

1 SENATE BILL NO. 341

2 INTRODUCED BY B. USHER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO RECREATIONAL
5 VEHICLES; ALLOWING OFF-SITE DISPLAYS AND SALES IN CERTAIN LOCATIONS FOR CERTAIN
6 MOTOR VEHICLES; DEFINING "MOTOR VEHICLES"; AND AMENDING ~~SECTION~~ SECTIONS 61-4-123 AND
7 61-4-201, MCA."
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 61-4-123, MCA, is amended to read:

12 **"61-4-123. Dealer requirements and restrictions.** (1) A used dealer may not sell a new motor
13 vehicle, a new power sports vehicle, or a new trailer.

14 (2) A dealer may not display at the dealer's established place of business or any approved off-
15 premises sale location a motor vehicle offered for sale, trade, or consignment unless the Monroney label
16 required for new motor vehicles pursuant to 15 U.S.C. 1232 or the buyer's guide label required for used motor
17 vehicles pursuant to 16 CFR, part 455, is affixed to the side window of the motor vehicle or is conspicuously
18 displayed within the motor vehicle in a fashion that is readily readable by a customer.

19 (3) (a) Except as provided in subsection (4), a dealer may not sell or display a motor vehicle,
20 power sports vehicle, or trailer offered for sale at any geographic location other than that of the dealer's
21 established place of business as listed on the dealer's license.

22 (b) A dealer may park a motor vehicle in a storage lot if:

- 23 (i) local zoning regulations permit that type of use;
- 24 (ii) the lot is in the county where the dealer's established place of business is located;
- 25 (iii) the dealer does not sell or advertise the sale of the motor vehicle at the lot; and
- 26 (iv) if applicable, the placement of the motor vehicle complies with the dealer's franchise
27 agreement.

28 (4) (a) ~~Upon~~ On prior notice to the department, a dealer may conduct an off-premises display and

1 sale at a geographic location other than that of the dealer's established place of business as listed on the
2 dealer's license if the dealer obtains a permit from the department. The department may require proof from the
3 dealer that the location proposed for the off-premises display and sale is in compliance with local zoning
4 ordinances. An off-premises display and sale must be conducted within the county of the dealer's licensed
5 location unless the off-premises display and sale are restricted to recreational vehicles or power sports
6 vehicles. A new ~~motor vehicle~~ recreational vehicle, boat, or powersports dealer whose area of responsibility
7 under the dealer's franchise agreement includes a county different from the county in which the dealer's
8 established place of business is located may conduct an off-premises display and sale, subject to the
9 agreement, in the other county if there is no other new ~~motor vehicle~~ recreational vehicle, boat, or powersports
10 dealer AUTHORIZED TO SELL THE SAME MANUFACTURER'S MODEL OR LINE-MAKE with an established place of
11 business in that county. The display and sale authorized by this subsection (4)(a) may not exceed 10
12 consecutive days, and a licensed dealer may not conduct more than 10 off-premises displays and sales during
13 any 1 calendar year.

14 (b) A dealer may display one or more motor vehicles, power sports vehicles, or trailers inside an
15 airport terminal or shopping mall without obtaining an off-premises display and sale permit if no actual sales are
16 made, or could be made, at the terminal or mall.

17 (c) ~~Upon~~ On prior written notice to the department, a dealer may display one motor vehicle, power
18 sports vehicle, or trailer at a geographic location other than that of the dealer's established place of business as
19 listed on the dealer's license if no actual sales are made, or could be made, at the display location and the
20 display:

21 (i) conspicuously promotes or supports an event or a program sponsored by a nonprofit
22 corporation or association organized and operated exclusively for religious, charitable, scientific, or educational
23 purposes and the motor vehicle, power sports vehicle, or trailer is displayed at a location where the event is
24 being held or the program is being promoted; or

25 (ii) conspicuously promotes a joint commercial endeavor between the dealer and another clearly
26 identified business entity and the motor vehicle, power sports vehicle, or trailer is displayed on premises owned
27 or leased by the other business entity and where the other entity regularly conducts its business. A display
28 under this subsection (4)(c)(ii) may not exceed 90 days in a calendar year.

1 (5) If more than one dealer displays motor vehicles, power sports vehicles, or trailers at the same
2 geographic location as another dealer's established place of business, each dealer shall ensure that all records,
3 office facilities, and inventory, if applicable, are physically segregated from those of the other dealer and clearly
4 identified and attributed to the appropriate dealer.

5 (6) A dealer shall install and maintain telephone service at the dealer's established place of
6 business. The telephone service must be listed in the directory assistance that applies to the area in which the
7 business is located, or if a cellular service is used, the dealer's cell phone number must be posted at the
8 dealer's established place of business.

9 (7) A dealer shall conspicuously post at the dealer's established place of business written notice
10 indicating the regular and customary office hours maintained by the dealer.

