

Approved: 3/22/94  
Date

## MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Chairperson Ben Vidricksen at 9:00 a.m. on March 18, 1994 in Room 254-E of the Capitol.

All members were present except:  
Senator Emert - Excused

Committee staff present: Hank Avila, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Martha Ozias, Committee Secretary

Conferees appearing before the committee:  
Tom Day - KCC  
Rick Davis - Kansas Motorcycle Industry Council

Others attending: See attached list

### **HB 2664 -Providing for educational institutions license plates**

The Revisor distributed a balloon version of the bill and explained the changes. Each educational institution's alumni association shall provide a list of all new approved applicants to the Director of Vehicles by August 31, 1995. Funds needed to hire two extra people to handle this project were included in the amendments as well as the requirements that each educational institution's alumni association shall pay the initial cost of silk-screening and provide a toll-free telephone number to all county treasurers where applicable. (Attachment 1)

Senator Tiahrt made a motion to accept the amendments. Senator Papay seconded this. Motion carried.

Senator Jones presented an amendment to allow vehicles registered under this section which are used for utility purposes to be issued license plates for periods of five years. (Attachment 2) Senator Burke seconded the amendment. Motion carried.

Senator Jones then made a motion to recommend **HB 2664** favorably as amended. Senator Tiahrt seconded this. Motion carried.

### **HB 2715 - Public utilities and common carriers**

Tom Day presented three possible options for amending this bill. (Attachment 3) Senator Burke made a motion to accept option A which would strike the language "per day for each day the required report is delinquent", on page 2, line 4. Senator Papay seconded this. Motion carried.

A motion was then made by Senator Tiahrt to recommend **HB 2715** favorably for passage as amended. A second was made by Senator Papay. Motion carried.

### **HB 2814 - Concerning the allocation of special city and county highway**

No action was taken on this bill.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES, Room 254E-Statehouse, at 9:00 a.m. on March 18, 1994.

### **HB 2850 - Concerning certain lighting equipment requirements on trailers**

This bill would require all trailers and semitrailers under 80 inches in overall width, excluding boat trailers and house trailers which are required to obtain special permits, to be equipped with two reflectors on each side, one at, or near, the front and the other at, or near the rear.

An amendment was presented by the Highway Patrol to make it unlawful for any person to operate a vehicle with a single tire on any hubs configured for a dual tire assembly. (Attachment 4)

An amendment was made by Senator Burke and seconded by Senator Jones to accept this amendment. Motion carried.

An amendment was made by Senator Tiahrt to include the helmet law provision for the mandatory use of helmets when riding a motorcycle. This was seconded by Senator Papay. Motion carried.

Senator Papay then made a motion to recommend **SB 2850** as favorable for passage as amended. This was seconded by Senator Harris. Motion carried.

### **HB 2974 - Amending the vehicle dealers and manufacturers licensing act**

Rick Davis appeared before the Committee asking for an amendment to this bill that would remove the statutory exception excluding motorcycle manufacturers from appointing same brand dealers within a 10-15 mile radius from an existing same brand dealer. (Attachment 5)

The staff distributed a balloon version of the bill and explained what the amendments would do. (Attachment 6)

After some discussion a motion was made by Senator Rock to accept the amendments. This was seconded by Senator Tiahrt.

Senator Burke offered a substitute motion to re-insert Sub Section I of this bill. A second was made by Senator Harris. Motion carried.

A motion was then made by Senator Burke and seconded by Senator Papay to recommend the bill favorably as amended. Motion carried.

### **HCR 5029 - Opposing the metric system**

A motion was made by Senator Jones to pass this bill out of committee. Senator Papay seconded this. Motion carried.

A motion was made by Senator Tiahrt and seconded by Senator Papay to approve the minutes of the March 17 meeting. Motion carried.

The meeting was then adjourned by the Chairman.

The next meeting is scheduled for March 21, 1994.

GUEST LIST

## SENATE TRANSPORTATION COMMITTEE

DATE: MARCH 18, 1994

[illegible]

## HOUSE BILL No. 2664

By Representatives Rezac, Adkins, Alldritt, Garner, Glasscock,  
Larkin, Lynch, McKechnie, Reinhardt, Ruff, Sawyer and Shore

1-19

10 AN ACT relating to motor vehicles; providing for educational insti-  
11 tution license plates.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) As used in this section, "educational institution"  
15 means any:

16 (1) State educational institution under the control and supervision  
17 of the state board of regents;

18 (2) qualified institution as defined in K.S.A. 72-6107, and amend-  
19 ments thereto; and

20 (3) community college organized and operating under the laws  
21 of this state.

22 (b) Any owner of one or more passenger vehicles or trucks reg-  
23 istered for a gross weight of not more than 12,000 pounds who is  
24 a resident of Kansas, upon compliance with the provisions of this  
25 section, may be issued one educational institution license plate for  
26 each such passenger vehicle or truck. Such license plates shall be  
27 issued for the same period of time as other license plates upon proper  
28 registration and payment of the regular license fee as provided in  
29 K.S.A. 8-143, and amendments thereto, plus the payment of an  
30 additional fee of \$5 per [the personalized license plate fee pre-  
31 scribed by subsection (c) of K.S.A. 8-132, and amendments thereto,  
32 for each plate, and the presentation of the annual emblem use  
33 authorization statement provided for in subsection (c).

34 (c) Any educational institution may authorize through its officially  
35 recognized alumni association or foundation the use of such insti-  
36 tution's official emblem emblems to be affixed on license plates as  
37 provided by this section. Any contribution royalty payment to such  
38 institution alumni association or foundation derived from this sec-  
39 tion, except reasonable administrative costs, shall be used for schol-  
40 arship endowment or other academically related purposes rec-  
41 ognition of academic achievement or excellence. Any motor vehicle  
42 owner may annually apply to the educational institution alumni  
association or foundation for the use of the institution's emblem

[an additional fee of \$5

[subject to the approval of the chancellor or  
president of the educational institution

ATTACHMENT

SEN. TRAVIS. 3/18/94

1 emblems. Upon annual application and payment to the educational  
 2 institution of a \$25 alumni association or foundation in an amount  
 3 of not less than \$25 nor more than \$100 as an emblem use con-  
 4 tribution royalty payment for each educational institution license  
 5 plate to be issued, the institution alumni association or foundation  
 6 shall issue to the motor vehicle owner, without further charge, an  
 7 emblem use authorization statement, which shall be presented by  
 8 the motor vehicle owner at the time of registration.

9 (d) ~~[Any vehicle owner may make application for such educational~~  
 10 ~~institution license plates, not less than 60 days prior to such owner's~~  
 11 ~~renewal of registration date, on a form furnished by the director of~~  
 12 ~~vehicles. Application for the registration of passenger vehicles or~~  
 13 ~~trucks and issuance of the educational institution license plates under~~  
 14 ~~this section shall be made by the owners in a manner prescribed~~  
 15 ~~by the director of vehicles upon forms furnished by the director.]~~

16 (e) No registration or educational institution license plate issued  
 17 under this section shall be transferable to any other person.

