

2. The work of fine art shall be held in trust by the consignee for the benefit of the consignor and is not subject to claim by a creditor of the consignee.

3. The consignee is responsible for the loss of or damage to the work of fine art, unless otherwise mutually agreed upon in writing between the artist and art dealer in which case the art dealer shall be required to exercise all due diligence and care with regard to the work of fine art. In case of a waiver, the burden shall be on the dealer to demonstrate the waiver was entered into in good faith.

4. The proceeds from the sale of the work of fine art shall be held in trust by the consignee for the benefit of the artist. The proceeds shall first be applied to pay any balance due the artist unless the artist expressly agrees otherwise in writing.

Sec. 4. NEW SECTION. 556D.4 CONSIGNMENT — TRUST ARRANGEMENT.

A consignment remains trust property, even if purchased by the art dealer, until the price is paid in full to the artist. If the work is resold to a bona fide purchaser before the artist has been paid in full, the proceeds of the resale received by the art dealer constitute funds held in trust for the benefit of the artist to the extent necessary to pay any balance still due to the artist and the trusteeship continues until the fiduciary obligation of the art dealer with respect to the transaction is discharged in full.

Sec. 5. NEW SECTION. 556D.5 CONTRACT VOIDABLE.

A provision of a contract or agreement where the art dealer waives a provision of this Act is void.

Sec. 6. The provisions of this Act do not apply to a written contract executed prior to its effective date, unless either the parties agree by mutual consent that the provisions of this Act shall apply or the contract is extended or renewed after the effective date of this Act.

Approved May 28, 1986

CHAPTER 1234

VEHICLE PRICE DISCRIMINATION

S.F. 2084

AN ACT prohibiting price discrimination in the sale or lease of motor vehicles by motor vehicle manufacturers, distributors, or wholesalers and providing for enforcement and penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 551.12 PRICE DISCRIMINATION — SALE OR LEASE OF MOTOR VEHICLES.

1. As used in this section, unless the context otherwise requires:

a. "Motor vehicle" means a motor vehicle subject to registration under chapter 321 with a gross vehicle weight rating as defined in 49 C.F.R. 567.4(g)(3) of less than nine thousand pounds, but does not include a motor vehicle which is not a completed motor vehicle as defined in section 322.2, subsection 21, or a motor vehicle chassis, either of which is sold to a manufacturer and does not include a motor vehicle which is defined as a motor home in section 321.1, subsection 68, paragraph "d".

b. "Fleet buyer" means any person, except a rental company, which purchases and registers or leases ten or more new motor vehicles during any twelve-month period for use in the person's business.

c. "Rental company" means any person, except a dealer or dealer affiliated leasing company, in the primary business of the rental, retail lease or retail sale of motor vehicles.

d. "Retail buyer" means a person who buys a motor vehicle but does not include a fleet buyer, a rental company, or a dealer.

e. "Retail lease" means a contract for the use of a motor vehicle by any person for a term of more than sixty days but does not include sales or leases to a fleet buyer.

f. "Rental" means a contract for the use of a motor vehicle by any person for a period of sixty days or less.

g. "Dealer" means a motor vehicle dealer licensed under chapter 322.

h. "Manufacturer" means a manufacturer, distributor, or wholesaler licensed under chapter 322.

i. "Incentive" means a discount, rebate, interest assistance, option, assistance pass through, and any other benefit provided to a dealer with respect to the acquisition, sale, or lease of a motor vehicle or to a motor vehicle purchaser by a manufacturer.

j. "Price" means the dollar purchase price of a motor vehicle, including incentives.

2. A manufacturer shall not knowingly discriminate in price against Iowa purchasers or lessees of motor vehicles by selling or leasing a new motor vehicle to any dealer at a price lower than the lowest price at which the manufacturer offers to sell or lease any new motor vehicle of the same make and model similarly equipped to any other dealer.

This section does not apply to sales by manufacturers to dealers for resale to employees, retirees, officers or directors of a manufacturer or its affiliated companies, to any unit of government, to any charitable organization, or for any driver education program.

This section shall not be construed to prohibit a manufacturer from offering incentives to its dealers, dealer-affiliated leasing companies, fleet buyers or to retail buyers so long as the same or equivalent incentives are available to all dealers of the same line make on a non-discriminatory basis. If the manufacturer makes any incentive available to a dealer for resale or re-lease to a rental company, the same or equivalent incentive must be made available to dealers for resale to retail buyers.

3. A person shall not knowingly provide, induce or receive a discrimination in price which is prohibited by this section.

4. If the attorney general determines that a person has engaged in, is engaging in, or is about to engage in any practice in violation of this section, the attorney general may:

a. Require the person to file on forms as the attorney general may prescribe a statement or report in writing under oath or otherwise, as to all the facts and circumstances concerning prohibited practices by the person, and any other information the attorney general may deem necessary.

b. Examine under oath any person in connection with the prohibited activity.

c. Examine any record, book, document, account, or paper or motor vehicle as the attorney general may deem necessary.

d. Pursuant to an order of a district court, impound any record, book, document, account, paper, or motor vehicle that is produced in accordance with this section, and retain possession of same until completion of all proceedings in connection with which the same are produced.

5. a. To accomplish the objectives and to carry out the duties prescribed by this section, the attorney general, in addition to other powers conferred, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe forms and adopt rules as may be necessary.

b. Information or evidence provided the attorney general by a person pursuant to subsections 3 and 4 shall not be admitted in evidence, or used in any criminal prosecution. If a criminal prosecution under this section is initiated in a state court against a person who has provided information pursuant to subsections 4 and 5, the state shall have the burden of proof that the information so provided was not used in any manner to further the criminal investigation or prosecution.

c. In any civil action brought under this section, the attorney general shall have the right to require any defendant to give testimony, and no criminal prosecution based upon transactions

or acts about which the defendant is questioned and required to give testimony shall be brought against the defendant.

6. Service by the attorney general of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this state, but if it cannot be obtained, substituted service may be made in the following manner:

a. Personal service outside this state.

b. The mailing by registered mail to the last known place of business, residence, or abode within or without this state of the person for whom the same is intended.

c. As to any person other than a natural person, in the manner provided in the rules of civil procedure as if a petition had been filed.

d. The service as a district court may direct in lieu of personal service within this state.

7. If any person fails or refuses to file any statement or report, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to a district court and, after hearing, and upon meeting customary legal standards for obtaining relief, request an order:

a. Granting injunctive relief, restraining the sale of any motor vehicle by the person.

b. Dissolving a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or revoking or suspending any other licenses, permits, or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice.

c. Granting any other relief as may be required until the person files the statement or report, or obeys the subpoena.

8. Whenever it appears to the attorney general that a person has engaged in, is engaging in or is about to engage in any practice declared to be unlawful by this section, and the proceedings would be in the public interest, the attorney general may seek and obtain in an action in a district court an injunction prohibiting the person from continuing the practices or engaging in or doing any unlawful acts upon meeting customary legal standards for obtaining relief.

9. In any action brought under this section, the attorney general is entitled to recover costs for the use of this state.

10. A person who is injured or threatened with injury by conduct prohibited under this section may bring suit to:

a. Prevent or restrain the conduct and remove the conduct's effect by injunction or other equitable relief.

b. Recover actual damages resulting from the conduct.

c. Recover, at the court's discretion, exemplary damages which do not exceed twice the actual damages awarded under paragraph "b" of this subsection if the trier of fact determines that the prohibited conduct is willful or flagrant.

d. Recover the necessary costs of bringing suit, including a reasonable attorney fee.

Approved May 28, 1986