RCW 46.96.185 Unfair practices—Exemptions—Definitions. (1) Notwithstanding the terms of a franchise agreement, a manufacturer, distributor, factory branch, or factory representative, or an agent, officer, parent company, wholly or partially owned subsidiary, affiliated entity, or other person controlled by or under common control with a manufacturer, distributor, factory branch, or factory representative, shall not:

(a) Discriminate between new motor vehicle dealers by selling or offering to sell a like vehicle to one dealer at a lower actual price than the actual price offered to another dealer for the same model similarly equipped;

(b) Discriminate between new motor vehicle dealers by selling or offering to sell parts or accessories to one dealer at a lower actual price than the actual price offered to another dealer;

(c) Discriminate between new motor vehicle dealers by using a promotion plan, marketing plan, or other similar device that results in a lower actual price on vehicles, parts, or accessories being charged to one dealer over another dealer;

(d) Discriminate between new motor vehicle dealers by adopting a method, or changing an existing method, for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to its dealers that is not fair, reasonable, and equitable. Upon the request of a dealer, a manufacturer, distributor, factory branch, or factory representative shall disclose in writing to the dealer the method by which new motor vehicles, parts, and accessories are allocated, scheduled, or delivered to its dealers handling the same line or make of vehicles;

(e) Discriminate against a new motor vehicle dealer by preventing, offsetting, or otherwise impairing the dealer's right to request a documentary service fee on affinity or similar program purchases. This prohibition applies to, but is not limited to, any promotion plan, marketing plan, manufacturer or dealer employee or employee friends or family purchase programs, or similar plans or programs;

(f) Give preferential treatment to some new motor vehicle dealers over others by refusing or failing to deliver, in reasonable quantities and within a reasonable time after receipt of an order, to a dealer holding a franchise for a line or make of motor vehicles sold or distributed by the manufacturer, distributor, factory branch, or factory representative, a new vehicle, parts, or accessories, if the vehicle, parts, or accessories are being delivered to other dealers, or require a dealer to purchase unreasonable advertising displays or other materials, or unreasonably require a dealer to remodel or renovate existing facilities as a prerequisite to receiving a model or series of vehicles;

(g) Compete with a new motor vehicle dealer of any make or line by acting in the capacity of a new motor vehicle dealer, or by owning, operating, or controlling, whether directly or indirectly, a motor vehicle dealership in this state. It is not, however, a violation of this subsection for:

(i) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership for a temporary period, not to exceed two years, during the transition from one owner of the dealership to another where the dealership was previously owned by a franchised dealer and is currently for sale to any qualified independent person at a fair and reasonable price. The temporary

operation may be extended for one 12-month period on petition of the temporary operator to the department. The matter will be handled as an adjudicative proceeding under chapter 34.05 RCW. A dealer who is a franchisee of the petitioning manufacturer or distributor may intervene and participate in a proceeding under this subsection (1)(g)(i). The temporary operator has the burden of proof to show justification for the extension and a good faith effort to sell the dealership to an independent person at a fair and reasonable price;

(ii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship for the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been underrepresented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, and where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. Nothing in this subsection (1)(g)(ii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with (a) through (f) of this subsection;

(iii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. The number of dealerships operated under this subsection (1)(g)(iii) may not exceed four percent rounded up to the nearest whole number of a manufacturer's total of new motor vehicle dealer franchises in this state. Nothing in this subsection (1)(g)(iii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with (a) through (f) of this subsection;

(iv) A truck manufacturer to own, operate, or control a new motor vehicle dealership that sells only trucks of that manufacturer's line make with a gross vehicle weight rating of 12,500 pounds or more, and the truck manufacturer has been continuously engaged in the retail sale of the trucks at least since January 1, 1993;

