

56:10-7.2 to 56:10-7.4

LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 56:10-7.2-56:10-7.4 (Motor vehicle franchises--  
prohibit certain terms and conditions)

**LAWS OF:** 1989 **CHAPTER:** 24

**BILL NO:** S2737

**SPONSOR(S):** O'Connor

**Date Introduced:** June 30, 1988

**Committee:** **Assembly:** -----  
**Senate:** Judiciary

**Amended during passage:** No

**Date of Passage:** **Assembly:** December 19, 1988  
**Senate:** December 8, 1988

**Date of Approval:** February 6, 1989

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement:** **Assembly** No  
**Senate** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on Signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

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P.L. 1989, CHAPTER 24, *approved February 6, 1989*

1988 Senate No. 2737

1 **AN ACT** concerning motor vehicle franchises and supplementing  
Title 56 of the New Jersey Statutes.

3

BE IT ENACTED *by the Senate and General Assembly of the*  
5 **State of New Jersey:**

1. The Legislature hereby finds and declares the following:

7 a. Notwithstanding the enactment of the "Franchise Practices  
Act", P.L. 1971, c. 356, (C. 56:10-1 et seq.), and other legislation  
9 dealing with the franchisor-franchisee relationship, including, but  
not limited to P.L. 1982, c. 156, (C. 56:10-17 et seq.), inequality  
11 of bargaining power continues to exist between motor vehicle  
franchisors and motor vehicle franchisees. This inequality of  
13 bargaining power exists even as to motor vehicle franchisees who  
have had their franchises for many years and who have expended  
15 large sums of money in the promotion of their franchises.

b. This inequality of bargaining power enables motor vehicle  
17 franchisors to compel motor vehicle franchisees to execute  
franchises and related leases and agreements which contain terms  
19 and conditions that would not routinely be agreed to by the motor  
vehicle franchisees absent the compulsion and duress which arise  
21 out of the inequality of bargaining power. These terms and  
conditions are detrimental to the interests of the motor vehicle  
23 franchisees in that they require the motor vehicle franchisees to  
relinquish their rights which have been established by the  
25 "Franchise Practices Act" and supplemental legislation and other  
statutes and laws of this State.

27 c. As a result, motor vehicle franchisees have been denied the  
opportunity to have disputes with their motor vehicle franchisors  
29 arising out of the franchisor-franchisee relationship heard in an  
appropriate venue, convenient to both parties, by tribunals  
31 established by statute for the resolution of these disputes. It is  
therefore necessary and in the public interest to ensure that  
33 motor vehicle franchisees voluntarily determine whether to agree  
to certain terms and conditions contained in franchises and

1 related leases and agreements presented to them by motor  
vehicle franchisors and under circumstances unaffected by the  
3 compulsion which arises from the inequality of bargaining power.

2. a. It shall be a violation of the "Franchise Practices Act,"  
5 P.L. 1971, c. 356 (C. 56:10-1 et seq.) for a motor vehicle  
franchisor to require a motor vehicle franchisee to agree to a  
7 term or condition in a franchise, or in any lease or agreement  
ancillary or collateral to a franchise, as a condition to the offer,  
9 grant or renewal of the franchise, lease or agreement, which:

(1) Requires the motor vehicle franchisee to waive trial by  
11 jury in actions involving the motor vehicle franchisor; or

(2) Specifies the jurisdictions, venues or tribunals in which  
13 disputes arising with respect to the franchise, lease or agreement  
shall or shall not be submitted for resolution or otherwise  
15 prohibits a motor vehicle franchisee from bringing an action in a  
particular forum otherwise available under the law of this State;  
17 or

(3) Requires that disputes between the motor vehicle  
19 franchisor and motor vehicle franchisee be submitted to  
arbitration or to any other binding alternate dispute resolution  
21 procedure; provided, however, that any franchise, lease or  
agreement may authorize the submission of a dispute to  
23 arbitration or to binding alternate dispute resolution if the motor  
vehicle franchisor and motor vehicle franchisee voluntarily agree  
25 to submit the dispute to arbitration or binding alternate dispute  
resolution at the time the dispute arises.

