

RCW 46.93.020 Definitions. The definitions in this section apply throughout this chapter.

(1) "Department" means the department of licensing.

(2) "Designated successor" means:

(a) The spouse, biological or adopted child, grandchild, parent, brother, or sister of the owner of a new motorsports vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motorsports vehicle dealership under the terms of the owner's will or similar document, and if there is no such will or similar document, then under applicable intestate laws;

(b) A qualified person experienced in the business of a new motorsports vehicle dealer who has been nominated by the owner of a new motorsports vehicle dealership as the successor in a written, notarized, and witnessed instrument submitted to the manufacturer; or

(c) In the case of an incapacitated owner of a new motorsports vehicle dealership, the person who has been appointed by a court as the legal representative of the incapacitated owner's property.

(3) "Director" means the director of the department of licensing.

(4) "Franchise" means one or more agreements, whether oral or written, between a manufacturer and a new motorsports vehicle dealer, under which the new motorsports vehicle dealer is authorized to sell, service, and repair new motorsports vehicles, parts, and accessories under a common name, trade name, trademark, or service mark of the manufacturer.

"Franchise" includes an oral or written contract and includes a dealer agreement, either expressed or implied, between a manufacturer and a new motorsports vehicle dealer that purports to fix the legal rights and liabilities between the parties and under which (a) the dealer is granted the right to purchase and resell motorsports vehicles manufactured, distributed, or imported by the manufacturer; (b) the dealer's business is associated with the trademark, trade name, commercial symbol, or advertisement designating the franchisor or the products distributed by the manufacturer; and (c) the dealer's business relies on the manufacturer for a continued supply of motorsports vehicles, parts, and accessories.

(5) "Good faith" means honesty in fact and fair dealing in the trade as defined and interpreted in *RCW 62A.2-103.

(6) "Manufacturer" means a person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motorsports vehicles or remanufactures motorsports vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means a person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes new and unused motorsports vehicles to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, motorsports vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes a sales promotion organization, whether a person, firm, or corporation, that is engaged in promoting the sale of new and unused motorsports vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the

purpose of making or promoting for the sale of their motorsports vehicles or for supervising or contracting with their dealers or prospective dealers.

(7) "Motorsports vehicle" means a motorcycle as defined in RCW 46.04.330; a moped as defined in RCW 46.04.304; a motor-driven cycle as defined in RCW 46.04.332; a personal watercraft as defined in RCW 79A.60.010; a snowmobile as defined in RCW 46.04.546; a four-wheel, all-terrain vehicle; and any other motorsports vehicle defined under RCW 46.93.200 by the department that is otherwise not subject to chapter 46.96 RCW.

(8) "New motorsports vehicle dealer" or "dealer" means a person engaged in the business of buying, selling, exchanging, or otherwise dealing in new motorsports vehicles or new and used motorsports vehicles at an established place of business under a franchise, sales and service agreement, or any other contract with a manufacturer of any one or more types of new motorsports vehicles. The term does not include a miscellaneous vehicle dealer as defined in RCW 46.70.011.

(9) "Owner" means a person holding an ownership interest in the business entity operating as a new motorsports vehicle dealer and who is the designated dealer in the new motorsports vehicle franchise agreement.

(10) "Person" means a natural person, partnership, stock company, corporation, trust, agency, or any other legal entity, as well as any individual officers, directors, or other persons in active control of the activities of the entity.

(11) "Place of business" means a permanent, enclosed commercial building, situated within this state, and the real property on which it is located, at which the business of a motorsports vehicle dealer, including the display and repair of motorsports vehicles, may be lawfully conducted in accordance with the terms of all applicable laws and at which the public may contact the motorsports vehicle dealer and employees at all reasonable times.

(12) "Relevant market area" is defined as follows:

(a) If the population in the county in which the existing, proposed new, or relocated dealership is located or is to be located is four hundred thousand or more, the relevant market area is the geographic area within the radius of ten miles around the existing, proposed new, or relocated place of business for the dealership;

(b) If the population in the county in which the existing, proposed new, or relocated dealership is to be located is two hundred thousand or more and less than four hundred thousand, the relevant market area is the geographic area within a radius of twelve miles around the existing, proposed new, or relocated place of business for the dealership;

(c) If the population in the county in which the existing, proposed new, or relocated dealership is to be located is less than two hundred thousand, the relevant market area is the geographic area within a radius of twenty miles around the existing, proposed new, or relocated place of business for the dealership;

(d) In determining population for this definition, the most recent census by the United States Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, will be accumulated for all census tracts either wholly or partially within the relevant market area.

[2011 c 171 § 102; 2003 c 354 § 2.]

Reviser's note: *(1) RCW 62A.2-103 was amended by 2012 c 214 § 801, deleting the definition of "good faith."

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.