



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5395

Introduced 1/31/2022, by

#### SYNOPSIS AS INTRODUCED:

815 ILCS 710/4

from Ch. 121 1/2, par. 754

Amends the Motor Vehicle Franchise Act. Provides that, if a manufacturer exercises a right of first refusal in order to terminate a dealership that paid at least 10% of the local retailers' occupation tax imposed by the municipality or county where the terminated dealership is located during the calendar year immediately prior to the termination, then, for a period of 20 consecutive years after the dealership is terminated, the manufacturer must pay to the municipality or county in which the terminated dealership was located an amount equal to the certified local retailers' occupation tax amount. Provides that the certified local retailers' occupation tax amount is the highest amount paid by the dealership in any of the 5 years immediately prior to the year in which the dealership was terminated. Effective immediately.

LRB102 25907 HLH 35500 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Motor Vehicle Franchise Act is amended by  
5 changing Section 4 as follows:

6 (815 ILCS 710/4) (from Ch. 121 1/2, par. 754)

7 Sec. 4. Unfair competition and practices.

8 (a) The unfair methods of competition and unfair and  
9 deceptive acts or practices listed in this Section are hereby  
10 declared to be unlawful. In construing the provisions of this  
11 Section, the courts may be guided by the interpretations of  
12 the Federal Trade Commission Act (15 U.S.C. 45 et seq.), as  
13 from time to time amended.

14 (b) It shall be deemed a violation for any manufacturer,  
15 factory branch, factory representative, distributor or  
16 wholesaler, distributor branch, distributor representative or  
17 motor vehicle dealer to engage in any action with respect to a  
18 franchise which is arbitrary, in bad faith or unconscionable  
19 and which causes damage to any of the parties or to the public.

20 (c) It shall be deemed a violation for a manufacturer, a  
21 distributor, a wholesaler, a distributor branch or division, a  
22 factory branch or division, or a wholesale branch or division,  
23 or officer, agent or other representative thereof, to coerce,

1 or attempt to coerce, any motor vehicle dealer:

2 (1) to accept, buy or order any motor vehicle or  
3 vehicles, appliances, equipment, parts or accessories  
4 therefor, or any other commodity or commodities or service  
5 or services which such motor vehicle dealer has not  
6 voluntarily ordered or requested except items required by  
7 applicable local, state or federal law; or to require a  
8 motor vehicle dealer to accept, buy, order or purchase  
9 such items in order to obtain any motor vehicle or  
10 vehicles or any other commodity or commodities which have  
11 been ordered or requested by such motor vehicle dealer;

12 (2) to order or accept delivery of any motor vehicle  
13 with special features, appliances, accessories or  
14 equipment not included in the list price of the motor  
15 vehicles as publicly advertised by the manufacturer  
16 thereof, except items required by applicable law; or

17 (3) to order for anyone any parts, accessories,  
18 equipment, machinery, tools, appliances or any commodity  
19 whatsoever, except items required by applicable law.

20 (c-5) A manufacturer, a distributor, a wholesaler, a  
21 distributor branch or division, a factory branch or division,  
22 or a wholesale branch or division, or officer, agent, or other  
23 representative thereof may not:

24 (1) require a motor vehicle dealer to offer a  
25 secondary product; or

26

1           (2) prohibit a motor vehicle dealer from offering a  
2 secondary product, including, but not limited to:

3           (A) service contracts;

4           (B) maintenance agreements;

5           (C) extended warranties;

6           (D) protection product guarantees;

7           (E) guaranteed asset protection waivers;

8           (F) insurance;

9           (G) replacement parts;

10          (H) vehicle accessories;

11          (I) oil; or

12          (J) supplies.

13           It is not a violation of this subsection to offer an  
14 incentive program to motor vehicle dealers to encourage them  
15 to sell or offer to sell a secondary product approved,  
16 endorsed, sponsored, or offered by the manufacturer,  
17 distributor, wholesaler, distributor branch or division,  
18 factory branch or division, wholesale branch or division, or  
19 officer, agent, or other representative thereof, provided the  
20 program does not provide vehicle sales or service incentives.

21           It is not a violation of this subsection to prohibit a  
22 motor vehicle dealer from using secondary products for any  
23 repair work paid for under the terms of a warranty, recall,  
24 service contract, extended warranty, maintenance plan, or  
25 certified pre-owned vehicle program established or offered by  
26 the manufacturer, distributor, wholesaler, distributor branch

1 or division, factory branch or division, or wholesale branch  
2 or division, or officer, agent, or other representative  
3 thereof.

4 As used in this subsection, "secondary product" means all  
5 products that are not new motor vehicles or original equipment  
6 manufacturer parts.

7 (d) It shall be deemed a violation for a manufacturer, a  
8 distributor, a wholesaler, a distributor branch or division,  
9 or officer, agent or other representative thereof:

10 (1) to adopt, change, establish or implement a plan or  
11 system for the allocation and distribution of new motor  
12 vehicles to motor vehicle dealers which is arbitrary or  
13 capricious or to modify an existing plan so as to cause the  
14 same to be arbitrary or capricious;

15 (2) to fail or refuse to advise or disclose to any  
16 motor vehicle dealer having a franchise or selling  
17 agreement, upon written request therefor, the basis upon  
18 which new motor vehicles of the same line make are  
19 allocated or distributed to motor vehicle dealers in the  
20 State and the basis upon which the current allocation or  
21 distribution is being made or will be made to such motor  
22 vehicle dealer;

23 (3) to refuse to deliver in reasonable quantities and  
24 within a reasonable time after receipt of dealer's order,  
25 to any motor vehicle dealer having a franchise or selling  
26 agreement for the retail sale of new motor vehicles sold

1 or distributed by such manufacturer, distributor,  
2 wholesaler, distributor branch or division, factory branch  
3 or division or wholesale branch or division, any such  
4 motor vehicles as are covered by such franchise or selling  
5 agreement specifically publicly advertised in the State by  
6 such manufacturer, distributor, wholesaler, distributor  
7 branch or division, factory branch or division, or  
8 wholesale branch or division to be available for immediate  
9 delivery. However, the failure to deliver any motor  
10 vehicle shall not be considered a violation of this Act if  
11 such failure is due to an act of God, a work stoppage or  
12 delay due to a strike or labor difficulty, a shortage of  
13 materials, a lack of manufacturing capacity, a freight  
14 embargo or other cause over which the manufacturer,  
15 distributor, or wholesaler, or any agent thereof has no  
16 control;

