

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 and by adding Section 9.5 as  
6 follows:

7 (815 ILCS 710/2) (from Ch. 121 1/2, par. 752)

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

11 (a) "Motor vehicle", any motor driven vehicle required to  
12 be registered under "The Illinois Vehicle Code". Beginning  
13 January 1, 2010, the term "motor vehicle" also includes any  
14 engine, transmission, or rear axle, regardless of whether it is  
15 attached to a vehicle chassis, that is manufactured for  
16 installation in any motor-driven vehicle with a gross vehicle  
17 weight rating of more than 16,000 pounds that is required to be  
18 registered under the Illinois Vehicle Code.

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

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

1 maintained for directing and supervising the representatives  
2 of the manufacturer.

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

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

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

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

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

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

26 (j) "Franchiser", a manufacturer, distributor or

1 wholesaler who grants a franchise to a motor vehicle dealer.

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

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

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

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

26 (o) "New motor vehicle", a motor vehicle which has not been

1 previously sold to any person except a distributor or  
2 wholesaler or motor vehicle dealer for resale.

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

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

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

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

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

1 (u) "Secretary of State" means the Secretary of State of  
2 Illinois.

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

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

7 (815 ILCS 710/4) (from Ch. 121 1/2, par. 754)

8 Sec. 4. Unfair competition and practices.

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

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

21 (c) It shall be deemed a violation for a manufacturer, a  
22 distributor, a wholesaler, a distributor branch or division, a  
23 factory branch or division, or a wholesale branch or division,  
24 or officer, agent or other representative thereof, to coerce,  
25 or attempt to coerce, any motor vehicle dealer:

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

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

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

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

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

9           (3) to refuse to deliver in reasonable quantities and  
10 within a reasonable time after receipt of dealer's order,  
11 to any motor vehicle dealer having a franchise or selling  
12 agreement for the retail sale of new motor vehicles sold or  
13 distributed by such manufacturer, distributor, wholesaler,  
14 distributor branch or division, factory branch or division  
15 or wholesale branch or division, any such motor vehicles as  
16 are covered by such franchise or selling agreement  
17 specifically publicly advertised in the State by such  
18 manufacturer, distributor, wholesaler, distributor branch  
19 or division, factory branch or division, or wholesale  
20 branch or division to be available for immediate delivery.  
21 However, the failure to deliver any motor vehicle shall not  
22 be considered a violation of this Act if such failure is  
23 due to an act of God, a work stoppage or delay due to a  
24 strike or labor difficulty, a shortage of materials, a lack  
25 of manufacturing capacity, a freight embargo or other cause  
26 over which the manufacturer, distributor, or wholesaler,

1 or any agent thereof has no control;

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

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

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



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

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

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

1           due to an act of God, strike or labor difficulty or  
2           other cause over which the franchisee has no  
3           control; or

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

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

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

1 notice of proposed action shall include a detailed  
2 statement setting forth the specific grounds for the  
3 proposed action and shall state that the dealer has  
4 only 30 days from receipt of the notice to file with  
5 the Motor Vehicle Review Board a written protest  
6 against the proposed action.

7 (C) Within 30 days from receipt of the notice under  
8 subparagraphs (A) and (B), the franchisee may file with  
9 the Board a written protest against the proposed  
10 action.

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

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

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

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

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

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

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

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

1           (8) to require or otherwise coerce a motor vehicle  
2           dealer to underutilize the motor vehicle dealer's  
3           facilities by requiring or otherwise coercing the motor  
4           vehicle dealer to exclude or remove from the motor vehicle  
5           dealer's facilities operations for selling or servicing of  
6           any vehicles for which the motor vehicle dealer has a  
7           franchise agreement with another manufacturer,  
8           distributor, wholesaler, distribution branch or division,  
9           or officer, agent, or other representative thereof;  
10           provided, however, that, in light of all existing  
11           circumstances, (i) the motor vehicle dealer maintains a  
12           reasonable line of credit for each make or line of new  
13           motor vehicle, (ii) the new motor vehicle dealer remains in  
14           compliance with any reasonable facilities requirements of  
15           the manufacturer, (iii) no change is made in the principal  
16           management of the new motor vehicle dealer, and (iv) the  
17           addition of the make or line of new motor vehicles would be  
18           reasonable. The reasonable facilities requirement set  
19           forth in item (ii) of subsection (d)(8) shall not include  
20           any requirement that a franchisee establish or maintain  
21           exclusive facilities, personnel, or display space. Any  
22           decision by a motor vehicle dealer to sell additional makes  
23           or lines at the motor vehicle dealer's facility shall be  
24           presumed to be reasonable, and the manufacturer shall have  
25           the burden to overcome that presumption. A motor vehicle  
26           dealer must provide a written notification of its intent to

