



Sen. Ram Villivalam

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10300SB2051sam001

LRB103 27188 SPS 58387 a

1 AMENDMENT TO SENATE BILL 2051

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2051 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Motor Vehicle Franchise Act is amended by  
5 changing Section 4 as follows:

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  
12 the Federal Trade Commission Act (15 U.S.C. 45 et seq.), as  
13 from 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

1 motor vehicle dealer to engage in any action with respect to a  
2 franchise which is arbitrary, in bad faith or unconscionable  
3 and which causes damage to any of the parties or to the public.

4 (c) It shall be deemed a violation for a manufacturer, a  
5 distributor, a wholesaler, a distributor branch or division, a  
6 factory branch or division, or a wholesale branch or division,  
7 or officer, agent or other representative thereof, to coerce,  
8 or attempt to coerce, any motor vehicle dealer:

9 (1) to accept, buy or order any motor vehicle or  
10 vehicles, appliances, equipment, parts or accessories  
11 therefor, or any other commodity or commodities or service  
12 or services which such motor vehicle dealer has not  
13 voluntarily ordered or requested except items required by  
14 applicable local, state or federal law; or to require a  
15 motor vehicle dealer to accept, buy, order or purchase  
16 such items in order to obtain any motor vehicle or  
17 vehicles or any other commodity or commodities which have  
18 been ordered or requested by such motor vehicle dealer;

19 (2) to order or accept delivery of any motor vehicle  
20 with special features, appliances, accessories or  
21 equipment not included in the list price of the motor  
22 vehicles as publicly advertised by the manufacturer  
23 thereof, except items required by applicable law; or

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

1 (c-5) A manufacturer, a distributor, a wholesaler, a  
2 distributor branch or division, a factory branch or division,  
3 or a wholesale branch or division, or officer, agent, or other  
4 representative thereof may not:

5 (1) require a motor vehicle dealer to offer a  
6 secondary product; or

7  
8 (2) prohibit a motor vehicle dealer from offering a  
9 secondary product, including, but not limited to:

10 (A) service contracts;

11 (B) maintenance agreements;

12 (C) extended warranties;

13 (D) protection product guarantees;

14 (E) guaranteed asset protection waivers;

15 (F) insurance;

16 (G) replacement parts;

17 (H) vehicle accessories;

18 (I) oil; or

19 (J) supplies.

20 It is not a violation of this subsection to offer an  
21 incentive program to motor vehicle dealers to encourage them  
22 to sell or offer to sell a secondary product approved,  
23 endorsed, sponsored, or offered by the manufacturer,  
24 distributor, wholesaler, distributor branch or division,  
25 factory branch or division, wholesale branch or division, or  
26 officer, agent, or other representative thereof, provided the

1 program does not provide vehicle sales or service incentives.

2 It is not a violation of this subsection to prohibit a  
3 motor vehicle dealer from using secondary products for any  
4 repair work paid for under the terms of a warranty, recall,  
5 service contract, extended warranty, maintenance plan, or  
6 certified pre-owned vehicle program established or offered by  
7 the manufacturer, distributor, wholesaler, distributor branch  
8 or division, factory branch or division, or wholesale branch  
9 or division, or officer, agent, or other representative  
10 thereof.

11 As used in this subsection, "secondary product" means all  
12 products that are not new motor vehicles or original equipment  
13 manufacturer parts.

14 (d) It shall be deemed a violation for a manufacturer, a  
15 distributor, a wholesaler, a distributor branch or division,  
16 or officer, agent or other representative thereof:

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

22 (2) to fail or refuse to advise or disclose to any  
23 motor vehicle dealer having a franchise or selling  
24 agreement, upon written request therefor, the basis upon  
25 which new motor vehicles of the same line make are  
26 allocated or distributed to motor vehicle dealers in the

1 State and the basis upon which the current allocation or  
2 distribution is being made or will be made to such motor  
3 vehicle dealer;

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

24 (4) to coerce, or attempt to coerce, any motor vehicle  
25 dealer to enter into any agreement with such manufacturer,  
26 distributor, wholesaler, distributor branch or division,

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

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

19 (6) to cancel or terminate the franchise or selling  
20 agreement of a motor vehicle dealer without good cause and  
21 without giving notice as hereinafter provided; to fail or  
22 refuse to extend the franchise or selling agreement of a  
23 motor vehicle dealer upon its expiration without good  
24 cause and without giving notice as hereinafter provided;  
25 or, to offer a renewal, replacement or succeeding  
26 franchise or selling agreement containing terms and

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

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

19 (i) the business operations of the franchisee  
20 have been abandoned or the franchisee has failed  
21 to conduct customary sales and service operations  
22 during customary business hours for at least 7  
23 consecutive business days unless such closing is  
24 due to an act of God, strike or labor difficulty or  
25 other cause over which the franchisee has no  
26 control; or

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

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

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



1           only 30 days from receipt of the notice to file with  
2           the Motor Vehicle Review Board a written protest  
3           against the proposed action.

