownership that results
5 in a new person holding an interest in the business entity. To continue to
6 hold ownership in the business, the transferee shall apply to the board for
7 approval to continue holding an ownership interest in the business entity.

8 (b) To be approved by the board to hold an ownership interest in
9 a licensed business entity, the new owner must demonstrate the
10 qualifications necessary for licensing, including a fingerprint-based
11 criminal history record check, in accordance with this ~~part 5~~ PART 4.

12 (c) (I) If the board does not approve a person to hold an ownership
13 interest in a licensed business entity, the person shall transfer the interest
14 within six months after acquiring the ownership interest.

15 (II) This subsection (5)(c) does not authorize a person to hold an
16 interest in a licensed business entity when the person acquired the interest
17 as the result of a sale that violates subsection (5)(a)(I) of this section.

18 (d) (I) This subsection (5) does not apply to the sale or transfer of
19 an interest in a publicly traded company.

20 (II) This subsection (5) does not apply to the sale of an interest to
21 an institutional investor of a business entity that is subject to the reporting
22 requirements of the "Securities Exchange Act of 1934", 15 U.S.C. sec.
23 78a et seq., as amended. For the purposes of this subsection (5)(d)(II),
24 "institutional investor" means an entity, such as a pension fund,
25 endowment fund, insurance company, commercial bank, or mutual fund,
26 that invests money on behalf of its members or clients and that is required
27 by the United States securities and exchange commission to file a form

1 13F, or its successor form, to report quarterly holdings.

2 **44-20-419. [Formerly 12-6-519] Principal place of business -**
3 **requirements.** (1) The building or structure required to be located on a
4 principal place of business shall have electrical service and adequate
5 sanitary facilities.

6 (2) A room in a hotel, rooming house, or apartment house building
7 or a part of any single or multiple unit dwelling house shall not be used
8 as a principal place of business unless the entire ground floor of the hotel,
9 apartment house, or rooming house building or the dwelling house is
10 devoted principally to and occupied for commercial purposes and the
11 office of the dealer is located on the ground floor thereof.

12 (3) Nothing in this section shall be construed to exempt a
13 powersports vehicle dealer or used powersports vehicle dealer from local
14 zoning ordinances.

15 **44-20-420. [Formerly 12-6-520] Licenses - grounds for denial,**
16 **suspension, or revocation.** (1) A powersports vehicle manufacturer's or
17 distributor's license may be denied, suspended, or revoked on the
18 following grounds:

- 19 (a) Material misstatement in an application for a license;
20 (b) Willful failure to comply with this ~~part 5~~ PART 4 or any rule
21 promulgated by the executive director under this ~~part 5~~ PART 4;
22 (c) Engaging, in the past or present, in any illegal business
23 practice.

24 (2) A powersports vehicle manufacturer representative's license
25 may be denied, suspended, or revoked on the following grounds:

- 26 (a) Material misstatement in an application for a license;
27 (b) Willful failure to comply with this ~~part 5~~ PART 4 or any rules

1 promulgated by the executive director under this ~~part 5~~ PART 4;

2 (c) Committing any unconscionable business practice under title
3 4; ~~C.R.S.~~;

4 (d) Having coerced or attempted to coerce a powersports vehicle
5 dealer to accept delivery of any powersports vehicle, parts or accessories
6 therefore, or any other commodities or services that have not been
7 ordered by the dealer;

8 (e) Having coerced or attempted to coerce a powersports vehicle
9 dealer to enter into any agreement to do an act unfair to the dealer by
10 threatening to cause the cancellation of the dealer's franchise;

11 (f) Having withheld, threatened to withhold, reduced, or delayed
12 without just cause an order for powersports vehicles, parts or accessories
13 therefore, or any other commodities or services that have been ordered by
14 a powersports vehicle dealer; or

15 (g) Engaging, in the past or present, in any illegal business
16 practice.

17 (3) A wholesaler's license, powersports vehicle dealer's license,
18 or a used powersports vehicle dealer's license may be denied, suspended,
19 or revoked on the following grounds:

20 (a) Material misstatement in an application for a license;

21 (b) Willful failure to comply with this ~~part 5~~ PART 4 or any rule
22 promulgated by the executive director under this ~~part 5~~ PART 4;

23 (c) Having been convicted of or pled nolo contendere to any
24 felony or crime pursuant to article 3, 4, or 5 of title 18 ~~C.R.S.~~, or any like
25 crime pursuant to federal law or the law of another state. A certified copy
26 of the judgment of conviction by a court of competent jurisdiction shall
27 be conclusive evidence of the conviction in a hearing held pursuant to this

1 ~~article~~ ARTICLE 20.

2 (d) Defrauding any buyer, seller, powersports vehicle salesperson,
3 or financial institution to the person's damage;

4 (e) Intentionally or negligently failing to perform any written
5 agreement with any buyer or seller;

6 (f) Failing or refusing to furnish and keep in force a bond required
7 under this ~~part 5~~ PART 4;

8 (g) Making a fraudulent or illegal sale, transaction, or
9 repossession;

10 (h) Willfully misrepresenting, circumventing, concealing, or
11 failing to disclose, through subterfuge or device, any of the material
12 particulars or the nature thereof required to be stated or furnished to the
13 buyer;

14 (i) Intentionally publishing or circulating advertising that is
15 misleading or inaccurate in any material particular or that misrepresents
16 a product sold or furnished by a licensed dealer;

17 (j) Knowingly purchasing, selling, or otherwise acquiring or
18 disposing of a stolen powersports vehicle;

19 (k) Engaging in the business for which the dealer is licensed
20 without at all times maintaining a principal place of business as required
21 by this ~~part 5~~ PART 4 during reasonable business hours;

22 (l) Engaging in the business through employment of an unlicensed
23 powersports vehicle salesperson;

24 (m) Willfully violating any state or federal law respecting
25 commerce or powersports vehicles, or any lawful rule respecting
26 commerce or powersports vehicles promulgated by any licensing or
27 regulating authority pertaining to powersports vehicles, under

1 circumstances in which the act constituting the violation directly and
2 necessarily involves commerce or powersports vehicles;

3 (n) Representing or selling as a new and unused powersports
4 vehicle any powersports vehicle that the dealer or salesperson knows is
5 otherwise a used powersports vehicle;

6 (o) Committing a fraudulent insurance act pursuant to section
7 10-1-128; ~~C.R.S.~~;

8 (p) Failing to give notice to a prospective buyer of the acceptance
9 or rejection of a powersports vehicle purchase order agreement within a
10 reasonable time period, as determined by the board, when the licensee is
11 working with the prospective buyer on a finance sale or a consignment
12 sale.

13 ~~(3.5)~~ (4) A wholesaler's license may be denied, suspended, or
14 revoked for the selling, leasing, or offering or attempting to negotiate the
15 sale, lease, or exchange of an interest in motor vehicles to persons other
16 than powersports vehicle dealers, used powersports vehicle dealers, or
17 other wholesalers.

18 ~~(4)~~ (5) The license of a powersports vehicle salesperson may be
19 denied, revoked, or suspended on the following grounds:

20 (a) Material misstatement in an application for a license;

21 (b) Failure to comply with any provision of this ~~part 5~~ PART 4 or
22 any rule promulgated by the board or executive director under this ~~part 5~~
23 PART 4;

24 (c) Engaging in the business for which the licensee is licensed
25 without having in force and effect a good and sufficient bond with
26 corporate surety as provided in this ~~part 5~~ PART 4;

27 (d) Intentionally publishing or circulating an advertisement that

1 is misleading or inaccurate in any material particular or that misrepresents
2 a powersports vehicle product sold or attempted to be sold by the
3 salesperson;

4 (e) Having indulged in any fraudulent business practice;

5 (f) Selling, offering, or attempting to negotiate the sale, exchange,
6 or lease of powersports vehicles for a powersports vehicle dealer or used
7 powersports vehicle dealer for which the salesperson is not licensed;
8 except that negotiation with a powersports vehicle dealer or used
9 powersports vehicle dealer for the sale, exchange, or lease of new and
10 used powersports vehicles, by a salesperson compensated for the
11 negotiation by a powersports vehicle dealer or used powersports vehicle
12 dealer for which the salesperson is licensed shall not be grounds for
13 denial, revocation, or suspension;

14 (g) Representing oneself as a salesperson for a powersports
15 vehicle dealer when the salesperson is not so employed and licensed;

16 (h) Having been convicted of or pled nolo contendere to any
17 felony or any crime pursuant to article 3, 4, or 5 of title 18 ~~C.R.S.~~, or any
18 like crime pursuant to federal law or the law of another state. A certified
19 copy of the judgment of conviction by a court of competent jurisdiction
20 shall be conclusive evidence of the conviction in a hearing held pursuant
21 to this ~~article~~ ARTICLE 20.

22 (i) Having knowingly purchased, sold, or otherwise acquired or
23 disposed of a stolen powersports vehicle;

24 (j) Employing an unlicensed powersports vehicle salesperson;

25 (k) Defrauding any retail buyer to the person's damage;

26 (l) Representing or selling as a new and unused powersports
27 vehicle a powersports vehicle that the salesperson knows is otherwise a

1 used powersports vehicle;

2 (m) Willfully violating any state or federal law respecting
3 commerce or powersports vehicles, or any lawful rule respecting
4 commerce or powersports vehicles promulgated by any licensing or
5 regulating authority pertaining to powersports vehicles, under
6 circumstances in which the act constituting the violation directly and
7 necessarily involves commerce or powersports vehicles;

8 (n) Improperly withholding, misappropriating, or converting to the
9 salesperson's own use any money belonging to customers or other persons
10 received in the course of employment as a powersports vehicle
11 salesperson.

12 ~~(5)~~ (6) A license issued pursuant to this ~~part 5~~ PART 4 may be
13 denied, revoked, or suspended if unfitness of the licensee or licensee
14 applicant is shown in the following:

15 (a) The licensing character or record of the licensee or licensee
16 applicant;

17 (b) The criminal character or record of the licensee or licensee
18 applicant;

19 (c) The financial character or record of the licensee or licensee
20 applicant;

21 (d) A violation of any lawful order of the board.

