

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0973.01 Jery Payne x2157

SENATE BILL 13-265

SENATE SPONSORSHIP

Kerr and Balmer,

HOUSE SPONSORSHIP

Holbert and Kagan,

Senate Committees
Judiciary

House Committees
Transportation & Energy

A BILL FOR AN ACT

101 **CONCERNING APPLICABILITY OF COLORADO STATUTES TO FRANCHISE**
102 **AGREEMENTS BETWEEN VEHICLE DEALERS AND THE SUPPLIERS**
103 **OF THESE VEHICLES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill clarifies that motor vehicle franchise law applies to a sales, service, and parts agreement (agreement), regardless of when it was adopted. **Section 2** clarifies that each amendment to an agreement creates a new agreement under the statutes.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
May 2, 2013

SENATE
3rd Reading Unamended
April 30, 2013

SENATE
2nd Reading Unamended
April 29, 2013

Currently, a manufacturer or distributor must file a copy of a typical agreement with the executive director of the department of revenue. **Sections 3 and 4** require material changes to the agreement to also be filed.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 12-6-101, **add** (1) (e)
3 as follows:

4 **12-6-101. Legislative declaration.** (1) The general assembly
5 hereby declares that:

6 (e) SUBJECT TO THE UNITED STATES CONSTITUTION AND THE
7 COLORADO CONSTITUTION, THIS ARTICLE APPLIES TO EACH SALES,
8 SERVICE, AND PARTS AGREEMENT IN EFFECT, REGARDLESS OF WHEN THE
9 AGREEMENT WAS ADOPTED.

10 **SECTION 2.** In Colorado Revised Statutes, 12-6-102, **amend**
11 (16.6) as follows:

12 **12-6-102. Definitions.** As used in this part 1 and in part 5 of this
13 article, unless the context or section 12-6-502 otherwise requires:

14 (16.6) "Sales, service, and parts agreement" means an agreement
15 between a manufacturer, distributor, or manufacturer representative and
16 a motor vehicle or powersports dealer authorizing the dealer to sell and
17 service a line-make of motor or powersports vehicles or imposing any
18 duty on the dealer in consideration for the right to have or competitively
19 operate a franchise, including any amendments or additional related
20 agreements thereto. EACH AMENDMENT, MODIFICATION, OR ADDENDUM
21 THAT MATERIALLY AFFECTS THE RIGHTS, RESPONSIBILITIES, OR
22 OBLIGATIONS OF THE CONTRACTING PARTIES CREATES A NEW A SALES,
23 SERVICE, AND PARTS AGREEMENT.

1 **SECTION 3.** In Colorado Revised Statutes, 12-6-115, **amend** (5)
2 as follows:

3 **12-6-115. Application - prelicensing education - rules.**

4 (5) (a) ~~All persons~~ EACH PERSON applying for a manufacturer's or
5 distributor's license shall:

6 (I) File with the executive director a certified copy of their typical
7 ~~written~~ SALES, SERVICE, AND PARTS agreement with all motor vehicle
8 dealers; and ~~also~~

9 (II) FILE evidence of the appointment of an agent for process in
10 the state of Colorado. ~~shall be included with the application.~~

11 (b) WITHIN SIXTY DAYS AFTER AMENDING OR MODIFYING OR
12 ADDING AN ADDENDUM TO THE SALES, SERVICE, OR PARTS AGREEMENT OF
13 MORE THAN ONE MOTOR VEHICLE DEALER, A LICENSED MANUFACTURER OR
14 DISTRIBUTOR SHALL FILE A CERTIFIED COPY OF THE NEW SALES, SERVICE,
15 AND PARTS AGREEMENT, INCLUDING THE CHANGES, WITH THE EXECUTIVE
16 DIRECTOR IF THE AMENDMENT, MODIFICATION, OR ADDENDUM
17 MATERIALLY ALTERS THE RIGHTS AND OBLIGATIONS OF THE CONTRACTING
18 PARTIES.

19 **SECTION 4.** In Colorado Revised Statutes, 12-6-517, **amend** (5)
20 as follows:

21 **12-6-517. Application - rules.** (5) (a) A person applying for a
22 powersports vehicle manufacturer's or distributor's license shall:

23 (I) File with the executive director a certified copy of a typical
24 ~~written~~ SALES, SERVICE, AND PARTS agreement with all powersports
25 vehicle dealers; and ~~also~~

26 (II) FILE evidence of the appointment of an agent for process in
27 the state of Colorado. ~~shall be included with the application.~~

1 (b) WITHIN SIXTY DAYS AFTER AMENDING OR MODIFYING OR
2 ADDING AN ADDENDUM TO THE SALES, SERVICE, OR PARTS AGREEMENT OF
3 MORE THAN ONE POWERSPORTS DEALER, A LICENSED MANUFACTURER OR
4 DISTRIBUTOR SHALL FILE A CERTIFIED COPY OF THE NEW SALES, SERVICE,
5 AND PARTS AGREEMENT, INCLUDING THE CHANGES, WITH THE EXECUTIVE
6 DIRECTOR IF THE AMENDMENT, MODIFICATION, OR ADDENDUM
7 MATERIALLY ALTERS THE RIGHTS AND OBLIGATIONS OF THE CONTRACTING
8 PARTIES.

9 **SECTION 5. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2014 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.