



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1417

Introduced 2/11/2009, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

815 ILCS 710/2	from Ch. 121 1/2, par. 752
815 ILCS 710/4	from Ch. 121 1/2, par. 754
815 ILCS 710/6	from Ch. 121 1/2, par. 756
815 ILCS 710/9	from Ch. 121 1/2, par. 759

Amends the Motor Vehicle Franchise Act. Expands the definition of the term "motor vehicle" to include any engine, transmission, or rear axle, regardless of whether it is attached to a vehicle chassis, that is manufactured for installation in any motor-driven vehicle with a gross vehicle weight rating of more than 16,000 pounds that is required to be registered under the Illinois Vehicle Code. Eliminates language providing that a manufacturer has good cause to cancel, terminate, or fail to extend or renew the franchise or selling agreement to all franchisees of a line make when the manufacturer permanently discontinues the manufacture or assembly of motor vehicles of such line make. Provides that it is a violation for a manufacturer to require or coerce a motor vehicle dealer to underutilize the motor vehicle dealer's facilities by requiring or coercing the motor vehicle dealer to cease operations for the selling or servicing of any vehicles that fall under a franchise agreement with another manufacturer. Provides an itemized list of what is considered reasonable compensation to a motor vehicle dealer for the value of the motor vehicle dealer's business and business premises, as well as a payment scheme for such compensation. Makes other changes. Effective immediately.

LRB096 07805 KTG 17908 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 Sections 2, 4, 6, and 9 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". The term
12 "motor vehicle" also includes any engine, transmission, or rear
13 axle, regardless of whether it is attached to a vehicle
14 chassis, that is manufactured for installation in any
15 motor-driven vehicle with a gross vehicle weight rating of more
16 than 16,000 pounds that is required to be registered under the
17 Illinois Vehicle Code.

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

20 (c) "Factory branch", a branch office maintained by a
21 manufacturer which manufactures or assembles motor vehicles
22 for sale to distributors or motor vehicle dealers or which is
23 maintained for directing and supervising the representatives

1 of the manufacturer.

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

5 (e) "Factory representative", a representative employed by
6 a manufacturer or employed by a factory branch for the purpose
7 of making or promoting the sale of motor vehicles or for
8 contracting with, supervising, servicing or instructing motor
9 vehicle dealers or prospective motor vehicle dealers.

10 (f) "Distributor representative", a representative
11 employed by a distributor branch, distributor or wholesaler.

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

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

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

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

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

3 (l) "Sale", shall include the issuance, transfer,
4 agreement for transfer, exchange, pledge, hypothecation,
5 mortgage in any form, whether by transfer in trust or
6 otherwise, of any motor vehicle or interest therein or of any
7 franchise related thereto; and any option, subscription or
8 other contract or solicitation, looking to a sale, or offer or
9 attempt to sell in any form, whether oral or written. A gift or
10 delivery of any motor vehicle or franchise with respect thereto
11 with or as a bonus on account of the sale of anything shall be
12 deemed a sale of such motor vehicle or franchise.

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

19 (n) "Person", a natural person, corporation, partnership,
20 trust or other entity, and in case of an entity, it shall
21 include any other entity in which it has a majority interest or
22 which it effectively controls as well as the individual
23 officers, directors and other persons in active control of the
24 activities of each such entity.

25 (o) "New motor vehicle", a motor vehicle which has not been
26 previously sold to any person except a distributor or

1 wholesaler or motor vehicle dealer for resale.

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

4 (q) "Relevant Market Area", the area within a radius of 10
5 miles from the principal location of a franchise or dealership
6 if said principal location is in a county having a population
7 of more than 300,000 persons; if the principal location of a
8 franchise or dealership is in a county having a population of
9 less than 300,000 persons, then "relevant market area" shall
10 mean the area within a radius of 15 miles from the principal
11 location of said franchise or dealership.

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

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

24 (t) "Board" means the Motor Vehicle Review Board created
25 under this Act.

26 (u) "Secretary of State" means the Secretary of State of

1 Illinois.

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

5 (Source: P.A. 95-678, eff. 10-11-07.)

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 the
12 Federal Trade Commission Act (15 U.S.C. 45 et seq.), as from
13 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,
24 or attempt to coerce, any motor vehicle dealer:

25 (1) to accept, buy or order any motor vehicle or

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

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

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

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

21 (1) to adopt, change, establish or implement a plan or
22 system for the allocation and distribution of new motor
23 vehicles to motor vehicle dealers which is arbitrary or
24 capricious or to modify an existing plan so as to cause the
25 same to be arbitrary or capricious;

26 (2) to fail or refuse to advise or disclose to any

1 motor vehicle dealer having a franchise or selling
2 agreement, upon written request therefor, the basis upon
3 which new motor vehicles of the same line make are
4 allocated or distributed to motor vehicle dealers in the
5 State and the basis upon which the current allocation or
6 distribution is being made or will be made to such motor
7 vehicle dealer;

8 (3) to refuse to deliver in reasonable quantities and
9 within a reasonable time after receipt of dealer's order,
10 to any motor vehicle dealer having a franchise or selling
11 agreement for the retail sale of new motor vehicles sold or
12 distributed by such manufacturer, distributor, wholesaler,
13 distributor branch or division, factory branch or division
14 or wholesale branch or division, any such motor vehicles as
15 are covered by such franchise or selling agreement
16 specifically publicly advertised in the State by such
17 manufacturer, distributor, wholesaler, distributor branch
18 or division, factory branch or division, or wholesale
19 branch or division to be available for immediate delivery.
20 However, the failure to deliver any motor vehicle shall not
21 be considered a violation of this Act if such failure is
22 due to an act of God, a work stoppage or delay due to a
23 strike or labor difficulty, a shortage of materials, a lack
24 of manufacturing capacity, a freight embargo or other cause
25 over which the manufacturer, distributor, or wholesaler,
26 or any agent thereof has no control;