22 ~~(5.5)~~ (7) The license of a powersports vehicle dealer may be
23 denied, revoked, suspended, or otherwise subject to discipline imposed
24 under this ~~part 5~~ PART 4 if an owner is acting as a salesperson without a
25 motor vehicle salesperson license and the owner commits any of the acts
26 or omissions that subject a salesperson's license to denial, revocation, or
27 suspension under ~~subsection (5)~~ SUBSECTION (6) of this section.

1 ~~(6)~~ (8) (a) A license issued or applied for pursuant to this ~~part 5~~
2 PART 4 shall be revoked or denied if the licensee or applicant has been
3 convicted of or pleaded no contest to any of the following offenses in this
4 state or another jurisdiction during the previous ten years:

5 (I) A felony in violation of article 3, 4, or 5 of title 18 ~~C.R.S.~~, or
6 any similar crime under federal law or the law of another state; or

7 (II) A crime involving salvage fraud or the defrauding of a retail
8 consumer in a powersports vehicle sale or lease transaction.

9 (b) A certified copy of a judgment of conviction by a court of
10 competent jurisdiction of an offense under ~~subparagraph (I) of paragraph~~
11 ~~(a) of this subsection~~ ~~(6)~~ SUBSECTION (8)(a)(I) OF THIS SECTION is
12 conclusive evidence of the conviction in any hearing held pursuant to this
13 ~~article~~ ARTICLE 20.

14 ~~(7)~~ (9) A person whose license issued under this ~~part 5~~ PART 4 is
15 revoked or who surrenders a license to avoid discipline is ineligible to
16 apply for a new license under this ~~part 5~~ PART 4 for one year after the date
17 of revocation or surrender of the license.

18 **44-20-421. [Formerly 12-6-521] Procedure for denial,**
19 **suspension, or revocation of license - judicial review.** (1) The denial,
20 suspension, or revocation of licenses issued under this ~~part 5~~ PART 4 shall
21 be in accordance with the provisions of sections 24-4-104 and 24-4-105;
22 ~~C.R.S.~~, except that the discovery available under rule 26 (b)(2) of the
23 Colorado rules of civil procedure is available in any proceeding.

24 (2) The board shall appoint an administrative law judge pursuant
25 to part 10 of article 30 of title 24 ~~C.R.S.~~, to conduct any hearing
26 concerning the licensing or discipline of a wholesaler, powersports
27 vehicle dealer, used powersports vehicle dealer, powersports vehicle

1 manufacturer, powersports vehicle manufacturer representative, or
2 powersports vehicle distributor; except that the board may, upon a
3 unanimous vote of the members present when the vote is taken, conduct
4 the hearing in lieu of appointing an administrative law judge.

5 (3) (a) The board shall assign a hearing concerning the licensing
6 or discipline of a powersports vehicle salesperson to the executive
7 director, who shall appoint an officer to conduct a hearing.

8 (b) Hearings conducted before an administrative law judge shall
9 be in accordance with the rules of procedure of the office of
10 administrative courts. Hearings conducted before an officer appointed by
11 the executive director shall be in accordance with the rules of procedure
12 established by the executive director.

13 (4) The board may summarily suspend a licensee required to post
14 a bond under this ~~article~~ ARTICLE 20 if ~~such~~ THE licensee does not have
15 a bond in full force and effect as required by this ~~article~~ ARTICLE 20. The
16 suspension shall become effective upon the earlier of the licensee
17 receiving notice of the suspension or within three days after the notice of
18 suspension is mailed to a licensee's last-known address on file with the
19 board. The notice may be effected by certified mail or personal delivery.

20 (5) The court of appeals shall have initial jurisdiction to review all
21 final actions and orders that are subject to judicial review of the board.
22 The proceedings shall be conducted in accordance with section 24-4-106
23 (11). ~~C.R.S.~~

24 **44-20-422. [Formerly 12-6-522] Sales activity following license**
25 **denial, suspension, or revocation - unlawful act - penalty.** (1) (a) It
26 shall be unlawful and a violation of this ~~part 5~~ PART 4 for any person
27 whose wholesaler's, powersports vehicle dealer's, used powersports

1 vehicle dealer's, or powersports vehicle salesperson's license has been
2 denied, suspended, or revoked to exercise the privileges of the license that
3 was denied, suspended, or revoked.

4 (b) A violation of ~~paragraph (a) of this subsection (1)~~ SUBSECTION
5 (1)(a) OF THIS SECTION shall be punishable in accordance with section
6 ~~12-6-527 44-20-429~~; except that a second or subsequent violation of ~~said~~
7 ~~paragraph (a)~~ SUBSECTION (1)(a) OF THIS SECTION shall be a class 6
8 felony.

9 (c) In any trial for a violation of ~~paragraph (a) of this subsection~~
10 ~~(1)~~ SUBSECTION (1)(a) OF THIS SECTION:

11 (I) A duly authenticated copy of the board's order of denial,
12 suspension, or revocation shall constitute prima facie evidence of the
13 denial, suspension, or revocation;

14 (II) A duly authenticated invoice, buyer's order, or other
15 customary, written sales or purchase document or instrument proven to
16 be signed by the defendant and indicating the defendant's role in the
17 purchase or sale of a powersports vehicle at a retail or wholesale
18 powersports vehicle sales location shall constitute prima facie evidence
19 of the defendant's exercise of a privilege of licensure;

20 (III) It shall be an affirmative defense that the defendant bought
21 or sold a powersports vehicle that was, at all relevant times, intended for
22 the defendant's own use and not bought or sold for the purpose of profit
23 or gain; and

24 (IV) The fact that the defendant has a powersports vehicle
25 dealer's, used powersports vehicle dealer's, or powersports vehicle
26 salesperson's license, or another license to buy and sell powersports
27 vehicles, that is issued by a state or jurisdiction other than Colorado, shall

1 not constitute a defense.

2 (2) Upon the defendant's conviction by entry of a plea of guilty or
3 nolo contendere or judgment or verdict of guilt in connection with a
4 violation of ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this
5 section or of section ~~12-6-523 (2)~~ 44-20-423 (2) or 42-6-142 (1), ~~C.R.S.~~;
6 the court shall immediately give the executive director written notice of
7 the conviction. In addition, the court shall forward to the executive
8 director copies of documentation of any conviction on a lesser included
9 offense and any amended charge, plea bargain, deferred prosecution,
10 deferred sentence, or deferred judgment in connection with the original
11 charge.

12 (3) Upon receiving notice of a conviction or other disposition
13 pursuant to subsection (2) of this section, the executive director or his or
14 her designee shall forward the notice to the ~~motor vehicle dealer~~ board,
15 which shall immediately examine its files to determine whether the
16 defendant's license was denied, suspended, or revoked at the time of the
17 offense. If in fact the defendant's license was denied, suspended, or
18 revoked at the time of the offense, the board shall:

19 (a) Not issue or reinstate any license to the defendant until one
20 year after the time the defendant would otherwise have been eligible to
21 receive a new or reinstated license; and

22 (b) Revoke or suspend any other licenses held by the defendant
23 until at least one year after the date of the conviction or other disposition.

24 **44-20-423. [Formerly 12-6-523] Unlawful acts.** (1) It is
25 unlawful and a violation of this ~~part 5~~ PART 4 for any powersports vehicle
26 manufacturer, distributor, or manufacturer representative:

27 (a) To willfully fail to cause to not be performed any written

1 warranties made with respect to a powersports vehicle or parts thereof;

2 (b) To coerce or attempt to coerce any powersports vehicle dealer
3 to perform or allow to be performed an act that could be financially
4 detrimental to the dealer or that would impair the dealer's goodwill or to
5 enter into an agreement with a powersports vehicle manufacturer or
6 distributor that would be financially detrimental to the dealer or impair
7 the dealer's goodwill, by threatening to cancel or not renew a franchise
8 between a powersports vehicle manufacturer or distributor and the dealer;

9 (c) To coerce or attempt to coerce any powersports vehicle dealer
10 to accept delivery of a powersports vehicle, parts or accessories thereof,
11 or any commodities or services that have not been ordered by the dealer;

12 (d) (I) To cancel or cause to be canceled, directly or indirectly,
13 without just cause, the franchise of a powersports vehicle dealer, and the
14 nonrenewal of a franchise or selling agreement without just cause is a
15 violation of this ~~paragraph (d)~~ SUBSECTION (1)(d) and shall constitute an
16 unfair cancellation.

17 (II) As used in this ~~paragraph (d)~~ SUBSECTION (1)(d), "just cause"
18 shall be determined in the context of all circumstances surrounding the
19 cancellation or nonrenewal, including but not limited to:

20 (A) The amount of business transacted by the powersports vehicle
21 dealer;

22 (B) The investments necessarily made and obligations incurred by
23 the powersports vehicle dealer, including but not limited to goodwill, in
24 the performance of its duties under the franchise agreement, together with
25 the duration and permanency of the investments and obligations;

26 (C) The potential for harm to consumers as a result of disruption
27 of the business of the powersports vehicle dealer;

1 (D) The powersports vehicle dealer's failure to provide adequate
2 service of facilities, equipment, parts, and qualified service personnel;

3 (E) The powersports vehicle dealer's failure to perform warranty
4 work on behalf of the powersports vehicle manufacturer, subject to
5 reimbursement by the powersports vehicle manufacturer; and

6 (F) The powersports vehicle dealer's failure to substantially
7 comply, in good faith, with requirements of the franchise that are
8 determined to be reasonable and material.

9 (III) The following conduct by a powersports vehicle dealer shall
10 constitute just cause for termination without consideration of other
11 factors:

12 (A) Conviction of, or a plea of guilty or nolo contendere to, a
13 felony;

14 (B) A continuing pattern of fraudulent conduct against the
15 powersports vehicle manufacturer or consumers; or

16 (C) Continuing failure to operate for ten days or longer.

