

CF 7r2263

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**By: ~~Senator Jimeno~~ Senators Jimeno, Forehand, and Middlebrooks**

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 1997

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Manufacturers, Distributors, and Factory Branches - Dealers - Good Faith**  
3 **Requirements**

4 FOR the purpose of establishing that a motor vehicle manufacturer, distributor, and  
5 factory branch has a duty of good faith to a dealer in the performance and  
6 enforcement of a franchise agreement; establishing that a motor vehicle  
7 manufacturer, distributor, ~~and~~ factory branch, and dealer, or agent or employee of  
8 a dealer, has the burden of proof in establishing that it acted in good faith and had  
9 good cause for engaging in certain conduct; establishing that a manufacturer,  
10 distributor, factory branch, dealer, or agent or employee of the dealer has a duty of  
11 good faith to a consumer in certain conduct; defining a certain term; and generally  
12 relating to motor vehicles and good faith requirements.

13 BY adding to

14 Article - Transportation

15 Section 15-101(h), 15-115, and 15-207(g)

16 Annotated Code of Maryland

17 (1992 Replacement Volume and 1996 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Transportation**

21 15-101.

22 (H) "GOOD FAITH" MEANS HONESTY IN FACT IN THE CONDUCT OR

23 TRANSACTION INVOLVED AND THE OBSERVANCE OF REASONABLE COMMERCIAL

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1 STANDARDS OF FAIR DEALING IN THE TRADE AS EVIDENCED BY ALL  
2 SURROUNDING CIRCUMSTANCES.

3 15-115.

4 ~~A MANUFACTURER, DISTRIBUTOR, FACTORY BRANCH, DEALER, AND AN~~  
5 ~~AGENT OR EMPLOYEE OF A DEALER, HAS A DUTY OF GOOD FAITH TO A CONSUMER~~  
6 ~~IN THE CONDUCT OF ALL TRANSACTIONS SUBJECT TO THE REQUIREMENTS OF THIS~~  
7 ~~SUBTITLE.~~

8 (A) CONSISTENT WITH BOTH THE COMMON LAW AND THE MARYLAND  
9 CONSUMER PROTECTION ACT, A MANUFACTURER, DISTRIBUTOR, FACTORY  
10 BRANCH, DEALER, OR AGENT OR EMPLOYEE OF A DEALER SHALL OWE A DUTY OF  
11 GOOD FAITH TO A CONSUMER IN THE CONDUCT OF ALL TRANSACTIONS SUBJECT TO  
12 THE REQUIREMENTS OF THIS TITLE.

13 (B) A MANUFACTURER, DISTRIBUTOR, FACTORY BRANCH, DEALER, OR  
14 AGENT OR EMPLOYEE OF A DEALER SHALL HAVE THE BURDEN OF PROOF IN  
15 ESTABLISHING THAT IT ACTED IN GOOD FAITH AND HAD GOOD CAUSE FOR  
16 ENGAGING IN ANY CONDUCT GIVING RISE TO A CLAIM BY A CONSUMER RELATING  
17 TO THE REQUIREMENTS OF THIS TITLE.

18 15-207.

19 (G) NOTWITHSTANDING THE TERMS OF ANY FRANCHISE AGREEMENT, A  
20 MANUFACTURER, DISTRIBUTOR, AND FACTORY BRANCH AND ANY  
21 REPRESENTATIVE OF A MANUFACTURER, DISTRIBUTOR, AND FACTORY BRANCH,  
22 HAS:

23 (1) A DUTY OF GOOD FAITH TO A DEALER IN THE PERFORMANCE AND  
24 ENFORCEMENT OF A FRANCHISE AGREEMENT; AND

25 (2) THE BURDEN OF PROOF IN ESTABLISHING THAT IT ACTED IN GOOD  
26 FAITH AND HAD GOOD CAUSE FOR ENGAGING IN ANY CONDUCT GIVING RISE TO A  
27 CLAIM UNDER THE FRANCHISE AGREEMENT OR THIS SUBTITLE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 1997.