



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO HOUSE BILL 4628

2 AMENDMENT NO. _____. Amend House Bill 4628 on page 28,
3 line 1, after "use agreement", by inserting "unless separate
4 and reasonable consideration was offered and accepted for that
5 agreement"; and

6 on page 28, by replacing lines 10 through 12 with the
7 following:

8 "collateral pledge of lease, or other similar agreement. "Site
9 control agreement" and "exclusive use agreement" also include a
10 manufacturer restricting the ability of a dealer to transfer,
11 sell, or lease the dealership premises by right of first
12 refusal to purchase or lease, option to purchase, or option to
13 lease if the transfer, sale, or lease of the dealership
14 premises is to a person who is an immediate family member of
15 the dealer. For the purposes of this subsection (g), "immediate
16 family member" means a spouse, parent, son, daughter,

1 son-in-law, daughter-in-law, brother, and sister.

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

18 on page 28, line 13, after "agreement" by inserting "entered
19 into on or after the effective date of this amendatory Act of
20 the 96th General Assembly"; and

21 on page 29, by replacing lines 21 through 23 with the
22 following:

23 "For a period of 3 years from: (i) the date that a

1 successor manufacturer acquires succeeds to or assumes any part
2 of the business of a predecessor manufacturer; (ii) the last
3 day that a former franchisee is authorized to remain in
4 business as a franchised dealer with respect to a particular
5 franchise under a termination agreement or deferred
6 termination agreement with a predecessor or successor
7 manufacturer; (iii) the last day that a former franchisee that
8 was cancelled, terminated, nonrenewed, noncontinued, rejected,
9 nonassumed, or otherwise ended by a predecessor or successor
10 manufacturer is authorized to remain in business as a
11 franchised dealer with respect to a particular franchise; or
12 (iv) the effective date of this amendatory Act of the 96th
13 General Assembly, whichever is latest, it shall be unlawful";
14 and

15 on page 32, immediately below line 5, by inserting the
16 following:

17 "In the event that a successor manufacturer attempts to
18 enter into a same line make franchise with any person or to
19 permit the relocation of any existing line make franchise under
20 this subsection (h) at a location that is within the relevant
21 market area of 2 or more former franchisees, then the successor
22 manufacturer may not offer it to any person other than one of
23 those former franchisees unless the successor manufacturer can
24 prove that at least one of the 3 exceptions in items (1), (2),

1 and (3) of this subsection (h) applies to each of those former
2 franchisees."