

**§1171. Definitions**

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings: [PL 1975, c. 573 (NEW).]

**1. Distributor or wholesaler.** "Distributor" or "wholesaler" means any person who sells or distributes new or used motor vehicles to motor vehicle dealers or who maintains distributor representatives within this State.

[PL 1975, c. 573 (NEW).]

**1-A. Designated family member.** "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a new motor vehicle dealer who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealer under the terms of the owner's will, or who, in the case of an incapacitated owner of a new motor vehicle dealer, has been appointed by a court as the legal representative of the new motor vehicle dealer's property.

[PL 1981, c. 331, §1 (NEW).]

**1-B. Broker.** "Broker" means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle and who is not:

A. A franchised dealer or a bona fide employee of a franchised dealer when acting on behalf of a franchised dealer; [PL 1997, c. 521, §1 (NEW).]

B. A manufacturer or distributor or a bona fide employee of a manufacturer or distributor when acting on behalf of a manufacturer or distributor; or [PL 1997, c. 521, §1 (NEW).]

C. At any point in the transaction the bona fide owner of the vehicle involved in the transaction. [PL 1997, c. 521, §1 (NEW).]

[PL 1997, c. 521, §1 (NEW).]

**1-C. Board.** "Board" means the Maine Motor Vehicle Franchise Board created pursuant to section 1187.

[PL 2003, c. 356, §3 (NEW).]

**2. Distributor branch.** "Distributor branch" means a branch office maintained by a distributor or wholesaler who or which sells or distributes new or used motor vehicles to motor vehicle dealers.

[PL 1975, c. 573 (NEW).]

**3. Distributor representative.** "Distributor representative" means a representative employed by a distributor branch, distributor or wholesaler.

[PL 1975, c. 573 (NEW).]

**3-A. Essential tool.** "Essential tool" means a tool, implement or other device required by the manufacturer, including but not limited to a tablet, scanner, diagnostic machine, computer, computer program, computer software, website, website portal or similar tool, with respect to which there is no other similar tool or device available from any source other than the manufacturer or the representative of a manufacturer that will perform the function necessary to the diagnosis or repair of a manufacturer's express warranty claim on a new motor vehicle.

[PL 2013, c. 534, §1 (NEW).]

**4. Factory branch.** "Factory branch" means a branch office maintained by a manufacturer which manufactures or assembles motor vehicles for sale to distributors or motor vehicle dealers or which is maintained for directing and supervising the representatives of the manufacturer.

[PL 1975, c. 573 (NEW).]

**5. Factory representative.** "Factory representative" means a representative employed by a manufacturer or employed by a factory branch for the purpose of making or promoting the sale of motor

vehicles or for supervising, servicing, instructing or contracting motor vehicle dealers or prospective motor vehicle dealers.

[PL 1975, c. 573 (NEW).]

**6. Franchise.** "Franchise" means an oral or written arrangement for a definite or indefinite period in which a manufacturer, distributor or wholesaler grants to a motor vehicle dealer a license to use a trade name, service mark or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or services related thereto at wholesale, retail, leasing or otherwise.

[PL 1975, c. 573 (NEW).]

**7. Franchisee.** "Franchisee" means a motor vehicle dealer to whom a franchise is offered or granted.

[PL 1975, c. 573 (NEW).]

**8. Franchisor.** "Franchisor" means a manufacturer, distributor or wholesaler who grants a franchise to a motor vehicle dealer.

[PL 1975, c. 573 (NEW).]

**9. Fraud.** "Fraud" includes in addition to its normal legal connotation the following: an intentionally false representation; a promise or representation not made honestly and in good faith; and an intentional failure to disclose a material fact.

[PL 1997, c. 521, §2 (AMD).]

**9-A. Good faith.** "Good faith" means honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade as is defined and interpreted in the Uniform Commercial Code, Title 11, section 1-1201, subsection (20).

[RR 2013, c. 2, §13 (COR).]

**9-B. Line make.** "Line make" means motor vehicles that are offered for sale, lease or distribution under a common name, trademark, service mark or brand name.

[PL 2009, c. 367, §1 (NEW).]

**10. Manufacturer.** "Manufacturer" means a person, partnership, firm, association, corporation or trust, resident or nonresident, who manufactures or assembles new motor vehicles or imports for distribution through distributors of motor vehicles or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, that is controlled by the manufacturer. The term "manufacturer" includes the terms "franchisor," "distributor," "distributor branch," "factory branch" and "factory representative."

[PL 1997, c. 521, §3 (AMD).]

**11. Motor vehicle.** "Motor vehicle" means any motor-driven vehicle, except motorcycles and recreational vehicles defined under section 1432, subsection 18-A, required to be registered under Title 29-A, chapter 5.

[PL 2009, c. 562, §1 (AMD).]

**12. Motor vehicle dealer.** "Motor vehicle dealer" means a person other than a manufacturer, distributor, distributor branch, distributor representative, factory branch or factory representative who sells or solicits or advertises the sale of new or used motor vehicles. "Motor vehicle dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court or public officers while performing their duties as public officers.

[PL 1997, c. 521, §4 (AMD).]

**13. New motor vehicle.** "New motor vehicle" means a motor vehicle that has not been previously sold to any person except a distributor, wholesaler or motor vehicle dealer for resale by a franchise.

[PL 1997, c. 521, §4 (AMD).]

**14. Person.** "Person" means a natural person, corporation, partnership, trust or other entity, and, in case of an entity, it shall include any other entity in which it has a majority interest or effectively controls as well as the individual officers, directors and other persons in active control of the activities of each such entity.

[PL 1975, c. 573 (NEW).]

**15. Sale.** "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein or of any franchise related thereto; and any option, subscription or other contract, or solicitation looking to a sale, or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto with or as a bonus on account of the sale of anything shall be deemed a sale of such motor vehicle or franchise.

[PL 1975, c. 573 (NEW).]

**16. Successor manufacturer; predecessor manufacturer.** "Successor manufacturer" means any manufacturer that succeeds, or assumes any part of the business of, another manufacturer, referred to as the "predecessor manufacturer," as the result of:

A. A change in ownership, operation or control of the predecessor manufacturer by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, court-approved sale, operation of law or otherwise; [PL 2009, c. 432, §1 (NEW).]

B. The termination, suspension or cessation of a part or all of the business operations of the predecessor manufacturer; [PL 2009, c. 432, §1 (NEW).]

C. The noncontinuation of the sale of the product line; or [PL 2009, c. 432, §1 (NEW).]

D. A change in distribution system by the predecessor manufacturer, whether through a change in distributor or the predecessor manufacturer's decision to cease conducting business through a distributor altogether. [PL 2009, c. 432, §1 (NEW).]

[PL 2009, c. 432, §1 (NEW).]

#### SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1981, c. 331, §§1-3 (AMD). PL 1995, c. 65, §A14 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1997, c. 473, §1 (AMD). PL 1997, c. 521, §§1-4 (AMD). PL 2003, c. 356, §3 (AMD). PL 2009, c. 367, §1 (AMD). PL 2009, c. 432, §1 (AMD). PL 2009, c. 562, §1 (AMD). RR 2013, c. 2, §13 (COR). PL 2013, c. 534, §1 (AMD).

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