18 (f) Renewals of registration under this section shall be made an-  
 19 nually, upon payment of the fee prescribed in subsection (b), in the  
 20 manner prescribed in subsection (b) of K.S.A. 8-132, and amend-  
 21 ments thereto. No renewal of registration shall be made to any  
 22 applicant until such applicant provides the annual emblem use au-  
 23 thorization statement provided for in subsection (c). If such emblem  
 24 use authorization statement is not presented at the time of regis-  
 25 tration, the applicant shall be required to comply with K.S.A. 8-  
 26 143, and amendments thereto, and return the educational institution  
 27 license plates to the county treasurer of such person's residence.

28 (g) The director of vehicles shall not issue any educational in-  
 29 stitution license plates for any educational institution, unless such  
 30 educational institution's alumni association or foundation  
 31 guarantees the initial issuance of at least 500 license plates.

32 ~~(4h)~~ Each educational institution's alumni association  
 33 or foundation, with the approval of the director of vehicles and  
 34 subject to the availability of materials and equipment, shall design  
 35 a license plate to be issued under the provisions of this section.

36 Sec. 2. This act shall take effect and be in force from and after  
 37 January 1, 1995, and its publication in the statute book.

Each educational institution's alumni association or foundation shall provide a list of all new approved applicants and total number of educational license plates to be issued to the director by August 31, 1995, and by June 30 of each calendar year thereafter. All new educational license plates shall be issued for the following calendar year following the receipt of the list of new approved applicants by the director.

1,000

(h) Each educational institution's alumni association or foundation shall:

(1) Pay the initial cost of silk-screening for such educational license plates; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the alumni association or foundation for information concerning the application process or the status of their license plate application.

(i)

1.2



Sec. 1. K.S.A. 8-1,134 is hereby amended to read as follows:  
8-1,134. (a) Except as provided in subsection (d), each motor vehicle, trailer or semitrailer owned by any city, county or township of this state or by any agency or instrumentality of any such city, county or township and used exclusively for governmental purposes and not for any private ~~or--utility~~ purposes, which is not otherwise exempt from registration, shall be registered for a fee established by rules and regulations adopted by the secretary of revenue, except that such fee shall not exceed the actual cost of such registration. Such registration shall be permanent in nature and designed in such a manner as to remain with a vehicle for the duration of the life span of the vehicle or until the title is transferred to an owner who is not a city, county or township.

(b) License plates issued for city , county or township vehicles shall be distinctive and shall contain the words city, county and township and there shall be no year date thereon.

(c) Each city, county or township shall file an annual report with the division of vehicles identifying such vehicle registered under this section.

(d) Vehicles registered under this section which are used for utility purposes shall be issued license plates as prescribed by subsection (b), except that such license plates shall be issued for periods of five years, but shall be required to pay all license fees imposed pursuant to K.S.A. 8-143, and amendments thereto, as though such vehicles are registered annually. The secretary of revenue shall design decals to be affixed to such license plates containing the word utility and the date the registration is to expire.

~~(d)~~ (e) The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act.

January 1, 1995 -- effective date

## HOUSE BILL No. 2715

By Committee on Energy and Natural Resources

1-21

AN ACT concerning certain public utilities and common carriers;  
providing penalties for failure to make certain filings; amending  
K.S.A. 66-123 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 66-123 is hereby amended to read as follows:  
66-123. Every public utility and common carrier governed by the  
provisions of this act when, and as required by the corporation  
commission, shall file with the corporation commission an annual  
report and such monthly or other regular reports, or special reports,  
and such other information as the corporation commission may re-  
quire. The forms of such report shall follow as nearly as possible  
the forms prescribed by the interstate commerce commission. When  
required by the corporation commission such reports and information  
shall be certified under oath by a duly authorized officer having  
knowledge of the matters therein contained. The corporation com-  
mission may at any time require from any public utility or common  
carrier specific answers to any questions upon which it may desire  
information in connection with matters pending before them.

The corporation commission may, in its discretion, grant extensions  
of the time within which reports and information are required to be  
filed. ~~Annual reports, however, shall be filed within two months  
after the close of the fiscal year as fixed by the corporation  
commission, and any extensions of such period shall not exceed  
in the aggregate sixty days~~ *statements outlining gross intrastate  
operating revenues shall be filed on or before February 28 for  
the preceding calendar year.* Annual reports shall be filed on or  
before ~~April 30~~ May 1 for the preceding calendar year unless oth-  
erwise specified by commission order or rule and regulation. The  
forms of reports of the common carriers and the public utilities which  
report to the interstate commerce commission shall, as nearly as  
possible, follow the form prescribed by the interstate commerce  
commission.

*Any public utility or common carrier governed by this act which  
fails, neglects or refuses to file with the corporation commission any*

except motor carriers as defined in K.S.A. 66-196 et seq., and  
amendments thereto.

ATTACHMENT 3

SEU. TRAVS. 3/18/94

3-1

HB 2715—Am.

2

1 *annual reports, statements, monthly or regular reports or special*  
2 *reports required by the commission pursuant to statute or rules and*  
3 *regulations shall be subject to a civil penalty of not less more than*  
4 *\$500 per day for each day the required report is delinquent.*

[ STRIKE "per day for each day the required report is delinquent"

5 Sec. 2. K.S.A. 66-123 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after  
7 its publication in the statute book.



1 annual reports, statements, monthly or regular reports or special  
2 reports required by the commission pursuant to statute or rules and  
3 regulations shall be subject to a civil penalty of not ~~less~~ more than  
4 ~~\$500 per day for each day the required report is delinquent.~~

5 Sec. 2. K.S.A. 66-123 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after  
7 its publication in the statute book.

10 percent of the total annual assessment, pursuant to K.S.A. 66-1503, and amendments thereto

HB 2715—Am.

2

1 *annual reports, statements, monthly or regular reports or special*  
2 *reports required by the commission pursuant to statute or rules and*  
3 *regulations shall be subject to a civil penalty of not less more than*  
4 *~~\$500~~ per day for each day the required report is delinquent.*

5 Sec. 2. K.S.A. 66-123 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after  
7 its publication in the statute book.

10 percent of the total annual assessment, pursuant to K.S.A. 66-1503, and amendments thereto

Sec. 3. K.S.A. 1993 Supp. 8-1742 is hereby amended to read as follows: 8-1742. (a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall have on its periphery any protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use:

(1) Farm machinery with tires having protuberances which will not injure the highway;

(2) tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid;

(3) studded traction equipment upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid; or

(4) pneumatic tires having metallic or nonmetallic studs designed to improve traction without materially injuring the surface of the highway. To qualify under paragraph (3) or (4), such tires or studded traction equipment shall be approved by the secretary of transportation by adoption of rules and regulations, and their use may be limited to certain months or types of vehicles by such rules and regulations.