17 (4) to coerce, or attempt to coerce, any motor vehicle  
18 dealer to enter into any agreement with such manufacturer,  
19 distributor, wholesaler, distributor branch or division,  
20 factory branch or division, or wholesale branch or  
21 division, or officer, agent or other representative  
22 thereof, or to do any other act prejudicial to the dealer  
23 by threatening to reduce his allocation of motor vehicles  
24 or cancel any franchise or any selling agreement existing  
25 between such manufacturer, distributor, wholesaler,  
26 distributor branch or division, or factory branch or

1 division, or wholesale branch or division, and the dealer.  
2 However, notice in good faith to any motor vehicle dealer  
3 of the dealer's violation of any terms or provisions of  
4 such franchise or selling agreement or of any law or  
5 regulation applicable to the conduct of a motor vehicle  
6 dealer shall not constitute a violation of this Act;

7 (5) to require a franchisee to participate in an  
8 advertising campaign or contest or any promotional  
9 campaign, or to purchase or lease any promotional  
10 materials, training materials, show room or other display  
11 decorations or materials at the expense of the franchisee;

12 (6) to cancel or terminate the franchise or selling  
13 agreement of a motor vehicle dealer without good cause and  
14 without giving notice as hereinafter provided; to fail or  
15 refuse to extend the franchise or selling agreement of a  
16 motor vehicle dealer upon its expiration without good  
17 cause and without giving notice as hereinafter provided;  
18 or, to offer a renewal, replacement or succeeding  
19 franchise or selling agreement containing terms and  
20 provisions the effect of which is to substantially change  
21 or modify the sales and service obligations or capital  
22 requirements of the motor vehicle dealer arbitrarily and  
23 without good cause and without giving notice as  
24 hereinafter provided notwithstanding any term or provision  
25 of a franchise or selling agreement.

26 (A) If a manufacturer, distributor, wholesaler,

1 distributor branch or division, factory branch or  
2 division or wholesale branch or division intends to  
3 cancel or terminate a franchise or selling agreement  
4 or intends not to extend or renew a franchise or  
5 selling agreement on its expiration, it shall send a  
6 letter by certified mail, return receipt requested, to  
7 the affected franchisee at least 60 days before the  
8 effective date of the proposed action, or not later  
9 than 10 days before the proposed action when the  
10 reason for the action is based upon either of the  
11 following:

12 (i) the business operations of the franchisee  
13 have been abandoned or the franchisee has failed  
14 to conduct customary sales and service operations  
15 during customary business hours for at least 7  
16 consecutive business days unless such closing is  
17 due to an act of God, strike or labor difficulty or  
18 other cause over which the franchisee has no  
19 control; or

20 (ii) the conviction of or plea of nolo  
21 contendere by the motor vehicle dealer or any  
22 operator thereof in a court of competent  
23 jurisdiction to an offense punishable by  
24 imprisonment for more than two years.

25 Each notice of proposed action shall include a  
26 detailed statement setting forth the specific grounds



1 for the proposed cancellation, termination, or refusal  
2 to extend or renew and shall state that the dealer has  
3 only 30 days from receipt of the notice to file with  
4 the Motor Vehicle Review Board a written protest  
5 against the proposed action.

6 (B) If a manufacturer, distributor, wholesaler,  
7 distributor branch or division, factory branch or  
8 division or wholesale branch or division intends to  
9 change substantially or modify the sales and service  
10 obligations or capital requirements of a motor vehicle  
11 dealer as a condition to extending or renewing the  
12 existing franchise or selling agreement of such motor  
13 vehicle dealer, it shall send a letter by certified  
14 mail, return receipt requested, to the affected  
15 franchisee at least 60 days before the date of  
16 expiration of the franchise or selling agreement. Each  
17 notice of proposed action shall include a detailed  
18 statement setting forth the specific grounds for the  
19 proposed action and shall state that the dealer has  
20 only 30 days from receipt of the notice to file with  
21 the Motor Vehicle Review Board a written protest  
22 against the proposed action.

23 (C) Within 30 days from receipt of the notice  
24 under subparagraphs (A) and (B), the franchisee may  
25 file with the Board a written protest against the  
26 proposed action.

1           When the protest has been timely filed, the Board  
2 shall enter an order, fixing a date (within 60 days of  
3 the date of the order), time, and place of a hearing on  
4 the protest required under Sections 12 and 29 of this  
5 Act, and send by certified mail, return receipt  
6 requested, a copy of the order to the manufacturer  
7 that filed the notice of intention of the proposed  
8 action and to the protesting dealer or franchisee.

9           The manufacturer shall have the burden of proof to  
10 establish that good cause exists to cancel or  
11 terminate, or fail to extend or renew the franchise or  
12 selling agreement of a motor vehicle dealer or  
13 franchisee, and to change substantially or modify the  
14 sales and service obligations or capital requirements  
15 of a motor vehicle dealer as a condition to extending  
16 or renewing the existing franchise or selling  
17 agreement. The determination whether good cause exists  
18 to cancel, terminate, or refuse to renew or extend the  
19 franchise or selling agreement, or to change or modify  
20 the obligations of the dealer as a condition to offer  
21 renewal, replacement, or succession shall be made by  
22 the Board under subsection (d) of Section 12 of this  
23 Act.

24           (D) Notwithstanding the terms, conditions, or  
25 provisions of a franchise or selling agreement, the  
26 following shall not constitute good cause for

1           cancelling or terminating or failing to extend or  
2           renew the franchise or selling agreement: (i) the  
3           change of ownership or executive management of the  
4           franchisee's dealership; or (ii) the fact that the  
5           franchisee or owner of an interest in the franchise  
6           owns, has an investment in, participates in the  
7           management of, or holds a license for the sale of the  
8           same or any other line make of new motor vehicles.

9           (E) The manufacturer may not cancel or terminate,  
10          or fail to extend or renew a franchise or selling  
11          agreement or change or modify the obligations of the  
12          franchisee as a condition to offering a renewal,  
13          replacement, or succeeding franchise or selling  
14          agreement before the hearing process is concluded as  
15          prescribed by this Act, and thereafter, if the Board  
16          determines that the manufacturer has failed to meet  
17          its burden of proof and that good cause does not exist  
18          to allow the proposed action;

19          (7) notwithstanding the terms of any franchise  
20          agreement, to fail to indemnify and hold harmless its  
21          franchised dealers against any judgment or settlement for  
22          damages, including, but not limited to, court costs,  
23          expert witness fees, reasonable attorneys' fees of the new  
24          motor vehicle dealer, and other expenses incurred in the  
25          litigation, so long as such fees and costs are reasonable,  
26          arising out of complaints, claims, or lawsuits, including,

1 but not limited to, strict liability, negligence,  
2 misrepresentation, warranty (express or implied), or  
3 rescission of the sale as defined in Section 2-608 of the  
4 Uniform Commercial Code, to the extent that the judgment  
5 or settlement relates to the alleged defective or  
6 negligent manufacture, assembly or design of new motor  
7 vehicles, parts or accessories or other functions by the  
8 manufacturer, beyond the control of the dealer; provided  
9 that, in order to provide an adequate defense, the  
10 manufacturer receives notice of the filing of a complaint,  
11 claim, or lawsuit within 60 days after the filing;