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

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

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

1 the obligations of the dealer as a condition to offer  
2 renewal, replacement, or succession shall be made by  
3 the Board under subsection (d) of Section 12 of this  
4 Act.

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

16 (E) The manufacturer may not cancel or terminate,  
17 or fail to extend or renew a franchise or selling  
18 agreement or change or modify the obligations of the  
19 franchisee as a condition to offering a renewal,  
20 replacement, or succeeding franchise or selling  
21 agreement before the hearing process is concluded as  
22 prescribed by this Act, and thereafter, if the Board  
23 determines that the manufacturer has failed to meet  
24 its burden of proof and that good cause does not exist  
25 to allow the proposed action;

26 (7) notwithstanding the terms of any franchise

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

19 (8) to require or otherwise coerce a motor vehicle  
20 dealer to underutilize the motor vehicle dealer's  
21 facilities by requiring or otherwise coercing the motor  
22 vehicle dealer to exclude or remove from the motor vehicle  
23 dealer's facilities operations for selling or servicing of  
24 any vehicles for which the motor vehicle dealer has a  
25 franchise agreement with another manufacturer,  
26 distributor, wholesaler, distribution branch or division,

1 or officer, agent, or other representative thereof;  
2 provided, however, that, in light of all existing  
3 circumstances, (i) the motor vehicle dealer maintains a  
4 reasonable line of credit for each make or line of new  
5 motor vehicle, (ii) the new motor vehicle dealer remains  
6 in compliance with any reasonable facilities requirements  
7 of the manufacturer, (iii) no change is made in the  
8 principal management of the new motor vehicle dealer, and  
9 (iv) the addition of the make or line of new motor vehicles  
10 would be reasonable. The reasonable facilities requirement  
11 set forth in item (ii) of subsection (d)(8) shall not  
12 include any requirement that a franchisee establish or  
13 maintain exclusive facilities, personnel, or display  
14 space. Any decision by a motor vehicle dealer to sell  
15 additional makes or lines at the motor vehicle dealer's  
16 facility shall be presumed to be reasonable, and the  
17 manufacturer shall have the burden to overcome that  
18 presumption. A motor vehicle dealer must provide a written  
19 notification of its intent to add a make or line of new  
20 motor vehicles to the manufacturer. If the manufacturer  
21 does not respond to the motor vehicle dealer, in writing,  
22 objecting to the addition of the make or line within 60  
23 days after the date that the motor vehicle dealer sends  
24 the written notification, then the manufacturer shall be  
25 deemed to have approved the addition of the make or line;

26 (9) to use or consider the performance of a motor

1 vehicle dealer relating to the sale of the manufacturer's,  
2 distributor's, or wholesaler's vehicles or the motor  
3 vehicle dealer's ability to satisfy any minimum sales or  
4 market share quota or responsibility relating to the sale  
5 of the manufacturer's, distributor's, or wholesaler's new  
6 vehicles in determining:

7 (A) the motor vehicle dealer's eligibility to  
8 purchase program, certified, or other used motor  
9 vehicles from the manufacturer, distributor, or  
10 wholesaler;

11 (B) the volume, type, or model of program,  
12 certified, or other used motor vehicles that a motor  
13 vehicle dealer is eligible to purchase from the  
14 manufacturer, distributor, or wholesaler;

15 (C) the price of any program, certified, or other  
16 used motor vehicle that the dealer is eligible to  
17 purchase from the manufacturer, distributor, or  
18 wholesaler; or

19 (D) the availability or amount of any discount,  
20 credit, rebate, or sales incentive that the dealer is  
21 eligible to receive from the manufacturer,  
22 distributor, or wholesaler for the purchase of any  
23 program, certified, or other used motor vehicle  
24 offered for sale by the manufacturer, distributor, or  
25 wholesaler;

26 (10) to take any adverse action against a dealer

1       pursuant to an export or sale-for-resale prohibition  
2       because the dealer sold or leased a vehicle to a customer  
3       who either exported the vehicle to a foreign country or  
4       resold the vehicle in violation of the prohibition, unless  
5       the export or sale-for-resale prohibition policy was  
6       provided to the dealer in writing either electronically or  
7       on paper, prior to the sale or lease, and the dealer knew  
8       or reasonably should have known of the customer's intent  
9       to export or resell the vehicle in violation of the  
10      prohibition at the time of the sale or lease. If the dealer  
11      causes the vehicle to be registered and titled in this or  
12      any other state, and collects or causes to be collected  
13      any applicable sales or use tax to this State, a  
14      rebuttable presumption is established that the dealer did  
15      not have reason to know of the customer's intent to resell  
16      the vehicle;

17           (11) to coerce or require any dealer to construct  
18      improvements to his or her facilities or to install new  
19      signs or other franchiser image elements that replace or  
20      substantially alter those improvements, signs, or  
21      franchiser image elements completed within the past 10  
22      years that were required and approved by the manufacturer  
23      or one of its affiliates. The 10-year period under this  
24      paragraph (11) begins to run for a dealer, including that  
25      dealer's successors and assigns, on the date that the  
26      manufacturer gives final written approval of the facility