17 (e) To withhold, reduce, or delay unreasonably or without just
18 cause delivery of powersports vehicles, powersports vehicle parts and
19 accessories, commodities, or ~~moneys~~ MONEY due powersports vehicle
20 dealers for warranty work done by any powersports vehicle dealer;

21 (f) To withhold, reduce, or delay unreasonably or without just
22 cause services contracted for by powersports vehicle dealers;

23 (g) To coerce any powersports vehicle dealer to provide
24 installment financing with a specified financial institution;

25 (h) To violate any duty imposed by, or fail to comply with, any
26 provision of section ~~12-6-524, 12-6-525, or 12-6-526~~ 44-20-424,
27 44-20-425, OR 44-20-426;

1 (i) (I) To fail to provide to the powersports vehicle dealer, within
2 twenty days after receipt of a notice of intent from a powersports vehicle
3 dealer, the list of documents and information necessary to approve the
4 sale or transfer of the ownership of a dealership by sale of the business or
5 by stock transfer or the change in executive management of the
6 dealership;

7 (II) To fail to confirm within twenty days after receipt of all
8 documents and information listed in ~~subparagraph (I) of this paragraph (i)~~
9 ~~SUBSECTION (1)(i)(I) OF THIS SECTION that such~~ THE documentation and
10 information has been received;

11 (III) To refuse to approve, unreasonably, the sale or transfer of the
12 ownership of a dealership by sale of the business or by stock transfer
13 within sixty days after the manufacturer has received all documents and
14 information necessary to approve the sale or transfer of ownership, or to
15 refuse to approve, unreasonably, the change in executive management of
16 the dealership within sixty days after the manufacturer has received all
17 information necessary to approve the change in management; except that
18 nothing in this ~~part 5~~ PART 4 shall authorize the sale, transfer, or
19 assignment of a franchise or a change of the principal operator without
20 the approval of the powersports vehicle manufacturer or distributor unless
21 the manufacturer or distributor fails to send notice of the disapproval
22 within sixty days after receiving all documents and information necessary
23 to approve the sale or transfer of ownership; or

24 (IV) To condition the sale, transfer, relocation, or renewal of a
25 franchise agreement or to condition sales, services, parts, or finance
26 incentives upon site control or an agreement to renovate or make
27 improvements to a facility; except that voluntary acceptance of ~~such~~ THE

1 conditions by the dealer shall not constitute a violation;

2 (j) (I) To fail or refuse to offer to its same line-make franchised
3 dealers all models manufactured for that line-make except as a result of
4 a strike or labor difficulty, lack of manufacturing capacity, shortage of
5 materials, freight embargo, or other cause over which the powersports
6 vehicle manufacturer has no control; or

7 (II) To require a dealer to pay an unreasonable fee, purchase
8 unreasonable advertising displays or other materials, or comply with
9 unreasonable training or facilities requirements as a prerequisite to
10 receiving any particular model of that same line-make, which shall be
11 judged based on the circumstances of the individual dealer and the
12 conditions of the market served by the dealer;

13 (k) To require, coerce, or attempt to coerce any powersports
14 vehicle dealer to refrain from participation in the management of,
15 investment in, or acquisition of another line-make of new powersports
16 vehicles or related products; except that this ~~paragraph (k)~~ SUBSECTION
17 (1)(k) shall not apply unless the powersports vehicle dealer:

18 (I) Maintains a reasonable line of credit for each make or line of
19 new powersports vehicle;

20 (II) Remains in compliance with reasonable capital standards and
21 reasonable facilities requirements specified by the powersports vehicle
22 manufacturer; but "reasonable facilities requirements" shall not include
23 a requirement that a powersports vehicle dealer establish or maintain
24 exclusive facilities, personnel, or display space; and

25 (III) Provides written notice to the manufacturer, distributor, or
26 manufacturer's representative, no less than ninety days prior to the dealer's
27 intent to participate in the management of, investment in, or acquisition

1 of another line-make of new powersports vehicles or related products;

2 (l) To fail to pay to a powersports vehicle dealer, within ninety
3 days after the termination, cancellation, or nonrenewal of a franchise, all
4 of the following:

5 (I) The dealer cost, plus any charges made by the powersports
6 vehicle manufacturer for distribution, delivery, and taxes, less all
7 allowances paid or credited to the powersports vehicle dealer by the
8 powersports vehicle manufacturer, of unused, undamaged, and unsold
9 powersports vehicles in the powersports vehicle dealer's inventory that
10 were acquired from the powersports vehicle manufacturer or from another
11 powersports vehicle dealer of the same line-make in the ordinary course
12 of business within the previous twelve months;

13 (II) The dealer cost, less all allowances paid or credited to the
14 powersports vehicle dealer by the powersports vehicle manufacturer, for
15 all unused, undamaged, and unsold supplies, parts, and accessories in
16 original packaging and listed in the powersports vehicle manufacturer's
17 current parts catalog;

18 (III) The fair market value of each undamaged sign owned by the
19 powersports vehicle dealer and bearing a common name, trade name, or
20 trademark of the powersports vehicle manufacturer if acquisition of the
21 sign was required by the powersports vehicle manufacturer;

22 (IV) The fair market value of all special tools and equipment that
23 were acquired from the powersports vehicle manufacturer or from sources
24 approved and required by the powersports vehicle manufacturer and that
25 are in good and usable condition, excluding normal wear and tear; and

26 (V) The cost of transporting, handling, packing, and loading the
27 powersports vehicles, supplies, parts, accessories, signs, special tools,

1 equipment, and furnishings described in this ~~paragraph (l)~~. SUBSECTION
2 (1)(l);

3 (m) To require, coerce, or attempt to coerce a powersports vehicle
4 dealer to close or change the location of the powersports vehicle dealer,
5 or to make any substantial alterations to the dealer premises or facilities
6 when doing so would be unreasonable or without written assurance of a
7 sufficient supply of powersports vehicles so as to justify the changes, in
8 light of the current market and economic conditions;

9 (n) To authorize or permit a person to perform warranty service
10 repairs on powersports vehicles unless the person is:

11 (I) A powersports vehicle dealer with whom the powersports
12 vehicle manufacturer has entered into a franchise agreement for the sale
13 and service of the manufacturer's powersports vehicles; or

14 (II) A person or government entity that has purchased new
15 powersports vehicles pursuant to a powersports vehicle manufacturer's
16 fleet discount program and is performing the warranty service repairs only
17 on vehicles owned by the person or entity;

18 (o) To require, coerce, or attempt to coerce a powersports vehicle
19 dealer to prospectively agree to a release, assignment, novation, waiver,
20 or estoppel that would relieve any person of a duty or liability imposed
21 under this ~~article~~ ARTICLE 20 except in settlement of a bona fide dispute;

22 (p) To discriminate between or refuse to offer to its same
23 line-make franchised dealers all models manufactured for that line-make
24 based upon unreasonable sales and service standards;

25 (q) To fail to make practically available an incentive, rebate,
26 bonus, or other similar benefit to a powersports vehicle dealer that is
27 offered to another powersports vehicle dealer of the same line-make

1 within this state;

2 (r) To fail to pay to a powersports vehicle dealer:

3 (I) Within ninety days after the termination, cancellation, or
4 nonrenewal of a franchise for the failure of a dealer to meet performance
5 sales and service obligations or after the termination, elimination, or
6 cessation of a line-make, the cost of the lease for the facilities used for the
7 franchise or line-make for the unexpired term of the lease, not to exceed
8 one year; except that:

9 (A) If the powersports vehicle dealer owns the facilities, the value
10 of renting ~~such~~ THE facilities for one year, prorated for each line-make
11 based upon total sales volume for the previous twelve months before the
12 involuntary termination;

13 (B) Nothing in this ~~subparagraph (I)~~ SUBSECTION (1)(r)(I) shall be
14 construed to limit the application of ~~paragraph (d) of this subsection (I)~~
15 SUBSECTION (1)(d) OF THIS SECTION;

16 (II) Within ninety days after the termination, elimination, or
17 cessation of a line-make or the termination of a franchise due to the
18 insolvency of the manufacturer or distributor, the fair market value of the
19 powersports vehicle dealer's goodwill for the line-make as of the date the
20 manufacturer or distributor announces the action that results in the
21 termination, elimination, or cessation, not including any amounts paid
22 under ~~subparagraphs (I) to (V) of paragraph (I) of this subsection (I)~~
23 SUBSECTIONS (1)(I)(I) TO (1)(I)(V) OF THIS SECTION;

24 (s) To condition a franchise agreement on improvements to a
25 facility unless reasonably required by the technology of a powersports
26 vehicle being sold at the facility;

27 (t) To charge back, deny powersports vehicle allocation, withhold

1 payments, or take other actions against a powersports vehicle dealer if a
2 powersports vehicle sold by the powersports vehicle dealer is exported
3 from Colorado unless the manufacturer, distributor, or manufacturer
4 representative proves that the powersports vehicle dealer knew or
5 reasonably should have known a powersports vehicle was intended to be
6 exported, which shall operate as a rebuttable presumption that the
7 powersports vehicle dealer did not have ~~such~~ THIS knowledge;

8 (u) Within ninety days after the termination, elimination, or
9 cessation of a line-make or the termination, cancellation, or nonrenewal
10 of a franchise by the manufacturer, distributor, or manufacturer
11 representative, for any reason other than that the powersports vehicle
12 dealer commits fraud, makes a misrepresentation, or commits any other
13 crime within the scope of the franchise agreement or in the operation of
14 the dealership, to fail to reimburse a powersports vehicle dealer for the
15 cost depreciated by five percent per year of any upgrades or alterations to
16 the powersports vehicle dealer's facilities required by the manufacturer,
17 distributor, or manufacturer representative within the previous five years;

18 (v) To fail to notify a powersports vehicle dealer at least ninety
19 days before the following and to provide the specific reasons for the
20 following:

21 (I) Directly or indirectly terminating, cancelling, or not renewing
22 a franchise agreement; or

23 (II) Modifying, replacing, or attempting to modify or replace the
24 franchise or selling agreement of a powersports dealer, including a
25 change in the dealer's geographic area upon which sales or service
26 performance is measured, if the modification would substantially and
27 adversely alter the rights or obligations of the dealer under the current

1 franchise or selling agreement or would substantially impair the sales or
2 service obligations or the dealer's investment;

3 (w) To require, coerce, or attempt to coerce a powersports dealer
4 to substantially alter a facility or premises if the facility or premises has
5 been altered within the last ten years at a cost of more than twenty-five
6 thousand dollars, and the alteration was required and approved by the
7 manufacturer, distributor, or manufacturer representative; except that this
8 subsection (1)(w) does not apply to improvements made to comply with
9 health or safety laws or to accommodate the technology requirements
10 necessary to sell or service a line-make;

11 (x) (I) To sell or offer to sell new powersports vehicles to a
12 franchised motor vehicle dealer with whom the manufacturer has a
13 franchise agreement at a lower actual price than the actual price offered
14 to any other powersports vehicle dealer with whom the manufacturer has
15 a franchise agreement for the same motor vehicle similarly equipped;
16 except that this subsection (1)(x) does not apply to:

- 17 (A) Resale to any government;
- 18 (B) Donation or use by the dealer in a driver education course; or
- 19 (C) A price change made in the ordinary course of business if
20 made available to all powersports vehicle dealers when the price changes.