1 add a make or line of new motor vehicles to the  
2 manufacturer. If the manufacturer does not respond to the  
3 motor vehicle dealer, in writing, objecting to the addition  
4 of the make or line within 60 days after the date that the  
5 motor vehicle dealer sends the written notification, then  
6 the manufacturer shall be deemed to have approved the  
7 addition of the make or line; or

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

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

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

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

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

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

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

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



1 paragraph shall not apply to sales to a motor vehicle  
2 dealer for resale to any unit of the United States  
3 Government, the State or any of its political subdivisions;

4 (3) to offer to sell or lease, or to sell or lease, any  
5 new motor vehicle to any person, except a wholesaler,  
6 distributor or manufacturer's employees at a lower actual  
7 price therefor than the actual price offered and charged to  
8 a motor vehicle dealer for the same model vehicle similarly  
9 equipped or to utilize any device which results in such  
10 lesser actual price. However, the provisions of this  
11 paragraph shall not apply to sales to a motor vehicle  
12 dealer for resale to any unit of the United States  
13 Government, the State or any of its political subdivisions;

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

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

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

20 (6) to refuse to give effect to or prevent or attempt  
21 to prevent by contract or otherwise any motor vehicle  
22 dealer or any officer, partner or stockholder of any motor  
23 vehicle dealer from selling or transferring any part of the  
24 interest of any of them to any other person or persons or  
25 party or parties unless such sale or transfer is to a  
26 transferee who would not otherwise qualify for a new motor

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

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

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

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

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

1 approve the sale or transfer to the transferee.

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

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

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

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

25 When a protest has been timely filed, the Board shall  
26 enter an order fixing a date (within 60 days of the date of

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

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

24 The determination whether good cause exists for  
25 allowing the grant or establishment of an additional  
26 franchise or relocated existing franchise, shall be made by

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

12 A. (Blank).

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

25 C. This Section does not apply to the relocation of  
26 an existing dealership or franchise in a county having



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

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

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

25 (10) to prevent or refuse to give effect to the  
26 succession to the ownership or management control of a

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

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

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

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

1 shall be observed.

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

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

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

1           When a 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 franchiser that  
7 filed the notice of intention of the proposed action  
8 and to the protesting designee or such other person.

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

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

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

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

1 with applicable federal, State or local law;

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

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

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

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

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

19 (815 ILCS 710/6) (from Ch. 121 1/2, par. 756)

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

22 (a) Every manufacturer, distributor, wholesaler,  
23 distributor branch or division, factory branch or division, or  
24 wholesale branch or division shall properly fulfill any  
25 warranty agreement and adequately and fairly compensate each of

1 its motor vehicle dealers for labor and parts.

2 (b) In no event shall such compensation fail to include  
3 reasonable compensation for diagnostic work, as well as repair  
4 service, labor, and parts. Time allowances for the diagnosis  
5 and performance of warranty work and service shall be  
6 reasonable and adequate for the work to be performed. In the  
7 determination of what constitutes reasonable compensation  
8 under this Section, the principal factor to be given  
9 consideration shall be the prevailing wage rates being paid by  
10 the dealer in the relevant market area in which the motor  
11 vehicle dealer is doing business, and in no event shall such  
12 compensation of a motor vehicle dealer for warranty service be  
13 less than the rates charged by such dealer for like service to  
14 retail customers for nonwarranty service and repairs. The  
15 franchiser shall reimburse the franchisee for any parts  
16 provided in satisfaction of a warranty at the prevailing retail  
17 price charged by that dealer for the same parts when not  
18 provided in satisfaction of a warranty; provided that such  
19 motor vehicle franchisee's prevailing retail price is not  
20 unreasonable when compared with that of the holders of motor  
21 vehicle franchises from the same motor vehicle franchiser for  
22 identical merchandise in the geographic area in which the motor  
23 vehicle franchisee is engaged in business. All claims, either  
24 original or resubmitted, made by motor vehicle dealers  
25 hereunder and under Section 5 for such labor and parts shall be  
26 either approved or disapproved within 30 days following their



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

24 (c) The motor vehicle franchiser shall not, by agreement,  
25 by restrictions upon reimbursement, or otherwise, restrict the  
26 nature and extent of services to be rendered or parts to be

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

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

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

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

26 (f) The obligations imposed on motor vehicle franchisers by

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

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

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

25 (A) Establish a uniform parts reimbursement rate. The  
26 uniform parts reimbursement rate shall be greater than the