1 (4) to coerce, or attempt to coerce, any motor vehicle
2 dealer to enter into any agreement with such manufacturer,
3 distributor, wholesaler, distributor branch or division,
4 factory branch or division, or wholesale branch or
5 division, or officer, agent or other representative
6 thereof, or to do any other act prejudicial to the dealer
7 by threatening to reduce his allocation of motor vehicles
8 or cancel any franchise or any selling agreement existing
9 between such manufacturer, distributor, wholesaler,
10 distributor branch or division, or factory branch or
11 division, or wholesale branch or division, and the dealer.
12 However, notice in good faith to any motor vehicle dealer
13 of the dealer's violation of any terms or provisions of
14 such franchise or selling agreement or of any law or
15 regulation applicable to the conduct of a motor vehicle
16 dealer shall not constitute a violation of this Act;

17 (5) to require a franchisee to participate in an
18 advertising campaign or contest or any promotional
19 campaign, or to purchase or lease any promotional
20 materials, training materials, show room or other display
21 decorations or materials at the expense of the franchisee;

22 (6) to cancel or terminate the franchise or selling
23 agreement of a motor vehicle dealer without good cause and
24 without giving notice as hereinafter provided; to fail or
25 refuse to extend the franchise or selling agreement of a
26 motor vehicle dealer upon its expiration without good cause

1 and without giving notice as hereinafter provided; or, to
2 offer a renewal, replacement or succeeding franchise or
3 selling agreement containing terms and provisions the
4 effect of which is to substantially change or modify the
5 sales and service obligations or capital requirements of
6 the motor vehicle dealer arbitrarily and without good cause
7 and without giving notice as hereinafter provided
8 notwithstanding any term or provision of a franchise or
9 selling agreement.

10 (A) If a manufacturer, distributor, wholesaler,
11 distributor branch or division, factory branch or
12 division or wholesale branch or division intends to
13 cancel or terminate a franchise or selling agreement or
14 intends not to extend or renew a franchise or selling
15 agreement on its expiration, it shall send a letter by
16 certified mail, return receipt requested, to the
17 affected franchisee at least 60 days before the
18 effective date of the proposed action, or not later
19 than 10 days before the proposed action when the reason
20 for the action is based upon either of the following:

21 (i) the business operations of the franchisee
22 have been abandoned or the franchisee has failed to
23 conduct customary sales and service operations
24 during customary business hours for at least 7
25 consecutive business days unless such closing is
26 due to an act of God, strike or labor difficulty or

1 other cause over which the franchisee has no
2 control; or

3 (ii) the conviction of or plea of nolo
4 contendere by the motor vehicle dealer or any
5 operator thereof in a court of competent
6 jurisdiction to an offense punishable by
7 imprisonment for more than two years.

8 Each notice of proposed action shall include a
9 detailed statement setting forth the specific grounds
10 for the proposed cancellation, termination, or refusal
11 to extend or renew and shall state that the dealer has
12 only 30 days from receipt of the notice to file with
13 the Motor Vehicle Review Board a written protest
14 against the proposed action.

15 (B) If a manufacturer, distributor, wholesaler,
16 distributor branch or division, factory branch or
17 division or wholesale branch or division intends to
18 change substantially or modify the sales and service
19 obligations or capital requirements of a motor vehicle
20 dealer as a condition to extending or renewing the
21 existing franchise or selling agreement of such motor
22 vehicle dealer, it shall send a letter by certified
23 mail, return receipt requested, to the affected
24 franchisee at least 60 days before the date of
25 expiration of the franchise or selling agreement. Each
26 notice of proposed action shall include a detailed

1 statement setting forth the specific grounds for the
2 proposed action 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 (C) Within 30 days from receipt of the notice under
7 subparagraphs (A) and (B), the franchisee may file with
8 the Board a written protest against the proposed
9 action.

10 When the protest has been timely filed, the Board
11 shall enter an order, fixing a date (within 60 days of
12 the date of the order), time, and place of a hearing on
13 the protest required under Sections 12 and 29 of this
14 Act, and send by certified mail, return receipt
15 requested, a copy of the order to the manufacturer that
16 filed the notice of intention of the proposed action
17 and to the protesting dealer or franchisee.

18 The manufacturer shall have the burden of proof to
19 establish that good cause exists to cancel or
20 terminate, or fail to extend or renew the franchise or
21 selling agreement of a motor vehicle dealer or
22 franchisee, and to change substantially or modify the
23 sales and service obligations or capital requirements
24 of a motor vehicle dealer as a condition to extending
25 or renewing the existing franchise or selling
26 agreement. The determination whether good cause exists

1 to cancel, terminate, or refuse to renew or extend the
2 franchise or selling agreement, or to change or modify
3 the obligations of the dealer as a condition to offer
4 renewal, replacement, or succession shall be made by
5 the Board under subsection (d) of Section 12 of this
6 Act.

7 (D) Notwithstanding the terms, conditions, or
8 provisions of a franchise or selling agreement, the
9 following shall not constitute good cause for
10 cancelling or terminating or failing to extend or renew
11 the franchise or selling agreement: (i) the change of
12 ownership or executive management of the franchisee's
13 dealership; or (ii) the fact that the franchisee or
14 owner of an interest in the franchise owns, has an
15 investment in, participates in the management of, or
16 holds a license for the sale of the same or any other
17 line make of new motor vehicles.