21 (II) This subsection (1)(x) does not prohibit a manufacturer,
22 distributor, or manufacturer representative from offering incentive
23 programs, sales-promotion plans, or other discounts if the incentives or
24 discounts are reasonably available to all powersports vehicle dealers with
25 whom the manufacturer has a franchise agreement.

26 (y) To require a powersports vehicle dealer to grant a
27 manufacturer, distributor, or manufacturer representative the following

1 or to enforce the following if the exercise of the contractual right would
2 stop the transfer of the powersports vehicle dealer ownership from an
3 owner to an immediate family member of the owner:

4 (I) A right of first refusal to purchase the powersports vehicle
5 dealer; or

6 (II) An option to purchase the powersports vehicle dealer; and

7 (z) (I) To use an unreasonable, arbitrary, or unfair performance
8 standard in determining a powersports vehicle dealer's compliance with
9 a franchise agreement; or

10 (II) To fail to communicate, upon the request of the dealer, any
11 performance standard in a clear and concise writing to a powersports
12 vehicle dealer before applying the standard to the powersports vehicle
13 dealer.

14 (2) It is unlawful for a person to act as a wholesaler, powersports
15 vehicle dealer, used powersports vehicle dealer, powersports vehicle
16 manufacturer, powersports vehicle distributor, powersports vehicle
17 manufacturer representative, or powersports vehicle salesperson unless
18 the person has been duly licensed under the provisions of this ~~part 5~~ PART
19 4.

20 **44-20-424. [Formerly 12-6-524] New, reopened, or relocated**
21 **dealer - notice required - grounds for refusal of dealer license -**
22 **definitions - rules.** (1) No powersports vehicle manufacturer or
23 distributor shall establish an additional powersports vehicle dealer, reopen
24 a previously existing powersports vehicle dealer, or authorize an existing
25 powersports vehicle dealer without first providing at least sixty days'
26 notice to all of its franchised dealers within whose relevant market area
27 the new, reopened, or relocated dealer would be located. The notice must

1 state:

2 (a) The specific location at which the additional, reopened, or
3 relocated powersports vehicle dealer will be established;

4 (b) The date on or after which the powersports vehicle
5 manufacturer intends to be engaged in business with the additional,
6 reopened, or relocated powersports vehicle dealer at the proposed
7 location; and

8 (c) The identity of all powersports vehicle dealers who are
9 franchised to sell the same line-make of vehicles with licensed locations
10 in the relevant market area where the additional, reopened, or relocated
11 powersports vehicle dealer is proposed to be located.

12 ~~(d) Repealed.~~

13 ~~(1.5)~~ (2) A powersports vehicle manufacturer shall approve or
14 disapprove of a powersports vehicle dealer facility initial site location,
15 relocation, or reopening request within sixty days after the request or after
16 sending the notice required by subsection (1) of this section to all of its
17 franchised powersports vehicle dealers, whichever is later.

18 ~~(2)~~ (3) Subsection (1) of this section shall not apply to:

19 (a) The relocation of an existing dealer within two miles of its
20 current location; or

21 (b) The establishment of a replacement dealer, within two years,
22 either at the former location or within two miles of the former location.

23 ~~(3)~~ (4) As used in this section:

24 (a) "Powersports manufacturer" means a powersports vehicle
25 manufacturer, distributor, or manufacturer representative.

26 (b) "Relevant market area" means the greater of the following:

27 (I) The geographic area of responsibility defined in the franchise

1 agreement of an existing dealer; or

2 (II) The geographic area within a radius of ten miles of any
3 existing dealer of the same line-make of powersports vehicle as the
4 proposed additional motor vehicle dealer.

5 ~~(c) Repealed.~~

6 ~~(4) and (5) Repealed.~~

7 ~~(6)~~ (5) (a) An existing powersports vehicle dealer adversely
8 affected by the reopening or relocation of an existing same line-make
9 powersports vehicle dealer or the addition of a same line-make
10 powersports vehicle dealer may, within ninety days after receipt of the
11 notice required in subsection (1) of this section, file a legal action in a
12 district court of competent jurisdiction or file an administrative complaint
13 with the executive director to prevent or enjoin the relocation, reopening,
14 or addition of the proposed powersports vehicle dealer. An existing
15 powersports vehicle dealer is adversely affected if:

16 (I) The dealer is located within the relevant market area of the
17 proposed relocated, reopened, or additional dealership described in the
18 notice required in subsection (1) of this section; or

19 (II) The existing dealer or dealers of the same line-make show
20 that, during any twelve-month period within the thirty-six months
21 preceding the receipt of the notice required in subsection (1) of this
22 section, the dealer or dealers, or a dealer's predecessor, made at least
23 twenty-five percent of the dealer's retail sales of new powersports
24 vehicles to persons whose addresses are located within ten miles of the
25 location of the proposed relocated, reopened, or additional dealership.

26 (b) The executive director shall refer a complaint filed under this
27 section to an administrative law judge in the office of administrative

1 courts for final agency action.

2 (c) In any court or administrative action, the manufacturer has the
3 burden of proof on each of the following issues:

4 (I) The change in population;

5 (II) The relevant vehicle buyer profiles;

6 (III) The relevant historical new powersports vehicle registrations
7 for the line-make of vehicles versus the manufacturer's actual competitors
8 in the relevant market area;

9 (IV) Whether the opening of the proposed reopened, relocated, or
10 additional powersports vehicle dealer is materially beneficial to the public
11 interest or the consumers in the relevant market area;

12 (V) Whether the powersports vehicle dealers of the same
13 line-make in the relevant market area are providing adequate
14 representation and convenient customer care, including the adequacy of
15 sales and service facilities, equipment, parts, and qualified service
16 personnel, for powersports vehicles of the same line-make in the relevant
17 market area;

18 (VI) The reasonably expected market penetration of the
19 line-make, given the factors affecting penetration; and

20 (VII) Whether the reopened, relocated, or additional dealership is
21 reasonable and justifiable based on expected economic and market
22 conditions within the relevant market area.

23 (d) In any court or administrative action, the powersports vehicle
24 dealer has the burden of proof on each of the following issues:

25 (I) Whether the manufacturer engaged in any action or omission
26 that, directly or indirectly, denied the existing powersports vehicle dealer
27 of the same line-make the opportunity for reasonable growth or market

1 expansion;

2 (II) Whether the manufacturer has coerced or attempted to coerce
3 any existing powersports vehicle dealer into consenting to additional or
4 relocated franchises of the same line-make in the community or territory
5 or relevant market area; and

6 (III) The size and permanency of the investment of, and the
7 obligations incurred by, the existing powersports vehicle dealers of the
8 same line-make located in the relevant market area.

9 (e) (I) In a legal or administrative action challenging the
10 relocation, reopening, or addition of a powersports vehicle dealer, the
11 district court or administrative law judge shall make a determination,
12 based on the factors identified in ~~subsections (6)(c) and (6)(d)~~
13 SUBSECTIONS (5)(c) AND (5)(d) of this section, of whether the relocation,
14 reopening, or addition of a powersports vehicle dealer is:

15 (A) In the public interest; and

16 (B) Fair and equitable to the existing powersports vehicle dealers.

17 (II) The district court or the executive director shall deny any
18 proposed relocation, reopening, or addition of a powersports vehicle
19 dealer unless the manufacturer shows by a preponderance of the evidence
20 that the existing powersports vehicle dealer or dealers of the same
21 line-make in the relevant market area of the proposed dealership are not
22 providing adequate representation of the line-make powersports vehicles.
23 A determination to deny, prevent, or enjoin the relocation, reopening, or
24 addition of a powersports vehicle dealer is effective for at least eighteen
25 months.

26 **44-20-425. [Formerly 12-6-525] Independent control of dealer**
27 **- definitions.** (1) Except as otherwise provided in this section, no

1 powersports vehicle manufacturer shall own, operate, or control any
2 powersports vehicle dealer or used powersports vehicle dealer in
3 Colorado.

4 (2) Notwithstanding subsection (1) of this section, the following
5 activities are not prohibited:

6 (a) Operation of a powersports vehicle dealer for a temporary
7 period, not to exceed twelve months, during the transition from one
8 owner or operator to another independent owner or operator; except that
9 the executive director may extend the period, not to exceed twenty-four
10 months, upon a showing by the manufacturer or distributor of the need to
11 operate the dealership for such time to achieve a transition from an owner
12 or operator to another independent third-party owner or operator;

13 (b) Ownership or control of a powersports vehicle dealer while the
14 dealer is being sold under a bona fide contract or purchase option to the
15 operator of the dealer;

16 (c) Participation in the ownership of the powersports vehicle
17 dealer solely for the purpose of providing financing or a capital loan that
18 will enable the dealer to become the majority owner of the dealer in less
19 than seven years; and

20 (d) Operation of a powersports vehicle dealer if the powersports
21 vehicle manufacturer has no other franchised dealers of the same
22 line-make in this state.

23 (3) As used in this section:

24 (a) "Control" means to possess, directly, the power to direct or
25 cause the direction of the management or policies of a person, whether
26 through the ownership of voting securities, by contract, or otherwise;
27 except that "control" does not include the relationship between a

1 powersports vehicle manufacturer and a powersports vehicle dealer under
2 a franchise agreement.

3 (b) "Operate" means to directly or indirectly manage a
4 powersports vehicle dealer.