1 improvements or installation of signs or other franchiser  
2 image elements or the date that the dealer receives a  
3 certificate of occupancy, whichever is later. For the  
4 purpose of this paragraph (11), the term "substantially  
5 alter" does not include routine maintenance, including,  
6 but not limited to, interior painting, that is reasonably  
7 necessary to keep a dealer facility in attractive  
8 condition; or

9 (12) to require a dealer to purchase goods or services  
10 to make improvements to the dealer's facilities from a  
11 vendor selected, identified, or designated by a  
12 manufacturer or one of its affiliates by agreement,  
13 program, incentive provision, or otherwise without making  
14 available to the dealer the option to obtain the goods or  
15 services of substantially similar quality and overall  
16 design from a vendor chosen by the dealer and approved by  
17 the manufacturer; however, approval by the manufacturer  
18 shall not be unreasonably withheld, and the dealer's  
19 option to select a vendor shall not be available if the  
20 manufacturer provides substantial reimbursement for the  
21 goods or services offered. "Substantial reimbursement"  
22 means an amount equal to or greater than the cost savings  
23 that would result if the dealer were to utilize a vendor of  
24 the dealer's own selection instead of using the vendor  
25 identified by the manufacturer. For the purpose of this  
26 paragraph (12), the term "goods" does not include movable

1 displays, brochures, and promotional materials containing  
2 material subject to the intellectual property rights of a  
3 manufacturer. If signs, other than signs containing the  
4 manufacturer's brand or logo or free-standing signs that  
5 are not directly attached to a building, or other  
6 franchiser image or design elements or trade dress are to  
7 be leased to the dealer by a vendor selected, identified,  
8 or designated by the manufacturer, the dealer has the  
9 right to purchase the signs or other franchiser image or  
10 design elements or trade dress of substantially similar  
11 quality and design from a vendor selected by the dealer if  
12 the signs, franchiser image or design elements, or trade  
13 dress are approved by the manufacturer. Approval by the  
14 manufacturer shall not be unreasonably withheld. This  
15 paragraph (12) shall not be construed to allow a dealer or  
16 vendor to impair, infringe upon, or eliminate, directly or  
17 indirectly, the intellectual property rights of the  
18 manufacturer, including, but not limited to, the  
19 manufacturer's intellectual property rights in any  
20 trademarks or trade dress, or other intellectual property  
21 interests owned or controlled by the manufacturer. This  
22 paragraph (12) shall not be construed to permit a dealer  
23 to erect or maintain signs that do not conform to the  
24 manufacturer's intellectual property rights or trademark  
25 or trade dress usage guidelines.

26 (e) It shall be deemed a violation for a manufacturer, a



1 distributor, a wholesaler, a distributor branch or division or  
2 officer, agent or other representative thereof:

3 (1) to resort to or use any false or misleading  
4 advertisement in connection with his business as such  
5 manufacturer, distributor, wholesaler, distributor branch  
6 or division or officer, agent or other representative  
7 thereof;

8 (2) to offer to sell or lease, or to sell or lease, any  
9 new motor vehicle to any motor vehicle dealer at a lower  
10 actual price therefor than the actual price offered to any  
11 other motor vehicle dealer for the same model vehicle  
12 similarly equipped or to utilize any device including, but  
13 not limited to, sales promotion plans or programs which  
14 result in such lesser actual price or fail to make  
15 available to any motor vehicle dealer any preferential  
16 pricing, incentive, rebate, finance rate, or low interest  
17 loan program offered to competing motor vehicle dealers in  
18 other contiguous states. However, the provisions of this  
19 paragraph shall not apply to sales to a motor vehicle  
20 dealer for resale to any unit of the United States  
21 Government, the State or any of its political  
22 subdivisions;

23 (3) to offer to sell or lease, or to sell or lease, any  
24 new motor vehicle to any person, except a wholesaler,  
25 distributor or manufacturer's employees at a lower actual  
26 price therefor than the actual price offered and charged

1 to a motor vehicle dealer for the same model vehicle  
2 similarly equipped or to utilize any device which results  
3 in such lesser actual price. However, the provisions of  
4 this paragraph shall not apply to sales to a motor vehicle  
5 dealer for resale to any unit of the United States  
6 Government, the State or any of its political  
7 subdivisions;

8 (4) to prevent or attempt to prevent by contract or  
9 otherwise any motor vehicle dealer or franchisee from  
10 changing the executive management control of the motor  
11 vehicle dealer or franchisee unless the franchiser, having  
12 the burden of proof, proves that such change of executive  
13 management will result in executive management control by  
14 a person or persons who are not of good moral character or  
15 who do not meet the franchiser's existing and, with  
16 consideration given to the volume of sales and service of  
17 the dealership, uniformly applied minimum business  
18 experience standards in the market area. However, where  
19 the manufacturer rejects a proposed change in executive  
20 management control, the manufacturer shall give written  
21 notice of his reasons to the dealer within 60 days of  
22 notice to the manufacturer by the dealer of the proposed  
23 change. If the manufacturer does not send a letter to the  
24 franchisee by certified mail, return receipt requested,  
25 within 60 days from receipt by the manufacturer of the  
26 proposed change, then the change of the executive

