

RCW 19.98.120 Violations. It shall be a violation of this chapter for a supplier to:

(1) Require or attempt to require any dealer to order or accept delivery of any equipment or parts that the dealer has not voluntarily ordered;

(2) Require or attempt to require any dealer to enter into any agreement, whether written or oral, supplementary to an existing dealer agreement with the supplier, unless such supplementary agreement is imposed on other similarly situated dealers in the state;

(3) Refuse to deliver in reasonable quantities and within a reasonable time after receipt of the dealer's order, to any dealer having a dealer agreement for the retail sale of new equipment sold or distributed by the supplier, equipment covered by the dealer agreement specifically advertised or represented by the supplier to be available for immediate delivery. However, the failure to deliver any such equipment shall not be considered a violation of this chapter when deliveries are based on prior ordering histories, the priority given to the sequence in which the orders are received, or manufacturing schedules or if the failure is due to prudent and reasonable restriction on extension of credit by the supplier to the dealer, an act of God, work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, freight embargo, or other cause over which the supplier has no control;

(4) Terminate, cancel, or fail to renew the dealer agreement of any dealer or substantially change the dealer's competitive circumstances, attempt to terminate or cancel, or threaten to not renew the dealer agreement or to substantially change the competitive circumstances without good cause;

(5) Condition the renewal, continuation, or extension of a dealer agreement on the dealer's substantial renovation of the dealer's place of business or on the construction, purchase, acquisition, or rental of a new place of business by the dealer unless: The supplier has advised the dealer in writing of its demand for such renovation, construction, purchase, acquisition, or rental within a reasonable time prior to the effective date of the proposed date of renewal or extensions, but in no case less than one year; the supplier demonstrates the need for such change in the place of business and the reasonableness of the demand with respect to marketing and servicing the supplier's product and any economic conditions existing at the time in the dealer's trade area; and the dealer does not make a good faith effort to complete the construction or renovation plans within one year;

(6) Discriminate in the prices charged for equipment of like grade, quality, and brand sold by the supplier to similarly situated dealers in this state. This subsection does not prevent the use of differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are sold or delivered: PROVIDED, That nothing shall prevent a supplier from offering a lower price in order to meet an equally low price of a competitor, or the services or facilities furnished by a competitor;

(7) Prevent, by contract or otherwise, any equipment dealer from changing the capital structure of the equipment dealership or the means by which the equipment dealership is financed, provided the equipment dealer at all times meets any reasonable capital standards imposed by the supplier or as otherwise agreed to between the equipment dealer and supplier, and provided this change by the

equipment dealer does not result in a change of the controlling interest in the executive management or board of directors, or any guarantors of the equipment dealership;

(8) Prevent, by contract or otherwise, any equipment dealer or any officer, member, partner, or stockholder of any equipment dealer from selling or transferring any part of the interest of any of them to any other party or parties. However, no equipment dealer, officer, partner, member, or stockholder has the right to sell, transfer, or assign the equipment dealership or power of management or control of the dealership without the written consent of the supplier. Should a supplier determine that the designated transferee is not acceptable, the supplier shall provide the equipment dealer with written notice of the supplier's objection and specific reasons for withholding its consent;

(9) Withhold consent to a transfer of interest in an equipment dealership unless, with due regard to regional market conditions and distribution economies, the dealer's area of responsibility or trade area does not afford sufficient sales potential to reasonably support a dealer. In any dispute between a supplier and an equipment dealer, the supplier bears the burden of proving that the dealer's area of responsibility or trade area does not afford sufficient sales potential to reasonably support a dealer. The proof offered must be in writing. The provisions of this subsection do not preclude any other basis for a supplier to withhold consent to a transfer of interest in an equipment dealer;

(10) Fail to compensate a dealer for preparation and delivery of equipment that the supplier sells or leases for use within this state and that the dealer prepares for delivery and delivers;

(11) Require a dealer to assent to a release, assignment, novation, waiver, or estoppel that would relieve any person from liability imposed by this chapter; or

(12)(a) Unreasonably withhold consent, in the event of the death of the dealer or the principal owner of the dealership, to the transfer of the dealer's interest in the dealership to another qualified individual if the qualified individual meets the reasonable financial, business experience, and character standards required by the supplier. Should a supplier determine that the designated qualified individual does not meet those reasonable written standards, it shall provide the dealership, heirs to the dealership, or the estate of the dealer with written notice of its objection and specific reasons for withholding its consent. A supplier shall have sixty days to consider a dealer's request to make a transfer. If the qualified individual reasonably satisfies the supplier's objections within sixty days, the supplier shall approve the transfer. Nothing in this section shall entitle a qualified individual to continue to operate the dealership without the consent of the supplier.

(b) If a supplier and dealer have duly executed an agreement concerning succession rights prior to the dealer's death and the agreement has not been revoked, the agreement shall be observed even if it designates someone other than the surviving spouse or heirs of the decedent as the successor. [2002 c 236 § 7; 1990 c 124 § 3.]