12 (8) to require or otherwise coerce a motor vehicle  
13 dealer to underutilize the motor vehicle dealer's  
14 facilities by requiring or otherwise coercing the motor  
15 vehicle dealer to exclude or remove from the motor vehicle  
16 dealer's facilities operations for selling or servicing of  
17 any vehicles for which the motor vehicle dealer has a  
18 franchise agreement with another manufacturer,  
19 distributor, wholesaler, distribution branch or division,  
20 or officer, agent, or other representative thereof;  
21 provided, however, that, in light of all existing  
22 circumstances, (i) the motor vehicle dealer maintains a  
23 reasonable line of credit for each make or line of new  
24 motor vehicle, (ii) the new motor vehicle dealer remains  
25 in compliance with any reasonable facilities requirements  
26 of the manufacturer, (iii) no change is made in the

1 principal management of the new motor vehicle dealer, and  
2 (iv) the addition of the make or line of new motor vehicles  
3 would be reasonable. The reasonable facilities requirement  
4 set forth in item (ii) of subsection (d)(8) shall not  
5 include any requirement that a franchisee establish or  
6 maintain exclusive facilities, personnel, or display  
7 space. Any decision by a motor vehicle dealer to sell  
8 additional makes or lines at the motor vehicle dealer's  
9 facility shall be presumed to be reasonable, and the  
10 manufacturer shall have the burden to overcome that  
11 presumption. A motor vehicle dealer must provide a written  
12 notification of its intent to add a make or line of new  
13 motor vehicles to the manufacturer. If the manufacturer  
14 does not respond to the motor vehicle dealer, in writing,  
15 objecting to the addition of the make or line within 60  
16 days after the date that the motor vehicle dealer sends  
17 the written notification, then the manufacturer shall be  
18 deemed to have approved the addition of the make or line;

19 (9) to use or consider the performance of a motor  
20 vehicle dealer relating to the sale of the manufacturer's,  
21 distributor's, or wholesaler's vehicles or the motor  
22 vehicle dealer's ability to satisfy any minimum sales or  
23 market share quota or responsibility relating to the sale  
24 of the manufacturer's, distributor's, or wholesaler's new  
25 vehicles in determining:

26 (A) the motor vehicle dealer's eligibility to

1 purchase program, certified, or other used motor  
2 vehicles from the manufacturer, distributor, or  
3 wholesaler;

4 (B) the volume, type, or model of program,  
5 certified, or other used motor vehicles that a motor  
6 vehicle dealer is eligible to purchase from the  
7 manufacturer, distributor, or wholesaler;

8 (C) the price of any program, certified, or other  
9 used motor vehicle that the dealer is eligible to  
10 purchase from the manufacturer, distributor, or  
11 wholesaler; or

12 (D) the availability or amount of any discount,  
13 credit, rebate, or sales incentive that the dealer is  
14 eligible to receive from the manufacturer,  
15 distributor, or wholesaler for the purchase of any  
16 program, certified, or other used motor vehicle  
17 offered for sale by the manufacturer, distributor, or  
18 wholesaler;

19 (10) to take any adverse action against a dealer  
20 pursuant to an export or sale-for-resale prohibition  
21 because the dealer sold or leased a vehicle to a customer  
22 who either exported the vehicle to a foreign country or  
23 resold the vehicle in violation of the prohibition, unless  
24 the export or sale-for-resale prohibition policy was  
25 provided to the dealer in writing either electronically or  
26 on paper, prior to the sale or lease, and the dealer knew

1 or reasonably should have known of the customer's intent  
2 to export or resell the vehicle in violation of the  
3 prohibition at the time of the sale or lease. If the dealer  
4 causes the vehicle to be registered and titled in this or  
5 any other state, and collects or causes to be collected  
6 any applicable sales or use tax to this State, a  
7 rebuttable presumption is established that the dealer did  
8 not have reason to know of the customer's intent to resell  
9 the vehicle;

10 (11) to coerce or require any dealer to construct  
11 improvements to his or her facilities or to install new  
12 signs or other franchiser image elements that replace or  
13 substantially alter those improvements, signs, or  
14 franchiser image elements completed within the past 10  
15 years that were required and approved by the manufacturer  
16 or one of its affiliates. The 10-year period under this  
17 paragraph (11) begins to run for a dealer, including that  
18 dealer's successors and assigns, on the date that the  
19 manufacturer gives final written approval of the facility  
20 improvements or installation of signs or other franchiser  
21 image elements or the date that the dealer receives a  
22 certificate of occupancy, whichever is later. For the  
23 purpose of this paragraph (11), the term "substantially  
24 alter" does not include routine maintenance, including,  
25 but not limited to, interior painting, that is reasonably  
26 necessary to keep a dealer facility in attractive

1 condition; or

2 (12) to require a dealer to purchase goods or services  
3 to make improvements to the dealer's facilities from a  
4 vendor selected, identified, or designated by a  
5 manufacturer or one of its affiliates by agreement,  
6 program, incentive provision, or otherwise without making  
7 available to the dealer the option to obtain the goods or  
8 services of substantially similar quality and overall  
9 design from a vendor chosen by the dealer and approved by  
10 the manufacturer; however, approval by the manufacturer  
11 shall not be unreasonably withheld, and the dealer's  
12 option to select a vendor shall not be available if the  
13 manufacturer provides substantial reimbursement for the  
14 goods or services offered. "Substantial reimbursement"  
15 means an amount equal to or greater than the cost savings  
16 that would result if the dealer were to utilize a vendor of  
17 the dealer's own selection instead of using the vendor  
18 identified by the manufacturer. For the purpose of this  
19 paragraph (12), the term "goods" does not include movable  
20 displays, brochures, and promotional materials containing  
21 material subject to the intellectual property rights of a  
22 manufacturer. If signs, other than signs containing the  
23 manufacturer's brand or logo or free-standing signs that  
24 are not directly attached to a building, or other  
25 franchiser image or design elements or trade dress are to  
26 be leased to the dealer by a vendor selected, identified,



1 or designated by the manufacturer, the dealer has the  
2 right to purchase the signs or other franchiser image or  
3 design elements or trade dress of substantially similar  
4 quality and design from a vendor selected by the dealer if  
5 the signs, franchiser image or design elements, or trade  
6 dress are approved by the manufacturer. Approval by the  
7 manufacturer shall not be unreasonably withheld. This  
8 paragraph (12) shall not be construed to allow a dealer or  
9 vendor to impair, infringe upon, or eliminate, directly or  
10 indirectly, the intellectual property rights of the  
11 manufacturer, including, but not limited to, the  
12 manufacturer's intellectual property rights in any  
13 trademarks or trade dress, or other intellectual property  
14 interests owned or controlled by the manufacturer. This  
15 paragraph (12) shall not be construed to permit a dealer  
16 to erect or maintain signs that do not conform to the  
17 manufacturer's intellectual property rights or trademark  
18 or trade dress usage guidelines.