18 ~~Good cause shall exist to cancel, terminate or fail~~
19 ~~to offer a renewal or replacement franchise or selling~~
20 ~~agreement to all franchisees of a line make if the~~
21 ~~manufacturer permanently discontinues the manufacture~~
22 ~~or assembly of motor vehicles of such line make.~~

23 (E) The manufacturer may not cancel or terminate,
24 or fail to extend or renew a franchise or selling
25 agreement or change or modify the obligations of the
26 franchisee as a condition to offering a renewal,

1 replacement, or succeeding franchise or selling
2 agreement before the hearing process is concluded as
3 prescribed by this Act, and thereafter, if the Board
4 determines that the manufacturer has failed to meet its
5 burden of proof and that good cause does not exist to
6 allow the proposed action; ~~or~~

7 (7) notwithstanding the terms of any franchise
8 agreement, to fail to indemnify and hold harmless its
9 franchised dealers against any judgment or settlement for
10 damages, including, but not limited to, court costs, expert
11 witness fees, reasonable attorneys' fees of the new motor
12 vehicle dealer, and other expenses incurred in the
13 litigation, so long as such fees and costs are reasonable,
14 arising out of complaints, claims or lawsuits including,
15 but not limited to, strict liability, negligence,
16 misrepresentation, warranty (express or implied), or
17 rescision of the sale as defined in Section 2-608 of the
18 Uniform Commercial Code, to the extent that the judgment or
19 settlement relates to the alleged defective or negligent
20 manufacture, assembly or design of new motor vehicles,
21 parts or accessories or other functions by the
22 manufacturer, beyond the control of the dealer; provided
23 that, in order to provide an adequate defense, the
24 manufacturer receives notice of the filing of a complaint,
25 claim, or lawsuit within 60 days after the filing; ~~-~~

26 (8) to require or otherwise coerce a motor vehicle

1 dealer to underutilize the motor vehicle dealer's
2 facilities by requiring or otherwise coercing the motor
3 vehicle dealer to exclude or remove from the motor vehicle
4 dealer's facilities operations for selling or servicing of
5 any vehicles for which the motor vehicle dealer has a
6 franchise agreement with another manufacturer,
7 distributor, wholesaler, distribution branch or division,
8 or officer, agent, or other representative thereof; or

9 (9) to use or consider the performance of a motor
10 vehicle dealer relating to the sale of the manufacturer's,
11 distributor's, or wholesaler's vehicles or the motor
12 vehicle dealer's ability to satisfy any minimum sales or
13 market share quota or responsibility relating to the sale
14 of the manufacturer's, distributor's, or wholesaler's new
15 vehicles in determining:

16 (A) the motor vehicle dealer's eligibility to
17 purchase program, certified, or other used motor
18 vehicles from the manufacturer, distributor, or
19 wholesaler;

20 (B) the volume, type, or model of program,
21 certified, or other used motor vehicles that a motor
22 vehicle dealer is eligible to purchase from the
23 manufacturer, distributor, or wholesaler;

24 (C) the price of any program, certified, or other
25 used motor vehicle that the dealer is eligible to
26 purchase from the manufacturer, distributor, or

1 wholesaler; or

2 (D) the availability or amount of any discount,
3 credit, rebate, or sales incentive that the dealer is
4 eligible to receive from the manufacturer,
5 distributor, or wholesaler for the purchase of any
6 program, certified, or other used motor vehicle
7 offered for sale by the manufacturer, distributor, or
8 wholesaler.

9 (e) It shall be deemed a violation for a manufacturer, a
10 distributor, a wholesaler, a distributor branch or division or
11 officer, agent or other representative thereof:

12 (1) to resort to or use any false or misleading
13 advertisement in connection with his business as such
14 manufacturer, distributor, wholesaler, distributor branch
15 or division or officer, agent or other representative
16 thereof;

17 (2) to offer to sell or lease, or to sell or lease, any
18 new motor vehicle to any motor vehicle dealer at a lower
19 actual price therefor than the actual price offered to any
20 other motor vehicle dealer for the same model vehicle
21 similarly equipped or to utilize any device including, but
22 not limited to, sales promotion plans or programs which
23 result in such lesser actual price or fail to make
24 available to any motor vehicle dealer any preferential
25 pricing, incentive, rebate, finance rate, or low interest
26 loan program offered to competing motor vehicle dealers in

1 other contiguous states. However, the provisions of this
2 paragraph shall not apply to sales to a motor vehicle
3 dealer for resale to any unit of the United States
4 Government, the State or any of its political subdivisions;

5 (3) to offer to sell or lease, or to sell or lease, any
6 new motor vehicle to any person, except a wholesaler,
7 distributor or manufacturer's employees at a lower actual
8 price therefor than the actual price offered and charged to
9 a motor vehicle dealer for the same model vehicle similarly
10 equipped or to utilize any device which results in such
11 lesser actual price. 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 subdivisions;

15 (4) to prevent or attempt to prevent by contract or
16 otherwise any motor vehicle dealer or franchisee from
17 changing the executive management control of the motor
18 vehicle dealer or franchisee unless the franchiser, having
19 the burden of proof, proves that such change of executive
20 management will result in executive management control by a
21 person or persons who are not of good moral character or
22 who do not meet the franchiser's existing and, with
23 consideration given to the volume of sales and service of
24 the dealership, uniformly applied minimum business
25 experience standards in the market area. However where the
26 manufacturer rejects a proposed change in executive

1 management control, the manufacturer shall give written
2 notice of his reasons to the dealer within 60 days of
3 notice to the manufacturer by the dealer of the proposed
4 change. If the manufacturer does not send a letter to the
5 franchisee by certified mail, return receipt requested,
6 within 60 days from receipt by the manufacturer of the
7 proposed change, then the change of the executive
8 management control of the franchisee shall be deemed
9 accepted as proposed by the franchisee, and the
10 manufacturer shall give immediate effect to such change;

11 (5) to prevent or attempt to prevent by contract or
12 otherwise any motor vehicle dealer from establishing or
13 changing the capital structure of his dealership or the
14 means by or through which he finances the operation
15 thereof; provided the dealer meets any reasonable capital
16 standards agreed to between the dealer and the
17 manufacturer, distributor or wholesaler, who may require
18 that the sources, method and manner by which the dealer
19 finances or intends to finance its operation, equipment or
20 facilities be fully disclosed;

21 (6) to refuse to give effect to or prevent or attempt
22 to prevent by contract or otherwise any motor vehicle
23 dealer or any officer, partner or stockholder of any motor
24 vehicle dealer from selling or transferring any part of the
25 interest of any of them to any other person or persons or
26 party or parties unless such sale or transfer is to a