1 management control of the franchisee shall be deemed  
2 accepted as proposed by the franchisee, and the  
3 manufacturer shall give immediate effect to such change;

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

14 (6) to refuse to give effect to or prevent or attempt  
15 to prevent by contract or otherwise any motor vehicle  
16 dealer or any officer, partner or stockholder of any motor  
17 vehicle dealer from selling or transferring any part of  
18 the interest of any of them to any other person or persons  
19 or party or parties unless such sale or transfer is to a  
20 transferee who would not otherwise qualify for a new motor  
21 vehicle dealers license under the Illinois Vehicle Code or  
22 unless the franchiser, having the burden of proof, proves  
23 that such sale or transfer is to a person or party who is  
24 not of good moral character or does not meet the  
25 franchiser's existing and reasonable capital standards  
26 and, with consideration given to the volume of sales and

1 service of the dealership, uniformly applied minimum  
2 business experience standards in the market area. However,  
3 nothing herein shall be construed to prevent a franchiser  
4 from implementing affirmative action programs providing  
5 business opportunities for minorities or from complying  
6 with applicable federal, State or local law:

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

26 When a protest has been timely filed, the Board

1 shall enter an order, fixing the date (within 60 days  
2 of the date of such order), time, and place of a  
3 hearing on the protest, required under Sections 12 and  
4 29 of this Act, and send by certified mail, return  
5 receipt requested, a copy of the order to the  
6 manufacturer that filed notice of intention of the  
7 proposed action and to the protesting franchisee.

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

22 (B) Good cause to refuse to approve such sale or  
23 transfer under this Section is established when such  
24 sale or transfer is to a transferee who would not  
25 otherwise qualify for a new motor vehicle dealers  
26 license under the Illinois Vehicle Code or such sale

1           or transfer is to a person or party who is not of good  
2           moral character or does not meet the franchiser's  
3           existing and reasonable capital standards and, with  
4           consideration given to the volume of sales and service  
5           of the dealership, uniformly applied minimum business  
6           experience standards in the market area.

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

14          (8) to grant an additional franchise in the relevant  
15          market area of an existing franchise of the same line make  
16          or to relocate an existing motor vehicle dealership within  
17          or into a relevant market area of an existing franchise of  
18          the same line make. However, if the manufacturer wishes to  
19          grant such an additional franchise to an independent  
20          person in a bona fide relationship in which such person is  
21          prepared to make a significant investment subject to loss  
22          in such a dealership, or if the manufacturer wishes to  
23          relocate an existing motor vehicle dealership, then the  
24          manufacturer shall send a letter by certified mail, return  
25          receipt requested, to each existing dealer or dealers of  
26          the same line make whose relevant market area includes the

1 proposed location of the additional or relocated franchise  
2 at least 60 days before the manufacturer grants an  
3 additional franchise or relocates an existing franchise of  
4 the same line make within or into the relevant market area  
5 of an existing franchisee of the same line make. Each  
6 notice shall set forth the specific grounds for the  
7 proposed grant of an additional or relocation of an  
8 existing franchise and shall state that the dealer has  
9 only 30 days from the date of receipt of the notice to file  
10 with the Motor Vehicle Review Board a written protest  
11 against the proposed action. Unless the parties agree upon  
12 the grant or establishment of the additional or relocated  
13 franchise within 30 days from the date the notice was  
14 received by the existing franchisee of the same line make  
15 or any person entitled to receive such notice, the  
16 franchisee or other person may file with the Board a  
17 written protest against the grant or establishment of the  
18 proposed additional or relocated franchise.

19 When a protest has been timely filed, the Board shall  
20 enter an order fixing a date (within 60 days of the date of  
21 the order), time, and place of a hearing on the protest,  
22 required under Sections 12 and 29 of this Act, and send by  
23 certified or registered mail, return receipt requested, a  
24 copy of the order to the manufacturer that filed the  
25 notice of intention to grant or establish the proposed  
26 additional or relocated franchise and to the protesting

1 dealer or dealers of the same line make whose relevant  
2 market area includes the proposed location of the  
3 additional or relocated franchise.

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

18 The determination whether good cause exists for  
19 allowing the grant or establishment of an additional  
20 franchise or relocated existing franchise, shall be made  
21 by the Board under subsection (c) of Section 12 of this  
22 Act. If the manufacturer seeks to enter into a contract,  
23 agreement or other arrangement with any person,  
24 establishing any additional motor vehicle dealership or  
25 other facility, limited to the sale of factory repurchase  
26 vehicles or late model vehicles, then the manufacturer



1 shall follow the notice procedures set forth in this  
2 Section and the determination whether good cause exists  
3 for allowing the proposed agreement shall be made by the  
4 Board under subsection (c) of Section 12, with the  
5 manufacturer having the burden of proof.

