

56:10-26

LEGISLATIVE HISTORY CHECKLIST

NJSA: 56:10-26 Motor vehicle franchises--prohibit manufacturer-owned or controlled dealerships)

LAWS OF: 1985 CHAPTER: 361

BILL NO: A2117

Sponsor(s): Doyle and others

Date Introduced: May 21, 1984

Committee: Assembly: Commerce and Industry
Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: February 25, 1985
Senate: September 9, 1985

Date of Approval: November 12, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes
Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 2117

STATE OF NEW JERSEY

INTRODUCED MAY 21, 1984

By Assemblyman DOYLE, Assemblywoman FORD, Assemblymen
 BOCCHINI, VISOTCKY, HOLLENBECK and GALLO

AN ACT regulating the distribution of motor vehicles and supple-
 menting Title 56 of the Revised Statutes.

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

1 1. As used in this act:

2 a. "Consumer" means the purchaser, other than for resale, of
 3 a motor vehicle;

4 b. "Franchise" means a written arrangement for a definite or
 5 indefinite period in which a motor vehicle franchisor grants a
 6 right or license to use a trade name, trademark, service mark or
 7 related characteristics and in which there is a community of in-
 8 terest in the marketing of new motor vehicles at retail, by lease,
 9 agreement or otherwise;

10 c. "Motor vehicle" or "new motor vehicle" means only a newly
 11 manufactured motor vehicle, except a nonconventional type of
 12 motor vehicle, and includes all vehicles propelled otherwise than
 13 by muscular power, and motoreycles, trailers and tractors, ex-
 14 cepting those vehicles as run only upon rails or tracks ***[and]****,
 15 motorized bicycles*, *and buses, including school buses**; a "non-
 16 conventional type of motor vehicle" means every vehicle not
 17 designed or used primarily for the transportation of persons or
 18 property and only incidently operated or moved over a highway;
 19 d. "Motor vehicle franchisee" means a natural person, corpora-
 20 tion, partnership or entity to whom a franchise is granted by a
 21 motor vehicle franchisor and who or which holds a current valid

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
 is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly committee amendments adopted January 28, 1985.**

22 motor vehicle dealer's license issued pursuant to R. S. 39:10-19
23 and has an established place of business;

24 e. "Motor vehicle franchisor" means a natural person, corpora-
25 tion, partnership or entity engaged in the business of manufac-
26 turing, assembling or distributing new motor vehicles, or importing
27 into the United States new motor vehicles manufactured or as-
28 sembled in a foreign country who will under normal business con-
29 ditions during the year, manufacture, assemble, distribute or im-
30 port at least 10 new motor vehicles;

31 f. "Place of business" means a fixed geographical location at
32 which the motor vehicle franchisor's motor vehicles are offered
33 for sale and sold, but shall not include an office, a warehouse, a
34 place of storage, a residence or a vehicle.

1 2. It shall be a violation of this act for any motor vehicle fran-
2 chisor, directly or indirectly, through any officer, agent, employee,
3 broker or any shareholder of the franchisor, except a shareholder
4 of 1% or less of the outstanding shares of any class of securities
5 of a franchisor which is a publicly traded corporation, or other
6 person, to offer to sell or sell motor vehicles, to a consumer, **other*
7 *than an employee of the franchisor,** except through a motor
8 vehicle franchisee.

1 3. It shall be a violation of this act for a motor vehicle fran-
2 chisor, directly or indirectly, through any officer, agent, employee,
3 broker or any shareholder of the franchisor, except a shareholder
4 of 1% or less of the outstanding shares of any class of securities
5 of a franchisor which is a publicly traded corporation, or other
6 person, to own or operate a place of business as a motor vehicle
7 franchisee, except that, this section shall not prohibit the owner-
8 ship or operation of a place of business by a motor vehicle fran-
9 chisor for a period, not to exceed 12 consecutive months, during
10 the transition from one motor vehicle franchisee to another; or
11 the investment in a motor vehicle franchisee by a motor vehicle
12 franchisor if the investment is for the sole purpose of supplement-
13 ing the private capital investment funds of a partner or share-
14 holder in that motor vehicle franchisee and that partner or share-
15 holder is not otherwise employed by or associated with the motor
16 vehicle franchisor and would not otherwise have the requisite
17 capital investment funds to invest in the motor vehicle franchisee,
18 and has the right to purchase the entire equity interest of the
19 motor vehicle franchisor in the motor vehicle franchisee within a
20 reasonable period of time not to exceed 10 years.