5 (c) "Own" means to hold any beneficial ownership interest of one
6 percent or more class of equity interest in a powersports vehicle dealer,
7 whether as a shareholder, partner, limited liability company member, or
8 otherwise. To "hold" an ownership interest means to have possession of,
9 title to, or control of the ownership interest, either directly or through a
10 fiduciary or agent.

11 (d) "Powersports vehicle manufacturer" means a powersports
12 vehicle manufacturer, distributor, or manufacturer representative.

13 **44-20-426. [Formerly 12-6-526] Successor under existing**
14 **franchise agreement - duties of powersports vehicle manufacturer.**

15 (1) If a licensed powersports vehicle dealer under franchise by a
16 powersports vehicle manufacturer dies or becomes incapacitated, the
17 powersports vehicle manufacturer shall act in good faith to allow a
18 successor, which may include a family member, designated by the
19 deceased or incapacitated powersports vehicle dealer to succeed to
20 ownership and operation of the dealer under the existing franchise
21 agreement if:

22 (a) Within ninety days after the powersports vehicle dealer's death
23 or incapacity, the designated successor gives the powersports vehicle
24 manufacturer written notice of an intent to succeed to the rights of the
25 deceased or incapacitated powersports vehicle dealer in the franchise
26 agreement;

27 (b) The designated successor agrees to be bound by all of the

1 terms and conditions of the existing franchise agreement; and

2 (c) The designated successor meets the criteria generally applied
3 by the powersports vehicle manufacturer in qualifying powersports
4 vehicle dealers.

5 (2) A powersports vehicle manufacturer may refuse to honor the
6 existing franchise agreement with the designated successor only for good
7 cause. The powersports vehicle manufacturer may request in writing from
8 a designated successor the personal and financial data that is reasonably
9 necessary to determine whether the existing franchise agreement should
10 be honored, and the designated successor shall supply the data promptly
11 upon request.

12 (3) (a) If a powersports vehicle manufacturer believes that good
13 cause exists for refusing to honor the requested succession, the
14 powersports vehicle manufacturer shall send the designated successor, by
15 certified or overnight mail, notice of its refusal to approve the succession
16 within sixty days after the later of:

17 (I) Receipt of the notice of the designated successor's intent to
18 succeed the powersports vehicle dealer in the ownership and operation of
19 the dealer; or

20 (II) The receipt of the requested personal and financial data.

21 (b) Failure to serve the notice pursuant to ~~paragraph (a) of this~~
22 ~~subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION shall be considered
23 approval of the designated successor, and the franchise agreement is
24 considered amended to reflect the approval of the succession the day
25 following the last day of the notice period specified in ~~said paragraph (a)~~
26 SUBSECTION (3)(a) OF THIS SECTION.

27 (c) If the powersports vehicle manufacturer gives notice of refusal

1 to approve the succession, the notice shall state the specific grounds for
2 the refusal and shall state that the franchise agreement shall be
3 discontinued not less than ninety days after the date the notice of refusal
4 is served unless the proposed successor files an action in the district court
5 to enjoin the action.

6 (4) This section shall not be construed to prohibit a powersports
7 vehicle dealer from designating a person as the successor in advance, by
8 written instrument filed with the powersports vehicle manufacturer. If the
9 powersports vehicle dealer files the instrument, that instrument governs
10 the succession rights to the management and operation of the dealer
11 subject to the designated successor satisfying the powersports vehicle
12 manufacturer's qualification requirements as described in this section.

13 **44-20-427. [Formerly 12-6-526.5] Audit reimbursement**
14 **limitations - dealer claims.** (1) (a) A manufacturer, distributor, or
15 manufacturer representative shall have the right to audit warranty, sales,
16 or incentive claims of a powersports vehicle dealer for nine months after
17 the date the claim was submitted.

18 (b) A manufacturer, distributor, or manufacturer representative
19 shall not require documentation for warranty, sales, or incentive claims
20 or audit warranty, sales, or incentive claims of a powersports vehicle
21 dealer more than fifteen months after the date the claim was submitted,
22 nor shall the manufacturer require a charge back, reimbursement, or credit
23 against a future transaction arising out of an audit or request for
24 documentation arising more than nine months after the date the claim was
25 submitted.

26 (2) The powersports vehicle dealer shall have nine months after
27 making a sale or providing service to submit warranty, sales, or incentive

1 claims to the manufacturer, distributor, or manufacturer representative.

2 (3) Subsection (1) of this section shall not limit any action for
3 fraud instituted in a court of competent jurisdiction.

4 (4) A powersports vehicle dealer may request a determination
5 from the executive director, within thirty days, that a charge back,
6 reimbursement, or credit required violates subsection (1) of this section.
7 If a determination is requested within the thirty-day period, then the
8 charge back, reimbursement, or credit shall be stayed pending the
9 decision of the executive director. If the executive director determines
10 after a hearing that the charge back, reimbursement, or credit violates
11 subsection (1) of this section, the charge back, reimbursement, or credit
12 shall be void.

13 **44-20-428. [Formerly 12-6-526.7] Reimbursement for**
14 **disapproving sale.** A manufacturer or distributor shall pay reasonable
15 attorney fees, not to exceed the usual and customary fees charged for the
16 transfer of a franchise, and reasonable expenses that are incurred by the
17 proposed owner or transferee before the manufacturer or distributor
18 exercised its right of first refusal in negotiating and implementing the
19 contract for the proposed change of ownership or the transfer of assets.
20 Payment of attorney fees and expenses is not required if the claimant has
21 failed to submit an accounting of attorney fees and expenses within
22 twenty days after the receipt of the manufacturer's or dealer's written
23 request for an accounting. An expense accounting may be requested by
24 the manufacturer or distributor before exercising its right of first refusal.

25 **44-20-429. [Formerly 12-6-527] Penalty.** (1) Except as provided
26 in subsection (2) of this section, a person who willfully violates this part
27 5 PART 4 commits a class 1 misdemeanor and shall be punished as

1 provided in section 18-1.3-501.

2 (2) (a) A person who willfully violates section ~~12-6-523 (2)~~
3 44-20-423 (2) by acting as a powersports vehicle manufacturer,
4 powersports vehicle distributor, or powersports vehicle manufacturer
5 representative without proper authorization commits a class 3
6 misdemeanor and, upon conviction thereof, shall be punished by a fine of
7 not less than one hundred dollars nor more than one thousand dollars for
8 each separate offense, or if the violator is a corporation, the fine shall be
9 not less than five hundred dollars nor more than two thousand five
10 hundred dollars for each separate offense. A second conviction shall be
11 punished by a fine of two thousand five hundred dollars.

12 (b) A person who willfully violates section ~~12-6-523 (2)~~
13 44-20-423 (2) by acting as a wholesaler, powersports vehicle dealer, used
14 powersports vehicle dealer, or powersports vehicle salesperson without
15 proper authorization commits a class 3 misdemeanor and, upon
16 conviction thereof, shall be punished by a fine of not less than one
17 thousand dollars and a penalty of twenty-five hours of useful public
18 service, neither of which the court may suspend, for each separate
19 offense; except that, if the violator is a corporation, the corporation shall
20 be punished by a fine of not less than five thousand dollars nor more than
21 twenty-five thousand dollars for each separate offense. A second
22 conviction for an individual shall be punished by a fine of not less than
23 five thousand dollars nor more than twenty-five thousand dollars for each
24 separate offense, which the court may not suspend.

25 **44-20-430. [Formerly 12-6-528] Fines - disposition - unlicensed**
26 **sales.** Any fine collected for a violation of section ~~12-6-523 (2)~~ 44-20-423
27 (2) shall be awarded to the law enforcement agency that investigated and

1 issued the citation for the violation.

2 **44-20-431. [Formerly 12-6-529] Drafts or checks not honored**
3 **for payment - penalties.** (1) If a wholesaler, powersports vehicle dealer,
4 or used powersports vehicle dealer issues a draft or check to a wholesaler,
5 powersports vehicle dealer, or used powersports vehicle dealer and fails
6 to honor the draft or check, then the license of the licensee shall be
7 subject to suspension pursuant to section ~~12-6-520~~ 44-20-420. The license
8 suspension shall be effective upon the date of a final decision against the
9 licensee. A licensee whose license has been suspended pursuant to this
10 subsection (1) shall not be eligible for reinstatement of the license and
11 shall not be eligible to apply for another license issued under this ~~part 5~~
12 PART 4 unless it is demonstrated to the board that the unpaid draft or
13 check has been paid in full and that any fine imposed on the licensee
14 pursuant to subsection (2) of this section has been paid in full.

15 (2) A wholesaler, powersports vehicle dealer, or used powersports
16 vehicle dealer that issues a draft or check to a wholesaler, powersports
17 vehicle dealer, or used powersports vehicle dealer and who fails to honor
18 the draft or check, causing loss to a third party, commits a misdemeanor
19 and shall be punished by a fine of two thousand five hundred dollars. Any
20 fine collected for a violation of this subsection (2) shall be awarded to the
21 law enforcement agency that investigated and issued the citation for the
22 violation.

23 **44-20-432. [Formerly 12-6-530] Right of action for loss.** (1) A
24 person shall have a right of action against the dealer, the dealer's
25 salespersons, and the sureties upon their respective bonds if the person
26 suffers loss or damage by reason of fraud practiced on the person or
27 fraudulent representation made to the person by a licensed powersports

1 vehicle dealer or a licensed used powersports vehicle dealer, or one of the
2 dealer's salespersons acting on the dealer's behalf or within the scope of
3 the employment, or suffers loss or damage by reason of the violation by
4 the dealer or salesperson of any of the provisions of this ~~part 5~~ PART 4 that
5 are designated by the board by rule, whether or not the violation is the
6 basis for denial, suspension, or revocation of a license. The right of a
7 person to recover for loss or damage as provided in this subsection (1)
8 against the dealer or salesperson shall not be limited to the amount of
9 their respective bonds.