19 (e) It shall be deemed a violation for a manufacturer, a  
20 distributor, a wholesaler, a distributor branch or division or  
21 officer, agent or other representative thereof:

22 (1) to resort to or use any false or misleading  
23 advertisement in connection with his business as such  
24 manufacturer, distributor, wholesaler, distributor branch  
25 or division or officer, agent or other representative  
26 thereof;

1           (2) to offer to sell or lease, or to sell or lease, any  
2           new motor vehicle to any motor vehicle dealer at a lower  
3           actual price therefor than the actual price offered to any  
4           other motor vehicle dealer for the same model vehicle  
5           similarly equipped or to utilize any device including, but  
6           not limited to, sales promotion plans or programs which  
7           result in such lesser actual price or fail to make  
8           available to any motor vehicle dealer any preferential  
9           pricing, incentive, rebate, finance rate, or low interest  
10          loan program offered to competing motor vehicle dealers in  
11          other contiguous states. However, the provisions of this  
12          paragraph shall not apply to sales to a motor vehicle  
13          dealer for resale to any unit of the United States  
14          Government, the State or any of its political  
15          subdivisions;

16          (3) to offer to sell or lease, or to sell or lease, any  
17          new motor vehicle to any person, except a wholesaler,  
18          distributor or manufacturer's employees at a lower actual  
19          price therefor than the actual price offered and charged  
20          to a motor vehicle dealer for the same model vehicle  
21          similarly equipped or to utilize any device which results  
22          in such lesser actual price. However, the provisions of  
23          this paragraph shall not apply to sales to a motor vehicle  
24          dealer for resale to any unit of the United States  
25          Government, the State or any of its political  
26          subdivisions;

1           (4) to prevent or attempt to prevent by contract or  
2 otherwise any motor vehicle dealer or franchisee from  
3 changing the executive management control of the motor  
4 vehicle dealer or franchisee unless the franchiser, having  
5 the burden of proof, proves that such change of executive  
6 management will result in executive management control by  
7 a person or persons who are not of good moral character or  
8 who do not meet the franchiser's existing and, with  
9 consideration given to the volume of sales and service of  
10 the dealership, uniformly applied minimum business  
11 experience standards in the market area. However, where  
12 the manufacturer rejects a proposed change in executive  
13 management control, the manufacturer shall give written  
14 notice of his reasons to the dealer within 60 days of  
15 notice to the manufacturer by the dealer of the proposed  
16 change. If the manufacturer does not send a letter to the  
17 franchisee by certified mail, return receipt requested,  
18 within 60 days from receipt by the manufacturer of the  
19 proposed change, then the change of the executive  
20 management control of the franchisee shall be deemed  
21 accepted as proposed by the franchisee, and the  
22 manufacturer shall give immediate effect to such change;

23           (5) to prevent or attempt to prevent by contract or  
24 otherwise any motor vehicle dealer from establishing or  
25 changing the capital structure of his dealership or the  
26 means by or through which he finances the operation

1           thereof; provided the dealer meets any reasonable capital  
2           standards agreed to between the dealer and the  
3           manufacturer, distributor or wholesaler, who may require  
4           that the sources, method and manner by which the dealer  
5           finances or intends to finance its operation, equipment or  
6           facilities be fully disclosed;

7           (6) to refuse to give effect to or prevent or attempt  
8           to prevent by contract or otherwise any motor vehicle  
9           dealer or any officer, partner or stockholder of any motor  
10          vehicle dealer from selling or transferring any part of  
11          the interest of any of them to any other person or persons  
12          or party or parties unless such sale or transfer is to a  
13          transferee who would not otherwise qualify for a new motor  
14          vehicle dealers license under the Illinois Vehicle Code or  
15          unless the franchiser, having the burden of proof, proves  
16          that such sale or transfer is to a person or party who is  
17          not of good moral character or does not meet the  
18          franchiser's existing and reasonable capital standards  
19          and, with consideration given to the volume of sales and  
20          service of the dealership, uniformly applied minimum  
21          business experience standards in the market area. However,  
22          nothing herein shall be construed to prevent a franchiser  
23          from implementing affirmative action programs providing  
24          business opportunities for minorities or from complying  
25          with applicable federal, State or local law:

26                 (A) If the manufacturer intends to refuse to

1 approve the sale or transfer of all or a part of the  
2 interest, then it shall, within 60 days from receipt  
3 of the completed application forms generally utilized  
4 by a manufacturer to conduct its review and a copy of  
5 all agreements regarding the proposed transfer, send a  
6 letter by certified mail, return receipt requested,  
7 advising the franchisee of any refusal to approve the  
8 sale or transfer of all or part of the interest and  
9 shall state that the dealer only has 30 days from the  
10 receipt of the notice to file with the Motor Vehicle  
11 Review Board a written protest against the proposed  
12 action. The notice shall set forth specific criteria  
13 used to evaluate the prospective transferee and the  
14 grounds for refusing to approve the sale or transfer  
15 to that transferee. Within 30 days from the  
16 franchisee's receipt of the manufacturer's notice, the  
17 franchisee may file with the Board a written protest  
18 against the proposed action.

19 When a protest has been timely filed, the Board  
20 shall enter an order, fixing the date (within 60 days  
21 of the date of such order), time, and place of a  
22 hearing on the protest, required under Sections 12 and  
23 29 of this Act, and send by certified mail, return  
24 receipt requested, a copy of the order to the  
25 manufacturer that filed notice of intention of the  
26 proposed action and to the protesting franchisee.

1           The manufacturer shall have the burden of proof to  
2 establish that good cause exists to refuse to approve  
3 the sale or transfer to the transferee. The  
4 determination whether good cause exists to refuse to  
5 approve the sale or transfer shall be made by the Board  
6 under subdivisions (6) (B). The manufacturer shall not  
7 refuse to approve the sale or transfer by a dealer or  
8 an officer, partner, or stockholder of a franchise or  
9 any part of the interest to any person or persons  
10 before the hearing process is concluded as prescribed  
11 by this Act, and thereafter if the Board determines  
12 that the manufacturer has failed to meet its burden of  
13 proof and that good cause does not exist to refuse to  
14 approve the sale or transfer to the transferee.