1 transferee who would not otherwise qualify for a new motor
2 vehicle dealers license under "The Illinois Vehicle Code"
3 or unless the franchiser, having the burden of proof,
4 proves that such sale or transfer is to a person or party
5 who is not of good moral character or does not meet the
6 franchiser's existing and reasonable capital standards
7 and, with consideration given to the volume of sales and
8 service of the dealership, uniformly applied minimum
9 business experience standards in the market area. However,
10 nothing herein shall be construed to prevent a franchiser
11 from implementing affirmative action programs providing
12 business opportunities for minorities or from complying
13 with applicable federal, State or local law:

14 (A) If the manufacturer intends to refuse to
15 approve the sale or transfer of all or a part of the
16 interest, then it shall, within 60 days from receipt of
17 the completed application forms generally utilized by
18 a manufacturer to conduct its review and a copy of all
19 agreements regarding the proposed transfer, send a
20 letter by certified mail, return receipt requested,
21 advising the franchisee of any refusal to approve the
22 sale or transfer of all or part of the interest and
23 shall state that the dealer only has 30 days from the
24 receipt of the notice to file with the Motor Vehicle
25 Review Board a written protest against the proposed
26 action. The notice shall set forth specific criteria

1 used to evaluate the prospective transferee and the
2 grounds for refusing to approve the sale or transfer to
3 that transferee. Within 30 days from the franchisee's
4 receipt of the manufacturer's notice, the franchisee
5 may file with the Board a written protest against the
6 proposed action.

7 When a protest has been timely filed, the Board
8 shall enter an order, fixing the date (within 60 days
9 of the date of such order), time, and place of a
10 hearing on the protest, required under Sections 12 and
11 29 of this Act, and send by certified mail, return
12 receipt requested, a copy of the order to the
13 manufacturer that filed notice of intention of the
14 proposed action and to the protesting franchisee.

15 The manufacturer shall have the burden of proof to
16 establish that good cause exists to refuse to approve
17 the sale or transfer to the transferee. The
18 determination whether good cause exists to refuse to
19 approve the sale or transfer shall be made by the Board
20 under subdivisions (6) (B). The manufacturer shall not
21 refuse to approve the sale or transfer by a dealer or
22 an officer, partner, or stockholder of a franchise or
23 any part of the interest to any person or persons
24 before the hearing process is concluded as prescribed
25 by this Act, and thereafter if the Board determines
26 that the manufacturer has failed to meet its burden of

1 proof and that good cause does not exist to refuse to
2 approve the sale or transfer to the transferee.

3 (B) Good cause to refuse to approve such sale or
4 transfer under this Section is established when such
5 sale or transfer is to a transferee who would not
6 otherwise qualify for a new motor vehicle dealers
7 license under "The Illinois Vehicle Code" or such sale
8 or transfer is to a person or party who is not of good
9 moral character or does not meet the franchiser's
10 existing and reasonable capital standards and, with
11 consideration given to the volume of sales and service
12 of the dealership, uniformly applied minimum business
13 experience standards in the market area.

14 (7) to obtain money, goods, services, anything of
15 value, or any other benefit from any other person with whom
16 the motor vehicle dealer does business, on account of or in
17 relation to the transactions between the dealer and the
18 other person as compensation, except for services actually
19 rendered, unless such benefit is promptly accounted for and
20 transmitted to the motor vehicle dealer;

21 (8) to grant an additional franchise in the relevant
22 market area of an existing franchise of the same line make
23 or to relocate an existing motor vehicle dealership within
24 or into a relevant market area of an existing franchise of
25 the same line make. However, if the manufacturer wishes to
26 grant such an additional franchise to an independent person

1 in a bona fide relationship in which such person is
2 prepared to make a significant investment subject to loss
3 in such a dealership, or if the manufacturer wishes to
4 relocate an existing motor vehicle dealership, then the
5 manufacturer shall send a letter by certified mail, return
6 receipt requested, to each existing dealer or dealers of
7 the same line make whose relevant market area includes the
8 proposed location of the additional or relocated franchise
9 at least 60 days before the manufacturer grants an
10 additional franchise or relocates an existing franchise of
11 the same line make within or into the relevant market area
12 of an existing franchisee of the same line make. Each
13 notice shall set forth the specific grounds for the
14 proposed grant of an additional or relocation of an
15 existing franchise and shall state that the dealer has only
16 30 days from the date of receipt of the notice to file with
17 the Motor Vehicle Review Board a written protest against
18 the proposed action. Unless the parties agree upon the
19 grant or establishment of the additional or relocated
20 franchise within 30 days from the date the notice was
21 received by the existing franchisee of the same line make
22 or any person entitled to receive such notice, the
23 franchisee or other person may file with the Board a
24 written protest against the grant or establishment of the
25 proposed additional or relocated franchise.

26 When a protest has been timely filed, the Board shall

1 enter an order fixing a date (within 60 days of the date of
2 the order), time, and place of a hearing on the protest,
3 required under Sections 12 and 29 of this Act, and send by
4 certified or registered mail, return receipt requested, a
5 copy of the order to the manufacturer that filed the notice
6 of intention to grant or establish the proposed additional
7 or relocated franchise and to the protesting dealer or
8 dealers of the same line make whose relevant market area
9 includes the proposed location of the additional or
10 relocated franchise.

11 When more than one protest is filed against the grant
12 or establishment of the additional or relocated franchise
13 of the same line make, the Board may consolidate the
14 hearings to expedite disposition of the matter. The
15 manufacturer shall have the burden of proof to establish
16 that good cause exists to allow the grant or establishment
17 of the additional or relocated franchise. The manufacturer
18 may not grant or establish the additional franchise or
19 relocate the existing franchise before the hearing process
20 is concluded as prescribed by this Act, and thereafter if
21 the Board determines that the manufacturer has failed to
22 meet its burden of proof and that good cause does not exist
23 to allow the grant or establishment of the additional
24 franchise or relocation of the existing franchise.

