

## CHAPTER 545

## COMBINATIONS RESTRICTING FINANCING OF MOTOR VEHICLES

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**545.01 Definitions.—**

(1) The term "person" as used in this chapter means any individual, firm, corporation, partnership, association, trustee, receiver or assignee for the benefit of creditors.

(2) The terms "sell," "sold," "buy" and "purchase," as used in this chapter, include exchange, barter, gift, and offer to contract to sell or buy.

(3) The term "manufacturer" means any person engaged, directly or indirectly, in the manufacture of motor vehicles.

(4) The term "wholesale distributor" means any person engaged, directly or indirectly, in the sale or distribution of motor vehicles to agents or to dealers.

(5) The term "dealer" means any person who is engaged in, or who intends to engage in the business of selling motor vehicles at retail in this state. The term "dealer" shall also include "retail agent."

(6) The term "finance company" means any person engaged in the business of financing the sale of motor vehicles, or engaged in the business of purchasing or acquiring conditional bills of sale, or promissory notes, either secured by vendor's lien or chattel mortgages, or arising from the sale of motor vehicles in this state.

**History.**—s. 13, ch. 18031, 1937; CGL 1940 Supp. 4151(459).

**545.02 Contracts designating finance company through which sale of motor vehicle to be financed declared void.**—It is unlawful for any manufacturer or wholesale distributor of motor vehicles to sell or contract for the sale of motor vehicles to any motor vehicle dealer on the condition, or with the agreement or understanding, expressed or implied, that such dealer shall in any manner finance the purchase or sale of any one or number of motor vehicles only through a designated finance

company or shall sell and assign the conditional sales contracts or chattel mortgages or other paper arising from the sale of motor vehicles or any one or number thereof only to a designated finance company, when the effect of the condition, agreement or understanding so entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the finance company who is designated, by virtue of such condition, agreement or understanding to finance the purchase or sale of motor vehicles, or to purchase such conditional sales contract, chattel mortgages or other paper, and any such condition, agreement, or understanding is declared to be void and against the public policy of this state.

**History.**—s. 1, ch. 18031, 1937; CGL 1940 Supp. 4151(460).

**545.03 Threats by manufacturer or wholesaler as prima facie evidence of intent to violate law.**—Any threat, expressed or implied, made directly or indirectly to any motor vehicle dealer, by any manufacturer, or wholesale distributor on authority or with the knowledge of any such manufacturer, or wholesale distributor, that such person will discontinue to sell, or will terminate a contract to sell motor vehicles to such dealer unless such dealer finances the purchase or sale of motor vehicles only with or through a designated finance company or sells and assigns the conditional sales contracts, chattel mortgages, or other paper arising from his retail sales of motor vehicles only to a designated finance company, shall be prima facie evidence of the fact that such manufacturer or wholesale distributor has sold or intends to sell motor vehicles, on the condition or with the agreement or understanding prohibited in s. 545.02.

**History.**—s. 2, ch. 18031, 1937; CGL 1940 Supp. 4151(461).

**545.04 Threats by finance company presumed to be made by manufacturer or wholesaler.**—Any threat, express or implied, made directly or indirectly to any motor vehicle dealer by any finance company or agent thereof, who is affiliated with or controlled by any manufacturer or wholesale distributor of motor vehicles, that such manufacturer or wholesale distributor will terminate his contract with or cease to sell motor vehicles to such dealer unless such dealer finance the purchase or sale of motor vehicles only with or through a designated finance company or sells and assigns the conditional sales contracts, chattel mortgages, or other paper arising from his retail sales of motor vehicles only to a designated finance company, shall be presumed to be made at the direction of and with the authority of such manufacturer or wholesale distributor of motor vehicles, and shall be prima facie evidence of the fact that such manufacturer or wholesale distributor of motor vehicles has sold or intends to sell motor vehicles on the condition or with the agreement or understanding prohibited in s. 545.02.

