



Sen. Martin A. Sandoval

Filed: 4/20/2017

10000SB1687sam002

LRB100 07840 AXK 25140 a

1 AMENDMENT TO SENATE BILL 1687

2 AMENDMENT NO. _____. Amend Senate Bill 1687 on page 1,
3 line 5, by deleting "and by adding Section 1.5"; and

4 on page 2, by deleting lines 16 through 22; and

5 on page 17, line 20, by deleting "or threaten to take"; and

6 on page 18, by replacing line 1 with the following:

7 "either electronically or on paper, prior to the sale or
8 lease, and the dealer knew or reasonably should have known
9 of the"; and

10 on page 18, line 4, by changing "in" to "and titled in"; and

11 on page 18, by replacing lines 10 through 26 with the
12 following:

13 "(11) to coerce or require any dealer to construct

1 improvements to his or her facilities or to install new
2 signs or other franchiser image elements that replace or
3 substantially alter those improvements, signs, or
4 franchiser image elements completed within the past 10
5 years that were required and approved by the manufacturer
6 or one of its affiliates. The 10-year period under this
7 paragraph (11) begins to run for a dealer, including that
8 dealer's successors and assigns, on the date that the
9 manufacturer gives final written approval of the facility
10 improvements or installation of signs or other franchiser
11 image elements or the date that the dealer receives a
12 certificate of occupancy, whichever is later. For the
13 purpose of this paragraph (11), the term "substantially
14 alter" does not include routine maintenance, including,
15 but not limited to, interior painting, that is reasonably
16 necessary to keep a dealer facility in attractive
17 condition; or"; and

18 on page 19, by deleting lines 1 through 10; and

19 on page 19, line 12, by changing "improvement" to
20 "improvements"; and

21 on page 19, by replacing lines 24 through 26 with the
22 following:

23 "means an amount equal to or greater than the cost savings

1 that would result if the dealer were to utilize a vendor of
2 the dealer's own selection instead of using the vendor
3 identified by the manufacturer. For the purpose of this
4 paragraph (12), the term "goods" does not include movable
5 displays, brochures, and promotional materials containing
6 material subject to the intellectual property rights of a
7 manufacturer. If signs, other than signs containing the
8 manufacturer's brand or logo or free-standing signs that
9 are not directly attached to a building, or other
10 franchiser image or design elements or trade dress are to
11 be leased to the dealer by a vendor selected, identified,
12 or designated by the manufacturer, the dealer has the right
13 to purchase the signs or other franchiser image or design
14 elements or trade dress of substantially similar quality
15 and design from a vendor selected by the dealer if the
16 signs, franchiser image or design elements, or trade dress
17 are approved by the manufacturer. Approval by the
18 manufacturer shall not be unreasonably withheld. This
19 paragraph (12) shall not be construed to allow a dealer or
20 vendor to impair, infringe upon, or eliminate, directly or
21 indirectly, the intellectual property rights of the
22 manufacturer including, but not limited to, the
23 manufacturer's intellectual property rights in any
24 trademarks or trade dress, or other intellectual property
25 interests owned or controlled by the manufacturer. This
26 paragraph (12) shall not be construed to permit a dealer to

1 erect or maintain signs that do not conform to the
2 manufacturer's intellectual property rights or trademark
3 or trade dress usage guidelines."; and

4 on page 20, by deleting lines 1 through 14; and

5 on page 35, by replacing lines 3 through 16 with the following:

6 "(A) notifies the dealer in writing that it intends
7 to exercise its right to acquire the franchise not
8 later than 60 days after the manufacturer's or
9 distributor's receipt of a notice of the proposed
10 transfer from the dealer and all information and
11 documents reasonably and customarily required by the
12 manufacturer or distributor supporting the proposed
13 transfer;"; and

14 on page 36, by replacing lines 10 through 12 with the
15 following:

16 "investigating, and negotiating the transfer of the
17 dealership prior to the manufacturer's or
18 distributor's exercise of its right of"; and

19 on page 36, line 21, by changing "manufacturer" to
20 "manufacturer's"; and

21 on page 36, line 25 by changing "30" to "90"; and

1 on page 37, by replacing lines 3 through 9 with the following:

2 "manufacturer's or distributor's right of first
3 refusal.

4 Except as provided in this paragraph (14), neither the
5 selling dealer nor the manufacturer or distributor shall
6 have any liability to any person as a result of a
7 manufacturer or distributor exercising its right of first
8 refusal.

9 For the purpose of this paragraph, "proposed
10 transferee" means the person to whom the franchise would
11 have been transferred to, or was proposed to be transferred
12 to, had the right of first refusal or other right to
13 acquire the franchise not been exercised by the
14 manufacturer or distributor."; and

15 on page 37, by replacing lines 21 and 22 with the following:

16 "retail customer other than through a franchised dealer, except
17 as otherwise provided in this subsection (f). The changes made
18 to this subsection (f) by this amendatory Act of the 100th
19 General Assembly are declarative of existing law. This ~~that,~~
20 ~~this~~ subsection shall not prohibit:"; and

21 on page 54, by replacing lines 14 through 24 with the
22 following:

23 "dealer's market area presented by the dealer impacted the

1 dealer's performance.".