

HOUSE BILL 571

Unofficial Copy  
R4

2001 Regular Session  
11r2552  
CF 11r1832

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By: **Delegate Malone**

Introduced and read first time: February 5, 2001  
Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 6, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Vehicle Laws - Manufacturers, Distributors, and Factory Branches - Good**  
3 **Faith Dealings**

4 FOR the purpose of defining the term "good faith" for purposes of certain business  
5 transactions involving vehicle manufacturers, distributors, and factory  
6 branches; prohibiting a vehicle manufacturer, distributor, or factory branch in  
7 the conduct of certain business transactions from failing to act in good faith;  
8 providing for the application of this Act; and generally relating to a requirement  
9 that vehicle manufacturers, distributors, and factory branches act in good faith.

10 ~~BY repealing and reenacting, with amendments,~~  
11 ~~Article - Transportation~~  
12 ~~Section 15-207~~  
13 ~~Annotated Code of Maryland~~  
14 ~~(1999 Replacement Volume and 2000 Supplement)~~

15 BY adding to  
16 Article - Transportation  
17 Section 15-206.1  
18 Annotated Code of Maryland  
19 (1999 Replacement Volume and 2000 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

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**Article - Transportation**2 ~~15-207.~~3 (a) (1) ~~In this section the following words have the meanings indicated.~~4 (2) (i) ~~"Coerce" means to compel or attempt to compel by threat of~~  
5 ~~harm, breach of contract, or other adverse consequences.~~6 (ii) ~~"Coerce" does not include to argue, urge, recommend, or~~  
7 ~~persuade.~~8 (3) ~~"GOOD FAITH" MEANS HONESTY IN FACT AND THE OBSERVANCE OF~~  
9 ~~REASONABLE COMMERCIAL STANDARDS OF FAIR DEALING IN THE TRADE.~~10 ~~[(3)] (4) "Require" means to impose upon a dealer a provision not~~  
11 ~~required by law or previously agreed to by a dealer in a franchise agreement,~~  
12 ~~excluding business decisions by a manufacturer, distributor, or factory branch which~~  
13 ~~are uniformly applied to all Maryland dealers in new vehicles of the manufacturer,~~  
14 ~~distributor, or factory branch.~~15 (b) (1) ~~A manufacturer, distributor, or factory branch, whether directly or~~  
16 ~~through an agent, employee, or representative, may not coerce any dealer to make~~  
17 ~~any agreement with the manufacturer, distributor, or factory branch.~~18 (2) ~~A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, WHETHER~~  
19 ~~DIRECTLY OR THROUGH AN AGENT, EMPLOYEE, OR REPRESENTATIVE, MAY NOT, IN~~  
20 ~~ACTING OR PURPORTING TO ACT UNDER THE TERMS, PROVISIONS, OR CONDITIONS~~  
21 ~~OF ANY FRANCHISE AGREEMENT, OR OTHERWISE, FAIL TO ACT IN GOOD FAITH.~~22 (c) ~~A manufacturer, distributor, or factory branch, whether directly or through~~  
23 ~~an agent, employee, or representative, may not coerce any dealer to order or accept~~  
24 ~~delivery of any vehicle, any equipment, parts, or accessories for a vehicle, or any other~~  
25 ~~commodity that is not required by law or by the dealer's franchise or that was not~~  
26 ~~ordered voluntarily by the dealer.~~27 (d) ~~A manufacturer, distributor, or factory branch, whether directly or through~~  
28 ~~an agent, employee, or representative, may not require or coerce a dealer, by~~  
29 ~~franchise agreement or otherwise, or as a condition to the renewal or continuation of~~  
30 ~~a franchise agreement, to:~~31 (1) ~~Eliminate from the use of the dealer's facilities a dealership for which~~  
32 ~~the dealer has a franchise agreement to utilize the facilities as of March 1, 1996; or~~33 (2) ~~Materially change the dealer's facilities or method of conducting~~  
34 ~~business if the change would impose substantial financial hardship on the business of~~  
35 ~~the dealer.~~36 (e) (1) ~~A manufacturer, distributor, or factory branch, whether directly or~~  
37 ~~through an agent, employee, or representative, may not require or coerce a dealer to~~

1 adhere to performance standards that are not applied uniformly to other similarly  
2 situated dealers.

3 (2) A performance standard or program for measuring dealership  
4 performance that may have a material effect on a dealer and the application of the  
5 standard or program by a manufacturer, distributor, or factory branch shall be fair,  
6 reasonable, equitable, and based on accurate information.

7 (3) (i) ~~If the performance standard is based on a survey, it must be~~  
8 ~~shown that:~~

- 9 1. The survey was designed with experts;
- 10 2. The proper universe was examined;
- 11 3. A representative sample was chosen; and
- 12 4. The data was accurately reported.

13 (ii) ~~The manufacturer, distributor, or factory branch shall establish~~  
14 ~~the objectivity of the survey process and provide this information to any dealer of the~~  
15 ~~same line make covered by the survey on request.~~

16 (f) A franchise agreement or other contract offered to a dealer by a  
17 manufacturer, distributor, or factory branch may not contain any provision requiring  
18 a dealer to pay the attorney's fees of the manufacturer, distributor, or factory branch  
19 related to disputes involving the franchise.

20 15-206.1.

21 (A) IN THIS SECTION, "GOOD FAITH" MEANS HONESTY IN FACT AND THE  
22 OBSERVANCE OF REASONABLE COMMERCIAL STANDARDS OF FAIR DEALING IN THE  
23 TRADE.

24 (B) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, WHETHER  
25 DIRECTLY OR THROUGH AN AGENT, EMPLOYEE, OR REPRESENTATIVE, MAY NOT FAIL  
26 TO ACT IN GOOD FAITH.

27 (1) IN ACTING OR PURPORTING TO ACT UNDER THE TERMS, PROVISIONS,  
28 OR CONDITIONS OF ANY FRANCHISE AGREEMENT; OR

29 (2) IN ANY TRANSACTION OR CONDUCT GOVERNED BY THIS SUBTITLE.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
31 applicable to any franchise agreement in existence on or after the effective date of  
32 this Act.

33 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
34 effect October 1, 2001.