15           (B) Good cause to refuse to approve such sale or  
16 transfer under this Section is established when such  
17 sale or transfer is to a transferee who would not  
18 otherwise qualify for a new motor vehicle dealers  
19 license under the Illinois Vehicle Code or such sale  
20 or transfer is to a person or party who is not of good  
21 moral character or does not meet the franchiser's  
22 existing and reasonable capital standards and, with  
23 consideration given to the volume of sales and service  
24 of the dealership, uniformly applied minimum business  
25 experience standards in the market area.

26           (7) to obtain money, goods, services, anything of

1 value, or any other benefit from any other person with  
2 whom the motor vehicle dealer does business, on account of  
3 or in relation to the transactions between the dealer and  
4 the other person as compensation, except for services  
5 actually rendered, unless such benefit is promptly  
6 accounted for and transmitted to the motor vehicle dealer;

7 (8) to grant an additional franchise in the relevant  
8 market area of an existing franchise of the same line make  
9 or to relocate an existing motor vehicle dealership within  
10 or into a relevant market area of an existing franchise of  
11 the same line make. However, if the manufacturer wishes to  
12 grant such an additional franchise to an independent  
13 person in a bona fide relationship in which such person is  
14 prepared to make a significant investment subject to loss  
15 in such a dealership, or if the manufacturer wishes to  
16 relocate an existing motor vehicle dealership, then the  
17 manufacturer shall send a letter by certified mail, return  
18 receipt requested, to each existing dealer or dealers of  
19 the same line make whose relevant market area includes the  
20 proposed location of the additional or relocated franchise  
21 at least 60 days before the manufacturer grants an  
22 additional franchise or relocates an existing franchise of  
23 the same line make within or into the relevant market area  
24 of an existing franchisee of the same line make. Each  
25 notice shall set forth the specific grounds for the  
26 proposed grant of an additional or relocation of an

1 existing franchise and shall state that the dealer has  
2 only 30 days from the date of receipt of the notice to file  
3 with the Motor Vehicle Review Board a written protest  
4 against the proposed action. Unless the parties agree upon  
5 the grant or establishment of the additional or relocated  
6 franchise within 30 days from the date the notice was  
7 received by the existing franchisee of the same line make  
8 or any person entitled to receive such notice, the  
9 franchisee or other person may file with the Board a  
10 written protest against the grant or establishment of the  
11 proposed additional or relocated franchise.

12 When a protest has been timely filed, the Board shall  
13 enter an order fixing a date (within 60 days of the date of  
14 the order), time, and place of a hearing on the protest,  
15 required under Sections 12 and 29 of this Act, and send by  
16 certified or registered mail, return receipt requested, a  
17 copy of the order to the manufacturer that filed the  
18 notice of intention to grant or establish the proposed  
19 additional or relocated franchise and to the protesting  
20 dealer or dealers of the same line make whose relevant  
21 market area includes the proposed location of the  
22 additional or relocated franchise.

23 When more than one protest is filed against the grant  
24 or establishment of the additional or relocated franchise  
25 of the same line make, the Board may consolidate the  
26 hearings to expedite disposition of the matter. The



1 manufacturer shall have the burden of proof to establish  
2 that good cause exists to allow the grant or establishment  
3 of the additional or relocated franchise. The manufacturer  
4 may not grant or establish the additional franchise or  
5 relocate the existing franchise before the hearing process  
6 is concluded as prescribed by this Act, and thereafter if  
7 the Board determines that the manufacturer has failed to  
8 meet its burden of proof and that good cause does not exist  
9 to allow the grant or establishment of the additional  
10 franchise or relocation of the existing franchise.

11 The determination whether good cause exists for  
12 allowing the grant or establishment of an additional  
13 franchise or relocated existing franchise, shall be made  
14 by the Board under subsection (c) of Section 12 of this  
15 Act. If the manufacturer seeks to enter into a contract,  
16 agreement or other arrangement with any person,  
17 establishing any additional motor vehicle dealership or  
18 other facility, limited to the sale of factory repurchase  
19 vehicles or late model vehicles, then the manufacturer  
20 shall follow the notice procedures set forth in this  
21 Section and the determination whether good cause exists  
22 for allowing the proposed agreement shall be made by the  
23 Board under subsection (c) of Section 12, with the  
24 manufacturer having the burden of proof.

25 A. (Blank).

26 B. For the purposes of this Section, appointment

1 of a successor motor vehicle dealer at the same  
2 location as its predecessor, or within 2 miles of such  
3 location, or the relocation of an existing dealer or  
4 franchise within 2 miles of the relocating dealer's or  
5 franchisee's existing location, shall not be construed  
6 as a grant, establishment or the entering into of an  
7 additional franchise or selling agreement, or a  
8 relocation of an existing franchise. The reopening of  
9 a motor vehicle dealership that has not been in  
10 operation for 18 months or more shall be deemed the  
11 grant of an additional franchise or selling agreement.

12 C. This Section does not apply to the relocation  
13 of an existing dealership or franchise in a county  
14 having a population of more than 300,000 persons when  
15 the new location is within the dealer's current  
16 relevant market area, provided the new location is  
17 more than 7 miles from the nearest dealer of the same  
18 line make. This Section does not apply to the  
19 relocation of an existing dealership or franchise in a  
20 county having a population of less than 300,000  
21 persons when the new location is within the dealer's  
22 current relevant market area, provided the new  
23 location is more than 12 miles from the nearest dealer  
24 of the same line make. A dealer that would be farther  
25 away from the new location of an existing dealership  
26 or franchise of the same line make after a relocation

1           may not file a written protest against the relocation  
2           with the Motor Vehicle Review Board.

3           D. Nothing in this Section shall be construed to  
4           prevent a franchiser from implementing affirmative  
5           action programs providing business opportunities for  
6           minorities or from complying with applicable federal,  
7           State or local law;

8           (9) to require a motor vehicle dealer to assent to a  
9           release, assignment, novation, waiver or estoppel which  
10          would relieve any person from liability imposed by this  
11          Act;

12          (10) to prevent or refuse to give effect to the  
13          succession to the ownership or management control of a  
14          dealership by any legatee under the will of a dealer or to  
15          an heir under the laws of descent and distribution of this  
16          State unless the franchisee has designated a successor to  
17          the ownership or management control under the succession  
18          provisions of the franchise. Unless the franchiser, having  
19          the burden of proof, proves that the successor is a person  
20          who is not of good moral character or does not meet the  
21          franchiser's existing and reasonable capital standards  
22          and, with consideration given to the volume of sales and  
23          service of the dealership, uniformly applied minimum  
24          business experience standards in the market area, any  
25          designated successor of a dealer or franchisee may succeed  
26          to the ownership or management control of a dealership

1 under the existing franchise if:

2 (i) The designated successor gives the  
3 franchiser written notice by certified mail,  
4 return receipt requested, of his or her intention  
5 to succeed to the ownership of the dealer within  
6 60 days of the dealer's death or incapacity; and

7 (ii) The designated successor agrees to be  
8 bound by all the terms and conditions of the  
9 existing franchise.