6 A. (Blank).

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

19 C. This Section does not apply to the relocation  
20 of an existing dealership or franchise in a county  
21 having a population of more than 300,000 persons when  
22 the new location is within the dealer's current  
23 relevant market area, provided the new location is  
24 more than 7 miles from the nearest dealer of the same  
25 line make. This Section does not apply to the  
26 relocation of an existing dealership or franchise in a

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

10 D. Nothing in this Section shall be construed to  
11 prevent a franchiser from implementing affirmative  
12 action programs providing business opportunities for  
13 minorities or from complying with applicable federal,  
14 State or local law;

15 (9) to require a motor vehicle dealer to assent to a  
16 release, assignment, novation, waiver or estoppel which  
17 would relieve any person from liability imposed by this  
18 Act;

19 (10) to prevent or refuse to give effect to the  
20 succession to the ownership or management control of a  
21 dealership by any legatee under the will of a dealer or to  
22 an heir under the laws of descent and distribution of this  
23 State unless the franchisee has designated a successor to  
24 the ownership or management control under the succession  
25 provisions of the franchise. Unless the franchiser, having  
26 the burden of proof, proves that the successor is a person

1 who is not of good moral character or does not meet the  
2 franchiser's existing and reasonable capital standards  
3 and, with consideration given to the volume of sales and  
4 service of the dealership, uniformly applied minimum  
5 business experience standards in the market area, any  
6 designated successor of a dealer or franchisee may succeed  
7 to the ownership or management control of a dealership  
8 under the existing franchise if:

9 (i) The designated successor gives the  
10 franchiser written notice by certified mail,  
11 return receipt requested, of his or her intention  
12 to succeed to the ownership of the dealer within  
13 60 days of the dealer's death or incapacity; and

14 (ii) The designated successor agrees to be  
15 bound by all the terms and conditions of the  
16 existing franchise.

17 Notwithstanding the foregoing, in the event the motor  
18 vehicle dealer or franchisee and manufacturer have duly  
19 executed an agreement concerning succession rights prior  
20 to the dealer's death or incapacitation, the agreement  
21 shall be observed.

22 (A) If the franchiser intends to refuse to honor  
23 the successor to the ownership of a deceased or  
24 incapacitated dealer or franchisee under an existing  
25 franchise agreement, the franchiser shall send a  
26 letter by certified mail, return receipt requested, to

1 the designated successor within 60 days from receipt  
2 of a proposal advising of its intent to refuse to honor  
3 the succession and to discontinue the existing  
4 franchise agreement and shall state that the  
5 designated successor only has 30 days from the receipt  
6 of the notice to file with the Motor Vehicle Review  
7 Board a written protest against the proposed action.  
8 The notice shall set forth the specific grounds for  
9 the refusal to honor the succession and discontinue  
10 the existing franchise agreement.

11 If notice of refusal is not timely served upon the  
12 designated successor, the franchise agreement shall  
13 continue in effect subject to termination only as  
14 otherwise permitted by paragraph (6) of subsection (d)  
15 of Section 4 of this Act.

16 Within 30 days from the date the notice was  
17 received by the designated successor or any other  
18 person entitled to notice, the designee or other  
19 person may file with the Board a written protest  
20 against the proposed action.

21 When a protest has been timely filed, the Board  
22 shall enter an order, fixing a date (within 60 days of  
23 the date of the order), time, and place of a hearing on  
24 the protest, required under Sections 12 and 29 of this  
25 Act, and send by certified mail, return receipt  
26 requested, a copy of the order to the franchiser that

1 filed the notice of intention of the proposed action  
2 and to the protesting designee or such other person.

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

17 (B) No manufacturer shall impose any conditions  
18 upon honoring the succession and continuing the  
19 existing franchise agreement with the designated  
20 successor other than that the franchisee has  
21 designated a successor to the ownership or management  
22 control under the succession provisions of the  
23 franchise, or that the designated successor is of good  
24 moral character or meets the reasonable capital  
25 standards and, with consideration given to the volume  
26 of sales and service of the dealership, uniformly

1 applied minimum business experience standards in the  
2 market area;

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

24 (12) to prevent or refuse to grant a franchise to a  
25 person because such person owns, has investment in or  
26 participates in the management of or holds a franchise for

1 the sale of another make or line of motor vehicles within 7  
2 miles of the proposed franchise location in a county  
3 having a population of more than 300,000 persons, or  
4 within 12 miles of the proposed franchise location in a  
5 county having a population of less than 300,000 persons;

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

15 (14) to exercise a right of first refusal or other  
16 right to acquire a franchise from a dealer, unless the  
17 manufacturer: (i) notifies the dealer in writing that it  
18 intends to exercise a right of first refusal no later than  
19 60 days after the manufacturer receives a notice of the  
20 proposed transfer from the dealer and (ii) having the  
21 burden of proof, proves that the dealer's proposed  
22 transferee is a person who is not of good moral character  
23 or does not meet the manufacturer's existing and  
24 reasonable capital standards, and with consideration given  
25 to the volume of sales and service of the dealership,  
26 uniformly applied minimum business experience standards in

1       the market area.

