

SB1344



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1344

Introduced 2/9/2007, by Sen. Antonio Munoz

SYNOPSIS AS INTRODUCED:

815 ILCS 710/2

from Ch. 121 1/2, par. 752

Amends the Motor Vehicle Franchise Act. Changes the definition of "relevant market area" to remove language allowing for the area of responsibility to be defined in the franchise agreement. Effective immediately.

LRB095 06228 LCT 26322 b

A BILL FOR

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 2 as follows:

6 (815 ILCS 710/2) (from Ch. 121 1/2, par. 752)

7 Sec. 2. Definitions. As used in this Act, the following
8 words shall, unless the context otherwise requires, have the
9 following meanings:

10 (a) "Motor vehicle", any motor driven vehicle required to
11 be registered under "The Illinois Vehicle Code".

12 (b) "Manufacturer", any person engaged in the business of
13 manufacturing or assembling new and unused motor vehicles.

14 (c) "Factory branch", a branch office maintained by a
15 manufacturer which manufactures or assembles motor vehicles
16 for sale to distributors or motor vehicle dealers or which is
17 maintained for directing and supervising the representatives
18 of the manufacturer.

19 (d) "Distributor branch", a branch office maintained by a
20 distributor or wholesaler who or which sells or distributes new
21 or used motor vehicles to motor vehicle dealers.

22 (e) "Factory representative", a representative employed by
23 a manufacturer or employed by a factory branch for the purpose

1 of making or promoting the sale of motor vehicles or for
2 contracting with, supervising, servicing or instructing motor
3 vehicle dealers or prospective motor vehicle dealers.

4 (f) "Distributor representative", a representative
5 employed by a distributor branch, distributor or wholesaler.

6 (g) "Distributor" or "wholesaler", any person who sells or
7 distributes new or used motor vehicles to motor vehicle dealers
8 or who maintains distributor representatives within the State.

9 (h) "Motor vehicle dealer", any person who, in the ordinary
10 course of business, is engaged in the business of selling new
11 or used motor vehicles to consumers or other end users.

12 (i) "Franchise", an oral or written arrangement for a
13 definite or indefinite period in which a manufacturer,
14 distributor or wholesaler grants to a motor vehicle dealer a
15 license to use a trade name, service mark, or related
16 characteristic, and in which there is a community of interest
17 in the marketing of motor vehicles or services related thereto
18 at wholesale, retail, leasing or otherwise.

19 (j) "Franchiser", a manufacturer, distributor or
20 wholesaler who grants a franchise to a motor vehicle dealer.

21 (k) "Franchisee", a motor vehicle dealer to whom a
22 franchise is offered or granted.

23 (l) "Sale", shall include the issuance, transfer,
24 agreement for transfer, exchange, pledge, hypothecation,
25 mortgage in any form, whether by transfer in trust or
26 otherwise, of any motor vehicle or interest therein or of any

1 franchise related thereto; and any option, subscription or
2 other contract or solicitation, looking to a sale, or offer or
3 attempt to sell in any form, whether oral or written. A gift or
4 delivery of any motor vehicle or franchise with respect thereto
5 with or as a bonus on account of the sale of anything shall be
6 deemed a sale of such motor vehicle or franchise.

7 (m) "Fraud", shall include, in addition to its normal legal
8 connotation, the following: a misrepresentation in any manner,
9 whether intentionally false or due to reckless disregard for
10 truth or falsity, of a material fact; a promise or
11 representation not made honestly and in good faith; and an
12 intentional failure to disclose a material fact.

13 (n) "Person", a natural person, corporation, partnership,
14 trust or other entity, and in case of an entity, it shall
15 include any other entity in which it has a majority interest or
16 which it effectively controls as well as the individual
17 officers, directors and other persons in active control of the
18 activities of each such entity.

19 (o) "New motor vehicle", a motor vehicle which has not been
20 previously sold to any person except a distributor or
21 wholesaler or motor vehicle dealer for resale.

22 (p) "Market Area", the franchisee's area of primary
23 responsibility as defined in its franchise.

24 (q) "Relevant Market Area", the area within a radius of 10
25 miles from the principal location of a franchise or dealership
26 if said principal location is in a county having a population

1 of more than 300,000 persons; if the principal location of a
2 franchise or dealership is in a county having a population of
3 less than 300,000 persons, then "relevant market area" shall
4 mean the area within a radius of 15 miles from the principal
5 location of said franchise or dealership, ~~or the area of~~
6 ~~responsibility as defined in the franchise agreement,~~
7 ~~whichever is greater.~~

8 (r) "Late model vehicle" means a vehicle of the current
9 model year and one, 2, or 3 preceding model years for which the
10 motor vehicle dealer holds an existing franchise from the
11 manufacturer for that same line make.

12 (s) "Factory repurchase vehicle" means a motor vehicle of
13 the current model year or a late model vehicle reacquired by
14 the manufacturer under an existing agreement or otherwise from
15 a fleet, lease or daily rental company or under any State or
16 federal law or program relating to allegedly defective new
17 motor vehicles, and offered for sale and resold by the
18 manufacturer directly or at a factory authorized or sponsored
19 auction.

20 (t) "Board" means the Motor Vehicle Review Board created
21 under this Act.

22 (u) "Secretary of State" means the Secretary of State of
23 Illinois.

24 (v) "Good cause" means facts establishing commercial
25 reasonableness in lawful or privileged competition and
26 business practices as defined at common law.

1 (Source: P.A. 89-145, eff. 7-14-95.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.