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

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

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

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

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

24 (A) "costs" means the difference between the uniform  
25 reimbursement rate set forth in an agreement entered into  
26 pursuant to paragraph (1) of this subsection (g) and the

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

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

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

18 (3) If a franchiser contracts with its Illinois dealers  
19 pursuant to paragraph (1) of this subsection (g), the  
20 franchiser shall certify under oath to the Motor Vehicle Review  
21 Board that a majority of the franchisees of that line make did  
22 agree to such an agreement and file a sample copy of the  
23 agreement. On an annual basis, each franchiser shall certify  
24 under oath to the Motor Vehicle Review Board that the  
25 reimbursement costs it recovers under paragraph (2) of this  
26 subsection (g) do not exceed the amounts authorized by

1 paragraph (2) of this subsection (g). The franchiser shall  
2 maintain for a period of 3 years a file that contains the  
3 information upon which its certification is based.

4 (3.1) A franchiser subject to subdivision (g)(2) of this  
5 Section, upon request of a dealer subject to that subdivision,  
6 shall disclose to the dealer, in writing or in person if  
7 requested by the dealer, the method by which the franchiser  
8 calculated the amount of the costs to be reimbursed by the  
9 dealer. The franchiser shall also provide aggregate data  
10 showing (i) the total costs the franchiser incurred and (ii)  
11 the total number of new vehicles invoiced to each dealer that  
12 received the "prevailing retail price charged by that dealer"  
13 during the relevant period of time. In responding to a dealer's  
14 request under this subdivision (g)(3.1), a franchiser may not  
15 disclose any confidential or competitive information regarding  
16 any other dealer. Any dealer who receives information from a  
17 franchiser under this subdivision (g)(3.1) may not disclose  
18 that information to any third party unless the disclosure  
19 occurs in the course of a lawful proceeding before, or upon the  
20 order of, the Motor Vehicle Review Board or a court of  
21 competent jurisdiction.

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

26 (5) For purposes of this subsection (g), a Uniform Time

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

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

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

17 (815 ILCS 710/9) (from Ch. 121 1/2, par. 759)

18 Sec. 9. Renewals; transfers.

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



1 business premises.

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

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

12 (2) The franchisee's cost of each new undamaged and  
13 unsold current and prior year motor vehicles that were  
14 acquired within 12 months of termination and have 500 or  
15 fewer miles recorded on the odometer that are in the  
16 franchisee's inventory at the time of nonrenewal,  
17 termination, or restriction and that were purchased or  
18 acquired from the manufacturer or from another dealer of  
19 the same line make in the ordinary course of business.

20 (3) The franchisee's cost of each new, unused,  
21 undamaged, and unsold part or accessory that is in the  
22 current parts catalogue or is identical to a part or  
23 accessory in the current parts catalogue except for the  
24 number assigned to the part or accessory due to a change in  
25 the number after the purchase of the part or accessory and  
26 that is still in the original, resalable merchandising

1 package and in an unbroken lot, except that, in the case of  
2 sheet metal, a comparable substitute for the original  
3 package may be used if the part or accessory was purchased  
4 (i) directly from the manufacturer, distributor,  
5 wholesaler, distributor branch or division, or officer,  
6 agent, or other representative thereof or (ii) from an  
7 outgoing authorized dealer as a part of the dealer's  
8 initial inventory.

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

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

26 (6) The cost of transporting, handling, packing,

1 storing, and loading any property that is subject to  
2 repurchase under this Section.

3 This subsection (b) shall not apply to a non-renewal or  
4 termination that is implemented as a result of a sale of the  
5 assets or stock of the franchise.

6 (c) The payment under item (b)(1) is due in 12 equal,  
7 monthly installments, beginning 30 days after the franchise is  
8 terminated or nonrenewed. The payments under items (b)(2)  
9 through (b)(6) are due no later than 90 days after the  
10 franchise is terminated or nonrenewed. As a condition of  
11 payment under items (b)(2) through (b)(6), the motor vehicle  
12 dealer must comply with all reasonable requirements provided by  
13 the manufacturer, distributor, or wholesaler regarding the  
14 return of inventory.

15 If a manufacturer, distributor, or wholesaler does not  
16 reimburse the motor vehicle dealer for the amounts required  
17 under items (b)(2) through (b)(6) by the deadlines under this  
18 subsection (c), and the Board or, if agreed to under Section  
19 12, the arbitrator, finds the manufacturer, distributor, or  
20 wholesaler in violation of this subsection, then the  
21 manufacturer, distributor, or wholesaler shall, in addition to  
22 any other amounts due, pay the motor vehicle dealer:

23 (1) interest on the amount due at a rate reasonable in  
24 light of commercial practices, determined by the Board or  
25 arbitrator; and

26 (2) reasonable attorney's fees and costs.