25 The determination whether good cause exists for
26 allowing the grant or establishment of an additional

1 franchise or relocated existing franchise, shall be made by
2 the Board under subsection (c) of Section 12 of this Act.
3 If the manufacturer seeks to enter into a contract,
4 agreement or other arrangement with any person,
5 establishing any additional motor vehicle dealership or
6 other facility, limited to the sale of factory repurchase
7 vehicles or late model vehicles, then the manufacturer
8 shall follow the notice procedures set forth in this
9 Section and the determination whether good cause exists for
10 allowing the proposed agreement shall be made by the Board
11 under subsection (c) of Section 12, with the manufacturer
12 having the burden of proof.

13 A. (Blank).

14 B. For the purposes of this Section, appointment of
15 a successor motor vehicle dealer at the same location
16 as its predecessor, or within 2 miles of such location,
17 or the relocation of an existing dealer or franchise
18 within 2 miles of the relocating dealer's or
19 franchisee's existing location, shall not be construed
20 as a grant, establishment or the entering into of an
21 additional franchise or selling agreement, or a
22 relocation of an existing franchise. The reopening of a
23 motor vehicle dealership that has not been in operation
24 for 18 months or more shall be deemed the grant of an
25 additional franchise or selling agreement.

26 C. This Section does not apply to the relocation of

1 an existing dealership or franchise in a county having
2 a population of more than 300,000 persons when the new
3 location is within the dealer's current relevant
4 market area, provided the new location is more than 7
5 miles from the nearest dealer of the same line make.
6 This Section does not apply to the relocation of an
7 existing dealership or franchise in a county having a
8 population of less than 300,000 persons when the new
9 location is within the dealer's current relevant
10 market area, provided the new location is more than 12
11 miles from the nearest dealer of the same line make. A
12 dealer that would be farther away from the new location
13 of an existing dealership or franchise of the same line
14 make after a relocation may not file a written protest
15 against the relocation with the Motor Vehicle Review
16 Board.

17 D. Nothing in this Section shall be construed to
18 prevent a franchiser from implementing affirmative
19 action programs providing business opportunities for
20 minorities or from complying with applicable federal,
21 State or local law;

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

26 (10) to prevent or refuse to give effect to the

1 succession to the ownership or management control of a
2 dealership by any legatee under the will of a dealer or to
3 an heir under the laws of descent and distribution of this
4 State unless the franchisee has designated a successor to
5 the ownership or management control under the succession
6 provisions of the franchise. Unless the franchiser, having
7 the burden of proof, proves that the successor is a person
8 who is not of good moral character or does not meet the
9 franchiser's existing and reasonable capital standards
10 and, with consideration given to the volume of sales and
11 service of the dealership, uniformly applied minimum
12 business experience standards in the market area, any
13 designated successor of a dealer or franchisee may succeed
14 to the ownership or management control of a dealership
15 under the existing franchise if:

16 (i) The designated successor gives the
17 franchiser written notice by certified mail,
18 return receipt requested, of his or her intention
19 to succeed to the ownership of the dealer within 60
20 days of the dealer's death or incapacity; and

21 (ii) The designated successor agrees to be
22 bound by all the terms and conditions of the
23 existing franchise.

24 Notwithstanding the foregoing, in the event the motor
25 vehicle dealer or franchisee and manufacturer have duly
26 executed an agreement concerning succession rights prior

1 to the dealer's death or incapacitation, the agreement
2 shall be observed.

3 (A) If the franchiser intends to refuse to honor
4 the successor to the ownership of a deceased or
5 incapacitated dealer or franchisee under an existing
6 franchise agreement, the franchiser shall send a
7 letter by certified mail, return receipt requested, to
8 the designated successor within 60 days from receipt of
9 a proposal advising of its intent to refuse to honor
10 the succession and to discontinue the existing
11 franchise agreement and shall state that the
12 designated successor only has 30 days from the receipt
13 of the notice to file with the Motor Vehicle Review
14 Board a written protest against the proposed action.
15 The notice shall set forth the specific grounds for the
16 refusal to honor the succession and discontinue the
17 existing franchise agreement.

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

23 Within 30 days from the date the notice was
24 received by the designated successor or any other
25 person entitled to notice, the designee or other person
26 may file with the Board a written protest against the

1 proposed action.

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

10 The manufacturer shall have the burden of proof to
11 establish that good cause exists to refuse to honor the
12 succession and discontinue the existing franchise
13 agreement. The determination whether good cause exists
14 to refuse to honor the succession shall be made by the
15 Board under subdivision (B) of this paragraph (10). The
16 manufacturer shall not refuse to honor the succession
17 or discontinue the existing franchise agreement before
18 the hearing process is concluded as prescribed by this
19 Act, and thereafter if the Board determines that it has
20 failed to meet its burden of proof and that good cause
21 does not exist to refuse to honor the succession and
22 discontinue the existing franchise agreement.

23 (B) No manufacturer shall impose any conditions
24 upon honoring the succession and continuing the
25 existing franchise agreement with the designated
26 successor other than that the franchisee has

1 designated a successor to the ownership or management
2 control under the succession provisions of the
3 franchise, or that the designated successor is of good
4 moral character or meets the reasonable capital
5 standards and, with consideration given to the volume
6 of sales and service of the dealership, uniformly
7 applied minimum business experience standards in the
8 market area;

9 (11) to prevent or refuse to approve a proposal to
10 establish a successor franchise at a location previously
11 approved by the franchiser when submitted with the
12 voluntary termination by the existing franchisee unless
13 the successor franchisee would not otherwise qualify for a
14 new motor vehicle dealer's license under the Illinois
15 Vehicle Code or unless the franchiser, having the burden of
16 proof, proves that such proposed successor is not of good
17 moral character or does not meet the franchiser's existing
18 and reasonable capital standards and, with consideration
19 given to the volume of sales and service of the dealership,
20 uniformly applied minimum business experience standards in
21 the market area. However, when such a rejection of a
22 proposal is made, the manufacturer shall give written
23 notice of its reasons to the franchisee within 60 days of
24 receipt by the manufacturer of the proposal. However,
25 nothing herein shall be construed to prevent a franchiser
26 from implementing affirmative action programs providing

1 business opportunities for minorities, or from complying
2 with applicable federal, State or local law;

3 (12) to prevent or refuse to grant a franchise to a
4 person because such person owns, has investment in or
5 participates in the management of or holds a franchise for
6 the sale of another make or line of motor vehicles within 7
7 miles of the proposed franchise location in a county having
8 a population of more than 300,000 persons, or within 12
9 miles of the proposed franchise location in a county having
10 a population of less than 300,000 persons; or

11 (13) to prevent or attempt to prevent any new motor
12 vehicle dealer from establishing any additional motor
13 vehicle dealership or other facility limited to the sale of
14 factory repurchase vehicles or late model vehicles or
15 otherwise offering for sale factory repurchase vehicles of
16 the same line make at an existing franchise by failing to
17 make available any contract, agreement or other
18 arrangement which is made available or otherwise offered to
19 any person.