(d) The secretary of transportation and local authorities in their respective jurisdictions may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this section.

(e) It is unlawful for any person to operate a motor vehicle or combination of vehicles having one or more tires in an unsafe

condition. A solid rubber tire is in an unsafe condition if it does not comply with the provisions of subsection (a). A pneumatic tire is in an unsafe condition if it has:

- (1) Any part of the ply or cord exposed;
  - (2) any bump, bulge or separation;
  - (3) a tread design depth of less than 1/16 inch measured in any two or more adjacent tread grooves, exclusive of tie bars, or, for those tires with tread wear indicators worn to the level of the tread wear indicators in any two tread grooves;
  - (4) a marking "not for highway use" or "for racing purposes only" or "unsafe for highway use";
  - (5) tread of sidewall cracks, cuts or snags deep enough to expose the body cord;
  - (6) been regrooved or recut below the original tread design depth, excepting special taxi tires which have extra undertread rubber and are identified as such; or
  - (7) such other conditions as may be reasonably demonstrated to render it unsafe.
- (f) The provisions of subsection (e) shall not apply to a vehicle or combination of vehicles being transported by a wrecker or tow truck, as defined in K.S.A. 66-1329, and amendments thereto.
- (g) It shall be unlawful for any person to operate a vehicle with a single tire on any hubs configured for a dual tire assembly. The provisions of this subsection shall not apply: (1) To any truck registered for a gross weight of 20,000 pounds or less; (2) to any vehicle or combination of vehicles operating with wide-base single tires, as defined in K.S.A. 1993 Supp. 8-1742b, and amendments thereto, on any hubs configured for a dual tire assembly; (3) to any single axle with hubs configured for a dual tire assembly when such single axle does not exceed 9,000 pounds and is a part of a triple-axle combination; or ~~(2)~~ (4) in cases of emergency.



HB2974

KANSAS MOTORCYCLE INDUSTRY COUNCIL

(KMIC)

RICK DAVIS - VICE PRESIDENT

PROPONENT FOR THE AMENDMENT

My name is Rick Davis. I am the Vice President of the KMIC, which represents all the motorcycle dealers in the State of Kansas. I am not a lobbyist, but because I live here and I have a motorcycle dealership in Topeka, the membership looks to me when necessary.

I ask you today for a yes vote amending HB2974 that removes the statutory exception excluding motorcycle manufactures from appointing same brand dealers within 10 / 15 miles from an existing same brand dealer, and / or we would like to be part of and parallel to KSA - 82430 (i) that explicitly excludes motorcycles from that statue.

The motorcycle manufacturers lobbied for the exclusion in 1991 and we motorcycle dealers were not aware of the bill.

Now we ask you to give the motorcycle dealers the same consideration and protection that you obviously saw the wisdom to grant the auto dealers last year.

In fact we feel that the motorcycle dealers should have even greater protection because we do not have the volume that the auto dealers have. Yet we have exactly the same problems and benefits, just lower volume.

I do not know what the ratio is from new car sales to new motorcycle sales are, but it certainly has to be in the hundreds if not thousands to one.

No, we do not have investments of millions of dollars, but we each have investments of hundreds of thousands of dollars. New motorcycles cost from a low of \$1100 to a high of \$16,200.

An automobile is a necessary thing to own. A motorcycle is the least high ticket item I can think of that is necessary to own, and in that light we feel our protection should actually be wider.

However in the interest of expediency we ask that you approve this amendment as it now stands.

# HOUSE BILL No. 2974

By Committee on Transportation

2-7

8 AN ACT amending the vehicle dealers and manufacturers licensing  
9 act; concerning the establishment or relocation of new vehicle  
10 dealers; amending K.S.A. 1993 Supp. 8-2430 and repealing the  
11 existing section

relating to the regulation of vehicle dealers;

K.S.A. 8-2415 and 8-2431 and

8-2401, 8-2404, 8-2410 and

sections

13 *Be it enacted by the Legislature of the State of Kansas:*

See attached sections 1 through 4

14 Section 1. K.S.A. 1993 Supp. 8-2430 is hereby amended to read  
15 as follows: 8-2430. (a) Any licensee, or proposed licensee, who  
16 proposes to establish an additional new vehicle dealer for new motor  
17 vehicles or permit the relocation of an existing new vehicle dealer  
18 in new motor vehicles to a location within the relevant market area  
19 where the same line-make vehicle is already presently represented  
20 by a new vehicle dealer or dealers in new motor vehicles of that  
21 same line-make shall give written notice of its intention by certified  
22 mail to the director of vehicles and shall establish good cause for  
23 adding or relocating the new vehicle dealer. The notice required  
24 hereunder shall state:

Sec. 5.

, including a supplemental place of business  
for new motor vehicles,

25 (1) The specific location at which the additional or relocated new  
26 vehicle dealer in new motor vehicles will be established;

27 (2) the date on or after which the licensee, or proposed licensee,  
28 intends to be engaged in business as a new vehicle dealer in new  
29 motor vehicles at the proposed location;

30 (3) the identity of all new vehicle dealers in new motor vehicles  
31 who are franchised to sell the same line-make vehicle from licensed  
32 locations whose relevant market areas include the location where the  
33 additional or relocated dealer is proposed to be located;

34 (4) the names and addresses of the new vehicle dealer-operator  
35 and principal investors in the proposed new vehicle dealer's business;  
36 and

37 (5) a short and plain statement of the evidence the licensee, or  
38 proposed licensee, intends to rely upon in meeting the burden of  
39 proof for establishing good cause for an additional new vehicle dealer  
40 for new motor vehicles or permit relocation of an existing new vehicle  
41 dealer in new motor vehicles within a relevant market area where  
42 the same line-make of vehicle is presently represented by a new  
43 vehicle dealer.

1 Immediately upon receipt of such notice the director shall cause  
 2 a notice to be published in the Kansas register. The published notice  
 3 shall state that a petition or complaint by any dealer with standing  
 4 to protest pursuant to subsection (c) must be filed with the director  
 5 not more than 30 days from the date of publication of the notice in  
 6 the Kansas register. The published notice shall describe and identify  
 7 the proposed new vehicle dealer and dealership sought to be li-  
 8 censed, and the director shall cause a copy of the notice to be mailed  
 9 to those dealers identified in the notice under paragraph (3) of this  
 10 subsection.