b. For the purposes of this section, it shall be presumed that a  
27 motor vehicle franchisee has been required to agree to a term or  
condition in violation of this section as a condition of the offer,  
29 grant or renewal of a franchise or of any lease or agreement  
ancillary or collateral to a franchise, if the motor vehicle  
31 franchisee, at the time of the offer, grant or renewal of the  
franchise, lease or agreement is not offered the option of an  
33 identical franchise, lease or agreement without the term or  
condition proscribed by this section.  
35

c. In addition to any remedy provided in the "Franchise  
37 Practices Act," any term or condition included in a franchise, or  
in any lease or agreement ancillary or collateral to a franchise, in  
violation of this section may be revoked by the motor vehicle  
39

1 franchisee by written notice to the motor vehicle franchisor  
within 60 days of the motor vehicle franchisee's receipt of the  
3 fully executed franchise, lease or agreement. This revocation  
shall not otherwise affect the validity, effectiveness or  
5 enforceability of the franchise, lease or agreement.

3. This act shall take effect immediately but shall apply only  
7 to franchises and leases or agreements ancillary to or collateral  
to franchises which are offered, granted, or renewed after the  
9 effective date of this act.

11

## STATEMENT

13

New Jersey has been a leader in enacting legislation designed  
15 to provide the auto buying public with a strong and stable  
network of retail dealers who are able to perform the complex  
17 services on which consumers depend when purchasing a motor  
vehicle. The Legislature has enacted, and two governors have  
19 signed, four bills strengthening the 1971 "Franchise Practices  
Act" as it applies to motor vehicles. Following New Jersey's  
21 lead, a number of other states have enacted similar legislation  
establishing the motor vehicle retailer's rights in dealing with a  
23 vastly larger manufacturer or distributor.

Under these laws, the dealers' rights generally are enforceable  
25 in state courts or through state agencies. However, in the last  
several years manufacturers and distributors have sought to  
27 circumvent these laws by offering dealers franchise renewal  
agreements which require them to settle disputes through  
29 compulsory arbitration instead of exercising their rights as  
spelled out under New Jersey law. Other proposed agreements  
31 transfer the disputes from New Jersey's courts or administrative  
tribunals, as provided by the "Franchise Practices Act," to  
33 another state.

This bill prohibits certain terms and conditions as part of a  
35 motor vehicle franchise which would require the motor vehicle  
franchisee to waive trial by jury; would specify the jurisdiction,  
37 venue or tribunal in which a dispute could be brought; or would  
require a dispute to be submitted to arbitration or other binding  
39 alternate dispute resolution.

1        This bill will assure that franchised motor vehicle dealers are  
2        not forced by manufacturers and distributors to surrender any of  
3        the protections granted them by the laws of New Jersey.

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CIVIL JUSTICE  
Commerce and Industry

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9        Prohibits certain terms and conditions as part of an motor vehicle  
franchise.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2737

STATE OF NEW JERSEY

DATED: AUGUST 4, 1988

The Senate Judiciary Committee reports favorably Senate Bill No. 2737.

This bill prohibits certain terms and conditions as part of a motor vehicle franchise. Under the provisions of S-2737 it would be a violation of the "Franchise Practices Act" P.L.1971, c.356 (C.56:10-1 et seq.) for a motor vehicle franchisor to require a motor vehicle franchisee to agree to any term or condition which would:

- (1) require the franchisee to waive trial by jury in actions involving the franchisor;
- (2) specify the jurisdiction, venue or tribunal in which disputes shall or shall not be submitted or otherwise prohibit the franchisee from bringing an action in a forum otherwise available by law; or
- (3) require that disputes be submitted to arbitration or any other binding alternate dispute resolution procedure, but the parties may contract to agree to submit the dispute to arbitration or binding alternate dispute resolution at the time the dispute arises.