11 (8) (a) A dealer shall carry and continuously maintain a general liability insurance policy that
12 covers any motor vehicle bearing a set of dealer plates or a demonstrator plate and any power sports vehicle
13 displaying a dealer's identification card that is offered for demonstration or loan to a customer or that otherwise
14 may be operated by a customer in the regular course of the dealer's business operations.

15 (b) A dealer shall ensure that the department is named as a certificate holder on any general
16 liability insurance policy held by the dealer, that the minimum term of the policy is 1 year, and that a lapse of
17 insurance does not occur as a result of cancellation or termination of a previously certified policy.

18 (c) This subsection (8) does not relieve a dealer of the mandatory motor vehicle liability insurance
19 obligation imposed under chapter 6 of this title.

20 (9) A dealer shall display at the dealer's established place of business at least one sign stating the
21 name of the business and indicating that motor vehicles, power sports vehicles, or trailers are offered for sale,
22 trade, or consignment. The letters of the sign must be at least 6 inches in height and clearly visible and
23 readable to the major avenue of traffic at a minimum distance of 150 feet.

24 (10) As used in this section, "motor vehicle" means:

25 (a) a recreational vehicle as defined in 61-1-101(61);

26 (b) a motorboat and a personal watercraft as defined in 23-2-502;

27 (c) a snowmobile as defined in 23-2-601; and

28 (d) an off-highway vehicle as defined in 23-2-801."

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SECTION 2. Section 61-4-201, MCA, is amended to read:

"61-4-201. Definitions. As used in this part, the following definitions apply unless the context clearly indicates otherwise:

(1) "Community" means the relevant market area of a franchise. For the purposes of this part, the relevant market area of a franchise is the county or counties in which the franchisee is located.

(2) "Distribute" means to sell new motor vehicles other than at retail or to enter into a franchise agreement authorizing a dealer to buy new motor vehicles for resale or to service motor vehicles under a manufacturer's or distributor's warranty.

(3) "Distributor" or "wholesaler" means a person who sells or distributes a line-make of new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state.

(4) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of a line-make of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state.

(5) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of a line-make of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state.

(6) "Franchise" means a contract and any agreed-to amendments between or among two or more persons when all of the following conditions are included:

(a) a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) the franchisee is granted the right to:

(i) offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor; or

(ii) service motor vehicles pursuant to the terms of a franchise and a manufacturer's warranty;

(c) the franchisee, as an independent and separate business, constitutes a component of the franchisor's distribution system; and

(d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories.

1 (7) "Franchisee" means a person who receives new motor vehicles from the franchisor under a
2 franchise and who offers, sells, and services the new motor vehicles to and for the general public.

3 (8) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles
4 and who may enter into a franchise.

5 (9) "Importer" means a person who transports or arranges for the transportation of a foreign
6 manufactured new motor vehicle into the United States for sale in this state.

7 (10) "Line-make" means vehicles that are offered for sale, lease, or distribution under a common
8 name, trademark, or service mark.

9 (11) "Manufacturer" means a person who manufactures or assembles a line-make of new motor
10 vehicles and distributes them directly or indirectly through one or more distributors to one or more new motor
11 vehicle dealers in this state or who manufactures or installs on previously assembled truck chassis special
12 bodies or equipment that, when installed, forms an integral part of the new motor vehicle and that constitutes a
13 major manufacturing alteration, but does not include a person who installs a camper on a pickup truck. The
14 term includes a central or principal sales corporation or other entity through which, by contractual agreement or
15 otherwise, a manufacturer distributes its products.

16 (12) "Motor vehicle" includes a recreational vehicle as defined in 61-1-101, a motorboat and a
17 personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as
18 defined in 23-2-801.

19 (13) "New motor vehicle" means a motor vehicle that has not been the subject of a retail sale
20 regardless of the mileage of the vehicle.

21 (14) "New motor vehicle dealer" means a person who buys, sells, exchanges, or offers or attempts
22 to negotiate a sale or exchange or any interest in or who is engaged in the business of selling new motor
23 vehicles under a franchise with the manufacturer of the new motor vehicles or used motor vehicles taken in
24 trade on new motor vehicles.

25 (15) (a) "Retail sale" means the sale of a new motor vehicle.

26 (b) "Retail sale" does not mean a sale:

27 (i) of a new motor vehicle to a purchaser who is acquiring the vehicle for the purposes of a resale;

28 or

- 1 (ii) that is the result of a transfer between two licensed new motor vehicle dealers.
- 2 (16) "Transferee" means a person or entity that:
- 3 (a) is in possession or control of a new motor vehicle dealer;
- 4 (b) holds an ownership or signed contract interest in a new motor vehicle dealer;
- 5 (c) is acting in a fiduciary capacity for a new motor vehicle dealer; or
- 6 (d) is an heir, devisee, personal representative, beneficiary, successor, or assign of a new motor
- 7 vehicle dealer."

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