20 (f) It is deemed a violation for a manufacturer, a
21 distributor, a wholesale, a distributor branch or division, a
22 factory branch or division, or a wholesale branch or division,
23 or officer, agent, broker, shareholder, except a shareholder of
24 1% or less of the outstanding shares of any class of securities
25 of a manufacturer, distributor, or wholesaler which is a
26 publicly traded corporation, or other representative, directly

1 or indirectly, to own or operate a place of business as a motor
2 vehicle franchisee or motor vehicle financing affiliate,
3 except that, this subsection shall not prohibit the ownership
4 or operation of a place of business by a manufacturer,
5 distributor, or wholesaler for a period, not to exceed 18
6 months, during the transition from one motor vehicle franchisee
7 to another; or the investment in a motor vehicle franchisee by
8 a manufacturer, distributor, or wholesaler if the investment is
9 for the sole purpose of enabling a partner or shareholder in
10 that motor vehicle franchisee to acquire an interest in that
11 motor vehicle franchisee and that partner or shareholder is not
12 otherwise employed by or associated with the manufacturer,
13 distributor, or wholesaler and would not otherwise have the
14 requisite capital investment funds to invest in the motor
15 vehicle franchisee, and has the right to purchase the entire
16 equity interest of the manufacturer, distributor, or
17 wholesaler in the motor vehicle franchisee within a reasonable
18 period of time not to exceed 5 years.

19 (Source: P.A. 94-287, eff. 1-1-06.)

20 (815 ILCS 710/6) (from Ch. 121 1/2, par. 756)

21 Sec. 6. Warranty agreements; claims; approval; payment;
22 written disapproval.

23 (a) Every manufacturer, distributor, wholesaler,
24 distributor branch or division, factory branch or division, or
25 wholesale branch or division shall properly fulfill any

1 warranty agreement and adequately and fairly compensate each of
2 its motor vehicle dealers for labor and parts.

3 (b) In no event shall such compensation fail to include
4 reasonable compensation for diagnostic work, as well as repair
5 service, labor, and parts. Time allowances for the diagnosis
6 and performance of warranty work and service shall be
7 reasonable and adequate for the work to be performed. In the
8 determination of what constitutes reasonable compensation
9 under this Section, the principal factor to be given
10 consideration shall be the prevailing wage rates being paid by
11 the dealer in the relevant market area in which the motor
12 vehicle dealer is doing business, and in no event shall such
13 compensation of a motor vehicle dealer for warranty service be
14 less than the rates charged by such dealer for like service to
15 retail customers for nonwarranty service and repairs. The
16 franchiser shall reimburse the franchisee for any parts
17 provided in satisfaction of a warranty at the prevailing retail
18 price charged by that dealer for the same parts when not
19 provided in satisfaction of a warranty; provided that such
20 motor vehicle franchisee's prevailing retail price is not
21 unreasonable when compared with that of the holders of motor
22 vehicle franchises from the same motor vehicle franchiser for
23 identical merchandise in the geographic area in which the motor
24 vehicle franchisee is engaged in business. All claims, either
25 original or resubmitted, made by motor vehicle dealers
26 hereunder and under Section 5 for such labor and parts shall be

1 either approved or disapproved within 30 days following their
2 submission. All approved claims shall be paid within 30 days
3 following their approval. The motor vehicle dealer who submits
4 a claim which is disapproved shall be notified in writing of
5 the disapproval within the same period, and each such notice
6 shall state the specific grounds upon which the disapproval is
7 based. The motor vehicle dealer shall be permitted to correct
8 and resubmit such disapproved claims within 30 days of receipt
9 of disapproval. Any claims not specifically disapproved in
10 writing within 30 days from their submission shall be deemed
11 approved and payment shall follow within 30 days. The
12 manufacturer or franchiser shall have the right to require
13 reasonable documentation for claims and to audit such claims
14 within a one year period from the date the claim was paid or
15 credit issued by the manufacturer or franchiser, and to charge
16 back any false or unsubstantiated claims. The audit and charge
17 back provisions of this Section also apply to all other
18 incentive and reimbursement programs for a period of one year
19 ~~18 months~~ after the date of the sale of the vehicle that is
20 ~~transactions that are~~ subject to audit by the franchiser.
21 However, the manufacturer retains the right to charge back any
22 fraudulent claim if the manufacturer establishes in a court of
23 competent jurisdiction in this State that the claim is
24 fraudulent.

25 (c) The motor vehicle franchiser shall not, by agreement,
26 by restrictions upon reimbursement, or otherwise, restrict the

1 nature and extent of services to be rendered or parts to be
2 provided so that such restriction prevents the motor vehicle
3 franchisee from satisfying the warranty by rendering services
4 in a good and workmanlike manner and providing parts which are
5 required in accordance with generally accepted standards. Any
6 such restriction shall constitute a prohibited practice.