2       If a manufacturer satisfies the requirements of this  
3       paragraph and exercises a right of first refusal, the  
4       manufacturer must:

5           (A) notify ~~notifies~~ the dealer in writing that it  
6           intends to exercise its right to acquire the  
7           franchise not later than 60 days after the  
8           manufacturer's or distributor's receipt of a  
9           notice of the proposed transfer from the dealer  
10          and all information and documents reasonably and  
11          customarily required by the manufacturer or  
12          distributor supporting the proposed transfer;

13          (B) pay ~~pays~~ to the dealer the same or greater  
14          consideration as the dealer has contracted to receive  
15          in connection with the proposed transfer or sale of  
16          all or substantially all of the dealership assets,  
17          stock, or other ownership interest, including the  
18          purchase or lease of all real property, leasehold, or  
19          improvements related to the transfer or sale of the  
20          dealership. Upon exercise of the right of first  
21          refusal or such other right, the manufacturer or  
22          distributor shall have the right to assign the lease  
23          or to convey the real property;

24          (C) assume ~~assumes~~ all of the duties, obligations,  
25          and liabilities contained in the agreements that were  
26          to be assumed by the proposed transferee and with



1 respect to which the manufacturer or distributor  
2 exercised the right of first refusal or other right to  
3 acquire the franchise; and

4 (D) reimburse ~~reimburses~~ the proposed transferee  
5 for all reasonable expenses incurred in evaluating,  
6 investigating, and negotiating the transfer of the  
7 dealership prior to the manufacturer's or  
8 distributor's exercise of its right of first refusal  
9 or other right to acquire the dealership. For purposes  
10 of this paragraph, "reasonable expenses" includes the  
11 usual and customary legal and accounting fees charged  
12 for similar work, as well as expenses associated with  
13 the evaluation and investigation of any real property  
14 on which the dealership is operated. The proposed  
15 transferee shall submit an itemized list of its  
16 expenses to the manufacturer or distributor not later  
17 than 30 days after the manufacturer's or distributor's  
18 exercise of the right of first refusal or other right  
19 to acquire the motor vehicle franchise. The  
20 manufacturer or distributor shall reimburse the  
21 proposed transferee for its expenses not later than 90  
22 days after receipt of the itemized list. A  
23 manufacturer or distributor may request to be provided  
24 with the itemized list of expenses before exercising  
25 the manufacturer's or distributor's right of first  
26 refusal.

1           Except as provided in this paragraph (14), neither the  
2           selling dealer nor the manufacturer or distributor shall  
3           have any liability to any person as a result of a  
4           manufacturer or distributor exercising its right of first  
5           refusal.

6           For the purpose of this paragraph, "proposed  
7           transferee" means the person to whom the franchise would  
8           have been transferred to, or was proposed to be  
9           transferred to, had the right of first refusal or other  
10          right to acquire the franchise not been exercised by the  
11          manufacturer or distributor.

12          (f) It is deemed a violation for a manufacturer, a  
13          distributor, a wholesaler, a distributor branch or division, a  
14          factory branch or division, or a wholesale branch or division,  
15          or officer, agent, broker, shareholder, except a shareholder  
16          of 1% or less of the outstanding shares of any class of  
17          securities of a manufacturer, distributor, or wholesaler which  
18          is a publicly traded corporation, or other representative,  
19          directly or indirectly, to own or operate a place of business  
20          as a motor vehicle franchisee or motor vehicle financing  
21          affiliate, except that, this subsection shall not prohibit:

22                 (1) the ownership or operation of a place of business  
23                 by a manufacturer, distributor, or wholesaler for a  
24                 period, not to exceed 18 months, during the transition  
25                 from one motor vehicle franchisee to another;

26                 (2) the investment in a motor vehicle franchisee by a

1 manufacturer, distributor, or wholesaler if the investment  
2 is for the sole purpose of enabling a partner or  
3 shareholder in that motor vehicle franchisee to acquire an  
4 interest in that motor vehicle franchisee and that partner  
5 or shareholder is not otherwise employed by or associated  
6 with the manufacturer, distributor, or wholesaler and  
7 would not otherwise have the requisite capital investment  
8 funds to invest in the motor vehicle franchisee, and has  
9 the right to purchase the entire equity interest of the  
10 manufacturer, distributor, or wholesaler in the motor  
11 vehicle franchisee within a reasonable period of time not  
12 to exceed 5 years; or

13 (3) the ownership or operation of a place of business  
14 by a manufacturer that manufactures only diesel engines  
15 for installation in trucks having a gross vehicle weight  
16 rating of more than 16,000 pounds that are required to be  
17 registered under the Illinois Vehicle Code, provided that:

18 (A) the manufacturer does not otherwise  
19 manufacture, distribute, or sell motor vehicles as  
20 defined under Section 1-217 of the Illinois Vehicle  
21 Code;

22 (B) the manufacturer owned a place of business and  
23 it was in operation as of January 1, 2016;