1 4. A motor vehicle franchisee may bring an action against the
2 motor vehicle franchisor which has granted its franchise, or any

3 other person, in the Superior Court to enjoin any violation of
4 this act and to recover, where appropriate, any damages sustained
5 by the franchisee as a result of a violation of this act. The fran-
6 chisee, if successful, shall also be entitled to costs of the action,
7 including, but not limited to, reasonable attorney fees.

1 5. This act shall take effect immediately.

ASSEMBLY, No. 2117

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7 related characteristics and in which there is a community of in-
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10 c. "Motor vehicle" or "new motor vehicle" means only a newly
11 manufactured motor vehicle, except a nonconventional type of
12 motor vehicle, and includes all vehicles propelled otherwise than
13 by muscular power, and motorcycles, trailers and tractors, ex-
14 cepting those vehicles as run only upon rails or tracks and motor-
15 ized bicycles; a "nonconventional type of motor vehicle" means
16 every vehicle not designed or used primarily for the transporta-
17 tion of persons or property and only incidentally operated or moved
18 over a highway;

19 d. "Motor vehicle franchisee" means a natural person, corpora-
20 tion, partnership or entity to whom a franchise is granted by a
21 motor vehicle franchisor and who or which holds a current valid

22 motor vehicle dealer's license issued pursuant to R. S. 39:10-19
23 and has an established place of business;

24 e. "Motor vehicle franchisor" means a natural person, corpora-
25 tion, partnership or entity engaged in the business of manufac-
26 turing, assembling or distributing new motor vehicles, or importing
27 into the United States new motor vehicles manufactured or as-
28 sembled in a foreign country who will under normal business con-
29 ditions during the year, manufacture, assemble, distribute or im-
30 port at least 10 new motor vehicles;

31 f. "Place of business" means a fixed geographical location at
32 which the motor vehicle franchisor's motor vehicles are offered
33 for sale and sold, but shall not include an office, a warehouse, a
34 place of storage, a residence or a vehicle.

1 2. It shall be a violation of this act for any motor vehicle fran-
2 chisor, directly or indirectly, through any officer, agent, employee,
3 broker or any shareholder of the franchisor, except a shareholder
4 of 1% or less of the outstanding shares of any class of securities
5 of a franchisor which is a publicly traded corporation, or other
6 person, to offer to sell or sell motor vehicles, to a consumer, except
7 through a motor vehicle franchisee.

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2 chisor, directly or indirectly, through any officer, agent, employee,
3 broker or any shareholder of the franchisor, except a shareholder
4 of 1% or less of the outstanding shares of any class of securities
5 of a franchisor which is a publicly traded corporation, or other
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8 ship or operation of a place of business by a motor vehicle fran-
9 chisor for a period, not to exceed 12 consecutive months, during
10 the transition from one motor vehicle franchisee to another; or
11 the investment in a motor vehicle franchisee by a motor vehicle
12 franchisor if the investment is for the sole purpose of supplement-
13 ing the private capital investment funds of a partner or share-
14 holder in that motor vehicle franchisee and that partner or share-
15 holder is not otherwise employed by or associated with the motor
16 vehicle franchisor and would not otherwise have the requisite
17 capital investment funds to invest in the motor vehicle franchisee,
18 and has the right to purchase the entire equity interest of the
19 motor vehicle franchisor in the motor vehicle franchisee within a
20 reasonable period of time not to exceed 10 years.

1 4. A motor vehicle franchisee may bring an action against the
2 motor vehicle franchisor which has granted its franchise, or any
3 other person, in the Superior Court to enjoin any violation of

4 this act and to recover, where appropriate, any damages sustained
5 by the franchisee as a result of a violation of this act. The fran-
6 chisee, if successful, shall also be entitled to costs of the action,
7 including, but not limited to, reasonable attorney fees.

1 5. This act shall take effect immediately.

SPONSORS' STATEMENT

This bill advances the public interest in the area of franchise agreements involving the sale of motor vehicles and grants needed protection to the motor vehicle franchisees.

By prohibiting franchisors (manufacturers, distributors and importers) from engaging in the business of new car sales, the bill insures that consumers will have convenient maintenance and repair facilities available for their needs after the initial purchase. It protects both the franchisee and the consumer by preventing the replacement of competing, independently owned franchises with noncompetitive manufacturer-controlled dealerships.