7 (d) For the purposes of this Section, the "prevailing
8 retail price charged by that dealer for the same parts" means
9 the price paid by the motor vehicle franchisee for parts,
10 including all shipping and other charges, multiplied by the sum
11 of 1.0 and the franchisee's average percentage markup over the
12 price paid by the motor vehicle franchisee for parts purchased
13 by the motor vehicle franchisee from the motor vehicle
14 franchiser and sold at retail. The motor vehicle franchisee may
15 establish average percentage markup under this Section by
16 submitting to the motor vehicle franchiser 100 sequential
17 customer paid service repair orders or 90 days of customer paid
18 service repair orders, whichever is less, covering repairs made
19 no more than 180 days before the submission, and declaring what
20 the average percentage markup is. The average percentage markup
21 so declared shall go into effect 30 days following the
22 declaration, subject to audit of the submitted repair orders by
23 the motor vehicle franchiser and adjustment of the average
24 percentage markup based on that audit. Any audit must be
25 conducted within 30 days following the declaration. Only retail
26 sales not involving warranty repairs, parts covered by

1 subsection (e) of this Section, or parts supplied for routine
2 vehicle maintenance, shall be considered in calculating
3 average percentage markup. No motor vehicle franchiser shall
4 require a motor vehicle franchisee to establish average
5 percentage markup by a methodology, or by requiring
6 information, that is unduly burdensome or time consuming to
7 provide, including, but not limited to, part by part or
8 transaction by transaction calculations. A motor vehicle
9 franchisee shall not request a change in the average percentage
10 markup more than twice in one calendar year.

11 (e) If a motor vehicle franchiser supplies a part or parts
12 for use in a repair rendered under a warranty other than by
13 sale of that part or parts to the motor vehicle franchisee, the
14 motor vehicle franchisee shall be entitled to compensation
15 equivalent to the motor vehicle franchisee's average
16 percentage markup on the part or parts, as if the part or parts
17 had been sold to the motor vehicle franchisee by the motor
18 vehicle franchiser. The requirements of this subsection (e)
19 shall not apply to entire engine assemblies and entire
20 transmission assemblies. In the case of those assemblies, the
21 motor vehicle franchiser shall reimburse the motor vehicle
22 franchisee in the amount of 30% of what the motor vehicle
23 franchisee would have paid the motor vehicle franchiser for the
24 assembly if the assembly had not been supplied by the
25 franchiser other than by the sale of that assembly to the motor
26 vehicle franchisee.

1 (f) The obligations imposed on motor vehicle franchisers by
2 this Section shall apply to any parent, subsidiary, affiliate,
3 or agent of the motor vehicle franchiser, any person under
4 common ownership or control, any employee of the motor vehicle
5 franchiser, and any person holding 1% or more of the shares of
6 any class of securities or other ownership interest in the
7 motor vehicle franchiser, if a warranty or service or repair
8 plan is issued by that person instead of or in addition to one
9 issued by the motor vehicle franchiser.

10 (g) (1) Any motor vehicle franchiser and at least a
11 majority of its Illinois franchisees of the same line make may
12 agree in an express written contract citing this Section upon a
13 uniform warranty reimbursement policy used by contracting
14 franchisees to perform warranty repairs. The policy shall only
15 involve either reimbursement for parts used in warranty repairs
16 or the use of a Uniform Time Standards Manual, or both.
17 Reimbursement for parts under the agreement shall be used
18 instead of the franchisees' "prevailing retail price charged by
19 that dealer for the same parts" as defined in this Section to
20 calculate compensation due from the franchiser for parts used
21 in warranty repairs. This Section does not authorize a
22 franchiser and its Illinois franchisees to establish a uniform
23 hourly labor reimbursement.

24 Each franchiser shall only have one such agreement with
25 each line make. Any such agreement shall:

26 (A) Establish a uniform parts reimbursement rate. The

1 uniform parts reimbursement rate shall be greater than the
2 franchiser's nationally established parts reimbursement
3 rate in effect at the time the first such agreement becomes
4 effective; however, any subsequent agreement shall result
5 in a uniform reimbursement rate that is greater or equal to
6 the rate set forth in the immediately prior agreement.

7 (B) Apply to all warranty repair orders written during
8 the period that the agreement is effective.

9 (C) Be available, during the period it is effective, to
10 any motor vehicle franchisee of the same line make at any
11 time and on the same terms.

12 (D) Be for a term not to exceed 3 years so long as any
13 party to the agreement may terminate the agreement upon the
14 annual anniversary of the agreement and with 30 days' prior
15 written notice; however, the agreement shall remain in
16 effect for the term of the agreement regardless of the
17 number of dealers of the same line make that may terminate
18 the agreement.

19 (2) A franchiser that enters into an agreement with its
20 franchisees pursuant to paragraph (1) of this subsection (g)
21 may seek to recover its costs from only those franchisees that
22 are receiving their "prevailing retail price charged by that
23 dealer" under subsections (a) through (f) of this Section,
24 subject to the following requirements:

25 (A) "costs" means the difference between the uniform
26 reimbursement rate set forth in an agreement entered into

1 pursuant to paragraph (1) of this subsection (g) and the
2 "prevailing retail price charged by that dealer" received
3 by those franchisees of the same line make. "Costs" do not
4 include the following: legal fees or expenses;
5 administrative expenses; a profit mark-up; or any other
6 item;

7 (B) the costs shall be recovered only by increasing the
8 invoice price on new vehicles received by those
9 franchisees; and

10 (C) price increases imposed for the purpose of
11 recovering costs imposed by this Section may vary from time
12 to time and from model to model, but shall apply uniformly
13 to all franchisees of the same line make in the State of
14 Illinois that have requested reimbursement for warranty
15 repairs at their "prevailing retail price charged by that
16 dealer", except that a franchiser may make an exception for
17 vehicles that are titled in the name of a consumer in
18 another state.

19 (3) If a franchiser contracts with its Illinois dealers
20 pursuant to paragraph (1) of this subsection (g), the
21 franchiser shall certify under oath to the Motor Vehicle Review
22 Board that a majority of the franchisees of that line make did
23 agree to such an agreement and file a sample copy of the
24 agreement. On an annual basis, each franchiser shall certify
25 under oath to the Motor Vehicle Review Board that the
26 reimbursement costs it recovers under paragraph (2) of this

1 subsection (g) do not exceed the amounts authorized by
2 paragraph (2) of this subsection (g). The franchiser shall
3 maintain for a period of 3 years a file that contains the
4 information upon which its certification is based.