10 Notwithstanding the foregoing, in the event the motor  
11 vehicle dealer or franchisee and manufacturer have duly  
12 executed an agreement concerning succession rights prior  
13 to the dealer's death or incapacitation, the agreement  
14 shall be observed.

15 (A) If the franchiser intends to refuse to honor  
16 the successor to the ownership of a deceased or  
17 incapacitated dealer or franchisee under an existing  
18 franchise agreement, the franchiser shall send a  
19 letter by certified mail, return receipt requested, to  
20 the designated successor within 60 days from receipt  
21 of a proposal advising of its intent to refuse to honor  
22 the succession and to discontinue the existing  
23 franchise agreement and shall state that the  
24 designated successor only has 30 days from the receipt  
25 of the notice to file with the Motor Vehicle Review  
26 Board a written protest against the proposed action.

1           The notice shall set forth the specific grounds for  
2           the refusal to honor the succession and discontinue  
3           the existing franchise agreement.

4           If notice of refusal is not timely served upon the  
5           designated successor, the franchise agreement shall  
6           continue in effect subject to termination only as  
7           otherwise permitted by paragraph (6) of subsection (d)  
8           of Section 4 of this Act.

9           Within 30 days from the date the notice was  
10          received by the designated successor or any other  
11          person entitled to notice, the designee or other  
12          person may file with the Board a written protest  
13          against the proposed action.

14          When a protest has been timely filed, the Board  
15          shall enter an order, fixing a date (within 60 days of  
16          the date of the order), time, and place of a hearing on  
17          the protest, required under Sections 12 and 29 of this  
18          Act, and send by certified mail, return receipt  
19          requested, a copy of the order to the franchiser that  
20          filed the notice of intention of the proposed action  
21          and to the protesting designee or such other person.

22          The manufacturer shall have the burden of proof to  
23          establish that good cause exists to refuse to honor  
24          the succession and discontinue the existing franchise  
25          agreement. The determination whether good cause exists  
26          to refuse to honor the succession shall be made by the

1 Board under subdivision (B) of this paragraph (10).  
2 The manufacturer shall not refuse to honor the  
3 succession or discontinue the existing franchise  
4 agreement before the hearing process is concluded as  
5 prescribed by this Act, and thereafter if the Board  
6 determines that it has failed to meet its burden of  
7 proof and that good cause does not exist to refuse to  
8 honor the succession and discontinue the existing  
9 franchise agreement.

10 (B) No manufacturer shall impose any conditions  
11 upon honoring the succession and continuing the  
12 existing franchise agreement with the designated  
13 successor other than that the franchisee has  
14 designated a successor to the ownership or management  
15 control under the succession provisions of the  
16 franchise, or that the designated successor is of good  
17 moral character or meets the reasonable capital  
18 standards and, with consideration given to the volume  
19 of sales and service of the dealership, uniformly  
20 applied minimum business experience standards in the  
21 market area;

22 (11) to prevent or refuse to approve a proposal to  
23 establish a successor franchise at a location previously  
24 approved by the franchiser when submitted with the  
25 voluntary termination by the existing franchisee unless  
26 the successor franchisee would not otherwise qualify for a

1 new motor vehicle dealer's license under the Illinois  
2 Vehicle Code or unless the franchiser, having the burden  
3 of proof, proves that such proposed successor is not of  
4 good moral character or does not meet the franchiser's  
5 existing and reasonable capital standards and, with  
6 consideration given to the volume of sales and service of  
7 the dealership, uniformly applied minimum business  
8 experience standards in the market area. However, when  
9 such a rejection of a proposal is made, the manufacturer  
10 shall give written notice of its reasons to the franchisee  
11 within 60 days of receipt by the manufacturer of the  
12 proposal. However, nothing herein shall be construed to  
13 prevent a franchiser from implementing affirmative action  
14 programs providing business opportunities for minorities,  
15 or from complying with applicable federal, State or local  
16 law;

17 (12) to prevent or refuse to grant a franchise to a  
18 person because such person owns, has investment in or  
19 participates in the management of or holds a franchise for  
20 the sale of another make or line of motor vehicles within 7  
21 miles of the proposed franchise location in a county  
22 having a population of more than 300,000 persons, or  
23 within 12 miles of the proposed franchise location in a  
24 county having a population of less than 300,000 persons;

25 (13) to prevent or attempt to prevent any new motor  
26 vehicle dealer from establishing any additional motor

1 vehicle dealership or other facility limited to the sale  
2 of factory repurchase vehicles or late model vehicles or  
3 otherwise offering for sale factory repurchase vehicles of  
4 the same line make at an existing franchise by failing to  
5 make available any contract, agreement or other  
6 arrangement which is made available or otherwise offered  
7 to any person; or

8 (14) to exercise a right of first refusal or other  
9 right to acquire a franchise from a dealer, unless the  
10 manufacturer:

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

19 (B) pays to the dealer the same or greater  
20 consideration as the dealer has contracted to receive  
21 in connection with the proposed transfer or sale of  
22 all or substantially all of the dealership assets,  
23 stock, or other ownership interest, including the  
24 purchase or lease of all real property, leasehold, or  
25 improvements related to the transfer or sale of the  
26 dealership. Upon exercise of the right of first



1 refusal or such other right, the manufacturer or  
2 distributor shall have the right to assign the lease  
3 or to convey the real property;

4 (C) assumes all of the duties, obligations, and  
5 liabilities contained in the agreements that were to  
6 be assumed by the proposed transferee and with respect  
7 to which the manufacturer or distributor exercised the  
8 right of first refusal or other right to acquire the  
9 franchise;

10 (D) reimburses the proposed transferee for all  
11 reasonable expenses incurred in evaluating,  
12 investigating, and negotiating the transfer of the  
13 dealership prior to the manufacturer's or  
14 distributor's exercise of its right of first refusal  
15 or other right to acquire the dealership. For purposes  
16 of this paragraph, "reasonable expenses" includes the  
17 usual and customary legal and accounting fees charged  
18 for similar work, as well as expenses associated with  
19 the evaluation and investigation of any real property  
20 on which the dealership is operated. The proposed  
21 transferee shall submit an itemized list of its  
22 expenses to the manufacturer or distributor not later  
23 than 30 days after the manufacturer's or distributor's  
24 exercise of the right of first refusal or other right  
25 to acquire the motor vehicle franchise. The  
26 manufacturer or distributor shall reimburse the

1 proposed transferee for its expenses not later than 90  
2 days after receipt of the itemized list. A  
3 manufacturer or distributor may request to be provided  
4 with the itemized list of expenses before exercising  
5 the manufacturer's or distributor's right of first  
6 refusal.

