

SENATE BILL NO. 89

INTRODUCED BY G. VANCE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STANDARDS FOR DETERMINING GOOD CAUSE IN TERMINATING OR NOT CONTINUING A NEW MOTOR VEHICLE FRANCHISE; AMENDING SECTION 61-4-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-4-207, MCA, is amended to read:

"61-4-207. Determination of good cause. (1) In determining whether good cause has been established for terminating or not continuing a franchise, the department shall take into consideration all the existing circumstances, including but not limited to:

(a) the franchisee's sales in relation to the Montana market that are essential, reasonable, not discriminatory, and that take into account the franchisee's local market variations beyond adjusting for the local popularity of general vehicle types;

(b) investment necessarily made and obligations incurred by the franchisee in the performance of the franchisee's part of the franchise;

(c) permanency of the investment;

(d) whether it is injurious to the public welfare for the business of the franchisee to be discontinued;

(e) whether the franchisee has adequate new motor vehicle facilities, equipment, parts, and qualified management, sales, and service personnel to reasonably provide consumer care for the new motor vehicles sold at retail by the franchisee and any other new motor vehicle of the same line-make;

(f) whether the franchisee refuses to honor warranties of the franchisor to be performed by the franchisee if the franchisor reimburses the franchisee for warranty work performed by the franchisee pursuant to this part;

(g) except as provided in subsection (2), actions by the franchisee that result in a material breach of the written and uniformly applied requirements of the franchise that are determined by the department to be reasonable and material; and

(h) the enforceability of the franchise from a public policy standpoint, including issues of the reasonableness of the franchise's terms and the parties' relative bargaining power.

1 (2) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, the following do
2 not constitute good cause for the termination or noncontinuance of a franchise:

3 (a) a change in ownership of the franchisee's dealership;

4 (b) the fact that the franchisee refused to purchase or accept delivery of a new motor vehicle, part,
5 accessory, or any other commodity or service not ordered by the franchisee;

6 (c) the failure of a franchisee to change location of the dealership or to make substantial alterations to
7 the use or number of franchises or the dealership premises or facilities; or

8 (d) the desire of a franchisor or a franchisor's representative:

9 (i) for greater market penetration; or

10 (ii) to ~~reduce~~ alter the number of the franchisor's or franchisor's representative's franchises or dealer
11 locations.

12 (3) In determining whether good cause has been established for entering into an additional franchise
13 for the same line-make, the department shall take into consideration the existing circumstances, including but
14 not limited to:

15 (a) amount of business transacted by other franchisees of the same line-make in that community;

16 (b) investment necessarily made and obligations incurred by other franchisees of the same line-make
17 in that community in the performance of their part of their franchises; and

18 (c) whether the franchisees of the same line-make in that community are providing adequate consumer
19 care, including satisfactory new motor vehicle dealer sales and service facilities, equipment, parts supply, and
20 qualified management, sales, and service personnel, for the new motor vehicle products of the line-make."

21

22 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

23

- END -