§ 462. Definitions. Whenever used in this article:

1. "Distributor" means any person who primarily offers, sells or distributes new motor vehicles to franchised motor vehicle dealers or maintains distributor representatives within the state.

2. "Distributor branch" means a branch office maintained by a distributor which offers, sells or distributes new motor vehicles to franchised motor vehicle dealers in this state.

3. "Distributor representative" means a representative employed by a distributor branch or distributor.

4. "Factory branch" means a branch office maintained for directing and supervising the representatives of the manufacturer or which office is maintained for the sale of motor vehicles.

5. "Factory representative" means a representative employed by a factory branch for the purpose of making or promoting the sale of motor vehicles or for supervising, servicing, instructing or contacting franchised motor vehicle dealers or prospective motor vehicle dealers.

6. "Franchise" means a written arrangement for a definite or indefinite period in which a manufacturer or distributor grants to a franchised motor vehicle dealer a license to use a trade name, service mark or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or services related thereto at wholesale, retail, by lease or otherwise and/or pursuant to which a franchised motor vehicle dealer purchases and resells or offers (as agent, principal, or otherwise) products associated with the name or mark or related components of the franchise.

7. "Franchised motor vehicle dealer" means: (a) any person required to be registered pursuant to section four hundred fifteen of this title which has been granted a franchise as defined in subdivision six of this section, or (b) any person engaged in the business of selling snowmobiles, all terrain vehicles and/or personal watercraft at

wholesale or retail who has been granted a franchise; provided, however, that any person primarily engaged in the sale of vessels and other marine items who meets the definition of "dealer" as provided in subdivision one of section eight hundred ten of the general business law shall not be a "franchised motor vehicle dealer" pursuant to this article.

8. "Franchisor" means any manufacturer, distributor, distributor branch or factory branch, importer or other person, partnership, corporation, association, or entity, whether resident or non-resident, which enters into or is presently a party to a franchise with a franchised motor vehicle dealer.

8-a. "Good faith" means, in addition to any common law definitions of that term, honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade.

9. "Manufacturer" means any person, partnership, corporation, association, factory branch or other entity engaged in the business of manufacturing or assemblying new and unused motor vehicles for sale in this state.

10. "Motor vehicle" means: (a) any motor vehicle as defined in section one hundred twenty-five of this chapter, (b) any snowmobile as defined in article forty-seven of this chapter, (c) any all terrain vehicle as defined in article forty-eight-B of this chapter and (d) any personal watercraft as defined in section two of the navigation law, provided the commissioner shall have authority to except by regulation vehicles other than passenger automobiles, trucks and motorcycles from such definition.

11. "New motor vehicle" means a vehicle sold or transferred by a manufacturer, distributor or dealer, which has not been placed in consumer use or used as a demonstrator.

12. "New motor vehicle product" means any motor vehicle which is of the same line make of motor vehicle as those which the franchisor has authorized its existing franchised motor vehicle dealers to sell under

the existing franchises between franchised motor vehicle dealers and the franchisor.

13. "Line make" means all models of a specific brand of motor vehicle manufactured by a manufacturer that may manufacture several brands, each of which are a separate line of make; except that, as such term applies to the sale of any new house coach, means that group or those groups of house coaches, as defined by the terms of the written franchise.

14. Notwithstanding the provisions of section one hundred nineteen of this chapter, for purposes of this article the term "house coach" shall mean any vehicle motivated by a power connected therewith or propelled by a power within itself, which is designed to provide temporary living quarters, and which is built onto, as an integral part of, or is permanently attached to a motor vehicle chassis, and contains at least four of the following independent life support systems if each is permanently installed and designed to be removed only for purposes of repair or replacement and meets the standards of the American National Standards Institute for recreation vehicles:

(a) a cooking facility with an on-board fuel source;

(b) a gas or electric refrigerator;

(c) a toilet with exterior evacuation;

(d) a heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine;

(e) a potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection; and

(f) a 110-125 volt electric power supply.

15. "Relevant market area" means:

(a) if the proposed additional or relocated motor vehicle dealer is to be located in a county having a population in excess of one hundred thousand, the area within the radius of six miles of the intended site of the proposed or relocated dealer. Such six mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's place of business; or

(b) if the proposed additional or relocated motor vehicle dealer is to be within a county having a population of less than one hundred thousand, the area within the radius of ten miles of the intended site of the proposed or relocated dealer. Such ten mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

In determining the population of a county, the most recent census by the U.S. Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be used.

16. "Captive finance source" means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated or controlled, in whole or in part, by a manufacturer, factory branch, distributor or distributor branch.

17. "Termination" and "terminate" as such terms are used in connection with the removal of a franchise by a franchisor, means a franchisor's proposed termination, cancellation, non-renewal, or rescission.