11 (b) (1) An application for a new vehicle dealer license to act as  
 12 a vehicle dealer in new motor vehicles in any ~~community~~ or county  
 13 shall not be granted when the licensee, or proposed licensee, seeking  
 14 to establish an additional new vehicle dealer or relocate an existing  
 15 new vehicle dealer in the same line-make of vehicles fails to comply  
 16 with the requirements of this act, or when:

17 (A) A timely protest is filed by a presently existing new vehicle  
 18 dealer in new motor vehicles with standing to protest as defined in  
 19 subsection (c); and

20 (B) the director has held a hearing and determined that ~~there is~~  
 21 good cause for ~~not~~ permitting the addition or relocation of such new  
 22 vehicle dealer. The burden of proof in establishing good cause to  
 23 permit an additional new vehicle dealer in new motor vehicles or  
 24 to permit the relocation of an existing new vehicle dealer in new  
 25 motor vehicles shall be on the licensee, or proposed licensee, seeking  
 26 to establish or relocate a new vehicle dealer and shall be by a  
 27 preponderance of the evidence presented;

28 (2) in determining whether good cause has been established for  
 29 an additional new vehicle dealer or the relocation of an existing new  
 30 vehicle dealer for the same line-make of vehicle as provided herein,  
 31 the director shall take into consideration the existing circumstances,  
 32 including, but not limited to:

33 (A) Permanency of the investment of both the existing and pro-  
 34 posed new vehicle dealers;

35 (B) growth or decline in population and new car registrations in  
 36 the relevant market area;

37 (C) effect on the consuming public in the relevant market area;

38 (D) whether it is injurious or beneficial to the public welfare for  
 39 an additional new vehicle dealer to be established;

40 (E) whether the new vehicle dealers of the same line-make ve-  
 41 hicles in that relevant market area are providing adequate compe-  
 42 tition and convenient customer care for the vehicles of the line-make  
 43 in the market area which shall include the adequacy of vehicle sales

city

, including a supplemental place of business  
 for new motor vehicles,

has not been established



1 and service facilities, equipment, supply of vehicle parts and qualified  
2 service personnel;

3 (F) whether the establishment of an additional new vehicle dealer  
4 would increase competition and whether such increased competition  
5 would be in the public interest;

6 (G) the effect and denial of relocation will have on a relocating  
7 dealer; and

8 (H) the effect the new vehicle dealer addition or relocation which  
9 is proposed will have on the existing dealer or dealers.

10 The application for a new vehicle dealer license shall not be denied  
11 after the applicant meets the requirements of this section if the  
12 applicant otherwise meets the requirements of the vehicle dealers  
13 and manufacturers licensing act K.S.A. 8-2401, et seq., and amend-  
14 ments thereto.

15 (c) An existing new vehicle dealer in new motor vehicles shall  
16 have standing to protest the proposed addition or relocation of a  
17 new vehicle dealer in new motor vehicles where such existing new  
18 vehicle dealer in new motor vehicles has a franchise agreement for  
19 the same line-make vehicle as that which is to be sold or offered  
20 for sale or transfer by the proposed additional or relocated new  
21 vehicle dealer and is physically located such that the protesting  
22 dealer's relevant market area, as defined in subsection (c), includes  
23 the location where the additional or relocated dealer is proposed to  
24 be located.

25 (d) The director shall not issue a license for the proposed ad-  
26 ditional or relocated new vehicle dealer until a final decision is  
27 rendered determining good cause exists for establishing an additional  
28 new vehicle dealer or relocating a new vehicle dealer and that the  
29 application for the new vehicle dealer's license should be granted.

30 (e) The words or phrases used in this section shall have the  
31 meanings otherwise provided by law, except the following specific  
32 words or phrases shall have the following meanings:

33 (1) "Line-make vehicle" means those new motor vehicles which  
34 are offered for sale, lease or distribution under a common name,  
35 trademark, service mark or brand name of the manufacturer or dis-  
36 tributor of the same; and

37 (2) "relevant market area" means the area within:

38 (A) A radius of 10 miles around an existing new vehicle dealer  
39 in new motor vehicles, if the existing new vehicle dealer's principal  
40 location is in a county having a population of 30,000 or more persons;

41 (B) a radius of 15 miles around an existing new vehicle dealer  
42 in new motor vehicles, if the existing new vehicle dealer's principal  
43 location is in a county having a population of less than 30,000 persons;

1 or

2 (C) the area of responsibility defined in the franchise agreement  
3 of the existing dealer, whichever is greater.

4 (f) No person, entity, licensee or their agents or employees, shall  
5 require the relocation, cancellation or termination of an existing  
6 dealer or otherwise take any action to penalize any dealer who  
7 exercises the rights provided under this section, or undertake such  
8 action for the purpose of preventing or avoiding the exercise by a  
9 dealer of the rights provided under this section. No franchise agree-  
10 ment made, entered or renewed after the effective date of this act  
11 shall contain provisions which avoid or circumvent the requirements  
12 of this act.

13 (g) A dealer's license may be denied, suspended or revoked, or  
14 the renewal of a dealer's license may be refused by the director for  
15 the dealer's failure to comply with this section or for otherwise  
16 violating its provisions.

17 (h) Any licensee, or proposed licensee, aggrieved by a final order  
18 of the director may appeal as provided in subsection (d) of K.S.A.  
19 8-2410, and amendments thereto.

20 (i) The provisions of this section shall not apply to a new  
21 vehicle dealer who is a party to an agreement, with a first or  
22 second stage manufacturer or distributor, which authorizes the  
23 vehicle dealer to sell, exchange or transfer motorcycles.

24 Sec. ~~2~~ 7. K.S.A. 1993 Supp. 8-2430 is hereby repealed.

25 Sec. ~~3~~ 8. This act shall take effect and be in force from and after  
26 its publication in the statute book.

See attached Sec. 6.

K.S.A. 8-2415 and 8-2431 and

8-2401, 8-2404, 8-2410 and

are

Section 1. K.S.A. 1993 Supp. 8-2401 is hereby amended to read as follows: 8-2401. As used in this act, the following words and phrases shall have the meanings:

(a) "Vehicle dealer" means any person who: (1) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in vehicles; or (2) for commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in motor vehicles as an auction motor vehicle dealer as defined in (bb); but does not include: (A) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, or any bank, trustee or lending company or institution which is subject to state or federal regulations as such, with regard to its disposition of repossessed vehicles; (B) public officers while performing their official duties; (C) employees of persons enumerated in provisions (A) and (B), when engaged in the specific performance of their duties as such employees; (D) auctioneers conducting auctions for persons enumerated in provisions (A), (B) or (C); or (E) auctioneers who, while engaged in conducting an auction of tangible personal property for others, offer for sale: (i) Vehicles which have been used primarily in a farm or business operation by the owner offering the vehicle for sale, including all vehicles which qualified for a farm vehicle tag at the time of sale except vehicles owned by a business engaged primarily in the business of leasing or renting passenger cars; (ii) vehicles which meet the statutory definition of antique vehicles; or (iii) vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant to provision (E), except truck, truck tractors, pole trailers, trailers and semitrailers as defined by K.S.A. 8-126, and amendments thereto, shall be registered in Kansas prior to the sale.

