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**TITLE 14. REGULATION OF MOTOR VEHICLES AND TRANSPORTATION
SUBTITLE A. REGULATIONS RELATED TO MOTOR VEHICLES
CHAPTER 2301. SALE OR LEASE OF MOTOR VEHICLES
SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 2301.257. APPLICATION FOR DEALER'S LICENSE.

(a) An application for a dealer's license must be on a form prescribed by the board. The application must include:

(1) the information required by Chapter 503, Transportation Code; and

(2) information relating to the applicant's

financial resources,

business integrity,

business ability and experience,

franchise if applicable,

physical facilities,

vehicle inventory,

and other factors the board considers necessary to determine the applicant's qualifications to adequately serve the public.

(b) If a material change occurs in the information included in an application for a dealer's license, the dealer shall notify the board of the change within a reasonable time but not later than the next annual renewal. The board shall prescribe a form for the disclosure of the change.

(c) A franchised dealer must apply for a separate license under this section for each separate and distinct dealership as determined by the board. Before changing a location, a dealer must obtain a new license for that location. (V.A.C.S. Art. 4413(36), Secs. 4.02(a), (b) (part), (c) (part), (f).)

Source Law

Sec. 4.02. (a) An application for a dealer license shall be on a form prescribed by the board which shall include the information required by Chapter 503, Transportation Code, and information on the applicant's financial resources, business integrity, business ability and experience, franchise agreement if applicable, physical facilities, vehicle inventory, and other

factors the board considers necessary to determine an applicant's qualifications to adequately serve the public.

(b) . . . If a material change occurs in the information included in a dealer's application for a license or renewal of a license, the dealer shall, within a reasonable time but not later than the next annual renewal, notify the board of those changes. The board shall prescribe a form for the disclosure of the changes and

(c) . . . An application for a franchised dealer's license or to amend a franchised dealer's license which proposes the establishment of a separate display and sales location is subject to all of the provisions of this Act. A separate license shall be required for each separate and distinct dealership as determined by the board.

(f) A dealer licensed hereunder shall promptly notify the board of any proposed change in its ownership, location, franchise, or any other matters the board may require by rule. Prior to a change in a dealer's location, a dealer shall obtain a new license for that location.

Revised Law

Sec. 2301.359. TRANSFER OF OWNERSHIP BY DEALER.

(a) A dealer must notify the manufacturer or distributor of a vehicle the dealer is franchised to sell of the dealer's decision to assign, sell, or otherwise transfer a franchise or a controlling interest in the dealership to another person. The notice is the application by the dealer for approval by the manufacturer or distributor of the transfer.

(b) Notice under Subsection (a) must:

(1) be in writing and include the prospective transferee's name, address, financial qualifications, and business experience; and

(2) be sent by certified mail, return receipt requested.

(c) The notice must be accompanied by:

(1) a copy of pertinent agreements regarding the proposed assignment, sale, or transfer;

(2) completed application forms and related information generally used by the manufacturer or distributor in reviewing prospective dealers, if the forms are on file with the board; and

(3) the prospective transferee's written agreement to comply with the franchise to the extent that the franchise is not in conflict with this chapter.

(d) Not later than the 60th day after the date of receipt of a notice and application under this section, a manufacturer or distributor shall determine whether a dealer's prospective transferee is qualified and shall send a letter by certified mail, return receipt requested, informing the dealer of the approval or the unacceptability of the prospective transferee. If the prospective transferee is not acceptable, the manufacturer or distributor shall include a statement setting forth the material reasons for the rejection.

(e) A manufacturer or distributor may not unreasonably withhold approval of an application filed under Subsection (a). It is unreasonable for a manufacturer or distributor to reject a

prospective transferee who is of good moral character and who meets the written, reasonable, and uniformly applied standards or qualifications, if any, of the manufacturer or distributor relating to the prospective transferee's business experience and financial qualifications.

(f) An application filed under this section is approved unless rejected by the manufacturer or distributor in the manner provided by this section. (V.A.C.S. Art. 4413(36), Secs. 5.01B(a), (b), (c).)

Source Law

Sec. 5.01B. (a) In order to transfer, assign, or sell a franchise agreement or controlling interest in the dealership to another person, a dealer shall notify the manufacturer or distributor whose vehicles the dealer is franchised to sell of the dealer's decision to transfer, assign, or sell the dealership. The notification required by this subsection must be by certified mail, return receipt requested, and is the application by the dealer for approval by the manufacturer or distributor of the transfer. The notice must be in writing and must include:

- (1) the prospective transferee's name, address, financial qualifications, and business experience;
- (2) a copy of pertinent agreements regarding the proposed transfer, assignment, or sale;
- (3) completed application forms and related information generally utilized by the manufacturer or distributor in reviewing prospective dealers, if the forms are on file with the board; and
- (4) the prospective transferee's written agreement to comply with the terms of the franchise agreement to the extent that the franchise agreement is not in conflict with the terms of this Act.

