

# Alaska Motor Vehicle Act of 2001

## Reason for the Act

Alaska is now the only State in the nation without a comprehensive motor vehicle act. There are many reasons for such legislation. It's undeniable that, in Alaska (more than any other State), the manufacture, distribution, sale and repair of motor vehicles vitally affects the general economy of the State as well as the public interest and public welfare. Motor vehicle distributors and the manufacturers of motor vehicles whose physical manufacturing facilities are not located in Alaska are in fact doing business in the State through their control over, relationships with, and transactions with their Alaska dealers. Alaska's unique geographical location makes it necessary to ensure the availability of motor vehicles and parts and dependable service for motor vehicles throughout the State to protect and preserve the transportation system, the public safety and welfare, and the investments of its residents. It is therefore necessary, in the exercise of Alaska's sovereign police, to ensure the availability of motor vehicles and parts and dependable service for motor vehicles throughout the State and to protect and preserve the transportation system, the public safety and welfare, and the investments of Alaska residents.

With help from the National Automobile Dealer's Association ("NADA") and AADA carefully examined the motor vehicle franchise laws from all the other 49 states, met with national NADA representatives and employees of several state agencies. Then, AADA surveyed each Alaska member regarding his or her concerns – both from a manufacturer/dealer/standpoint and a dealer/customer standpoint. Dealers told AADA what they needed to protect and preserve the transportation system, the public safety and welfare and investments of their customers as well as their families. Because Alaska has no franchise law, AADA began from a clean sheet of paper and the effort took more than 18 months to complete. Drafts were presented, re-drafted and presented once again. NADA and other advisors from different state automobile associations reviewed the product and provided input. The final result is presented herewith.

## What the Act Accomplishes

The Act accomplishes the AADA goals through eight distinct Articles:

- **Article 1** accomplishes three purposes. As required in most other states, it places all agreements between manufacturers and dealers under state law; establishes Alaska as the legal jurisdiction for disputes between manufacturers and their dealers; and forbids any use of any corporate affiliate to accomplish what would otherwise be prohibited by the Act.
- **Article 2** requires manufacturers, dealers and their employees to obtain licenses and establishes the framework for that requirement. Licensing is almost universally required by other states, is prudent from a public safety standpoint and provides the revenue needed to offset associated expense.

- **Article 3** addresses uniform rules for franchise agreements. Here, manufacturers are required to file copies of franchise agreements with the commissioner and to follow uniform notification and appeal procedures when changes are proposed. Additionally, it establishes procedures for granting additional franchises and establishes fair and just compensation for termination, cancellation and non-renewal. Article 3 also provides for uniform requirements for transfer of dealer ownership that protects a family's investment from arbitrary manufacturer intervention.
- **Article 4** addresses prohibited trade practices between the manufacturer and its Alaska dealer body. Most of these practices are prohibited in other states. However, situations rising from Alaska's unique geographic location and environment are also addressed in this Article. Warranty and Service Contract requirements, Transportation Damage requirements and unfair methods of competition are also addressed in this Article.
- **Article 5** addresses requirements for installment sales contracts and service contracts. Here, the Act cleans up what the Alaska Automobile Dealer Association believes are areas that require clear regulation in order to protect the buying public.
- **Article 6** addresses prohibited manufacturer trade practices and unlawful acts by dealerships and other licensees. The Act's strong pro-consumer approach is once again evident as it addresses subjects like advertising practices, odometer laws and titling practices.
- **Article 7** addresses miscellaneous provisions such as acts of officers, directors, salespersons and other representatives; relating power of the commissioner; hearing notices; and establishes a Motor Vehicle Dealers Advisory Board – common in many other states.
- **Article 8** addresses applicability of the Act and provides definitions for terms utilized therein.

The Act is filled with consumer friendly provisions. For example, by more clearly defining the dealer/manufacturer relationship, Alaska dealers can confidently invest the capital necessary to meet current and future consumer demand. A dealer can purchase real estate, build the facilities and fill his or her inventory with the clear understanding that the manufacturer cannot arbitrarily terminate his or her franchise or encroach on his or her market area without a clear demonstration of good cause for that action. A stable dealer body more readily meets consumer need and demand.

Several other features reinforce the strong consumer orientation of the Act. For example:

- **Article 4** requires manufacturers to proactively work with their dealers through training and other manufacturer procedures to make sure vehicle owners receive high quality warranty or service contract repairs without unnecessary delay and that dealers are reimbursed fairly for providing that service.

