

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