(b) "New vehicle dealer" means any vehicle dealer who is a party to an agreement, with a first or second stage manufacturer or distributor, which agreement authorizes the vehicle dealer to

sell, exchange or transfer new motor vehicles, trucks, motorcycles, or trailers or parts and accessories made or sold by such first or second stage manufacturer or distributor and obligates the vehicle dealer to fulfill the warranty commitments of such first or second stage manufacturer or distributor.

(c) "Used vehicle dealer" means any person actively engaged in the business of buying, selling or exchanging used vehicles.

(d) "Vehicle salesperson" means any person who is employed as a salesperson by a vehicle dealer to sell vehicles.

(e) "Board" means the vehicle dealer review board created by this act.

(f) "Director" means the director of vehicles, or a designee of the director.

(g) "Division" means the division of vehicles of the department of revenue.

(h) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated except that such term shall not include motorized bicycles, and such term shall not include manufactured homes or mobile homes. As used herein, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A. 1993 Supp. 58-4202, and amendments thereto.

(i) "Motor vehicle" means any vehicle other than a motorized bicycle, which is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated.

(j) "Licensor" means the director or division or both.

(k) "First stage manufacturer" means any person who manufactures, assembles and sells new vehicles to new vehicle dealers for resale in this state.

(l) "Second stage manufacturer" means any person who assembles, installs or permanently affixes body, cab or special unit equipment to a chassis supplied by a first stage manufacturer, distributor or other supplier and sells the resulting new vehicles to new vehicle dealers for resale in this



state.

(m) "First stage converter" means any person who is engaged in the business of affixing to a chassis supplied by a first stage manufacturer, distributor or other supplier, specially constructed body units to result in motor vehicles used as, but not limited to, buses, wreckers, cement trucks and trash compactors.

(n) "Second stage converter" means any person who is engaged in the business of adding to, subtracting from or modifying previously assembled or manufactured vehicles and sells the resulting converted vehicles at retail or wholesale.

(o) "Distributor" means any person who sells or distributes for resale new vehicles to new vehicle dealers in this state or who maintains distributor representatives in this state.

(p) "Wholesaler" means any person who purchases vehicles for the purpose of resale to a vehicle dealer.

(q) "Factory branch" means any branch office maintained in this state by a first or second stage manufacturer for the sale of new vehicles to distributors, or for the sale of new vehicles to new vehicle dealers, or for directing or supervising, in whole or in part, its representatives in this state.

(r) "Distributor branch" means any branch office similar to subsection (q) maintained by a distributor for the same purposes as a factory branch.

(s) "Factory representative" means a representative employed by a first or second stage manufacturer or factory branch for the purpose of making or promoting the sale of its new vehicles to new vehicle dealers, or for supervising or contacting its new vehicle dealers or prospective new vehicle dealers with respect to the promotion and sale of such vehicles and parts or accessories for the same.

(t) "Distributor representative" means any representative similar to subsection (s) employed by a distributor or distributor branch for the same purpose as a factory representative.

(u) "Person" means any natural person, partnership, firm, corporation or association.

(v) "New motor vehicle" means any motor vehicle which has never been titled or registered and has not been substantially driven or operated.

(w) "Franchise agreement" means any contract or franchise or any other terminology used to describe the contractual relationship between first or second stage manufacturers, distributors and vehicle dealers, by which:

(1) A right is granted one party to engage in the business of offering, selling or otherwise distributing goods or services under a marketing plan or system prescribed in substantial part by the other party, and in which there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, agreement or otherwise; and

(2) the operation of the grantee's business pursuant to such agreement is substantially associated with the grantor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the grantor or an affiliate of the grantor.

(x) "Broker" means any person who, for a fee, commission, money, other thing of value, valuable consideration or benefit, either directly or indirectly, arranges or offers to arrange a transaction involving the sale of a vehicle, or is engaged in the business of: (1) Selling or buying vehicles for other persons as an agent, middleman or negotiator; or (2) bringing buyers and sellers of vehicles together, but such term shall not include any person engaged in a business in which the acts described in this subsection are only incidentally performed or which are performed or authorized within the requirements or scope of any other category of license, or not prohibited, in the manner authorized by the vehicle dealers' and manufacturers' licensing act.

(y) "Salvage vehicle dealer" means any person engaged in the business of buying, dismantling, disassembling or recycling wrecked, abandoned or repairable vehicles and selling the usable parts thereof, or selling such wrecked, abandoned or repairable vehicles as a unit or selling the hull of the vehicle after the salvageable parts have been removed.

(z) "Lending agency" means any person, desiring to be

licensed under this act and engaged in the business of financing, or lending money to any person to be used in the purchase or financing of a vehicle.

(aa) "Established place of business" means a building or structure, other than a building or structure all or part of which is occupied or used as a residence, owned either in fee or leased and designated as an office or place to receive mail and keep records and conduct the routine of business. To qualify as an established place of business, there shall be located therein an operable telephone which shall be listed with the telephone company under the name of the licensed business, except that a vehicle dealer who derives at least 50% of such person's income from operating a farm as a resident thereof, the established place of business may be the farm residence of such vehicle dealer and the operable telephone may be located in such residence when such dealer engages only in vehicles and equipment not required to have vehicle registration to travel on a highway.

(bb) "Auction motor vehicle dealer" means any person who for commission, money or other thing of value is engaged in an auction of motor vehicles except that the sales of such motor vehicles shall involve only motor vehicles owned by licensed motor vehicle dealers and sold to licensed motor vehicle dealers, except that any auction motor vehicle dealer, registered as such and lawfully operating prior to June 30, 1980, shall be deemed to be and have been properly licensed under this act from and after July 1, 1980. For the purposes of this subsection, an auction is a private sale of motor vehicles where any and all licensed motor vehicle dealers who choose to do so are permitted to attend and offer bids and the private sale of such motor vehicles is to the highest bidder.

(cc) "Licensee" means any person issued a valid license pursuant to this act.

(dd) "Dealer" means a vehicle dealer as defined by this act, unless the context otherwise requires.

(ee) "Insurance company" means any person desiring to be licensed under this act and engaged in the business of writing or servicing insurance related to vehicles.

(ff) "Supplemental place of business" means a business location other than that of the established place of business of the dealer which may be operated by the dealer on a continuous year-round basis and, for new vehicle dealers, is within the defined area of responsibility in their franchise agreement, and for all other dealers is within the same city or county where the established place of business of the dealer is operated.

(gg) "Temporary place of business" means a business or other location than that of the established place of business or supplemental place of business.