(v) A manufacturer to own, operate, or control a new motor vehicle dealership trading exclusively in a single line make of the manufacturer if (A) the manufacturer does not own, directly or indirectly, in the aggregate, in excess of 45 percent of the total ownership interest in the dealership, (B) at the time the manufacturer first acquires ownership or assumes operation or control of any such dealership, the distance between any dealership thus owned, operated, or controlled and the nearest new motor vehicle dealership trading in the same line make of vehicle and in which the manufacturer has no ownership or control is not less than 15 miles and complies with the applicable provisions in the relevant market area sections of this chapter, (C) all of the manufacturer's franchise agreements confer rights on the dealer of that line make to develop and operate within a defined geographic territory or area, as many dealership facilities as the dealer and the manufacturer agree are appropriate, and (D) as of January 1, 2000, the manufacturer had no more than four new motor vehicle dealers of that manufacturer's line make in this state, and at least half of those dealers owned and operated two or more dealership facilities in the geographic territory or area covered by their franchise agreements with the manufacturer;

(vi) A final-stage manufacturer to own, operate, or control a new motor vehicle dealership; or

(vii) A manufacturer that is incorporated in the United States, has never entered into a franchise agreement with a motor vehicle dealer, has operated at least one service facility in this state as of January 1, 2026, and exclusively produces battery electric vehicles of which at least 300 were registered in Washington state before January 1, 2026, to own, operate, or control a new motor vehicle dealership that sells new vehicles that are only of that manufacturer's makes or lines and that are not sold new by a licensed independent franchise dealer, or to own, operate, or control or contract with companies that provide finance, leasing, or service for vehicles that are of that manufacturer's makes or lines, so long as the manufacturer does not, after June 11, 2026, distribute vehicles on behalf of a manufacturer prohibited by law from acting in the capacity of a motor vehicle dealer, or become subject to the majority ownership or control of a manufacturer prohibited by law from acting in the capacity of a motor vehicle dealer. Regardless of ownership interest, a manufacturer prohibited by law from acting in the capacity of a motor vehicle dealer shall not use its ownership interest in a manufacturer exempted under this subsection (1)(g)(vii) to violate any provisions under (g) of this subsection. Private parties may initiate an action pursuant to RCW 46.96.260 to obtain relief and enjoin violations of this subsection (1)(g)(vii). For purposes of this subsection (1)(g)(vii):

(A) "Battery electric vehicle" means any vehicle that operates solely by use of a battery or battery pack, or that is powered primarily through the use of an electric battery or battery pack but uses a flywheel or capacitor that stores energy produced by the electric motor or through regenerative braking to assist in vehicle operation, so long as none of these components rely on power generated by fossil fuels or hydrogen;

(B) "Manufacturer prohibited by law from acting in the capacity of a motor vehicle dealer" includes the manufacturer as well as its distributor, factory branch, factory representative, agent, officer, parent company, wholly or partially owned subsidiary, affiliated entity, or other person controlled by or under common control thereof;

(h) Compete with a new motor vehicle dealer by owning, operating, or controlling, whether directly or indirectly, a service facility in this state for the repair or maintenance of motor vehicles under the manufacturer's new car warranty and extended warranty. Nothing in this subsection (1)(h), however, prohibits a manufacturer, distributor, factory branch, or factory representative from owning or operating a service facility for the purpose of providing or performing maintenance, repair, or service work on motor vehicles that are owned by the manufacturer, distributor, factory branch, or factory representative;

(i) Use confidential or proprietary information obtained from a new motor vehicle dealer to unfairly compete with the dealer. For purposes of this subsection (1)(i), "confidential or proprietary information" means trade secrets as defined in RCW 19.108.010, business plans, marketing plans or strategies, customer lists, contracts, sales data, revenues, or other financial information;

(j)(i) Terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer based upon any of the following events, which do not constitute good cause for termination, cancellation, or nonrenewal under RCW 46.96.060: (A) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of, or holds a franchise agreement for the sale or service of another make or line of new motor vehicles; (B) the fact that the new motor vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the manufacturer or distributor; (C) that the new motor vehicle dealer has or intends to relocate the manufacturer or distributor's make or line of new motor vehicles or service to an existing dealership facility that is within the relevant market area, as defined in RCW 46.96.140, of the make or line to be relocated, except that, in any nonemergency circumstance, the dealer must give the manufacturer or distributor at least 60 days' notice of his or her intent to relocate and the relocation must comply with RCW 46.96.140 and 46.96.150 for any same make or line facility; or (D) the failure of a franchisee to change the location of the dealership or to make substantial alterations to the use or number of franchises on the dealership premises or facilities.