- **Article 5** protects buyers who may take delivery of a vehicle before final financing is complete from any surprise changes in the financing term, interest rate or other provisions; provides new disclosure requirements for service contracts and clarifies when a dealer can or cannot disclaim or limit implied warranties.
- **Article 6** establishes a whole range of advertising guidelines (that exist in other states but have never before been established by Alaska law) that prohibit misleading or questionable advertising claims.

Clearly, anyone reading this Act will see how its provisions take the steps necessary to ensure the availability of motor vehicles and parts and dependable service for motor vehicles throughout the State and to protect and preserve the transportation system, the public safety and welfare, and the investments of Alaska residents.

# Alaska Motor Vehicle Act

## Reasons for the Act

- Alaska is now the only State in the nation without a comprehensive motor vehicle act.
- Alaska's unique geographical location (far from the lower 48 States, large land mass and great distances between population centers) makes it necessary for the State to:
  1. ensure the availability of motor vehicles and parts and dependable service for motor vehicles throughout the State;
  2. protect and preserve the transportation system, the public safety and welfare; and
  3. protect the investments of its residents.
- In the process of drafting proposed legislation to meet the above objectives, the Alaska Automobile Dealers Association (AADA) addressed the need to regulate and license motor vehicle manufacturers, motor vehicle dealers and other persons engaged in the selling, repairing and purchasing of vehicles in this state in order to prevent fraud and other abuses against residents and to protect and preserve the economy, the transportation system, the public safety and welfare, and the investments of resident. AADA did so by suggesting legislation to address the following major areas of concern:
  1. Presently, disputes between a manufacturer and an Alaska dealer are routinely governed by and interpreted and adjudicated by courts in other states – an uncertain and expensive proposition. This Act brings those agreements under Alaska law and grants jurisdiction for such disputes to the Alaska Court System.
  2. Presently, not all manufacturers, dealers and others engaged in the Alaska automobile business are licensed by the State. The State doesn't know who all the players are. This Act mandates a fair and comprehensive licensing structure.
  3. Some franchise agreements are for short duration and require periodic renewal – even though a dealer may be required to invest millions of dollars in facilities and equipment in order to obtain or grow that franchise. With no clear, fair and uniform guidelines for franchise termination, cancellation or non-renewal, dealers are many times understandably reluctant to expand to meet consumer demand. This Act (like similar legislation in most other states) sets forth clear and uniform processes regarding amending existing agreements, getting additional franchises and termination, cancellation or non-renewal of existing franchises by the manufacturer. This will allow dealerships to comfortably expand to meet consumer needs and expectations in a growing economy.
  4. Some franchise agreements have no provision for a dealer to designate his or her successor in case of death or incapacity. Therefore, an Alaska-owned family

business may end up on the auction block for no good reason. This Act provides clear, fair and uniform rules for succession.

5. Dealers are generally dependent on manufacturers as their “sole-source” supplier. Such dependent relationships give rise to unilateral policies that are otherwise of no value to the dealer – commonly called “franchise insurance.” The dealer has no choice but to pass those unfair costs on to the consumer. This Act prohibits certain common manufacturer abuses and puts dealerships on a more level playing field.
6. Presently, the trend is for manufacturers to reduce their warranty expense by requiring dealerships to increasingly perform certain administrative and other functions without reasonable reimbursement. The dealer has no choice but to pass those non-reimbursed expenses on to the consumer. This bill clearly defines areas of manufacturer responsibility and mandates fair payment for all incurred expenses relating to warranty and extended service contract repairs.
7. Because Alaska has no comprehensive motor vehicle act, certain functions of the retail automobile business are subject to abuse by unscrupulous dealers – franchised and (most frequently) non-franchised. This Act identified the problem areas and provides clear guidelines designed to protect consumers from such potential abuses.
8. Because, unlike most other states, Alaska does not have a Motor Vehicle Advisory Board, many issues requiring attention by state enforcement officers become unnecessarily argumentative and disruptive. The Act creates a non-compensated Motor Vehicle Advisory Board designed to advise the commissioner regarding: appeals or other disputes between manufacturers and dealers; a manufacturer’s proposed changes to its new vehicle franchises; proposed regulations; and violations of the Act by any licensee.