

1 Sec. 1. 23 V.S.A. § 4(8) is amended to read:

2 (8)(A)(i) “Dealer” means a person, partnership, corporation, or other  
3 entity engaged in the business of selling or exchanging new or used motor  
4 vehicles, snowmobiles, motorboats, or all-terrain vehicles. A dealer may, as  
5 part of or incidental to such business, repair such vehicles or motorboats, sell  
6 parts and accessories, or lease or rent such vehicles or motorboats. “Dealer”  
7 shall not include a finance or auction dealer, ~~or a transporter,~~ or direct-sale  
8 manufacturer.

9 \* \* \*

10 (B) “Direct-sale manufacturer” means any person that manufactures  
11 motor vehicles and also engages in the business of directly selling its motor  
12 vehicles to consumers in the State and does not currently have a valid sales and  
13 service agreement, franchise, or contract with a new motor vehicle dealer, as  
14 defined under 9 V.S.A. § 4085(13), operating in the State. Except as otherwise  
15 expressly provided, a direct-sale manufacturer is subject to the same provisions  
16 and granted the same rights under this subchapter as a dealer.

17 \* \* \*

18 Sec. 2. 23 V.S.A. chapter 7, subchapter 4 is amended to read:

19 Subchapter 4. Registration of Dealers, Direct-Sale Manufacturers,

20 and Transporters

21 \* \* \*

1 § 450a. DEALER REGISTRATION; ELIGIBILITY

2 (a) A person shall not be eligible to register as a dealer unless the person:

3 \* \* \*

4 (4) Owns real estate (as defined in 1 V.S.A. § 132) as his or her place of  
5 business or has a lease with an expiration date not earlier than the last day of  
6 the registration year for which registration is sought under the provisions of  
7 this subchapter, which includes a building of at least 1,200 square feet in size  
8 used primarily for the business of the dealership. The building shall have  
9 adequate facilities for the maintenance of the records required by law to be  
10 kept, including those required by section 466 of this title.

11 \* \* \*

12 (c) In addition to the requirements of subsections (a) and (b) of this section,  
13 a person shall not be eligible to register as a dealer in cars or motor trucks  
14 unless the person is open for business at least 146 days during the calendar  
15 year. The applicant shall provide the Commissioner with the hours of  
16 operation of the business ~~which~~ that the person shall maintain during the  
17 registration period at the time of the application.

18 (d)(1) Notwithstanding subdivision (a)(4) and subsection (c) of this section,  
19 a direct-sale manufacturer is not required to own or lease real estate that  
20 includes a building of at least 1,200 square feet in size used primarily for the

1 business of the direct-sale manufacturer or to be open for business at least  
2 146 days during the calendar year.

3 (2) A direct-sale manufacturer with 500 or more motor vehicles of its  
4 make registered in the State shall own, operate, or control, either directly or  
5 indirectly, a motor vehicle warranty or service facility located in the State. All  
6 direct-sale manufacturers that operate in the State shall provide the  
7 Commissioner with a plan for complying with this subdivision once applicable  
8 and, in the case of a direct-sale manufacturer with 500 or more motor vehicles  
9 of its make registered in the State, the hours of operation of the motor vehicle  
10 warranty or service facility that the person shall own, operate, or control during  
11 the registration period at the time of the application.

12 \* \* \*

13 § 466. RECORDS; CUSTODIAN

14 (a) On a form prescribed or approved by the Commissioner, every licensed  
15 dealer shall maintain and retain for six years a record containing the following  
16 information, which shall be open to inspection by any law enforcement officer  
17 or motor vehicle inspector or other agent of the Commissioner during  
18 reasonable business hours:

19 (1) ~~Every every~~ vehicle or motorboat that is bought, sold, or exchanged  
20 by the licensee or received or accepted by the licensee for sale or exchange-;

1           (2) Every every vehicle or motorboat that is bought or otherwise  
2 acquired and dismantled by the licensee; and

3           (3) The the name and address of the person from whom such vehicle or  
4 motorboat was purchased or acquired, the date thereof, the name and address  
5 of the person to whom any such vehicle or motorboat was sold or otherwise  
6 disposed of and the date thereof, and a sufficient description of every such  
7 vehicle or motorboat by name and identifying numbers thereon to identify the  
8 same.

