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09600SB1417ham001

LRB096 07805 KTG 25757 a

1 AMENDMENT TO SENATE BILL 1417

2 AMENDMENT NO. _____. Amend Senate Bill 1417 as follows:

3 on page 1, line 5, after "and 9", by inserting "and by adding
4 Section 9.5"; and

5 on page 14, line 8, after "thereof:", by inserting the
6 following:

7 "provided, however, that, in light of all existing
8 circumstances, (i) the motor vehicle dealer maintains a
9 reasonable line of credit for each make or line of new
10 motor vehicle, (ii) the new motor vehicle dealer remains in
11 compliance with any reasonable facilities requirements of
12 the manufacturer, (iii) no change is made in the principal
13 management of the new motor vehicle dealer, and (iv) the
14 addition of the make or line of new motor vehicles would be
15 reasonable. The reasonable facilities requirement set
16 forth in item (ii) of subsection (d)(8) shall not include

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

15 on page 32 by replacing lines 19 through 20 with "~~18 months~~
16 after the date the claim was paid or credit issued by the
17 manufacturer or franchiser~~of the transactions that are subject~~
18 ~~to audit by the franchiser.~~"; and

19 on page 40, by replacing lines 13 through 16 with the
20 following:

21 "(2) The franchisee's cost of each new undamaged and
22 unsold current and prior year motor vehicles that were
23 acquired within 12 months of termination and have 500 or
24 fewer miles recorded on the odometer that are in the

1 franchisee's inventory at the time of nonrenewal,
2 termination, or restriction and that were purchased or
3 acquired from the manufacturer or from another dealer of
4 the same line make in the ordinary course of business.";
5 and

6 on page 41, line 10, by replacing "at the request" with "as a
7 requirement"; and

8 on page 41, by inserting immediately below line 25 the
9 following:

10 "This subsection (b) shall not apply to a non-renewal or
11 termination that is implemented as a result of a sale of the
12 assets or stock of the franchise."; and

13 on page 42, by replacing lines 2 through 4 with the following:

14 "terminated or nonrenewed. The payments under items (b) (2)
15 through (b) (6) are"; and

16 on page 42, by replacing lines 13 through 18 with the
17 following:

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:

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

4 (2) reasonable attorney's fees and costs."; and

5 on page 42, after line 20, by inserting the following:

6 "(815 ILCS 710/9.5 new)

7 Sec. 9.5. Termination with good cause.

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

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

1 of the nonrenewal, termination, or restriction on the
2 transfer of the franchise.

3 (2) The franchisee's cost of each new undamaged and
4 unsold current and prior model year motor vehicles that
5 were acquired within 12 months of termination and have 500
6 or fewer miles recorded on the odometer in the franchisee's
7 inventory at the time of nonrenewal, termination, or
8 restriction and that were purchased or acquired from the
9 manufacturer or from another motor vehicle dealer of the
10 same line make in the ordinary course of business.

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

26 (4) The fair market value of each undamaged sign owned

1 by the dealer that bears a trademark or trade name used or
2 claimed by the manufacturer, distributor, wholesaler,
3 distributor branch, or division, or officer, agent, or
4 other representative thereof that was purchased as a
5 requirement of the manufacturer, distributor, wholesaler,
6 distributor branch, or division, or officer, agent, or
7 other representative thereof.

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

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

26 If a manufacturer, distributor, or wholesaler does not

1 reimburse the motor vehicle dealer for the amounts required
2 under items (a)(2) through (a)(6) by the deadlines under this
3 subsection (b), then the manufacturer, distributor, or
4 wholesaler shall, in addition to any amounts due, pay the motor
5 vehicle dealer:

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

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

10 (c) This Section does not apply to a termination or
11 nonrenewal that is implemented as a result of the sale of the
12 assets or stock of the franchise."