5 (3.1) A franchiser subject to subdivision (g)(2) of this
6 Section, upon request of a dealer subject to that subdivision,
7 shall disclose to the dealer, in writing or in person if
8 requested by the dealer, the method by which the franchiser
9 calculated the amount of the costs to be reimbursed by the
10 dealer. The franchiser shall also provide aggregate data
11 showing (i) the total costs the franchiser incurred and (ii)
12 the total number of new vehicles invoiced to each dealer that
13 received the "prevailing retail price charged by that dealer"
14 during the relevant period of time. In responding to a dealer's
15 request under this subdivision (g)(3.1), a franchiser may not
16 disclose any confidential or competitive information regarding
17 any other dealer. Any dealer who receives information from a
18 franchiser under this subdivision (g)(3.1) may not disclose
19 that information to any third party unless the disclosure
20 occurs in the course of a lawful proceeding before, or upon the
21 order of, the Motor Vehicle Review Board or a court of
22 competent jurisdiction.

23 (4) If a franchiser and its franchisees do not enter into
24 an agreement pursuant to paragraph (1) of this subsection (g),
25 and for any matter that is not the subject of an agreement,
26 this subsection (g) shall have no effect whatsoever.

1 (5) For purposes of this subsection (g), a Uniform Time
2 Standard Manual is a document created by a franchiser that
3 establishes the time allowances for the diagnosis and
4 performance of warranty work and service. The allowances shall
5 be reasonable and adequate for the work and service to be
6 performed. Each franchiser shall have a reasonable and fair
7 process that allows a franchisee to request a modification or
8 adjustment of a standard or standards included in such a
9 manual.

10 (6) A franchiser may not take any adverse action against a
11 franchisee for not having executed an agreement contemplated by
12 this subsection (g) or for receiving the "prevailing retail
13 price charged by that dealer". Nothing in this subsection shall
14 be construed to prevent a franchiser from making a
15 determination of a franchisee's "prevailing retail price
16 charged by that dealer", as provided by this Section.

17 (Source: P.A. 94-882, eff. 6-20-06.)

18 (815 ILCS 710/9) (from Ch. 121 1/2, par. 759)

19 Sec. 9. Renewals; transfers.

20 (a) Anything to the contrary notwithstanding, it shall be
21 unlawful for the manufacturer, wholesaler, distributor or
22 franchiser without good cause, to fail to renew a franchise on
23 terms then equally available to all its motor vehicle dealers,
24 or to terminate a franchise or restrict the transfer of a
25 franchise until the franchisee shall receive fair and

1 reasonable compensation for the value of the business and
2 business premises.

3 (b) For the purposes of this Section 9, the term
4 "reasonable compensation" includes, but is not limited to all
5 of the following items:

6 (1) An amount equal to the current, fair rental value
7 of the portion of the motor vehicle dealer's established
8 place of business that is used for motor vehicle sales and
9 service with the manufacturer, wholesaler, distributor or
10 franchiser for a period of one year beginning on the date
11 of the nonrenewal, termination, or restriction on the
12 transfer of the franchise.

13 (2) The franchisee's cost of each new motor vehicle
14 having 1,000 or fewer miles recorded on the odometer that
15 is in the franchisee's inventory at the time of nonrenewal,
16 termination, or restriction.

17 (3) The franchisee's cost of each new, unused,
18 undamaged, and unsold part or accessory that is in the
19 current parts catalogue or is identical to a part or
20 accessory in the current parts catalogue except for the
21 number assigned to the part or accessory due to a change in
22 the number after the purchase of the part or accessory and
23 that is still in the original, resalable merchandising
24 package and in an unbroken lot, except that, in the case of
25 sheet metal, a comparable substitute for the original
26 package may be used if the part or accessory was purchased

1 (i) directly from the manufacturer, distributor,
2 wholesaler, distributor branch or division, or officer,
3 agent, or other representative thereof or (ii) from an
4 outgoing authorized dealer as a part of the dealer's
5 initial inventory.

6 (4) The fair market value of each undamaged sign owned
7 by the dealer that bears a trademark or trade name used or
8 claimed by the manufacturer, distributor, wholesaler,
9 distributor branch or division, or officer, agent, or other
10 representative thereof that was purchased at the request of
11 the manufacturer, distributor, wholesaler, distributor
12 branch or division, or officer, agent, or other
13 representative thereof.

14 (5) The fair market value of all special tools, data
15 processing equipment, and automotive service equipment
16 owned by the dealer that (i) were recommended in writing
17 and designated as special tools and equipment, (ii) were
18 purchased at the request of the manufacturer, distributor,
19 wholesaler, distributor branch or division, or officer,
20 agent, or other representative thereof, and (iii) are in
21 usable and good condition except for reasonable wear and
22 tear.

23 (6) The cost of transporting, handling, packing,
24 storing, and loading any property that is subject to
25 repurchase under this Section.

26 (c) The payment under item (b)(1) is due in 12 equal,

1 monthly installments, beginning 30 days after the franchise is
2 terminated or nonrenewed. The payment under item (b)(2) is due
3 no later than 60 days after the franchise is terminated or
4 nonrenewed. The payments under items (b)(3) through (b)(6) are
5 due no later than 90 days after the franchise is terminated or
6 nonrenewed. As a condition of payment under items (b)(2)
7 through (b)(6), the motor vehicle dealer must comply with all
8 reasonable requirements provided by the manufacturer,
9 distributor, or wholesaler regarding the return of inventory.

10 If a manufacturer, distributor, or wholesaler does not
11 reimburse the motor vehicle dealer for the amounts required
12 under items (b)(2) through (b)(6) by the deadlines under this
13 subsection (c), then the manufacturer, distributor, or
14 wholesaler is liable to the motor vehicle dealer for:

15 (1) the dealer cost, fair market value, or current
16 price of the item, whichever is highest;

17 (2) interest on the amount due at the rate equal to the
18 prime lending rate plus 1%; and

19 (3) reasonable attorney's fees and costs.

20 (Source: P.A. 83-922.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.