The bill sets forth a presumption that a franchisee has been required to agree to a term or condition in violation of this bill if the franchisee is not offered the option of an identical franchise, lease or agreement without the term or condition.

In addition to any other remedy available to the franchisee, any term or condition included in an agreement or lease in violation of this bill may be revoked by the franchisee by written notice to the franchisor within 60 days of the executed franchise, lease or agreement.

SENATE, No. 2737

STATE OF NEW JERSEY

INTRODUCED JUNE 30, 1988

By Senator O'CONNOR

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Title 56 of the New Jersey Statutes.

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franchisors and motor vehicle franchisees. This inequality of  
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15 large sums of money in the promotion of their franchises.

b. This inequality of bargaining power enables motor vehicle  
17 franchisors to compel motor vehicle franchisees to execute  
franchises and related leases and agreements which contain terms  
19 and conditions that would not routinely be agreed to by the motor  
vehicle franchisees absent the compulsion and duress which arise  
21 out of the inequality of bargaining power. These terms and  
conditions are detrimental to the interests of the motor vehicle  
23 franchisees in that they require the motor vehicle franchisees to  
relinquish their rights which have been established by the  
25 "Franchise Practices Act" and supplemental legislation and other  
statutes and laws of this State.

27 c. As a result, motor vehicle franchisees have been denied the  
opportunity to have disputes with their motor vehicle franchisors  
29 arising out of the franchisor-franchisee relationship heard in an  
appropriate venue, convenient to both parties, by tribunals  
31 established by statute for the resolution of these disputes. It is  
therefore necessary and in the public interest to ensure that  
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to certain terms and conditions contained in franchises and

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3 compulsion which arises from the inequality of bargaining power.

4 2. a. It shall be a violation of the "Franchise Practices Act,"  
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6 franchisor to require a motor vehicle franchisee to agree to a  
7 term or condition in a franchise, or in any lease or agreement  
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9 grant or renewal of the franchise, lease or agreement, which:

10 (1) Requires the motor vehicle franchisee to waive trial by  
11 jury in actions involving the motor vehicle franchisor; or

12 (2) Specifies the jurisdictions, venues or tribunals in which  
13 disputes arising with respect to the franchise, lease or agreement  
14 shall or shall not be submitted for resolution or otherwise  
15 prohibits a motor vehicle franchisee from bringing an action in a  
16 particular forum otherwise available under the law of this State;  
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18 (3) Requires that disputes between the motor vehicle  
19 franchisor and motor vehicle franchisee be submitted to  
20 arbitration or to any other binding alternate dispute resolution  
21 procedure; provided, however, that any franchise, lease or  
22 agreement may authorize the submission of a dispute to  
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24 vehicle franchisor and motor vehicle franchisee voluntarily agree  
25 to submit the dispute to arbitration or binding alternate dispute  
26 resolution at the time the dispute arises.

27 b. For the purposes of this section, it shall be presumed that a  
28 motor vehicle franchisee has been required to agree to a term or  
29 condition in violation of this section as a condition of the offer,  
30 grant or renewal of a franchise or of any lease or agreement  
31 ancillary or collateral to a franchise, if the motor vehicle  
32 franchisee, at the time of the offer, grant or renewal of the  
33 franchise, lease or agreement is not offered the option of an  
34 identical franchise, lease or agreement without the term or  
35 condition proscribed by this section.

36 c. In addition to any remedy provided in the "Franchise  
37 Practices Act," any term or condition included in a franchise, or  
38 in any lease or agreement ancillary or collateral to a franchise, in  
39 violation of this section may be revoked by the motor vehicle



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**CIVIL JUSTICE**

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**Commerce and Industry**

9        **Prohibits certain terms and conditions as part of an motor vehicle**  
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