7 If a manufacturer exercises a right of first refusal  
8 under this paragraph (14) on or after January 1, 2022 in  
9 order to terminate a dealership that paid at least 10% of  
10 the local retailers' occupation tax imposed by the  
11 municipality or county where the terminated dealership is  
12 located during the calendar year immediately prior to the  
13 termination, then, in addition to any amounts due under  
14 this paragraph, for a period of 20 consecutive years after  
15 the dealership is terminated, the manufacturer must pay to  
16 the municipality or county in which the terminated  
17 dealership was located an amount equal to the certified  
18 local retailers' occupation tax amount. For the purposes  
19 of this paragraph (14), the certified local retailers'  
20 occupation tax amount is the highest amount paid by the  
21 dealership in any of the 5 years immediately prior to the  
22 year in which the dealership was terminated.

23 Except as provided in this paragraph (14), neither the  
24 selling dealer nor the manufacturer or distributor shall  
25 have any liability to any person as a result of a  
26 manufacturer or distributor exercising its right of first

1 refusal.

2 For the purpose of this paragraph, "proposed  
3 transferee" means the person to whom the franchise would  
4 have been transferred to, or was proposed to be  
5 transferred to, had the right of first refusal or other  
6 right to acquire the franchise not been exercised by the  
7 manufacturer or distributor.

8 (f) It is deemed a violation for a manufacturer, a  
9 distributor, a wholesaler, a distributor branch or division, a  
10 factory branch or division, or a wholesale branch or division,  
11 or officer, agent, broker, shareholder, except a shareholder  
12 of 1% or less of the outstanding shares of any class of  
13 securities of a manufacturer, distributor, or wholesaler which  
14 is a publicly traded corporation, or other representative,  
15 directly or indirectly, to own or operate a place of business  
16 as a motor vehicle franchisee or motor vehicle financing  
17 affiliate, except that, this subsection shall not prohibit:

18 (1) the ownership or operation of a place of business  
19 by a manufacturer, distributor, or wholesaler for a  
20 period, not to exceed 18 months, during the transition  
21 from one motor vehicle franchisee to another;

22 (2) the investment in a motor vehicle franchisee by a  
23 manufacturer, distributor, or wholesaler if the investment  
24 is for the sole purpose of enabling a partner or  
25 shareholder in that motor vehicle franchisee to acquire an  
26 interest in that motor vehicle franchisee and that partner

1 or shareholder is not otherwise employed by or associated  
2 with the manufacturer, distributor, or wholesaler and  
3 would not otherwise have the requisite capital investment  
4 funds to invest in the motor vehicle franchisee, and has  
5 the right to purchase the entire equity interest of the  
6 manufacturer, distributor, or wholesaler in the motor  
7 vehicle franchisee within a reasonable period of time not  
8 to exceed 5 years; or

9 (3) the ownership or operation of a place of business  
10 by a manufacturer that manufactures only diesel engines  
11 for installation in trucks having a gross vehicle weight  
12 rating of more than 16,000 pounds that are required to be  
13 registered under the Illinois Vehicle Code, provided that:

14 (A) the manufacturer does not otherwise  
15 manufacture, distribute, or sell motor vehicles as  
16 defined under Section 1-217 of the Illinois Vehicle  
17 Code;

18 (B) the manufacturer owned a place of business and  
19 it was in operation as of January 1, 2016;

20 (C) the manufacturer complies with all obligations  
21 owed to dealers that are not owned, operated, or  
22 controlled by the manufacturer, including, but not  
23 limited to those obligations arising pursuant to  
24 Section 6;

25 (D) to further avoid any acts or practices, the  
26 effect of which may be to lessen or eliminate

1 competition, the manufacturer provides to dealers on  
2 substantially equal terms access to all support for  
3 completing repairs, including, but not limited to,  
4 parts and assemblies, training, and technical service  
5 bulletins, and other information concerning repairs  
6 that the manufacturer provides to facilities that are  
7 owned, operated, or controlled by the manufacturer;  
8 and

9 (E) the manufacturer does not require that  
10 warranty repair work be performed by a  
11 manufacturer-owned repair facility and the  
12 manufacturer provides any dealer that has an agreement  
13 with the manufacturer to sell and perform warranty  
14 repairs on the manufacturer's engines the opportunity  
15 to perform warranty repairs on those engines,  
16 regardless of whether the dealer sold the truck into  
17 which the engine was installed.

18 (g) Notwithstanding the terms, provisions, or conditions  
19 of any agreement or waiver, it shall be deemed a violation for  
20 a manufacturer, a distributor, a wholesaler, a distributor  
21 branch or division, a factory branch or division, or a  
22 wholesale branch or division, or officer, agent or other  
23 representative thereof, to directly or indirectly condition  
24 the awarding of a franchise to a prospective new motor vehicle  
25 dealer, the addition of a line make or franchise to an existing  
26 dealer, the renewal of a franchise of an existing dealer, the

1 approval of the relocation of an existing dealer's facility,  
2 or the approval of the sale or transfer of the ownership of a  
3 franchise on the willingness of a dealer, proposed new dealer,  
4 or owner of an interest in the dealership facility to enter  
5 into a site control agreement or exclusive use agreement  
6 unless separate and reasonable consideration was offered and  
7 accepted for that agreement.

8 For purposes of this subsection (g), the terms "site  
9 control agreement" and "exclusive use agreement" include any  
10 agreement that has the effect of either (i) requiring that the  
11 dealer establish or maintain exclusive dealership facilities;  
12 or (ii) restricting the ability of the dealer, or the ability  
13 of the dealer's lessor in the event the dealership facility is  
14 being leased, to transfer, sell, lease, or change the use of  
15 the dealership premises, whether by sublease, lease,  
16 collateral pledge of lease, or other similar agreement. "Site  
17 control agreement" and "exclusive use agreement" also include  
18 a manufacturer restricting the ability of a dealer to  
19 transfer, sell, or lease the dealership premises by right of  
20 first refusal to purchase or lease, option to purchase, or  
21 option to lease if the transfer, sale, or lease of the  
22 dealership premises is to a person who is an immediate family  
23 member of the dealer. For the purposes of this subsection (g),  
24 "immediate family member" means a spouse, parent, son,  
25 daughter, son-in-law, daughter-in-law, brother, and sister.