10 (2) If a person suffers any loss or damage by reason of any
11 unlawful act under section ~~12-6-523 (1)(a)~~ 44-20-423 (1)(a), the person
12 shall have a right of action against the powersports vehicle manufacturer,
13 distributor, or manufacturer representative. In a court action wherein a
14 powersports vehicle manufacturer, distributor, or manufacturer
15 representative has been found liable in damages to any person under this
16 ~~part 5~~ PART 4, the amount of damages so determined shall be trebled and
17 shall be recoverable by the person so damaged. Any person so damaged
18 shall also be entitled to recover reasonable attorney fees.

19 (3) If a licensee suffers loss or damage by reason of an unlawful
20 act under section ~~12-6-523 (1)~~ 44-20-423 (1), the licensee shall have a
21 right of action against the powersports vehicle manufacturer, distributor,
22 or manufacturer representative. In a court action wherein a powersports
23 vehicle manufacturer, distributor, or manufacturer representative has been
24 found liable in damages to a licensee under this ~~part 5~~ PART 4, the
25 licensee so damaged shall also be entitled to recover reasonable attorney
26 fees.

27 **44-20-433. [Formerly 12-6-531] Contract disputes - venue -**

1 **choice of law.** (1) In the event of a dispute between a powersports
2 vehicle dealer and a powersports vehicle manufacturer under a franchise
3 agreement, notwithstanding any provision of the agreement to the
4 contrary:

5 (a) At the option of the powersports vehicle dealer, venue shall be
6 proper in the county or judicial district where the dealer resides or has its
7 principal place of business; and

8 (b) Colorado law shall govern, both substantively and
9 procedurally.

10 **44-20-434. [Formerly 12-6-532] Advertisement - inclusion of**
11 **dealer name.** No powersports vehicle dealer or used powersports vehicle
12 dealer or an agent of a dealer shall advertise an offer for the sale, lease,
13 or purchase of a powersports vehicle that creates the false impression that
14 the vehicle is being offered by a private party or that does not contain the
15 name of the dealer or the word "dealer" or, if the name is contained in the
16 offer and does not clearly reflect that the business is a dealer, both the
17 name of the dealer and the word "dealer".

18 **44-20-435. [Formerly 12-6-534] Payout exemption to**
19 **execution.** A powersports vehicle dealer's right to receive payments from
20 a manufacturer or distributor required by section ~~12-6-523 (1)(l) and~~
21 ~~(1)(r)~~ 44-20-423 (1)(l) AND (1)(r) is not liable to attachment or execution
22 and may not otherwise be seized, taken, appropriated, or applied in a legal
23 or equitable process or by operation of law to pay the debts or liabilities
24 of the manufacturer or distributor. This section shall not prohibit a
25 secured creditor from exercising rights accrued pursuant to a security
26 agreement if the right arose as a result of the manufacturer or distributor
27 voluntarily creating a security interest before paying existing debts or

1 liabilities of the manufacturer or distributor. This section shall not
2 prohibit a manufacturer or distributor from withholding a portion of the
3 payments necessary to cover an amount of money owed to the
4 manufacturer or distributor as an offset to the payments if the
5 manufacturer or distributor provides the motor vehicle dealer written
6 notice thereof.

7 **44-20-436. [Formerly 12-6-535] Site control extinguishes.** If a
8 manufacturer, distributor, or manufacturer representative has terminated,
9 eliminated, or not renewed a franchise agreement containing a site control
10 provision, the powersports vehicle dealer may void a site control
11 provision of a franchise agreement by returning any money the dealer has
12 accepted in exchange for site control prorated by the time remaining
13 before the agreement expires over the time period between the agreement
14 being signed and the agreement expiring. This section does not apply if
15 the termination, elimination, or nonrenewal is for just cause in accordance
16 with section ~~12-6-523 (1)(d)~~ 44-20-423 (1)(d).

17 **44-20-437. [Formerly 12-6-536] Modification voidable.** If a
18 manufacturer, distributor, or manufacturer representative fails to comply
19 with section ~~12-6-120 (1)(v)(H)~~ 44-20-423 (1)(v)(II), the powersports
20 dealer may void the modification or replacement of the franchise
21 agreement.

22 **44-20-438. [Formerly 12-6-537] Termination appeal.** (1) A
23 powersports vehicle dealer who has reason to believe that a manufacturer,
24 distributor, or manufacturer representative has violated section ~~12-6-523~~
25 ~~(1)(d) or (1)(v)~~ 44-20-423 (1)(d) OR (1)(v) may appeal to the board by
26 filing a complaint with:

27 (a) The executive director; or

1 (b) A district court if neither the executive director nor the
2 administrative law judge, appointed in accordance with this section, holds
3 a hearing concerning the complaint within sixty days after the complaint
4 was filed.

5 (2) Upon filing a verified complaint alleging with specific facts
6 that a violation has occurred under this section, the termination,
7 elimination, modification, or nonrenewal of the franchise agreement is
8 automatically stayed, without the motor vehicle dealer posting a bond,
9 until a final determination is made on each issue raised in the complaint;
10 except that the executive director, administrative law judge, or court may
11 cancel the stay upon finding that the cancellation, termination, or
12 nonrenewal of the franchise agreement was for any of the reasons
13 specified in section ~~12-6-120 (1)(d)(HH)~~ 44-20-423 (1)(d)(III). The
14 automatic stay maintains all rights under the franchise agreement until the
15 final determination of the issues raised in the verified complaint. The
16 manufacturer, distributor, or manufacturer representative shall not name
17 a replacement motor vehicle dealer for the market or location until a final
18 order is entered.

19 (3) If a verified complaint is filed with the executive director, the
20 executive director shall refer the complaint to an administrative law judge
21 with the office of administrative courts for final agency action.

22 (4) In resolving a termination complaint, the manufacturer,
23 distributor, or manufacturer representative has the burden of proving any
24 claim made that the factors listed in section ~~12-6-523 (1)(d)(H)~~ 44-20-423
25 (1)(d)(II) apply to the termination, cancellation, or nonrenewal.

26 (5) The prevailing party in a claim that a termination, cancellation,
27 or nonrenewal violates section ~~12-6-523 (1)(d) or (1)(v)~~ 44-20-423 (1)(d)

1 OR (1)(v) is entitled to recover attorney fees and costs, including expert
2 witness fees, incurred in the termination protest.

3 **44-20-439. [Formerly 12-6-538] Stop-sale directives - used**
4 **powersports vehicles - definitions.** (1) As used in this section, unless
5 the context otherwise requires:

6 (a) "Average trade-in value" means the value of a used
7 powersports vehicle as established by a generally accepted, published,
8 third-party used vehicle resource.

9 (b) "Stop-sale directive" means an unconditional directive from
10 a manufacturer or distributor to a powersports vehicle dealer to stop
11 selling a type of powersports vehicle manufactured by the manufacturer
12 or distributed by the distributor because of a safety defect.

13 (2) The manufacturer or distributor shall reimburse a powersports
14 vehicle dealer in accordance with subsection (3) of this section if:

15 (a) The manufacturer or distributor issues a stop-sale directive for
16 a powersports vehicle manufactured or distributed by the issuer of the
17 stop-sale directive;

18 (b) The powersports vehicle dealer holds an active sales, service,
19 and parts agreement with the manufacturer or distributor for the
20 line-make of the used powersports vehicle covered by the stop-sale
21 directive;

22 (c) The used powersports vehicle covered by the stop-sale
23 directive is held in the inventory of the powersports vehicle dealer on the
24 date the stop-sale directive is issued or taken by the dealer as a trade-in
25 vehicle on a consumer purchase of the same line-make; and

26 (d) The manufacturer or distributor has not provided a remedy
27 procedure or made parts available to repair the used powersports vehicle

1 for more than thirty days after the stop-sale directive was issued.

2 (3) If the conditions in subsection (2) of this section are met, the
3 manufacturer or distributor shall, upon application by the powersports
4 vehicle dealer, pay or credit the dealer one and one-half percent per
5 month of the average trade-in value of each used powersports vehicle's
6 model affected by the stop-sale directive prorated from thirty days after
7 the stop-sale directive was issued to the earlier of:

8 (a) The date when the manufacturer or distributor provides the
9 powersports vehicle dealer with a remedy procedure and any necessary
10 parts for ordering to repair the used powersports vehicle; or

11 (b) The date the powersports vehicle dealer transfers the
12 powersports vehicle.

13 (4) A manufacturer or distributor may determine the reasonable
14 manner and method required for a powersports vehicle dealer to
15 demonstrate the inventory status of a used powersports vehicle to
16 determine eligibility for reimbursement.

17 (5) (a) This section applies only to used powersports vehicles.

18 (b) This section is not intended to prevent a manufacturer or
19 distributor from requiring that a powersports vehicle not be subject to an
20 open recall or stop-sale directive as a condition for the powersports
21 vehicle to be qualified or sold as a certified preowned vehicle or
22 substantially similar designation.

23 (c) This section does not require a manufacturer or distributor to
24 provide total compensation to a powersports vehicle dealer that would
25 exceed the total average trade-in valuation of the affected used
26 powersports vehicle.

27 (d) This section does not preclude a powersports vehicle dealer

1 and a manufacturer or distributor from agreeing to reimbursement terms
2 that differ from those specified in this section.

3 (e) Compensation provided to a powersports vehicle dealer under
4 this section is exclusive and may not be combined with any other remedy
5 under state or federal law.

6 **44-20-440. [Formerly 12-6-539] Repeal of part.** This ~~part 5~~
7 PART 4 is repealed, effective September 1, 2027. Before its repeal, this
8 ~~part 5~~ PART 4 is scheduled for review in accordance with section
9 24-34-104.

10 **SECTION 3.** In Colorado Revised Statutes, **add with amended**
11 **and relocated provisions** part 24 to article 4 of title 42 as follows:

12 PART 24

13 EVENT DATA RECORDERS

14 **42-4-2401. [Formerly 12-6-401] Definitions.** As used in this ~~part~~
15 ~~4~~ PART 24, unless the context otherwise requires:

16 (1) "Event data" means records of one or more of the following
17 categories of information concerning a motor vehicle, which records are
18 captured by an event data recorder:

- 19 (a) Whether the vehicle's air bag deployed;
- 20 (b) Vehicle speed;
- 21 (c) Vehicle direction;
- 22 (d) Vehicle location;
- 23 (e) Vehicle steering performance or use;
- 24 (f) Vehicle brake performance or use; or
- 25 (g) Vehicle seatbelt status or use.