(hh) "Motor vehicle show" means the exhibition, sale or solicitation for sale of motor vehicles at a location other than the established place of business or supplemental place of business of the dealer.

(ii) "Recreational motor vehicle" means a recreational vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments thereto.

Sec. 2. K.S.A. 1993 Supp. 8-2404 is hereby amended to read as follows: 8-2404. (a) No vehicle dealer shall engage in business in this state without obtaining a license as required by this act. Any vehicle dealer holding a valid license and acting as a vehicle salesperson shall not be required to secure a salesperson's license.

(b) No first stage manufacturer, second stage manufacturer, factory branch, factory representative, distributor branch or distributor representative shall engage in business in this state without a license as required by this act, regardless of whether or not an office or other place of business is maintained in this state for the purpose of conducting such business.

(c) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The director may require in the application, or otherwise, information relating to the applicant's solvency, financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which



the applicant proposes to engage in business, all of which may be considered by the director in determining the fitness of the applicant to engage in business as set forth in this section. The director may require the applicant for licensing to appear at such time and place as may be designated by the director for examination to enable the director to determine the accuracy of the facts contained in the written application, either for initial licensure or renewal thereof. Every application under this section shall be verified by the applicant.

(d) All licenses shall be granted or refused within 30 days after application is received by the director. All licenses, except licenses issued to salespersons, shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted, except that where a complaint respecting the cancellation, termination or nonrenewal of a sales agreement is in the process of being heard, no replacement application shall be considered until a final order is issued by the director. Applications for renewals, except for renewals of licenses issued to salespersons, received by the director after February 15 shall be considered as new applications. All salespersons' licenses issued on or after January 1, 1987, shall expire on June 30, 1988, and thereafter shall expire, unless previously suspended or revoked, on June 30 of the calendar year for which they are granted. Applications for renewals of salespersons' licenses received by the director after July 15 shall be considered as new applications. All licenses for supplemental places of business existing or issued on or after January 1, 1994, shall expire on December 31, 1994, unless previously expired, suspended or revoked, and shall thereafter expire on December 31 of the calendar year for which they are granted, unless previously suspended or revoked.

(e) License fees for each calendar year, or any part thereof shall be as follows:

- (1) For new vehicle dealers, \$50;
- (2) for distributors, \$50;
- (3) for wholesalers, \$50;
- (4) for distributor branches, \$50;

- (5) for used vehicle dealers, \$50;
- (6) for first and second stage manufacturers, \$200 plus \$50 for each factory branch in this state;
- (7) for factory representatives, \$25;
- (8) for distributor representatives, \$25;
- (9) for brokers, \$50;
- (10) for lending agencies, \$25;
- (11) for first and second stage converters, \$25;
- (12) for salvage vehicle dealers, \$50;
- (13) for auction motor vehicle dealers, \$50;
- (14) for vehicle salesperson, \$15; and
- (15) for insurance companies, \$50.

Any salvage vehicle dealer who is also licensed as a used vehicle dealer shall be required to pay only one \$50 fee for both licenses. Any new vehicle dealer who is also licensed as a used vehicle dealer shall be required to pay only one \$50 fee for both licenses.

(f) Dealers ~~establishing~~ may establish approved supplemental places of business within the same county of their licensure or, with respect to new vehicle dealers, within their area of responsibility as defined in their franchise agreement. Those doing so shall be required to pay a supplemental license fee of \$10. In addition to any other requirements, new vehicle dealers seeking to establish supplemental places of business shall also comply with the provisions of K.S.A. 8-2430 through 8-2432, and amendments thereto. Original inspections by the division of a proposed established place of business shall be made at no charge except that a \$5 fee shall be charged by the division for each additional inspection the division must make of such premises in order to approve the same.

(g) The license of all persons licensed under the provisions of this act shall state the address of the established place of business, office ~~or,~~ branch or supplemental place of business and must be conspicuously displayed therein. ~~If such address is changed, the director shall endorse the change of address on the license without charge if it is within the same county.~~ The director shall endorse a change of address on a license without

charge if: (1) The change of address of an established place of business, office, branch or supplemental place of business is within the same county; or (2) the change of address of a supplemental place of business, with respect to a new vehicle dealer, is within such dealer's area of responsibility as defined in their franchise agreement. A change of address of the established place of business, office or branch to a different county shall require a new license and payment of the required fees but such new license and fees shall not be required for a change of address of a supplemental place of business, with respect to a new vehicle dealer, to a different county but within the dealer's area of responsibility as defined in their franchise agreement.

(h) Every salesperson, factory representative or distributor representative shall carry on their person a certification that the person holds a valid state license. The certification shall name the person's employer and shall be displayed upon request. An original copy of the state license for a vehicle salesperson shall be mailed or otherwise delivered by the division to the employer of the salesperson for public display in the employer's established place of business. When a salesperson ceases to be employed as such, the former employer shall mail or otherwise return the original copy of the employee's state license to the division. A salesperson, factory representative or distributor representative who terminates employment with one employer may file an application with the director to transfer the person's state license in the name of another employer. The application shall be accompanied by a \$2 transfer fee. A salesperson, factory representative or distributor representative who terminates employment, and does not transfer the state license, shall mail or otherwise return the certification that the person holds a valid state license to the division.

(i) If the director has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this act, the director may require the applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as the director

approves, but such amount shall be not less than \$5,000 nor more than \$20,000, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any act by the licensee constituting grounds for suspension or revocation of the license. Every applicant or licensee who is or applies to be a used vehicle dealer or a new vehicle dealer shall furnish and maintain a bond in such form, amount and with such sureties as the director approves, in the amount of \$15,000, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any act by the licensee in violation of any act which constitutes grounds for suspension or revocation of the license. To comply with this subsection, every bond shall be a corporate surety bond issued by a company authorized to do business in the state of Kansas and shall be executed in the name of the state of Kansas for the benefit of any aggrieved party. The aggregate liability of the surety for all breaches of the conditions of the bond in no event shall exceed the amount of such bond. The surety on the bond shall have the right to cancel the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Bonding requirements shall not apply to first or second stage manufacturers, factory branches, factory representatives or salespersons. Upon determination by the director that a judgment from a Kansas court of competent jurisdiction is a final judgment and that the judgment resulted from an act in violation of this act or would constitute grounds for suspension, revocation, refusal to renew a license or administrative fine pursuant to K.S.A. 8-2411, and amendments thereto, the proceeds of the bond on deposit or in lieu of bond provided by subsection (j), shall be paid. The determination by the director under this subsection is hereby specifically exempted from the Kansas administrative procedure act (K.S.A. 77-501 through 77-549, and amendments thereto,) and the act for judicial review and civil enforcement of agency

actions (K.S.A. 77-601 through 77-627, and amendments thereto). Any proceeding to enforce payment against a surety following a determination by the director shall be prosecuted by the judgment creditor named in the final judgment sought to be enforced. Upon a finding by the court in such enforcement proceeding that a surety has wrongfully failed or refused to pay, the court shall award reasonable attorney fees to the judgment creditor.