26 If a manufacturer exercises any right of first refusal to

1 purchase or lease or option to purchase or lease with regard to  
2 a transfer, sale, or lease of the dealership premises to a  
3 person who is not an immediate family member of the dealer,  
4 then (1) within 60 days from the receipt of the completed  
5 application forms generally utilized by a manufacturer to  
6 conduct its review and a copy of all agreements regarding the  
7 proposed transfer, the manufacturer must notify the dealer of  
8 its intent to exercise the right of first refusal to purchase  
9 or lease or option to purchase or lease and (2) the exercise of  
10 the right of first refusal to purchase or lease or option to  
11 purchase or lease must result in the dealer receiving  
12 consideration, terms, and conditions that either are the same  
13 as or greater than that which they have contracted to receive  
14 in connection with the proposed transfer, sale, or lease of  
15 the dealership premises.

16 Any provision contained in any agreement entered into on  
17 or after November 25, 2009 (the effective date of Public Act  
18 96-824) that is inconsistent with the provisions of this  
19 subsection (g) shall be voidable at the election of the  
20 affected dealer, prospective dealer, or owner of an interest  
21 in the dealership facility.

22 (h) For purposes of this subsection:

23 "Successor manufacturer" means any motor vehicle  
24 manufacturer that, on or after January 1, 2009, acquires,  
25 succeeds to, or assumes any part of the business of another  
26 manufacturer, referred to as the "predecessor manufacturer",

1 as the result of any of the following:

2 (i) A change in ownership, operation, or control of  
3 the predecessor manufacturer by sale or transfer of  
4 assets, corporate stock or other equity interest,  
5 assignment, merger, consolidation, combination, joint  
6 venture, redemption, court-approved sale, operation of law  
7 or otherwise.

8 (ii) The termination, suspension, or cessation of a  
9 part or all of the business operations of the predecessor  
10 manufacturer.

11 (iii) The discontinuance of the sale of the product  
12 line.

13 (iv) A change in distribution system by the  
14 predecessor manufacturer, whether through a change in  
15 distributor or the predecessor manufacturer's decision to  
16 cease conducting business through a distributor  
17 altogether.

18 "Former Franchisee" means a new motor vehicle dealer that  
19 has entered into a franchise with a predecessor manufacturer  
20 and that has either:

21 (i) entered into a termination agreement or deferred  
22 termination agreement with a predecessor or successor  
23 manufacturer related to such franchise; or

24 (ii) has had such franchise canceled, terminated,  
25 nonrenewed, noncontinued, rejected, nonassumed, or  
26 otherwise ended.



1           For a period of 3 years from: (i) the date that a successor  
2 manufacturer acquires, succeeds to, or assumes any part of the  
3 business of a predecessor manufacturer; (ii) the last day that  
4 a former franchisee is authorized to remain in business as a  
5 franchised dealer with respect to a particular franchise under  
6 a termination agreement or deferred termination agreement with  
7 a predecessor or successor manufacturer; (iii) the last day  
8 that a former franchisee that was cancelled, terminated,  
9 nonrenewed, noncontinued, rejected, nonassumed, or otherwise  
10 ended by a predecessor or successor manufacturer is authorized  
11 to remain in business as a franchised dealer with respect to a  
12 particular franchise; or (iv) November 25, 2009 (the effective  
13 date of Public Act 96-824), whichever is latest, it shall be  
14 unlawful for such successor manufacturer to enter into a same  
15 line make franchise with any person or to permit the  
16 relocation of any existing same line make franchise, for a  
17 line make of the predecessor manufacturer that would be  
18 located or relocated within the relevant market area of a  
19 former franchisee who owned or leased a dealership facility in  
20 that relevant market area without first offering the  
21 additional or relocated franchise to the former franchisee, or  
22 the designated successor of such former franchisee in the  
23 event the former franchisee is deceased or a person with a  
24 disability, at no cost and without any requirements or  
25 restrictions other than those imposed generally on the  
26 manufacturer's other franchisees at that time, unless one of

1 the following applies:

2 (1) As a result of the former franchisee's  
3 cancellation, termination, noncontinuance, or nonrenewal  
4 of the franchise, the predecessor manufacturer had  
5 consolidated the line make with another of its line makes  
6 for which the predecessor manufacturer had a franchisee  
7 with a then-existing dealership facility located within  
8 that relevant market area.

9 (2) The successor manufacturer has paid the former  
10 franchisee, or the designated successor of such former  
11 franchisee in the event the former franchisee is deceased  
12 or a person with a disability, the fair market value of the  
13 former franchisee's franchise on (i) the date the  
14 franchiser announces the action which results in the  
15 termination, cancellation, or nonrenewal; or (ii) the date  
16 the action which results in termination, cancellation, or  
17 nonrenewal first became general knowledge; or (iii) the  
18 day 12 months prior to the date on which the notice of  
19 termination, cancellation, or nonrenewal is issued,  
20 whichever amount is higher. Payment is due within 90 days  
21 of the effective date of the termination, cancellation, or  
22 nonrenewal. If the termination, cancellation, or  
23 nonrenewal is due to a manufacturer's change in  
24 distributors, the manufacturer may avoid paying fair  
25 market value to the dealer if the new distributor or the  
26 manufacturer offers the dealer a franchise agreement with

1 terms acceptable to the dealer.

2 (3) The successor manufacturer proves that it would  
3 have had good cause to terminate the franchise agreement  
4 of the former franchisee, or the successor of the former  
5 franchisee under item (e)(10) in the event that the former  
6 franchisee is deceased or a person with a disability. The  
7 determination of whether the successor manufacturer would  
8 have had good cause to terminate the franchise agreement  
9 of the former franchisee, or the successor of the former  
10 franchisee, shall be made by the Board under subsection  
11 (d) of Section 12. A successor manufacturer that seeks to  
12 assert that it would have had good cause to terminate a  
13 former franchisee, or the successor of the former  
14 franchisee, must file a petition seeking a hearing on this  
15 issue before the Board and shall have the burden of  
16 proving that it would have had good cause to terminate the  
17 former franchisee or the successor of the former  
18 franchisee. No successor dealer, other than the former  
19 franchisee, may be appointed or franchised by the  
20 successor manufacturer within the relevant market area of  
21 the former franchisee until the Board has held a hearing  
22 and rendered a determination on the issue of whether the  
23 successor manufacturer would have had good cause to  
24 terminate the former franchisee.

25 In the event that a successor manufacturer attempts to  
26 enter into a same line make franchise with any person or to

1 permit the relocation of any existing line make franchise  
2 under this subsection (h) at a location that is within the  
3 relevant market area of 2 or more former franchisees, then the  
4 successor manufacturer may not offer it to any person other  
5 than one of those former franchisees unless the successor  
6 manufacturer can prove that at least one of the 3 exceptions in  
7 items (1), (2), and (3) of this subsection (h) applies to each  
8 of those former franchisees.

9 (Source: P.A. 102-433, eff. 1-1-22.)

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.