(ii) Notwithstanding the limitations of this section, a manufacturer may, for separate consideration, enter into a written contract with a dealer to exclusively sell and service a single make or line of new motor vehicles at a specific facility for a defined period of time. The penalty for breach of the contract must not exceed the amount of consideration paid by the manufacturer plus a reasonable rate of interest;

(k) Coerce or attempt to coerce a motor vehicle dealer to refrain from, or prohibit or attempt to prohibit a new motor vehicle dealer from acquiring, owning, having an investment in, participating in the management of, or holding a franchise agreement for the sale or service of another make or line of new motor vehicles or related products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, if the prohibition against acquiring, owning, investing, managing, or holding a franchise for such additional make or line of vehicles or products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, is not supported by reasonable business considerations. The burden of proving that reasonable business considerations support or justify the prohibition against the

additional make or line of new motor vehicles or products or nonexclusive facilities is on the manufacturer;

(l) Require, by contract or otherwise, a new motor vehicle dealer to make a material alteration, expansion, or addition to any dealership facility, unless the required alteration, expansion, or addition is uniformly required of other similarly situated new motor vehicle dealers of the same make or line of vehicles and is reasonable in light of all existing circumstances, including economic conditions. In any proceeding in which a required facility alteration, expansion, or addition is an issue, the manufacturer or distributor has the burden of proof. Except for a program or any renewal or modification of a program that is in effect with one or more new motor vehicle dealers in this state on June 12, 2014, a manufacturer shall not require, coerce, or attempt to coerce any new motor vehicle dealer by program, policy, standard, or otherwise to change the location of the dealership or construct, replace, renovate, or make any substantial changes, alterations, or remodeling to a new motor vehicle dealer's sales or service facilities, except as necessary to comply with health or safety laws or to comply with technology requirements without which a dealer would be unable to service a vehicle the dealer has elected to sell, before the 10th anniversary of the date of issuance of the certificate of occupancy or the manufacturer's approval, whichever is later, from:

(i) The date construction of the dealership at that location was completed if the construction was in substantial compliance with standards or plans provided by a manufacturer, distributor, or representative or through a subsidiary or agent of the manufacturer, distributor, or representative; or

(ii) The date a prior change, alteration, or remodel of the dealership at that location was completed if the construction was in substantial compliance with standards or plans provided by a manufacturer, distributor, or representative or through a subsidiary or agent of the manufacturer, distributor, or representative;

(m) Prevent or attempt to prevent by contract or otherwise any new motor vehicle dealer from changing the executive management of a new motor vehicle dealer unless the manufacturer or distributor, having the burden of proof, can show that a proposed change of executive management will result in executive management by a person or persons who are not of good moral character or who do not meet reasonable, preexisting, and equitably applied standards of the manufacturer or distributor. If a manufacturer or distributor rejects a proposed change in the executive management, the manufacturer or distributor shall give written notice of its reasons to the dealer within 60 days after receiving written notice from the dealer of the proposed change and all related information reasonably requested by the manufacturer or distributor, or the change in executive management must be considered approved;

(n) Condition the sale, transfer, relocation, or renewal of a franchise agreement or condition manufacturer, distributor, factory branch, or factory representative sales, services, or parts incentives upon the manufacturer obtaining site control, including rights to purchase or lease the dealer's facility, or an agreement to make improvements or substantial renovations to a facility. For purposes of this section, a substantial renovation has a gross cost to the dealer in excess of $5,000;