(j) An applicant or licensee may elect to satisfy the bonding requirements of subsection (i) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas. When negotiable bonds or negotiable certificates of deposit have been deposited with the state treasurer to satisfy the bonding requirements of subsection (i), such negotiable bonds or negotiable certificates of deposit shall remain on deposit with the state treasurer for a period of not less than two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to termination of the licensee's license. In the event a licensee elects to deposit a surety bond in lieu of the negotiable bonds or negotiable certificates of deposit previously deposited with the state treasurer, the state treasurer shall not release the negotiable bonds or negotiable certificates of deposits until at least two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to the date of the deposit of the surety bond. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

(k) No license shall be issued by the director to any person to act as a new or used dealer, wholesaler, broker, salvage vehicle dealer, auction motor vehicle dealer, second stage manufacturer, first stage converter, second stage converter or

distributor unless the applicant for the vehicle dealer's license maintains an established place of business which has been inspected and approved by the division. First stage manufacturers, factory branches, factory representatives, distributor branches, distributor representatives and lending agencies are not required to maintain an established place of business to be issued a license.

(1) Dealers required under the provisions of this act to maintain an established place of business shall own or have leased and use sufficient lot space to display vehicles at least equal in number to the number of dealer license plates the dealer has had assigned.

(m) A sign with durable lettering at least 10 inches in height and easily visible from the street identifying the established place of business shall be displayed by every vehicle dealer. Notwithstanding the other provisions of this subsection, the height of lettering of the required sign may be less than 10 inches as necessary to comply with local zoning regulations.

(n) If the established or supplemental place of business or lot is zoned, approval must be secured from the proper zoning authority and proof that the use complies with the applicable zoning law, ordinance or resolution must be furnished to the director by the applicant for licensing.

(o) An established or supplemental place of business, otherwise meeting the requirements of this act may be used by a dealer to conduct more than one business, provided that suitable space and facilities exist therein to properly conduct the business of a vehicle dealer.

(p) If a supplemental place of business is not operated on a continuous, year-round basis, the dealer shall give the department 15 days' notice as to the dates on which the dealer will be engaged in business at the supplemental place of business.

(q) Any vehicle dealer selling, exchanging or transferring or causing to be sold, exchanged or transferred new vehicles in this state must satisfactorily demonstrate to the director that such vehicle dealer has a bona fide franchise agreement with the



first or second stage manufacturer or distributor of the vehicle to sell, exchange or transfer the same or to cause to be sold, exchanged or transferred.

No person may engage in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for the make or makes of new motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, includes: (1) Displaying new motor vehicles on a lot or showroom; (2) advertising new motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting or referring buyers for new motor vehicles.

(r) No person may engage in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for used motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, includes: (1) Displaying used motor vehicles on a lot or showroom; (2) advertising used motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting buyers for used motor vehicles.

(s) The director of vehicles shall publish a suitable Kansas vehicle salesperson's manual. Before a vehicle salesperson's license is issued, the applicant for an original license or renewal thereof shall be required to pass a written examination based upon information in the manual.

(t) No new license shall be issued nor any license renewed to any person to act as a salvage vehicle dealer until the division has received evidence of compliance with the junkyard and salvage control act as set forth in K.S.A. 68-2201 et seq., and amendments thereto.

(u) On and after the effective date of this act, no person shall act as a broker in the advertising, buying or selling of any new or used motor vehicle. Nothing herein shall be construed to prohibit a person duly licensed under the requirements of this act from acting as a broker in buying or selling a recreational vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments thereto, when the recreational vehicle subject to sale or purchase is a used recreational vehicle which has been previously titled and independently owned by another person for a period of 45 days or more, or is a new or used recreational vehicle repossessed by a creditor holding security in such vehicle.

(v) Nothing herein shall be construed to prohibit a person not otherwise required to be licensed under this act from selling such person's own vehicle as an isolated and occasional sale.

Sec. 3. K.S.A. 1993 Supp. 8-2410 is hereby amended to read as follows: 8-2410. (a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds:

- (1) Proof of financial unfitness of the applicant;
- (2) material false statement in an application for a license;
- (3) filing a materially false or fraudulent tax return as certified by the director of taxation;
- (4) negligently failing to comply with any applicable provision of this act or any applicable rule or regulation adopted pursuant thereto;
- (5) knowingly defrauding any retail buyer to the buyer's damage;
- (6) negligently failing to perform any written agreement with any buyer;
- (7) failure or refusal to furnish and keep in force any

required bond;

(8) knowingly making a fraudulent sale or transaction;

(9) knowingly engaging in false or misleading advertising;

(10) willful misrepresentation, circumvention or concealment, through a subterfuge or device, of any material particulars, or the nature thereof, required by law to be stated or furnished to the retail buyer;

(11) negligent use of fraudulent devices, methods or practices in contravention of law with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(12) knowingly violating any law relating to the sale, distribution or financing of vehicles;

(13) being a first or second stage manufacturer of vehicles, factory branch, distributor, distributor or factory representative, officer, agent or any representative thereof, who has:

(A) Induced or has attempted to induce, by coercion, intimidation or discrimination, any dealer to involuntarily accept delivery of any vehicle or vehicles, parts or accessories therefor, or any form of advertisements or other commodities which shall not have been ordered by the dealer;

(B) unfairly, without due regard to the equities of the vehicle dealer, and without just provocation, canceled, terminated or failed to renew a franchise agreement with any new vehicle dealer;

(C) induced, or has attempted to induce, by coercion, intimidation or discrimination, any vehicle dealer to involuntarily enter into any franchise agreement with such first or second stage manufacturer, factory branch, distributor, or any representative thereof, or to do any other act to a vehicle dealer which may be deemed a violation of this act, or the rules and regulations adopted or orders promulgated under authority of this act, by threatening to cancel or not renew a franchise agreement existing between such parties;

(14) being a first or second stage manufacturer, or distributor who for the protection of the buying public fails to

specify in writing the delivery and preparation obligations to its vehicle dealers prior to delivery of new vehicles to new vehicle dealers. A copy of such writing shall be filed with the division by every licensed first or second stage manufacturer of vehicles and the contents thereof shall constitute the vehicle dealer's only responsibility for product liability as between the vehicle dealer and the first or second stage manufacturer. Any mechanical, body or parts defects arising from any express or implied warranties of the first or second stage manufacturer shall constitute the product or warranty liability of the first or second stage manufacturer. The first or second stage manufacturer shall reasonably compensate any authorized vehicle dealer for the performance of delivery and preparation obligation;

