WEST VIRGINIA CODE: §17A-6A-11

§17A-6A-11. Motor vehicle dealer successorship or change in executive management.

(1) Any designated family member of a new motor vehicle dealer may succeed the dealer in the ownership or operation, or be a designated executive manager of the dealership under the existing dealer agreement if the designated family member gives the manufacturer or distributor written notice of his or her intention to succeed to, or be designated as the executive manager of, the dealership within 120 days after the dealer's death or incapacity or designation of a successor or executive manager, and agrees to be bound by all of the terms and conditions of the dealer agreement, and the designated family member meets the current criteria generally applied by the manufacturer or distributor in qualifying new motor vehicle dealers or executive managers. A manufacturer or distributor may refuse to honor the designation or change with the designated family member only for good cause. In determining whether good cause exists for refusing to honor the agreement, the manufacturer or distributor has the burden of proving that the designated successor is a person who is not of good moral character or does not meet the manufacturer's existing written, reasonable, and uniformly applied standards for business experience and financial qualifications. The designated family member will have a minimum of one year to satisfy that manufacturer's written and reasonable standards and financial qualifications for appointment as the dealer or executive manager.

(2) The manufacturer or distributor may request from a designated family member any information or application reasonably necessary to determine whether the existing dealer agreement should be honored. The designated family member shall supply the personal and financial data promptly upon the request.

(3) If a manufacturer or distributor believes that good cause exists for refusing to honor the succession or designation, the manufacturer or distributor may, within 45 days after receipt of the notice of the designated family member's intent to succeed the dealer in the ownership or the appointment of an executive manager in the operation of the dealership, or within forty-five days after the receipt of the requested personal and financial data, serve upon the designated family member notice of its refusal to approve the succession.

(4) The notice of the manufacturer or distributor provided in subdivision (3) of this section shall state the specific factual and legal grounds for the refusal to approve the succession or designation of an executive manager.

(5) If notice of refusal is not served within the 45 days provided for in subdivision (3) of this section, the dealer agreement continues in effect and is subject to termination only as otherwise permitted by this article.

(6) This section does not preclude a new motor vehicle dealer from designating any person

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as his or her successor by will or any other written instrument filed with the manufacturer or distributor, and if such an instrument is filed, it alone determines the succession rights to the management and operation of the dealership.

(7) If the manufacturer challenges the succession in ownership or executive manager designation, it maintains the burden of proof to show good cause by a preponderance of the evidence. If the person or new motor vehicle dealer seeking succession of ownership or executive manager designation files a civil action within 180 days of the manufacturer's refusal to approve or the one year qualifying period set forth in subdivision (1) of this section, whichever is longer, no action may be taken by the manufacturer contrary to the dealer agreement until such time as the civil action and any appeal has been exhausted: *Provided*, That when a motor vehicle dealer appeals a decision upholding a manufacturer's decision to not allow succession based upon the designated person's insolvency or conviction of a crime punishable by imprisonment in excess of one year under the law which the designated person was convicted, the dealer agreement shall remain in effect pending exhaustion of all appeals only if the new motor vehicle dealer establishes that the public interest will not be harmed by keeping the dealer agreement in effect pending entry of final judgment after the appeal.

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