

### **322.3 Prohibited acts.**

1. A person shall not engage in this state in the business of selling at retail new motor vehicles of any make or represent or advertise that the person is engaged or intends to engage in such business in this state unless the person is authorized to do so by a contract in writing with the manufacturer or distributor of such make of new motor vehicles and unless the department has licensed the person as a motor vehicle dealer in this state in motor vehicles of such make and has issued to the person a license in writing as provided in this chapter.
2. A person other than a licensed dealer in new motor vehicles shall not engage in this state in the business of selling at retail used motor vehicles or represent or advertise that the person is engaged or intends to engage in such business in this state unless and until the department has licensed the person as a used motor vehicle dealer in the state and has issued to the person a license in writing as provided in this chapter.
3. Subsections 1 and 2 shall not be construed to require the separate licensing of persons employed as salespersons of motor vehicles by a retail motor vehicle dealer. However, the department may promulgate reasonable rules as necessary for the proper identification of persons employed as salespersons.
4. A person who is engaged in the business of selling at retail motor vehicles shall not enter into any contract, agreement, or understanding, express or implied, with any manufacturer or distributor of any such motor vehicles that the person will sell, assign, or transfer any retail installment contracts arising from the retail installment sale of such motor vehicles only to a designated person or class of persons. A condition, agreement, or understanding between any manufacturer or distributor and a motor vehicle dealer in this state of this nature is hereby declared to be against the public policy of this state and to be unlawful and void.
5. A manufacturer or distributor of motor vehicles or any agent or representative of a manufacturer or distributor shall not terminate, threaten to terminate, or fail to renew any contract, agreement, or understanding for the sale of new motor vehicles to any motor vehicle dealer in this state without just, reasonable, and lawful cause or because the motor vehicle dealer failed to sell, assign, or transfer any retail installment contract arising from the retail sale of such motor vehicles or any one or more of them to a person or a class of persons designated by the manufacturer or distributor.
6. A person who is engaged in the business of selling at retail motor vehicles shall not make and enter into a retail installment contract unless the contract meets the following requirements:
  - a. Every retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall be completed as to all essential provisions prior to the signing of the contract by the buyer except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks of the motor vehicle or similar information and the due date of the first installment may be inserted in the contract after its execution.
  - b. The contract shall comply with the Iowa consumer credit code, chapter 537, where applicable.
7. This section shall not be construed to require that a place of business as defined in this chapter shall be maintained by a person selling motor vehicles at retail solely for the purpose of disposing of motor vehicles acquired or repossessed by such person in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations.
8. A manufacturer or distributor of motor vehicles or agent or representative of a manufacturer or distributor shall not coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle or vehicles, parts, or accessories, or any other commodity or commodities which have not been ordered by the dealer.
9. A person licensed under this chapter shall not, either directly or through an agent, salesperson, or

employee, engage in this state, or represent or advertise that the person is engaged or intends to engage in this state, in the business of buying or selling at retail new or used motor vehicles, other than mobile homes more than eight feet in width or more than thirty-two feet in length as defined in section 321.1, on the first day of the week, commonly known and designated as Sunday.

10. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not require a motor vehicle dealer to submit to arbitration to resolve a controversy before the controversy arises. The parties may enter into a voluntary agreement to arbitrate a controversy after it arises. Such an agreement shall require that the arbitrator apply Iowa law in resolving the controversy. Either party may appeal a decision of an arbitrator to the district court on the grounds that the arbitrator failed to apply Iowa law.

11. A person who is engaged in the business of selling motor vehicles at retail shall not sell, offer for sale, display, represent, or advertise that the person intends to sell motor vehicles from a location other than the person's place of business, except as provided in section 322.5.

12. A person convicted of a fraudulent practice in connection with selling, bartering, or otherwise dealing in motor vehicles, in this state or any other state, shall not for a period of five years from the date of conviction be an owner, salesperson, officer of a corporation, or dealer representative of a licensed motor vehicle dealer or represent themselves as an owner, salesperson, or dealer representative of a licensed motor vehicle dealer.

13. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not reduce the amount of compensation for, or disallow a claim for, any of the following if twelve months or more have passed since the claim was submitted to the manufacturer, distributor, or importer or agent or representative thereof:

*a.* Warranty parts, repairs, or service supplied by a motor vehicle dealer.

*b.* Sales or leasing incentives provided to a motor vehicle dealer or to a customer of a motor vehicle dealer including, but not limited to, rebates and discounted interest rates.

The twelve-month limitation shall not apply if a court of competent jurisdiction in this state finds the claim was fraudulent.

14. A manufacturer or importer shall not directly or indirectly be licensed as, own an interest in, operate, or control a motor vehicle dealer. This subsection shall not prohibit any of the following:

*a.* A manufacturer or importer from being licensed as a motor vehicle dealer or owning an interest in, operating, or controlling a motor vehicle dealership for a period not to exceed one year to facilitate transfer of the motor vehicle dealership to a new owner if both of the following apply:

(1) The prior owner transferred the motor vehicle dealership to the manufacturer or importer.

(2) The motor vehicle dealership is continuously offered for sale by the manufacturer or importer upon reasonable terms and conditions.

*b.* A manufacturer or importer from temporarily owning an interest in a motor vehicle dealership for the purpose of enhancing opportunities for persons who lack the financial resources to purchase the motor vehicle dealership without such assistance. A manufacturer or importer may temporarily own an interest in a motor vehicle dealership pursuant to this paragraph only if the manufacturer or importer enters into a contract with a person pursuant to which all of the following apply:

(1) The person operates the motor vehicle dealership.

(2) The person has made a significant financial investment in the motor vehicle dealership and is subject to loss on such investment.

(3) The person has an ownership interest in the motor vehicle dealership.

(4) The person will acquire full ownership of the motor vehicle dealership within a reasonable time under reasonable conditions.

*c.* A manufacturer or importer from owning an interest in, operating, or controlling a person whose primary business is renting motor vehicles and who is licensed as a used motor vehicle dealer.

*d.* A manufacturer of motor homes, as defined in section 321.1, or a manufacturer of school buses, as defined in section 321.1, from owning an interest in, operating, or controlling a motor vehicle dealer of the motor homes or school buses manufactured by that manufacturer or from being licensed as a motor vehicle dealer only of the motor homes or school buses manufactured by that manufacturer.

*e.* A manufacturer from owning a minority interest in an entity that owns and operates motor vehicle dealers, licensed under this chapter or the laws of the jurisdiction in which they are located, of the line-make manufactured by the manufacturer if all of the motor vehicle dealers owned and operated by the entity in this state are motor vehicle dealers of only the line-make manufactured by the manufacturer and if, on January 1, 2000, there were not less than one and not more than three motor vehicle dealers of that line-make licensed under this chapter.

[C39, § **5039.03**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.3]

90 Acts, ch 1061, §1; 96 Acts, ch 1090, § 13; 97 Acts, ch 108, §36; 98 Acts, ch 1075, §26; 99 Acts, ch 69, §1; 2000 Acts, ch 1003, §1; 2000 Acts, ch 1232, §66; 2001 Acts, ch 32, §30, 31, 40; 2003 Acts, ch 44, §114