(15) being a first or second stage manufacturer of new vehicles, factory branch or distributor who fails to supply a new vehicle dealer with a reasonable quantity of new vehicles, parts and accessories, in accordance with the franchise agreement. It shall not be deemed a violation of this act if such failure is attributable to factors reasonably beyond the control of such first or second stage manufacturer, factory branch or distributor;

(16) knowingly used or permitted the use of dealer plates contrary to law;

(17) has failed or refused to permit an agent of the division, during the licensee's regular business hours, to examine or inspect such dealer's records pertaining to titles and purchase and sale of vehicles;

(18) has failed to notify the division within 10 days of dealer's plates that have been lost, stolen, mutilated or destroyed;

(19) has failed or refused to surrender their dealer's license or dealer's plates to the division or its agent upon demand;

(20) has demonstrated that such person is not of good character and reputation in the community in which the dealer resides;

(21) has, within five years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of the violations of any law of any state or the United States in connection with such person's operation as a dealer or salesperson;

(22) has cross-titled a title to any purchaser of any vehicle. Cross-titling shall include, but not by way of limitation, a dealer or broker or the authorized agent of either selling or causing to be sold, exchanged or transferred any vehicle and not showing a complete chain of title on the papers necessary for the issuance of title for the purchaser. The selling dealer's name must appear on the assigned first or second stage manufacturer's certificate of origin or reassigned certificate of title;

(23) has changed the location of such person's established place of business or supplemental place of business prior to approval of such change by the division;

(24) having in such person's possession a certificate of title which is not properly completed, otherwise known as an "open title";

(25) doing business as a vehicle dealer other than at the dealer's established or supplemental place of business, with the exception that dealers ~~selling---new---recreational---vehicles~~ participating in a motor vehicle show as provided under subsection (p) of K.S.A. 8-2404, and amendments thereto, may engage in business at other than their established or supplemental place of business for a period not to exceed ~~14~~ 15 days;

(26) any violation of K.S.A. 8-126 et seq., and amendments thereto, in connection with such person's operation as a dealer;

(27) any violation of K.S.A. 8-116, and amendments thereto;

(28) any violation of K.S.A. 21-3757, and amendments thereto;

(29) any violation of K.S.A. 79-1019, 79-3294 et seq., or 79-3601 et seq., and amendments thereto;

(30) failure to provide adequate proof of ownership for

motor vehicles in the dealer's possession;

(31) being a first or second stage manufacturer who fails to provide the director of property valuation all information necessary for vehicle identification number identification and determination of vehicle classification at least 90 days prior to release for sale of any new make, model or series of vehicles; or

(32) displaying motor vehicles at a location other than at the dealer's established ~~or~~ place of business or supplemental place of business, without obtaining the authorization required in K.S.A. 1993 Supp. 8-2435, and amendments thereto.

(b) The director may deny the application for the license within 30 days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(c) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of its salespersons or representatives while acting as its agent.

(d) Any licensee or other person aggrieved by a final order of the director, may appeal to the district court as provided by the act for judicial review and civil enforcement of agency actions.

(e) The revocation or suspension of a first or second stage manufacturer's or distributor's license may be limited to one or more municipalities or counties or any other defined trade area.

Sec. 4. K.S.A. 8-2415 is hereby amended to read as follows: 8-2415. (a) A first or second stage manufacturer or distributor shall pay reasonable compensation to any authorized new vehicle dealer who performs work to rectify warranty defects in the first or second stage manufacturer's or distributor's product.

(b) A first or second stage manufacturer or distributor

shall pay any authorized new vehicle dealer all promotional allowances or other incentive payments submitted by the dealer as provided by the applicable provisions of such programs subject to the applicable requirements of this act.

~~(b)~~ (c) In the determination of what constitutes reasonable compensation for warranty work under this act, among the factors to be considered shall be: The rate or charge which the authorized vehicle dealer in good faith is charging other customers for the same type of service or repair work, the compensation being paid by other first or second stage manufacturers or distributors to their vehicle dealers for the same work or service, and the prevailing wage or labor rate being paid or charged by all vehicle dealers licensed to operate in the city or community in which said authorized vehicle dealer is doing business.

~~(c)~~ (d) A first or second stage manufacturer or distributor shall not require unreasonable proof to establish compensation under ~~subsection--(b)--of~~ this section, nor act unreasonably to delay payments or adjustments in the rate or charge for particular warranty work, promotional allowances or other incentive payments as circumstances or changes may justify or require such adjustments.

(e) A claim made by a new motor vehicle dealer for compensation under this section shall be either approved or disapproved within 30 days after the claim is submitted to the first or second stage manufacturer or distributor in the manner and on the forms the first or second stage manufacturer or distributor reasonably prescribes. An approved claim shall be paid within 30 days after its approval. If a claim is not specifically disapproved in writing or by electronic transmission within 30 days after the date on which the first or second stage manufacturer or distributor receives it, the claim shall be considered to be approved and payment shall follow within 30 days. A first or second stage manufacturer or distributor retains the right to audit claims for warranty work for a period of one year after the date on which the claim is paid and to charge-back any amounts paid on claims that are false or unsubstantiated. A



first or second state manufacturer or distributor retains the right to audit claims for promotional allowances or other incentive payments submitted by the dealer for a period of two years after the date on which the claim is paid and to charge-back any amounts paid on claims that are false or unsubstantiated. If there is evidence of fraud, this subsection does not limit the right of the manufacturer to audit for longer periods and chargeback for any fraudulent claim, subject to the limitation period under paragraph (3) of subsection (a) of K.S.A. 60-513, and amendments thereto, in addition to any other available remedy, this section may be enforced pursuant to K.S.A. 8-2411, and amendments thereto.

Sec. 6. K.S.A. 8-2431 is hereby amended to read as follows:  
8-2431. The provisions of K.S.A. 8-2430, and amendments thereto,  
shall not apply to any proposed establishment of an additional  
new motor vehicle dealer, including a supplemental place of  
business, or relocation of an existing new motor vehicle dealer,  
as the case may be, if a manufacturer, distributor or factory  
branch provides a dispute resolution mechanism for the  
establishment of an additional new motor vehicle dealer or  
supplemental place of business or for relocating a new motor  
vehicle dealer which meets the following criteria:

(a) The decision makers under the dispute resolution  
mechanism shall either be:

(1) Independent and not employed by, or affiliated with the  
manufacturer, distributor, factory branch or dealers if there is  
no specific process reached by prior agreement between the  
protesting dealer and the manufacturer, distributor or factory  
branch; or

(2) an individual or panel selected by a process mutually  
agreeable to the protesting dealer and the manufacturer,  
distributor or factory branch under the terms of the franchise  
agreement between them.

(b) There is a standard for deciding such cases under the  
terms of the dispute resolution process which allows a protesting  
dealer to include evidence on impact upon the existing dealers in  
addition to any other factors expressly or implicitly considered  
under the mechanism.