(b) Not later than the 60th day after receiving notice and application as provided by Subsection (a) of this section, a manufacturer or distributor shall determine whether or not the dealer's prospective transferee is qualified and shall send a letter by certified mail, return receipt requested, informing the dealer of the approval of the prospective transferee or the unacceptability of the prospective transferee. If the prospective transferee is not acceptable, the manufacturer or distributor shall include a statement setting forth the material reasons for the rejection. An application filed by a dealer as provided by Subsection (a) of this section is approved unless rejected by the manufacturer or distributor in the manner provided by this subsection.

(c) Approval by a manufacturer or distributor of an application filed under Subsection (a) of this section may not be unreasonably withheld. It is unreasonable for a manufacturer or distributor to reject a prospective transferee who is of good moral character and who otherwise meets the manufacturer's or distributor's written, reasonable, and uniformly applied standards or qualifications, if any, relating to the prospective transferee's:

- (1) business experience; and
- (2) financial qualifications.

Revised Law

Sec. 2301.360. REVIEW BY BOARD FOLLOWING DENIAL OF TRANSFER. (a) A dealer whose application is rejected under Section 2301.359 may file a protest with the board. A protest filed under this section is a contested case.

(b) In a protest under this section, the board must determine whether the prospective transferee is qualified. The burden is on the manufacturer or distributor to prove that the prospective transferee is not qualified. The board shall enter an order holding that the prospective transferee either is qualified or is not qualified.

(c) If the board's order is that the prospective transferee is qualified, the dealer's franchise is amended to reflect the change in franchisee, and the manufacturer or distributor shall accept the transfer for all purposes.

(d) If the board's order is that the prospective transferee is not qualified, the board may include in the order:

(1) specific reasons why the prospective transferee is not qualified; and

(2) specific conditions under which the prospective transferee would be qualified.

(e) If the board's order that a prospective transferee is not qualified includes specific conditions under which the prospective transferee would be qualified, the board may retain jurisdiction of the dispute for a time certain to allow the dealer and prospective transferee to meet the conditions. (V.A.C.S. Art. 4413(36), Secs. 5.01B(d), (e), (f).)

Source Law

(d) A dealer whose application to transfer is rejected may file a protest with the board in the manner provided by this Act. In an action brought under this subsection, the burden is on the manufacturer or distributor to prove that the prospective transferee is not qualified. A protest filed under this subsection is a contested case.

(e) The issue in an action filed under this section is whether or not the prospective transferee is qualified. The board shall enter an order holding that the prospective transferee either is qualified or is not qualified. If the board's order is that the prospective transferee is qualified, the dealer's franchise agreement is amended to reflect the change in franchisee and the manufacturer or distributor shall accept the transfer for all purposes. If the board's order is that the prospective transferee is not qualified, the board may include specific reasons why the prospective transferee is not qualified and may include specific conditions under which the prospective transferee would be qualified.

(f) If the board's order that a prospective transferee is not qualified includes specific conditions under which the prospective transferee would be qualified, the board may retain jurisdiction of the dispute for a time certain to allow the dealer and prospective transferee to meet the conditions set forth.

[Sections 2301.361-2301.400 reserved for expansion]

SUBCHAPTER F. LICENSE REQUIREMENTS

Revised Law

Sec. 2301.251. LICENSE REQUIRED: GENERALLY. (a) Unless a person holds a license issued under this chapter authorizing the activity, the person may not:

(1) engage in business as, serve in the capacity of, or act as a dealer, manufacturer, distributor, converter, representative, vehicle lessor, or vehicle lease facilitator in this state; or

(2) perform or offer to perform repair services on a motor vehicle under a franchise and a motor vehicle manufacturer's warranty, regardless of whether the person sells or offers to sell motor vehicles at the same location.

(b) A franchised dealer must have both a franchised motor vehicle dealer's general distinguishing number issued under Chapter 503, Transportation Code, and a license issued under this chapter.

(c) A manufacturer or distributor that directly or indirectly reimburses another person to perform warranty repair services on a vehicle is engaged in business in this state regardless of whether the manufacturer sells or offers for sale new motor vehicles in this state. (V.A.C.S. Art. 4413(36), Secs. 4.01(a) (part), (b) (part),

(d), 5.02(b) (part).)

Source Law

Sec. 4.01. (a) Except as provided by this Section, no person shall engage in business as, serve in the capacity of, or act as a dealer, manufacturer, distributor, converter, representative, lessor, or lease facilitator in this State or perform or offer to perform repair services on a motor vehicle pursuant to the terms of a franchise and a motor vehicle manufacturer's warranty, whether or not the person sells or offers to sell motor vehicles at the same location, without obtaining a license therefor as provided in this Act and the rules of the Commission. . . .

(b) . . . A franchised dealer shall have both a general distinguishing number and a separate license issued under the terms of this Act.

(d) A manufacturer or distributor that directly or indirectly reimburses another person to perform warranty repair services on a vehicle is engaged in business in this state whether or not the manufacturer sells or offers for sale new motor vehicles in this state.