

AN ACT concerning business.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Motor Vehicle Franchise Act is amended by changing Section 2 as follows:

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

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

(a) "Motor vehicle", any motor driven vehicle required to be registered under "The Illinois Vehicle Code".

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

(c) "Factory branch", a branch office maintained by a manufacturer which manufactures or assembles motor vehicles for sale to distributors or motor vehicle dealers or which is maintained for directing and supervising the representatives of the manufacturer.

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

(e) "Factory representative", a representative employed by a manufacturer or employed by a factory branch for the purpose

of making or promoting the sale of motor vehicles or for contracting with, supervising, servicing or instructing motor vehicle dealers or prospective motor vehicle dealers.

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

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

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

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

(j) "Franchiser", a manufacturer, distributor or wholesaler who grants a franchise to a motor vehicle dealer.

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

(l) "Sale", shall include the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein or of any

franchise related thereto; and any option, subscription or other contract or solicitation, looking to a sale, or offer or attempt to sell in any form, whether oral or written. A gift or delivery of any motor vehicle or franchise with respect thereto with or as a bonus on account of the sale of anything shall be deemed a sale of such motor vehicle or franchise.

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

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

(o) "New motor vehicle", a motor vehicle which has not been previously sold to any person except a distributor or wholesaler or motor vehicle dealer for resale.

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

(q) "Relevant Market Area", the area within a radius of 10 miles from the principal location of a franchise or dealership if said principal location is in a county having a population

of more than 300,000 persons; if the principal location of a franchise or dealership is in a county having a population of less than 300,000 persons, then "relevant market area" shall mean the area within a radius of 15 miles from the principal location of said franchise or dealership; ~~or the area of responsibility as defined in the franchise agreement,~~ whichever is greater.

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

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

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

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

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

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SB1344 Enrolled

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(Source: P.A. 89-145, eff. 7-14-95.)

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