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

2           (Source: P.A. 83-922.)

3           (815 ILCS 710/9.5 new)

4           Sec. 9.5. Termination with good cause.

5           (a) Anything to the contrary notwithstanding, if a  
6           manufacturer, wholesaler, distributor, or franchiser, with  
7           good cause, (i) fails to renew a franchise on terms then  
8           equally available to all of its motor vehicle dealers, (ii)  
9           terminates a franchise, or (iii) restricts the transfer of a  
10           franchise, the manufacturer, wholesaler, distributor or  
11           franchiser shall pay to the franchisee all of the following,  
12           including, but not limited to:

13           (1) Upon termination, cancellation, or nonrenewal of a  
14           line make or upon termination, cancellation, or nonrenewal  
15           due to a dealer's poor sales and service performance  
16           pursuant to notice provided under Section 4(d)(6), an  
17           amount equal to the current, fair rental value of the  
18           portion of the motor vehicle dealer's established place of  
19           business that is used for motor vehicle sales and service  
20           with the manufacturer, wholesaler, distributor or  
21           franchiser for a period of one year beginning on the date  
22           of the nonrenewal, termination, or restriction on the  
23           transfer of the franchise.

24           (2) The franchisee's cost of each new undamaged and  
25           unsold current and prior model year motor vehicles that

1 were acquired within 12 months of termination and have 500  
2 or fewer miles recorded on the odometer in the franchisee's  
3 inventory at the time of nonrenewal, termination, or  
4 restriction and that were purchased or acquired from the  
5 manufacturer or from another motor vehicle dealer of the  
6 same line make in the ordinary course of business.

7 (3) The franchisee's cost of each new, unused,  
8 undamaged, and unsold part or accessory that is in the  
9 current parts catalogue or is identical to a part or  
10 accessory in the current parts catalogue except for a  
11 number assigned to the part or accessory due to a change in  
12 the number after the purchase of the part or accessory and  
13 that is still in the original, resalable merchandising  
14 package and in an unbroken lot, except that, in the case of  
15 sheet metal, a comparable substitute for the original  
16 package may be used if the part or accessory was purchased  
17 (i) directly from the manufacturer, distributor,  
18 wholesaler, distributor branch or division, or officer,  
19 agent, or other representative thereof or (ii) from an  
20 outgoing authorized dealer as a part of the dealer's  
21 initial inventory.

22 (4) The fair market value of each undamaged sign owned  
23 by the dealer that bears a trademark or trade name used or  
24 claimed by the manufacturer, distributor, wholesaler,  
25 distributor branch, or division, or officer, agent, or  
26 other representative thereof that was purchased as a

1 requirement of the manufacturer, distributor, wholesaler,  
2 distributor branch, or division, or officer, agent, or  
3 other representative thereof.

4 (5) The fair market value of all special tools, data  
5 processing equipment, and automotive service equipment  
6 owned by the dealer that (i) were recommended in writing  
7 and designated as special tools and equipment, (ii) were  
8 purchased at the request of the manufacturer, distributor,  
9 wholesaler, distributor branch or division, or officer,  
10 agent, or other representative thereof, and (iii) are in  
11 usable and good condition except for reasonable wear and  
12 tear.

13 (b) The payment under item (a)(1) is due in 12 equal,  
14 monthly installments, beginning 30 days after the franchise is  
15 terminated or nonrenewed. The payments under items (a)(2)  
16 through (a)(5) are due no later than 90 days after the  
17 franchise is terminated or nonrenewed. As a condition of  
18 payment under items (a)(2) through (a)(5) the motor vehicle  
19 dealer must comply with all reasonable requirements provided by  
20 the manufacturer, distributor, or wholesaler regarding the  
21 return of inventory.

22 If a manufacturer, distributor, or wholesaler does not  
23 reimburse the motor vehicle dealer for the amounts required  
24 under items (a)(2) through (a)(6) by the deadlines under this  
25 subsection (b), then the manufacturer, distributor, or  
26 wholesaler shall, in addition to any amounts due, pay the motor

1 vehicle dealer:

2 (1) interest on the amount due at a rate reasonable in  
3 light of commercial practices, determined by the Board or  
4 arbitrator; and

5 (2) reasonable attorney's fees and costs.

6 (c) This Section does not apply to a termination or  
7 nonrenewal that is implemented as a result of the sale of the  
8 assets or stock of the franchise.

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