26 (2) "Event data recorder" means a device or feature that is
27 installed by the manufacturer of a motor vehicle for the purpose of

1 capturing or transmitting retrievable event data.

2 (3) "Owner" means:

3 (a) A person having all the incidents of ownership of a motor
4 vehicle, including legal title to the motor vehicle, regardless of whether
5 the person lends, rents, or creates a security interest in the vehicle;

6 (b) A person entitled to possession of a motor vehicle as the
7 purchaser under a security agreement; or

8 (c) A person entitled to possession of a vehicle as lessee under a
9 written lease agreement if the lease agreement is intended to last for more
10 than three months at its inception.

11 (4) "Owner's agent" means a natural person authorized by the
12 owner within the last thirty days or the owner's representative as defined
13 by section 13-20-702 (3). ~~C.R.S.~~

14 **42-4-2402. [Formerly 12-6-402] Event data recorders.** (1) A
15 manufacturer of a motor vehicle that is sold or leased in Colorado with an
16 event data recorder shall in bold-faced type disclose, in the owner's
17 manual, that the vehicle is so equipped and, if so, the type of data
18 recorded. A disclosure made by means of an insert into the owner's
19 manual shall be deemed a disclosure in the owner's manual.

20 (2) Event data that is recorded on an event data recorder is the
21 personal information of the motor vehicle's owner, and therefore, ~~such~~
22 THE information shall not be retrieved by a person who is not the owner
23 of the motor vehicle, except in the following circumstances:

24 (a) The owner of the motor vehicle or the owner's agent has
25 consented to the retrieval of the data within the last thirty days;

26 (b) The data is retrieved by a motor vehicle dealer or by an
27 automotive technician to diagnose, service, or repair the motor vehicle at

1 the request of the owner or the owner's agent;

2 (c) The data is subject to discovery pursuant to the rules of civil
3 procedure in a claim arising out of a motor vehicle accident;

4 (d) A court or administrative agency having jurisdiction orders the
5 data to be retrieved;

6 (e) The event data recorder is installed after the manufacturer or
7 motor vehicle dealer sells the motor vehicle; or

8 (f) A peace officer retrieves the data pursuant to a court order as
9 part of an investigation of a suspected violation of a law that has caused,
10 or contributed to the cause of, an accident resulting in damage of property
11 or injury to a person.

12 (3) (a) No person shall release event data unless authorized by
13 ~~paragraph (b) of this subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION.

14 (b) A person authorized to download or retrieve data from an
15 event data recorder may release ~~such~~ THE data in the following
16 circumstances:

17 (I) The owner of the motor vehicle or the owner's agent has
18 consented to the release of the data within the last thirty days;

19 (II) The data is subject to discovery pursuant to the rules of civil
20 procedure in a claim arising out of a motor vehicle accident;

21 (III) The data is released pursuant to a court order as part of an
22 investigation of a suspected violation of a law that has caused, or
23 contributed to the cause of, an accident resulting in appreciable damage
24 of property or injury to a person;

25 (IV) If the identity of the owner or driver is not disclosed, the data
26 is released to a motor vehicle safety and medical research entity in order
27 to advance motor vehicle safety, security, or traffic management; or

1 (V) The data is released to a data processor solely for the purposes
2 permitted by this section if the identity of the owner or driver is not
3 disclosed.

4 (4) (a) If a motor vehicle is equipped with an event data recorder
5 that is capable of recording or transmitting event data that is part of a
6 subscription service, the fact that the data may be recorded or transmitted
7 and instructions for discontinuing the subscription service or for disabling
8 the event data recorder by a trained service technician shall be
9 prominently disclosed in the subscription service agreement. A disclosure
10 made by means of an insert into the service agreement shall be deemed
11 a disclosure in the service agreement.

12 (b) Subsections (2) and (3) of this section shall not apply to
13 subscription services meeting the requirements of ~~paragraph (a) of this~~
14 ~~subsection (4)~~ SUBSECTION (4)(a) OF THIS SECTION.

15 (5) A person who violates subsection (2) or (3) of this section
16 commits a class 1 misdemeanor and shall be punished as provided in
17 section 18-1.3-501. ~~C.R.S.~~

18 **42-4-2403. [Formerly 12-6-403] Applicability.** This ~~part 4~~ shall
19 ~~apply~~ PART 24 APPLIES to motor vehicles manufactured on or after May
20 1, 2007.

21 **SECTION 4. Repeal of relocated provisions in this act.** In
22 Colorado Revised Statutes, **repeal** article 6 of title 12.

23 **SECTION 5.** In Colorado Revised Statutes, 6-1-102, **amend** (5.5)
24 as follows:

25 **6-1-102. Definitions.** As used in this article 1, unless the context
26 otherwise requires:

27 (5.5) "Motor vehicle" has the same meaning as set forth in section

1 ~~12-6-102~~ 44-20-102.

2 **SECTION 6.** In Colorado Revised Statutes, 11-35-101, **amend**
3 (1) as follows:

4 **11-35-101. Alternatives to surety bonds permitted -**
5 **requirements - definition.** (1) The requirement of a surety bond as a
6 condition to licensure or authority to conduct business or perform duties
7 in this state provided in sections 5-16-124 (1), 6-16-104.6, ~~12-6-111,~~
8 ~~12-6-112, 12-6-112.2, 12-6-512, 12-6-513,~~ 12-61-907, 23-64-121 (1),
9 33-4-101 (1), 33-12-104 (1), 35-55-104 (1), 37-91-107 (2) and (3),
10 38-29-119 (2), 39-21-105, 39-27-104 (2)(a), (2)(b), (2)(c), (2)(d), (2)(e),
11 (2.1)(a), (2.1)(b), (2.1)(c), (2.5)(a), and (2.5)(b), 39-28-105 (1), 42-6-115
12 (3), ~~and~~ 42-7-301 (6), 44-20-112, 44-20-113, 44-20-114, 44-20-412, AND
13 44-20-413 may be satisfied by a savings account or deposit in or a
14 certificate of deposit issued by a state or national bank doing business in
15 this state or by a savings account or deposit in or a certificate of deposit
16 issued by a state or federal savings and loan association doing business
17 in this state. The savings account, deposit, or certificate of deposit must
18 be in the amount specified by statute, if any, and must be assigned to the
19 appropriate state agency for the use of the people of the state of Colorado.
20 The aggregate liability of the bank or savings and loan association must
21 in no event exceed the amount of the deposit. For the purposes of the
22 sections referred to in this section, "bond" includes the savings account,
23 deposit, or certificate of deposit authorized by this section.

24 **SECTION 7.** In Colorado Revised Statutes, **amend** 16-2.5-121
25 as follows:

26 **16-2.5-121. Executive director of the department of revenue**
27 **- senior director of enforcement for the department of revenue.** The

1 executive director and the senior director of enforcement of the
2 department of revenue are peace officers while engaged in the
3 performance of their duties whose authority includes the enforcement of
4 laws and rules regarding automobile dealers pursuant to section ~~12-6-105~~
5 ~~(3)~~ 44-20-105 (3), the lottery pursuant to sections 24-35-205 (3) and
6 24-35-206 (7), medical marijuana pursuant to article 43.3 of title 12,
7 limited gaming pursuant to section 12-47.1-204, liquor pursuant to
8 section 12-47-904 (1), and racing events pursuant to section 12-60-203
9 (1), and the enforcement of all laws of the state of Colorado and who may
10 be certified by the P.O.S.T. board.

11 **SECTION 8.** In Colorado Revised Statutes, **amend** 16-2.5-122
12 as follows:

13 **16-2.5-122. Auto industry investigator.** The director of the auto
14 industry division or an auto industry investigator is a peace officer while
15 engaged in the performance of his or her duties whose authority is limited
16 to the enforcement of section ~~12-6-105~~ ~~(3)~~ 44-20-105 (3).

17 **SECTION 9.** In Colorado Revised Statutes, 24-1-117, **amend**
18 (4)(a)(X) as follows:

19 **24-1-117. Department of revenue - creation.** (4) (a) The
20 department of revenue shall consist of the following divisions:

21 (X) The auto industry division created in section ~~12-6-105~~
22 44-20-105. The division shall exercise its powers and perform its duties
23 and functions under the department of revenue as if the division were
24 transferred to the department by a **type 2** transfer as described in section
25 24-1-105.

26 **SECTION 10.** In Colorado Revised Statutes, 24-34-104, **amend**
27 (28)(a)(I) as follows:

1 **24-34-104. General assembly review of regulatory agencies**
2 **and functions for repeal, continuation, or reestablishment - legislative**
3 **declaration - repeal.** (28) (a) The following agencies, functions, or both,
4 are scheduled for repeal on September 1, 2027:

5 (I) The regulation of motor vehicle and powersports vehicle sales
6 by the motor vehicle dealer board and the director of the auto industry
7 division, under the supervision of the executive director of the department
8 of revenue, in accordance with parts 1, 2, 3, and 5 of ~~article 6 of title 12~~
9 4 OF ARTICLE 20 OF TITLE 44.

10 **SECTION 11.** In Colorado Revised Statutes, 24-35-101, **amend**
11 (1)(c) as follows:

12 **24-35-101. Functions of department of revenue - creation.**

13 (1) There is hereby created the department of revenue, the functions of
14 which are the collection of the following:

15 (c) Taxes levied and the license fees imposed by the provisions of
16 part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44, title 42, and part 2
17 of article 5 of title 43, and the administration and enforcement of ~~said~~
18 THESE provisions;

19 **SECTION 12.** In Colorado Revised Statutes, 38-20-116, **amend**
20 (2.5)(d)(II) as follows:

21 **38-20-116. Abandoned property - notice of sale - definitions.**

22 (2.5) (d) (II) Nothing in this subsection (2.5)(d) requires a repair shop to
23 be a licensed dealer pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20
24 OF TITLE 44 for purposes of selling a motor vehicle pursuant to this
25 section.