24 (C) the manufacturer complies with all obligations  
25 owed to dealers that are not owned, operated, or  
26 controlled by the manufacturer, including, but not

1 limited to those obligations arising pursuant to  
2 Section 6;

3 (D) to further avoid any acts or practices, the  
4 effect of which may be to lessen or eliminate  
5 competition, the manufacturer provides to dealers on  
6 substantially equal terms access to all support for  
7 completing repairs, including, but not limited to,  
8 parts and assemblies, training, and technical service  
9 bulletins, and other information concerning repairs  
10 that the manufacturer provides to facilities that are  
11 owned, operated, or controlled by the manufacturer;  
12 and

13 (E) the manufacturer does not require that  
14 warranty repair work be performed by a  
15 manufacturer-owned repair facility and the  
16 manufacturer provides any dealer that has an agreement  
17 with the manufacturer to sell and perform warranty  
18 repairs on the manufacturer's engines the opportunity  
19 to perform warranty repairs on those engines,  
20 regardless of whether the dealer sold the truck into  
21 which the engine was installed.

22 (g) Notwithstanding the terms, provisions, or conditions  
23 of any agreement or waiver, it shall be deemed a violation for  
24 a manufacturer, a distributor, a wholesaler, a distributor  
25 branch or division, a factory branch or division, or a  
26 wholesale branch or division, or officer, agent or other

1 representative thereof, to directly or indirectly condition  
2 the awarding of a franchise to a prospective new motor vehicle  
3 dealer, the addition of a line make or franchise to an existing  
4 dealer, the renewal of a franchise of an existing dealer, the  
5 approval of the relocation of an existing dealer's facility,  
6 or the approval of the sale or transfer of the ownership of a  
7 franchise on the willingness of a dealer, proposed new dealer,  
8 or owner of an interest in the dealership facility to enter  
9 into a site control agreement or exclusive use agreement  
10 unless separate and reasonable consideration was offered and  
11 accepted for that agreement.

12 For purposes of this subsection (g), the terms "site  
13 control agreement" and "exclusive use agreement" include any  
14 agreement that has the effect of either (i) requiring that the  
15 dealer establish or maintain exclusive dealership facilities;  
16 or (ii) restricting the ability of the dealer, or the ability  
17 of the dealer's lessor in the event the dealership facility is  
18 being leased, to transfer, sell, lease, or change the use of  
19 the dealership premises, whether by sublease, lease,  
20 collateral pledge of lease, or other similar agreement. "Site  
21 control agreement" and "exclusive use agreement" also include  
22 a manufacturer restricting the ability of a dealer to  
23 transfer, sell, or lease the dealership premises by right of  
24 first refusal to purchase or lease, option to purchase, or  
25 option to lease if the transfer, sale, or lease of the  
26 dealership premises is to a person who is an immediate family

1 member of the dealer. For the purposes of this subsection (g),  
2 "immediate family member" means a spouse, parent, son,  
3 daughter, son-in-law, daughter-in-law, brother, and sister.

4 If a manufacturer exercises any right of first refusal to  
5 purchase or lease or option to purchase or lease with regard to  
6 a transfer, sale, or lease of the dealership premises to a  
7 person who is not an immediate family member of the dealer,  
8 then (1) within 60 days from the receipt of the completed  
9 application forms generally utilized by a manufacturer to  
10 conduct its review and a copy of all agreements regarding the  
11 proposed transfer, the manufacturer must notify the dealer of  
12 its intent to exercise the right of first refusal to purchase  
13 or lease or option to purchase or lease and (2) the exercise of  
14 the right of first refusal to purchase or lease or option to  
15 purchase or lease must result in the dealer receiving  
16 consideration, terms, and conditions that either are the same  
17 as or greater than that which they have contracted to receive  
18 in connection with the proposed transfer, sale, or lease of  
19 the dealership premises.

20 Any provision contained in any agreement entered into on  
21 or after November 25, 2009 (the effective date of Public Act  
22 96-824) that is inconsistent with the provisions of this  
23 subsection (g) shall be voidable at the election of the  
24 affected dealer, prospective dealer, or owner of an interest  
25 in the dealership facility.

26 (h) For purposes of this subsection:

1 "Successor manufacturer" means any motor vehicle  
2 manufacturer that, on or after January 1, 2009, acquires,  
3 succeeds to, or assumes any part of the business of another  
4 manufacturer, referred to as the "predecessor manufacturer",  
5 as the result of any of the following:

6 (i) A change in ownership, operation, or control of  
7 the predecessor manufacturer by sale or transfer of  
8 assets, corporate stock or other equity interest,  
9 assignment, merger, consolidation, combination, joint  
10 venture, redemption, court-approved sale, operation of law  
11 or otherwise.

12 (ii) The termination, suspension, or cessation of a  
13 part or all of the business operations of the predecessor  
14 manufacturer.

15 (iii) The discontinuance of the sale of the product  
16 line.

17 (iv) A change in distribution system by the  
18 predecessor manufacturer, whether through a change in  
19 distributor or the predecessor manufacturer's decision to  
20 cease conducting business through a distributor  
21 altogether.

