MOTORCYCLE INDUSTRY COUNCIL®

February 4, 2025

House Committee On Commerce and Consumer Protection
900 Court St. NE
Salem, Oregon 97301

Re: HB 2127 AMENDMENT REQUEST – Exclude Motorcycles

Dear Chairman Sosa, Vice-Chairs Chaichi and Osborne, and Members of the Committee:

The Motorcycle Industry Council (MIC)[1] respectfully requests that you amend HB 2127 to exclude motorcycles.

HB 2127 creates several new requirements and prohibitions for motor vehicle manufacturers and distributors (OEMs) relative to relationships with their authorized dealers. We believe these provisions were created to address *automobile* concerns, in part associated with the changing technologies and practices of the automobile industry. Motorcycle dealerships are very different from automobile dealerships and the Federal Trade Commission recognized this when siding with MIC in their Combating Auto Retail Scams (CARS) Rule in 2023. The CARS Rule as originally drafted would have captured ALL motor vehicle retailers, but after receiving MIC's arguments, the FTC narrowed the rule's scope to exclude motorcycle dealerships. We suggest you take a similar incremental approach with HB 2127 and exclude motorcycles.

Erecting more barriers through legislation only serves to create an environment for OEMs and dealers where options become more limited to respond to economic challenges. Ultimately, when the cost of doing business increases, it hurts everyone – consumers, manufacturers, and dealers. This result is especially harmful for motorcycles, which are used more often for recreation than as a main mode of transportation. In addition, motorcycles have far different levels of technologies than complex automobile systems have.

The following highlights our concerns with detrimental provisions in HB 2127:

§ 650.130(18) – Prohibits OEMs from selling certain subscription services

We appreciate that the legislation attempts to carve out certain subscriptions from its provisions. However, we are concerned that virtually anything could still be defined as "ongoing cost to or support by" an OEM or dealer. Thus, manufacturers may still be left wondering what is included or excluded by this provision.

§ 650.132(1)(a)(C) – Prohibits vehicle allocation if system is not fair, reasonable and equitable for all dealers

The legislation's "fair, reasonable and equitable" standard is undefined, which makes it difficult to identify how this standard could be fairly applied across the State. OEMs may not be able to set higher operational requirements in markets possessing larger sales opportunity under these provisions. The likely outcome would be that dealerships in higher demand areas would be shorted resources necessary to be effective and the needs of customers and OEMs would go unmet.

[1] The Motorcycle Industry Council (MIC) is a national, not-for-profit trade association representing several hundred manufacturers, distributors, dealers and retailers of motorcycles, scooters, motorcycle parts, accessories and related goods, and allied trades.

§ 650.132 (1)(b)(F)/(G) – Prohibits pricing differences in parts/refusing to offer dealer incentives on same terms as other dealers

Requiring the same benefits to be offered to any dealer or prohibiting pricing differences between dealers based on performance will hinder natural market incentives for dealers to fairly compete and improve performance, which will ultimately hurt both dealers and consumers. An environment with limited promotional programs harms dealers who wish to actively promote the brand and perform at a high level. Without being able to use performance as a qualification for benefits, the benefits an OEM will be able to offer will be at a low common denominator level. That is not in the interest of the OEM or of dealers who wish to run successful businesses, who without the prohibition would receive additional tools to grow their businesses. It should remain within the OEM's reasonable discretion to allow for certain differentiating incentives. Many OEMs offer all dealers longer flooring terms for taking a higher allocation of inventory. The need for these programs is obvious – OEMs have an incentive to help larger volume dealers reduce potential flooring costs and remain competitive with smaller volume dealers and minimize costs that may otherwise lead to higher prices for consumers. If a dealer chooses to take fewer products, the dealer will obviously have fewer products to move, have less risk and be in a better position to sell the lesser amount in a shorter period. All of these incentive programs are optional. Dealers are under no obligation to participate.

§ 650.132(4) – Requires OEMs to provide basis for allocating vehicles among all dealers

MIC opposes requiring OEMs to provide information to dealers regarding its system of vehicle allocation. This is unreasonable because it would essentially require an OEM to share sensitive business information about how it interacts with other dealers in the State beyond the original dealer who made the information request. This requirement would impede one of the basic tenets of business contracts. OEMs should also have discretion regarding distribution of limited production vehicles to meet consumer demand properly.

For these reasons, we oppose HB 2127 unless amended to exclude motorcycles. Thank you for your consideration of these comments.

Sincerely,

Scott P. Schloegel

Scott P. Schloegel
Senior Vice President, Government Relations