**History.**—s. 3, ch. 18031, 1937; CGL 1940 Supp. 4151(462).

**545.05 Paying or giving anything to finance company to lessen competition prohibited.**—It is unlawful

for any manufacturer or wholesale distributor of motor vehicles, to pay or give, or contract to pay or give any thing or service of value to any finance company if the effect of any such payment or the giving of any such thing or service of value may be to lessen or eliminate competition, or tend to create or create a monopoly in the finance company which receives or accepts such thing or service of value.

**History.**—s. 4, ch. 18031, 1937; CGL 1940 Supp. 4151(463).

**545.06 Acceptance of anything of value by finance company resulting in lessening competition prohibited.**

—It is unlawful for any finance company to accept or receive, or contract or agree to accept or receive, either directly or indirectly, any payment, thing or service of value from any manufacturer or wholesale distributor of motor vehicles, if the effect of the acceptance or receipt of any such payment, thing, or service of value may be to lessen or eliminate competition, or to create or tend to create a monopoly in the person who accepts or receives such payment, thing, or service of value, or contracts or agrees to accept or receive the same.

**History.**—s. 5, ch. 18031, 1937; CGL 1940 Supp. 4151(464).

**545.07 Acceptance of benefits by finance company for purpose of lessening competition prohibited.**

It is unlawful for any finance company who accepts or receives, either directly or indirectly, any payment, thing, or service of value, as set forth in s. 545.06, or contracts, either directly or indirectly, to receive any such payment or thing or service of value, to thereafter 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 other paper on motor vehicles sold at retail in this state.

**History.**—s. 6, ch. 18031, 1937; CGL 1940 Supp. 4151(465).

**545.08 Department of Legal Affairs or state attorney to institute suit upon violation of law.**

—For a violation of any of the provisions of this chapter by any corporation mentioned herein, the Department of Legal Affairs or the state attorney of the proper county shall institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises or privileges and powers exercised by such corporation, and for the dissolution of the same under the general statutes of the state.

**History.**—s. 7, ch. 18031, 1937; CGL 1940 Supp. 4151(466); ss. 11, 35, ch. 69-106.

**545.09 Department of Legal Affairs to enjoin violations by foreign corporations; revocation of license by Department of State.**

—Every foreign corporation, as

well as every foreign association, exercising any of the powers, franchises or functions of a corporation in this state, violating any of the provisions of this chapter, is denied the right and prohibited from doing any business in this state, and the Department of Legal Affairs shall enforce this provision by bringing proper proceedings by injunction, or otherwise. The Department of State may revoke the license of any such corporation or association authorized by it to do business in this state.

**History.**—s. 8, ch. 18031, 1937; CGL 1940 Supp. 4151(467); ss. 10, 11, 35, ch. 69-106.

**545.10 Contract in violation of law declared void.**

—Any contract or agreement in violation of the provisions of this chapter shall be void and shall not be enforceable either in law or equity.

**History.**—s. 10, ch. 18031, 1937; CGL 1940 Supp. 4151(468).

**545.11 Remedy for persons injured by violation of law.**

—In addition to the criminal and civil penalties herein provided, any person who is injured in his business or property by any other person, by reason of anything forbidden or declared to be unlawful by this chapter, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, and recover twofold the damages sustained by him, and the costs of suit. When it shall appear to the court before whom any proceeding under this chapter is 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 they reside in the county where such action is pending, or not.

**History.**—s. 12, ch. 18031, 1937; CGL 1940 Supp. 4151(469).

**545.12 Penalty for violations of chapter.**

—Any person who violates any of the provisions of this chapter, any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by this chapter, and any employee, agent, or officer of any such person, who shall participate, in any manner, in making, executing, enforcing, performing or in urging, aiding or abetting in the performance of any such contract, condition, agreement or understanding and 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 receives or accepts or contracts to receive or accept any thing or service of value prohibited by this chapter, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 9, ch. 18031, 1937; CGL 1940 Supp. 8135(39); s. 535, ch. 71-136.