(o) Fail to provide to a new motor vehicle dealer purchasing or leasing building materials or other facility improvements the right to

purchase or lease franchisor image elements of like kind and quality from an alternative vendor selected by the dealer if the goods or services are to be supplied by a vendor selected, identified, or designated by the manufacturer or distributor. If the vendor selected by the manufacturer or distributor is the only available vendor of like kind and quality materials, the new motor vehicle dealer must be given the opportunity to purchase the franchisor image elements at a price substantially similar to the capitalized lease costs of the elements. This subsection (1)(o) must not be construed to allow a new motor vehicle dealer or vendor to gain additional intellectual property rights they are not otherwise entitled to or to impair or eliminate the intellectual property rights of the manufacturer or distributor or to permit a new motor vehicle dealer to erect or maintain signs that do not conform to the reasonable intellectual property usage guidelines of the manufacturer or distributor;

(p) Take any adverse action against a new motor vehicle dealer including, but not limited to, charge backs or reducing vehicle allocations, for sales and service performance within a designated area of primary responsibility unless that area is reasonable in light of proximity to relevant census tracts to the dealership and competing dealerships, highways and road networks, any natural or man-made barriers, demographics, including economic factors, buyer behavior information, and contains only areas inside the state of Washington unless specifically approved by the new motor vehicle dealer;

(q) Require, coerce, or attempt to coerce any new motor vehicle dealer by program, policy, facility guide, standard, or otherwise to order or accept delivery of any service or repair appliances, equipment, parts, or accessories, or any other commodity not required by law, which the dealer has not voluntarily ordered or which the dealer does not have the right to return unused for a full refund within 90 days or a longer period as mutually agreed upon by the dealer and manufacturer; or

(r) Modify the franchise agreement for any new motor vehicle dealer unless the manufacturer notifies the dealer in writing of its intention to modify the agreement at least 90 days before the effective date thereof, stating the specific grounds for the modification, and undertakes the modification in good faith, for good cause, and in a manner that would not adversely and substantially alter the rights, obligations, investment, or return on investment of the franchised new motor vehicle dealer under the existing agreement.

(2) Subsection (1)(a), (b), and (c) of this section do not apply to sales to a motor vehicle dealer: (a) For resale to a federal, state, or local government agency; (b) where the vehicles will be sold or donated for use in a program of driver's education; (c) where the sale is made under a manufacturer's bona fide promotional program offering sales incentives or rebates; (d) where the sale of parts or accessories is under a manufacturer's bona fide quantity discount program; or (e) where the sale is made under a manufacturer's bona fide fleet vehicle discount program. For purposes of this subsection, "fleet" means a group of 15 or more new motor vehicles purchased or leased by a dealer at one time under a single purchase or lease agreement for use as part of a fleet, and where the dealer has been assigned a fleet identifier code by the department of licensing.

(3) The following definitions apply to this section:

(a) "Actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, distributor, factory branch,

or factory representative, whether paid to the dealer or the ultimate purchaser of the vehicle.

(b) "Control" or "controlling" means (i) the possession of, title to, or control of 10 percent or more of the voting equity interest in a person, whether directly or indirectly through a fiduciary, agent, or other intermediary, or (ii) the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, through director control, by contract, or otherwise, except as expressly provided under the franchise agreement.

(c) "Motor vehicles" does not include trucks that are 14,001 pounds gross vehicle weight and above or recreational vehicles as defined in RCW 43.22.335.

(d) "Operate" means to manage a dealership, whether directly or indirectly.

(e) "Own" or "ownership" means to hold the beneficial ownership of one percent or more of any class of equity interest in a dealership, whether the interest is that of a shareholder, partner, limited liability company member, or otherwise. To hold an ownership interest means to have possession of, title to, or control of the ownership interest, whether directly or indirectly through a fiduciary, agent, or other intermediary.

(4) A violation of this section is deemed to affect the public interest and constitutes an unlawful and unfair practice under chapter 19.86 RCW. A person aggrieved by an alleged violation of this section may petition the department to have the matter handled as an adjudicative proceeding under chapter 34.05 RCW. [2026 c 186 s 2; 2018 c 296 s 2; 2014 c 214 s 7; 2010 c 178 s 6; 2003 c 21 s 3; 2000 c 203 s 1.]

Application—2014 c 214: See note following RCW 46.70.045.

Captions not law—2003 c 21: See note following RCW 46.96.020.