26 **SECTION 13.** In Colorado Revised Statutes, 39-26-113, **amend**
27 (6)(b) and (7)(b) as follows:

1 **39-26-113. Collection of sales tax - motor vehicles -**
2 **off-highway vehicles - exemption - process for motor vehicles sold at**
3 **auction - exception - definition.** (6) (b) For purposes of this subsection
4 (6), "seller-financed sale" means a retail sale of a motor or off-highway
5 vehicle by a seller licensed under ~~article 6 of title 12, C.R.S.~~, ARTICLE 20
6 OF TITLE 44 in which the seller, or a wholly-owned affiliate or subsidiary
7 of the seller, collects all or part of the total consideration paid for the
8 vehicle in periodic payments and retains a lien on the vehicle until all
9 payments have been received. Except as otherwise provided in this
10 ~~paragraph (b)~~ SUBSECTION (6)(b), "seller-financed sale" does not include
11 a retail sale of a vehicle in which a person other than the seller provides
12 the consideration for the sale and retains a lien on the vehicle until all
13 payments have been made.

14 (7) (b) The method of sales tax collection specified by ~~paragraph~~
15 ~~(a) of this subsection (7)~~ SUBSECTION (7)(a) OF THIS SECTION does not
16 apply to the sale of a motor vehicle at auction sale if the auctioneer is also
17 an automobile dealer licensed under part 1 of ~~article 6 of title 12, C.R.S.~~
18 ARTICLE 20 OF TITLE 44.

19 **SECTION 14.** In Colorado Revised Statutes, 39-26-713, **amend**
20 (2)(b)(II) introductory portion as follows:

21 **39-26-713. Tangible personal property.** (2) The following are
22 exempt from taxation under part 2 of this article 26:

23 (b) (II) For purposes of this subsection (2)(b), any motor vehicle
24 purchased and held for resale in this state by a licensed motor vehicle
25 dealer, as defined in section ~~12-6-102~~ 44-20-102, who meets the
26 eligibility requirements to receive a full-use dealer plate set forth in
27 section 42-3-116 (6)(a)(I) shall be considered to be in the regular course

1 of business and shall not be subject to taxation under part 2 of this article
2 26. A motor vehicle shall be considered to be purchased and held for
3 resale if:

4 **SECTION 15.** In Colorado Revised Statutes, 42-3-115, **amend**
5 (2)(b)(III)(A) as follows:

6 **42-3-115. Registration upon transfer.** (2) (b) A transferee may
7 operate a motor vehicle on the highway before registering it if:

8 (III) (A) The transferee has purchased the motor vehicle within
9 the last thirty-six hours from a person who is not a motor vehicle dealer
10 under part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44;

11 **SECTION 16.** In Colorado Revised Statutes, 42-3-116, **amend**
12 (6)(e) as follows:

13 **42-3-116. Manufacturers or dealers.** (6) (e) As used in this
14 subsection (6), "motor vehicle dealer or wholesaler" includes motor
15 vehicle dealers, used motor vehicle dealers, and wholesalers as those
16 terms are defined in section ~~12-6-102~~ 44-20-102.

17 **SECTION 17.** In Colorado Revised Statutes, 42-4-304, **amend**
18 (19)(b)(I) as follows:

19 **42-4-304. Definitions relating to motor vehicle inspection and**
20 **readjustment program.** As used in sections 42-4-301 to 42-4-316,
21 unless the context otherwise requires:

22 (19) (b) (I) Inspections conducted pursuant to section 42-4-309 (3)
23 by a motor vehicle dealer test facility shall only be conducted on used
24 motor vehicles inventoried or consigned in this state for retail sale by a
25 motor vehicle dealer that is licensed pursuant to part 1 of ~~article 6 of title~~
26 ~~12~~ ARTICLE 20 OF TITLE 44 and that is a member of the state trade
27 association operating the motor vehicle dealer test facility.

1 **SECTION 18.** In Colorado Revised Statutes, 42-4-309, **amend**
2 (3)(a), (3)(b), (3)(d), and (6)(a) as follows:

3 **42-4-309. Vehicle fleet owners - motor vehicle dealers -**
4 **authority to conduct inspections - fleet inspection stations - motor**
5 **vehicle dealer test facilities - contracts with licensed inspection-only**
6 **entities.** (3) (a) Any person licensed as a motor vehicle dealer pursuant
7 to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 in whose name
8 twenty or more motor vehicles are registered or inventoried or consigned
9 for retail sale in this state that are required to be inspected shall comply
10 with the requirements of section 42-4-310 for the issuance of a certificate
11 of emissions compliance at the time of the retail sale of ~~any such~~ THE
12 vehicle.

13 (b) Within the enhanced emissions program, motor vehicle dealers
14 licensed pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44
15 may contract for used motor vehicle inspection services by a licensed
16 motor vehicle dealer test facility. Pursuant to rules of the commission,
17 inspection procedures shall include a loaded mode transient dynamometer
18 test cycle in combination with appropriate idle short tests pursuant to
19 rules of the commission.

20 (d) Within the basic emissions program, any person licensed as a
21 motor vehicle dealer pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20
22 OF TITLE 44 may be licensed to conduct inspections pursuant to
23 subsections (1) and (2) of this section.

24 (6) (a) On and after June 1, 1996, a motor vehicle dealer or a used
25 motor vehicle dealer licensed pursuant to part 1 of ~~article 6 of title 12~~
26 ARTICLE 20 OF TITLE 44 that sells any vehicle subject to the enhanced
27 emissions program may comply with sections 42-4-304 (3)(d) and

1 42-4-310 by providing the consumer of the vehicle a voucher purchased
2 by the dealer from the contractor for the centralized enhanced emissions
3 program, with or without charge to the consumer, up to the maximum
4 amount charged for an emissions inspection at an enhanced inspection
5 center. The voucher shall cover the cost of an emissions inspection of the
6 vehicle at an enhanced inspection center and shall entitle the consumer to
7 such an emissions inspection.

8 **SECTION 19.** In Colorado Revised Statutes, 42-4-310, **amend**
9 (1)(a)(I) as follows:

10 **42-4-310. Periodic emissions control inspection required.**

11 (1) (a) (I) Subject to subsection (4) of this section, a motor vehicle that
12 is required to be registered in the program area shall not be sold,
13 registered for the first time without a certification of emissions
14 compliance, or reregistered unless ~~such~~ THE vehicle has passed a clean
15 screen test or has a valid certification of emissions control as required by
16 the appropriate county. The provisions of this subsection (1)(a) do not
17 apply to motor vehicle transactions at wholesale between motor vehicle
18 dealers licensed pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF
19 TITLE 44. An inspection is not required prior to the sale of a motor vehicle
20 with at least twelve months remaining before the vehicle's certification of
21 emissions compliance expires if ~~such~~ THE certification was issued when
22 the vehicle was new.

23 **SECTION 20.** In Colorado Revised Statutes, 42-4-1805, **amend**
24 (4)(b) as follows:

25 **42-4-1805. Appraisal of abandoned motor vehicles - sale.**

26 (4) (b) Nothing in this section requires an operator to be licensed
27 pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF TITLE 44 for

1 purposes of conducting activities under this part 18.

2 **SECTION 21.** In Colorado Revised Statutes, 42-4-2104, **amend**

3 (1)(b) as follows:

4 **42-4-2104. Appraisal of abandoned motor vehicles - sale.**

5 (1) (b) Nothing in this section requires that an operator must be a
6 licensed dealer pursuant to part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF
7 TITLE 44 for purposes of selling a motor vehicle pursuant to this part 21.

8 **SECTION 22.** In Colorado Revised Statutes, 42-4-2201, **amend**

9 (2) as follows:

10 **42-4-2201. Definitions.** As used in this part 22, unless the context
11 otherwise requires:

12 (2) "Licensed motor vehicle dealer" means a motor vehicle dealer
13 that is licensed pursuant to part 1 of ~~article 6 of title 12, C.R.S.~~ ARTICLE
14 20 OF TITLE 44.

15 **SECTION 23.** In Colorado Revised Statutes, 42-5-105, **amend**

16 (1)(b)(IV) as follows:

17 **42-5-105. Daily record.** (1) (b) The record shall be kept in a
18 good businesslike manner in the form of invoices or in a book by the
19 dealer or proprietor and shall contain the following:

20 (IV) The name, address, and a copy of the identification document
21 of the driver and the owner of a motor vehicle received for any purpose;
22 except that a licensed motor vehicle dealer or used motor vehicle dealer
23 is not required to obtain or retain a copy of an identification document if
24 ~~such~~ THE dealer complies with part 1 of ~~article 6 of title 12~~ ARTICLE 20 OF
25 TITLE 44;

26 **SECTION 24.** In Colorado Revised Statutes, 42-6-102, **amend**

27 (11.7) introductory portion as follows:

1 **42-6-102. Definitions.** As used in this part 1, unless the context
2 otherwise requires:

3 (11.7) "Off-highway vehicle dealer" means both of the following
4 as defined in section ~~42-6-502~~, C.R.S. 44-20-402:

5 **SECTION 25.** In Colorado Revised Statutes, 42-6-201, **amend**
6 (9) as follows:

7 **42-6-201. Definitions.** As used in this part 2, unless the context
8 otherwise requires:

9 (9) "Used motor vehicle dealer" means any licensed motor vehicle
10 dealer, used motor vehicle dealer, or wholesaler as defined by section
11 ~~42-6-102~~ 44-20-102.

12 **SECTION 26.** In Colorado Revised Statutes, 42-11-101, **amend**
13 (2) as follows:

14 **42-11-101. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (2) "Motor vehicle" means any vehicle subject to registration
17 under section 42-1-102 (58) or any powersports vehicle as defined in
18 section ~~42-6-502 (10)~~, C.R.S. 44-20-402 (11).

19 **SECTION 27. Act subject to petition - effective date.** This act
20 takes effect October 1, 2018; except that, if a referendum petition is filed
21 pursuant to section 1 (3) of article V of the state constitution against this
22 act or an item, section, or part of this act within the ninety-day period
23 after final adjournment of the general assembly, then the act, item,
24 section, or part will not take effect unless approved by the people at the
25 general election to be held in November 2018 and, in such case, will take
26 effect on the date of the official declaration of the vote thereon by the
27 governor.