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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.92.2] (*Division 8 added by Stats. 1941, Ch. 44.*)

CHAPTER 1. Automobiles [18400 - 18413] (*Chapter 1 added by Stats. 1941, Ch. 44.*)

18400. This chapter may be cited as the Automobile Dealers Anti-coercion Act.

(*Added by Stats. 1941, Ch. 44.*)

18401. The provisions of this chapter are cumulative of each other and of any other provision of law relating to the same subject in effect September 15, 1935.

(*Added by Stats. 1941, Ch. 44.*)

18402. As used in this chapter:

(a) "Person" means any individual, firm, corporation, partnership, limited liability company, association, trustee, receiver or assignee for the benefit of creditors.

(b) "Sell," "sold," "buy," and "purchase" include exchange, barter, gift, and offer of contract to sell or buy.

(c) "Manufacturer" means (i) any person who is engaged, directly or indirectly, in the manufacture of motor vehicles, and (ii) any other person directly or indirectly owned by him who is engaged in the sale or distribution of motor vehicles or any interest therein at wholesale.

(d) "Retailer" means any person who is engaged or who intends to engage in the business of selling motor vehicles at retail in this state.

(e) "Lender" means any person other than an automobile dealer or automobile distributor who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this state.

(*Amended by Stats. 1994, Ch. 1010, Sec. 21. Effective January 1, 1995.*)

18403. It is unlawful for a manufacturer to sell or contract to sell motor vehicles to a retailer on the condition or with an agreement or understanding, either express or implied, that the retailer shall finance the purchase or sale of motor vehicles only with or through a designated person or class of persons or shall sell and assign the conditional sales contracts, chattel mortgages or leases arising from the sale of motor vehicles only to a designated person or class of persons, when the effect of the condition, agreement or understanding so entered into may be to lessen competition, or tend to create a monopoly in the person or class of persons designated.

(*Added by Stats. 1941, Ch. 44.*)

18404. Any threat, express or implied, made to a retailer by a manufacturer that the manufacturer will cease to sell, or refuse to contract to sell, or will terminate a contract to sell, motor vehicles to the retailer, unless such retailer finances the purchase or sale of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his retail sales of motor vehicles only to a designated person or class of persons is prima facie evidence that the manufacturer has sold or intends to sell motor vehicles on the condition or with the agreement or understanding prohibited by this chapter.

(*Added by Stats. 1941, Ch. 44.*)

18405. Any threat, express or implied, made to a retailer by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on

motor vehicles in this State and is affiliated with or controlled by a manufacturer that such manufacturer will terminate his contract with or cease to sell motor vehicles to such retailer unless such retailer finances the purchase or sale of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from his retail sale of motor vehicles only to such person so engaged in financing the purchase or sale of motor vehicles or in buying conditional sales contracts, chattel mortgages or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of such manufacturer, and is prima facie evidence that the manufacturer has sold or intends to sell the motor vehicles on the condition or with the agreement or understanding prohibited by this chapter.

(Added by Stats. 1941, Ch. 44.)

18406. It is unlawful for any manufacturer to pay or give or to contract to pay or give any subsidy to any lender or to discriminate in favor of or against any lender if the effect of any such subsidy or discrimination may be to lessen competition or tend to create a monopoly in the person or class of persons who accepts the subsidy or who are benefited by the discrimination.

(Added by Stats. 1941, Ch. 44.)

18407. It is unlawful for any lender to accept or contract or agree to accept either directly or indirectly any subsidy or the benefit resulting from any discrimination made unlawful by this chapter from any manufacturer if the effect of the acceptance of any such subsidy or benefit may be to lessen competition or tend to create a monopoly in the person or class of persons who accepts such subsidy or who is benefited by such discrimination.

(Added by Stats. 1941, Ch. 44.)

18408. It is unlawful for any person other than an automobile dealer or automobile distributor who accepts either directly or indirectly any subsidy or the benefit resulting from any discrimination made unlawful by this chapter or contracts either directly or indirectly to accept any such subsidy or benefit to finance or attempt to finance the purchase or sale of any motor vehicle or buy or attempt to buy any conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail in this State thereafter.

(Added by Stats. 1941, Ch. 44.)

18409. Any contract or agreement in violation of the provisions of this chapter is void and is not enforceable at law or in equity.

(Added by Stats. 1941, Ch. 44.)

18410. Upon a violation of this chapter by any corporation or association the Attorney General or the district attorney of the proper county shall institute proceedings in any court of competent jurisdiction for the forfeiture of charter rights, franchises or privileges and powers exercised by such corporation or association, and for the dissolution of the corporation or association.

(Added by Stats. 1941, Ch. 44.)

18411. Every foreign corporation or association, exercising any of the powers, franchises or functions of a corporation in this State which violates this chapter, is hereby denied those powers, franchises or functions and is prohibited from doing any business in this State. The Attorney General shall enforce this provision by bringing proper proceedings. The Secretary of State may revoke the license of any such corporation or association heretofore authorized to do business in this State.

(Added by Stats. 1941, Ch. 44.)

18412. (a) Any person who violates this chapter, any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by this chapter, any employee, agent or officer of any such person who participates in making, executing, enforcing, performing or in urging, aiding or abetting in the performance of any such contract, condition, agreement or understanding, any person who pays or gives or contracts to pay or give any thing or service of value prohibited by this chapter, and any person who accepts or contracts to accept any thing or service of value prohibited by this chapter, is guilty of a misdemeanor.

(b) Each day's violation of this provision constitutes a separate offense.

(Added by Stats. 1941, Ch. 44.)

18413. (a) In addition to the criminal and civil penalties herein provided, any person who is injured in his business or property by reason of anything declared to be unlawful by this chapter may sue therefor in any court having jurisdiction in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and recover twofold the damages sustained by him, and the costs of suit.

(b) Whenever it appears to the court before which any proceedings under this chapter may be pending, that the ends of justice require that other parties be brought before the court, the court may cause them to be made parties defendant and summoned, whether or not they reside in the county where such action is pending.

