

SENATE BILL NO. 317—SENATOR DENIS

MARCH 18, 2013

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to franchises for sales of motor vehicles. (BDR 43-942)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to vehicle dealers; revising provisions relating to franchise agreements between a manufacturer, distributor or factory branch and a vehicle dealer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, it is an unfair act or practice for a manufacturer or
2 distributor of vehicles and certain related entities to require a dealer to agree to a
3 term or condition of a franchise agreement which violates certain provisions which
4 are related to such franchises. (NRS 482.3638) This bill clarifies an existing statute
5 by expressly providing that it is also an unfair act or practice for the manufacturer
6 or distributor of vehicles and certain related entities to require a dealer to agree to
7 any terms or conditions of a franchise agreement which waive such provisions and
8 that any waiver of such provisions is void and unenforceable.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 482.3638 is hereby amended to read as
2 follows:

3 482.3638 It is an unfair act or practice for any manufacturer,
4 distributor or factory branch, directly or through any representative,
5 to:

6 1. Require a dealer to agree to a release, assignment, novation,
7 waiver or estoppel which purports to relieve any person from
8 liability imposed by this chapter, or require any controversy
9 between a dealer and a manufacturer, distributor or representative to



1 be referred to any person or agency except as set forth in this
2 chapter if that referral would be binding on the dealer, except that
3 this section does not prevent the parties from mutually agreeing to
4 arbitration pursuant to law.

5 2. Require a dealer to agree to the jurisdiction, venue or
6 tribunal in which a controversy arising under the provisions of the
7 franchise agreement may or may not be submitted for resolution, or
8 prohibit a dealer from bringing an action in any forum allowed by
9 Nevada law.

10 3. Require a dealer to agree to a term or condition of a
11 franchise agreement which violates *or waives* any provision of NRS
12 482.36311 to 482.36425, inclusive. *A waiver of any provision of*
13 *NRS 482.36311 to 482.36425, inclusive, is void and*
14 *unenforceable.*

15 4. Require a dealer to waive a trial by jury in actions involving
16 the manufacturer, distributor or factory branch.

17 5. Increase prices of new vehicles which the dealer had ordered
18 for private retail consumers before the dealer receives the written
19 official notification of a price increase. A sales contract signed by a
20 retail consumer constitutes evidence of each order. Price changes
21 applicable to new models or series of vehicles at the time of the
22 introduction of the new models or series shall not be deemed a price
23 increase. Price changes caused by:

24 (a) The addition to a vehicle of equipment formerly optional as
25 standard or required equipment pursuant to state or federal law;

26 (b) Revaluation of the United States dollar in the case of
27 foreign-made vehicles; or

28 (c) Transportation cost increases,

29 ➔ are not subject to this subsection.

30 6. Deny the principal owner the opportunity to designate his or
31 her spouse, a member of his or her family, a qualified manager, or a
32 trust or other artificial person controlled by any of them as entitled
33 to participate in the ownership of:

34 (a) The franchised dealership;

35 (b) A successor franchised dealership for 2 years or a longer
36 reasonable time after the incapacity of the principal owner; or

37 (c) A successor franchised dealership after the death of the
38 principal in accordance with NRS 482.36396 to 482.36414,
39 inclusive.

40 7. Modify unilaterally, replace, enter into, relocate, terminate
41 or refuse to renew a franchise in violation of law.

42 8. Terminate or refuse to approve a transfer of a franchise for a
43 dealership, or honor the right of succession set forth in a franchise
44 agreement or refuse to approve the transfer of a controlling interest
45 in a dealership because the dealer has, before October 1, 1997,



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1 established an additional franchise to sell or service another line or
2 make of new vehicles in the same facility as the existing dealership.

3 9. Prevent a dealer from establishing, on or after October 1,
4 1997, an additional franchise to sell or service another line or make
5 of new vehicles in the same facility as the existing dealership if the
6 dealer:

7 (a) Submits a written request for approval of the additional
8 franchise to the manufacturer, distributor or factory branch of the
9 existing dealership;

10 (b) Complies with the reasonable requirements for approval set
11 forth in the franchise of the existing dealership; and

12 (c) Obtains the approval of the manufacturer, distributor or
13 factory branch of the existing dealership.

14 ➔ The manufacturer, distributor or factory branch shall notify the
15 dealer in writing of its decision to approve or deny the request
16 within 90 days after receipt of the request. The manufacturer,
17 distributor or factory branch shall not unreasonably withhold its
18 approval. If the request is denied, the material reasons for the denial
19 must be stated. Failure to approve or deny the request, in writing,
20 within 90 days has the effect of approval.

21 **Sec. 2.** This act becomes effective on July 1, 2013.