A2117(1985)

ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2117

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 1985

This bill prohibits any sale or offer of sale of a new motor vehicle to a consumer by a motor vehicle franchisor, including any manufacturer, distributor or importer of motor vehicles, either directly or indirectly through an officer, agent, employee, broker or significant shareholder of the franchisor, or any other person except for a motor vehicle franchisee.

The bill prohibits any motor vehicle franchisors from directly or indirectly owning or operating a place of business as a motor vehicle franchisee except as follows:

1. A franchisor may own or operate a place of business for a period not longer than 12 months during a transition from one franchisee to another; or

2. A franchisor may invest in a franchisee who is not employed by or associated with the franchisor, who would not otherwise be able to make the investment and who is given the right to buy out the franchisor's equity interest within a 10 year period.

A franchisee is permitted to bring action in Superior Court to enjoin any violation and to recover damages and the cost of the action if successful.

This bill is designed to prohibit the manufacturers, distributors and importers of motor vehicles from engaging in the business of new car sales and therefore to prevent the replacement of the State's independently-owned franchises with manufacturer-controlled dealerships.

The committee amendments extend the bill's definition of "motor vehicles" to include buses and permit motor vehicle franchisors to sell motor vehicles to their employees.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2117

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STATE OF NEW JERSEY

DATED: SEPTEMBER 5, 1985

This bill provides that motor vehicle franchisors, which include manufacturers, distributors or importers of motor vehicles, must distribute their new motor vehicles through franchised dealers and that they are prohibited from selling or offering to sell, directly or indirectly, new motor vehicles to consumers through any officer, agent, employee, broker or significant stockholder of the franchisor or other person. However, a motor vehicle franchisor may sell motor vehicles directly to its employees.

The bill also prohibits a motor vehicle franchisor from directly or indirectly owning or operating a place of business as a motor vehicle franchisee through an officer, agent, employee, broker or any significant stockholder of the franchisor or other person, except as follows:

1. A franchisor may own or operate a place of business for a period not longer than 12 months during a transition from one franchisee to another; or

2. A franchisor may invest in a franchisee who is not employed by or associated with the franchisor, who does not have sufficient capital and would not otherwise be able to make the investment and who is given the right to buy out the franchisor's equity interest within a reasonable time, not exceeding a 10-year period.

A franchisee is permitted to bring action in Superior Court to enjoin any violation and to recover damages and the cost of the action, including attorney's fees, if successful.

In general, this bill concerns the distribution of new automobiles, vans, trucks, tractors and trailers, motorcycles and recreational vehicles. It specifically excludes motorized bicycles, school buses, other buses and other motor vehicles not usually driven on the highways.

Bill Signings - S-2531, S-2871, A-2117, A-2748, S-2697, S-2716 A-3463,
A-3488 S-2164 and A-3316

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November 13, 1985

The Governor also signed the following bills:

A-2748, sponsored by Assemblyman Paul Cuprowski, D-Hudson, which permits a redevelopment agency to sell bonds at a public or private sale to any buyer at par value or less, provided the agency receives prior approval from the Local Finance Board.

S-2697, sponsored by State Senator Garrett W. Hagedorn, R-Bergen, which exempts from coverage under the Rooming and Boarding House Act of 1976, single family residences which are made available for occupancy by not more than six guests where the primary purpose is to provide charitable assistance and where the owner derives no income from the guests.

Despite exemption from the provisions of the Rooming and Boarding House Act, the bill still requires the installation of fire detectors as that need is determined by the Department of Community Affairs.

A-2117, sponsored by Assemblyman John Paul Doyle, D-Ocean, which prohibits an automobile manufacturer, distributor or importer from engaging in the business of new car retail sales.

S-2531, sponsored by State Senator Daniel J. Dalton, D-Camden, which exempts from the gross receipts and franchise taxes natural gas which is sold to an electrical co-generation facility.

A-2716, sponsored by Assemblyman Thomas A. Pankok, D-Salem, which permits a cable television company to voluntarily offer discounts on their rates to persons 62 years or older who meet the income and residency requirements of the New Jersey Pharmaceutical Assistance to the Aged and Disabled program.

The bill specifies that the discount is voluntary on the part of the company, and expressly prohibits a municipality from requiring such a discount as part of any franchising agreement.