9           (4) [Repealed.]

10          (b) Every licensed dealer shall designate a custodian of documents who  
11 shall have primary responsibility for administration of documents required to  
12 be maintained under this title. In the absence of the designated custodian, the  
13 dealer shall have an ongoing duty to make such records available for  
14 inspection by any law enforcement officer or motor vehicle inspector or other  
15 agent of the Commissioner during reasonable business hours.

16          (c) Notwithstanding subsections (a) and (b) of this section, a direct-sale  
17 manufacturer does not need to maintain and retain records on a form  
18 prescribed or approved by the Commissioner or designate a custodian of  
19 documents, provided that the information delineated under subdivisions (a)(1),  
20 (a)(2), and (a)(3) of this section for all business conducted by the direct-sale  
21 manufacturer in the State for at least the prior six years can be produced in

1 electronic form within 72 hours after a request by any law enforcement officer,  
2 motor vehicle inspector, or other agent of the Commissioner.

3 \* \* \*

4 Sec. 3. 9 V.S.A. § 4085 is amended to read:

5 § 4085. DEFINITIONS

6 The following words, terms, and phrases when used in this chapter shall  
7 have the meanings respectively ascribed to them in this section, except where  
8 the context clearly indicates a different meaning:

9 \* \* \*

10 (10)(A) “Manufacturer” means any person, resident, or nonresident who  
11 manufactures or assembles new motor vehicles, or imports for distribution  
12 through distributors of motor vehicles, or any partnership, firm, association,  
13 joint venture, corporation, or trust, resident or nonresident, which is controlled  
14 by the manufacturer.

15 (B) Additionally, the term manufacturer shall include the following  
16 terms:

17 (i) “Distributor” means any person, resident or nonresident, who  
18 in whole or in part offers for sale, sells, or distributes any new motor vehicle to  
19 new motor vehicle dealers or who maintains factory representatives or who  
20 controls any person, firm, association, corporation, or trust, resident or

1 nonresident, who in whole or in part offers for sale, sells, or distributes any  
2 new motor vehicle to new motor vehicle dealers; and

3 (ii) “Factory branch” means a branch office maintained by a  
4 manufacturer for the purpose of selling, or offering for sale, vehicles to a  
5 distributor or new motor vehicle dealer, or for directing or supervising in  
6 whole or in part factory or distributor representatives.

7 (C) The term manufacturer shall not include a direct-sale  
8 manufacturer.

9 \* \* \*

10 (13) “New motor vehicle dealer” means any person engaged in the  
11 business of selling, offering to sell, soliciting, or advertising the sale of new  
12 motor vehicles and who holds, or held at the time a cause of action under this  
13 chapter accrued, a valid sales and service agreement, franchise, or contract,  
14 granted by the manufacturer or distributor for the retail sale of said  
15 manufacturer’s or distributor’s new motor vehicles. The term new motor  
16 vehicle dealer shall not include a direct-sale manufacturer.

17 \* \* \*

18 (18) “Direct-sale manufacturer” means any person that manufactures  
19 motor vehicles and also engages in the business of directly selling its motor  
20 vehicles to consumers in the State and does not currently have a valid sales and

1 service agreement, franchise, or contract with a new motor vehicle dealer  
2 operating in the State.

3 Sec. 4. 9 V.S.A. § 4086a is added to read:

4 § 4086a. DIRECT-SALE MANUFACTURER; SERVICE FACILITY

5 A direct-sale manufacturer may own, operate, or control, either directly or  
6 indirectly, a motor vehicle warranty or service facility located in the State.

7 Sec. 5. EFFECTIVE DATE

8 This act shall take effect on January 1, 2021.