22 "Former Franchisee" means a new motor vehicle dealer that  
23 has entered into a franchise with a predecessor manufacturer  
24 and that has either:

25 (i) entered into a termination agreement or deferred  
26 termination agreement with a predecessor or successor

1 manufacturer related to such franchise; or

2 (ii) has had such franchise canceled, terminated,  
3 nonrenewed, noncontinued, rejected, nonassumed, or  
4 otherwise ended.

5 For a period of 3 years from: (i) the date that a successor  
6 manufacturer acquires, succeeds to, or assumes any part of the  
7 business of a predecessor manufacturer; (ii) the last day that  
8 a former franchisee is authorized to remain in business as a  
9 franchised dealer with respect to a particular franchise under  
10 a termination agreement or deferred termination agreement with  
11 a predecessor or successor manufacturer; (iii) the last day  
12 that a former franchisee that was cancelled, terminated,  
13 nonrenewed, noncontinued, rejected, nonassumed, or otherwise  
14 ended by a predecessor or successor manufacturer is authorized  
15 to remain in business as a franchised dealer with respect to a  
16 particular franchise; or (iv) November 25, 2009 (the effective  
17 date of Public Act 96-824), whichever is latest, it shall be  
18 unlawful for such successor manufacturer to enter into a same  
19 line make franchise with any person or to permit the  
20 relocation of any existing same line make franchise, for a  
21 line make of the predecessor manufacturer that would be  
22 located or relocated within the relevant market area of a  
23 former franchisee who owned or leased a dealership facility in  
24 that relevant market area without first offering the  
25 additional or relocated franchise to the former franchisee, or  
26 the designated successor of such former franchisee in the



1 event the former franchisee is deceased or a person with a  
2 disability, at no cost and without any requirements or  
3 restrictions other than those imposed generally on the  
4 manufacturer's other franchisees at that time, unless one of  
5 the following applies:

6 (1) As a result of the former franchisee's  
7 cancellation, termination, noncontinuance, or nonrenewal  
8 of the franchise, the predecessor manufacturer had  
9 consolidated the line make with another of its line makes  
10 for which the predecessor manufacturer had a franchisee  
11 with a then-existing dealership facility located within  
12 that relevant market area.

13 (2) The successor manufacturer has paid the former  
14 franchisee, or the designated successor of such former  
15 franchisee in the event the former franchisee is deceased  
16 or a person with a disability, the fair market value of the  
17 former franchisee's franchise on (i) the date the  
18 franchiser announces the action which results in the  
19 termination, cancellation, or nonrenewal; or (ii) the date  
20 the action which results in termination, cancellation, or  
21 nonrenewal first became general knowledge; or (iii) the  
22 day 12 months prior to the date on which the notice of  
23 termination, cancellation, or nonrenewal is issued,  
24 whichever amount is higher. Payment is due within 90 days  
25 of the effective date of the termination, cancellation, or  
26 nonrenewal. If the termination, cancellation, or

1 nonrenewal is due to a manufacturer's change in  
2 distributors, the manufacturer may avoid paying fair  
3 market value to the dealer if the new distributor or the  
4 manufacturer offers the dealer a franchise agreement with  
5 terms acceptable to the dealer.

6 (3) The successor manufacturer proves that it would  
7 have had good cause to terminate the franchise agreement  
8 of the former franchisee, or the successor of the former  
9 franchisee under item (e)(10) in the event that the former  
10 franchisee is deceased or a person with a disability. The  
11 determination of whether the successor manufacturer would  
12 have had good cause to terminate the franchise agreement  
13 of the former franchisee, or the successor of the former  
14 franchisee, shall be made by the Board under subsection  
15 (d) of Section 12. A successor manufacturer that seeks to  
16 assert that it would have had good cause to terminate a  
17 former franchisee, or the successor of the former  
18 franchisee, must file a petition seeking a hearing on this  
19 issue before the Board and shall have the burden of  
20 proving that it would have had good cause to terminate the  
21 former franchisee or the successor of the former  
22 franchisee. No successor dealer, other than the former  
23 franchisee, may be appointed or franchised by the  
24 successor manufacturer within the relevant market area of  
25 the former franchisee until the Board has held a hearing  
26 and rendered a determination on the issue of whether the

1           successor manufacturer would have had good cause to  
2           terminate the former franchisee.

3           In the event that a successor manufacturer attempts to  
4           enter into a same line make franchise with any person or to  
5           permit the relocation of any existing line make franchise  
6           under this subsection (h) at a location that is within the  
7           relevant market area of 2 or more former franchisees, then the  
8           successor manufacturer may not offer it to any person other  
9           than one of those former franchisees unless the successor  
10          manufacturer can prove that at least one of the 3 exceptions in  
11          items (1), (2), and (3) of this subsection (h) applies to each  
12          of those former franchisees.

13          (Source: P.A. 102-433, eff. 1-1-22.)

14          Section 99. Effective date. This Act takes effect upon  
15          becoming law."