

56:10-13 to 56:10-15

LEGISLATIVE HISTORY CHECKLIST

(Franchise Practice Act--MV franchises and manufacturers--liability of each for warra repairs)

NJSA 56:10-13 to 56:10-15

Laws of 1977 Chapter 84

Bill No. A1956

Sponsor(s) McManimon

Date Introduced May 24, 1976

Committee: Assembly Commerce, Banking & Insurance

Senate Law, Public Safety and Defense

Amended during passage Yes No Amendments during passage denoted by asterisks

Date of passage: Assembly June 28, 1976

Senate December 13, 1976

Date of approval May 9, 1977

Following statements are attached if available:

Sponsor statement Yes No
Committee Statement: Assembly Yes No
Senate Yes No
Fiscal Note Yes No
Veto message Yes No
Message on signing Yes No

Following were printed:

Reports Yes No
Hearings Yes No

T0/4/76

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1956

STATE OF NEW JERSEY

INTRODUCED MAY 24, 1976

By Assemblymen McMANIMON and LITTELL

Referred to Committee on Commerce, Banking and Insurance

A SUPPLEMENT to the "Franchise Practices Act," approved
December 21, 1971 (P. L. 1971, c. 356, C. 56:10-1 et seq.).

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

1 *1. For the purposes of this act: "motor vehicle franchisor"
2 means a franchisor engaged in the business of manufacturing or
3 assembling motor vehicles, who will, under normal business con-
4 ditions during the year, manufacture or assemble at least 10 new
5 motor vehicles, and his motor vehicle distributors; "motor vehicle
6 franchisee" means every franchisee actively engaged in the busi-
7 ness of buying, selling or exchanging motor vehicles or motorcycles
8 and who has an established place of business.*

1 ***[1.]*** *2.* All *motor vehicle* franchisors shall indemnify and
2 hold harmless their *motor vehicle* franchisees from any and all
3 claims, losses, damages, and expenses, including attorneys' fees,
4 resulting from or related to *complaints, claims or suits against
5 the motor vehicle franchisee by third parties concerning* defects or
6 alleged defects in any of the merchandise or service systems, pro-
7 cedures or methods of the *motor vehicle* franchisors which are
8 sold or performed by the *motor vehicle* franchisee. With regards
9 to services rendered by a *motor vehicle* franchisee, the *motor
10 vehicle* franchisor shall not be liable to the *motor vehicle* fran-
11 chisee by virtue of this section for any claims, losses, expenses or
12 damages arising as a result of negligence or willful malfeasance
13 by the *motor vehicle* franchisee, but the *motor vehicle* fran-
14 chisor shall be liable for damages arising from or in connection
15 with any services rendered by a *motor vehicle* franchisee in
16 accordance with any service system, procedure or method suggested
17 or required by the *motor vehicle* franchisor. The foregoing

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

18 provisions for indemnification shall specifically include, but without
19 limiting the generality of the foregoing, any defects or damages to
20 merchandise occurring in transit from the **motor vehicle** fran-
21 chisor to the **motor vehicle** franchisee **in situations in which*
22 *the motor vehicle franchisor designates the carrier or method of*
23 *transportation**.

1 ***[2.]*** *3.* If any **motor vehicle** franchise shall require or
2 permit **motor vehicle** franchisees to perform services or provide
3 parts in satisfaction of a warranty issued by the **motor vehicle**
3A franchisor:

4 a. The **motor vehicle** franchisor shall reimburse ***[the]*** **each*
5 *motor vehicle** franchisee for such services as are rendered and
6 for such parts as are supplied, in an amount equal to the prevailing
7 retail price **charged by such motor vehicle franchisee** for such
8 services and parts in circumstances where such services are
9 rendered or such parts supplied other than pursuant to warranty*;
10 *provided that such motor vehicle franchisee's prevailing retail*
11 *price is not unreasonable when compared with that of the holders*
12 *of motor vehicle franchises from the same motor vehicle franchisor*
13 *for identical merchandise or services in the geographic area in*
14 *which the motor vehicle franchisee is engaged in business**.

15 b. The **motor vehicle** franchisor shall not by agreement, by
16 restrictions upon reimbursement, or otherwise, restrict the nature
17 and extent of services to be rendered or parts to be provided so
18 that such restriction prevents the **motor vehicle** franchisee from
19 satisfying the warranty by rendering services in a good and work-
20 manlike manner and providing parts which are required in ac-
21 cordance with generally accepted standards. Any such restriction
22 shall constitute a prohibited practice hereunder.

1 ***[3.]*** *4.* This act shall take effect immediately.

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STATE OF NEW JERSEY

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

1 1. All franchisors shall indemnify and hold harmless their fran-
2 chisees from any and all claims, losses, damages, and expenses,
3 including attorneys' fees, resulting from or related to defects or
4 alleged defects in any of the merchandise or service systems, pro-
5 cedures or methods of the franchisors which are sold or performed
6 by the franchisee. With regards to services rendered by a fran-
7 chisee, the franchisor shall not be liable to the franchisee by virtue
8 of this section for any claims, losses, expenses or damages arising
9 as a result of negligence or willful malfeasance by the franchisee,
10 but the franchisor shall be liable for damages arising from or in
11 connection with any services rendered by a franchisee in accordance
12 with any service system, procedure or method suggested or re-
13 quired by the franchisor. The foregoing provisions for indemnifica-
14 tion shall specifically include, but without limiting the generality
15 of the foregoing, any defects or damages to merchandise occurring
16 in transit from the franchisor to the franchisee.

1 2. If any franchise shall require or permit franchisees to perform
2 services or provide parts in satisfaction of a warranty issued by
3 the franchisor:

4 a. The franchisor shall reimburse the franchisee for such services
5 as are rendered and for such parts as are supplied, in an amount
6 equal to the prevailing retail price for such services and parts in
7 circumstances where such services are rendered or such parts
8 supplied other than pursuant to warranty.

9 b. The franchisor shall not by agreement, by restrictions upon
10 reimbursement, or otherwise, restrict the nature and extent of
11 services to be rendered or parts to be provided so that such restric-

tion prevents the franchisee from satisfying the warranty by rendering services in a good and workmanlike manner and providing parts which are required in accordance with generally accepted standards. Any such restriction shall constitute a prohibited practice hereunder.

3. This act shall take effect immediately.

STATEMENT

Too often, the purchaser of a product, sold under a franchisor-manufacturer's warranty and serviced by a franchised retailer, finds himself caught in controversy between the responsibilities of the franchisor and franchisee. There have been numerous instances where the manufacturer who issues the warranty on an automobile, a major appliance or similar product and must reimburse the franchisee for service, orders the franchisee not to perform the required work or to limit the repairs.

This bill, which supplements the landmark New Jersey Franchise Practices Act enacted in 1971, is designed to remove the franchisor's present opportunity to isolate himself from the warranty he issues. At present, the consumer has direct access only to the franchisee-retailer in seeking satisfaction of the warranty. At the same time, the franchisor-manufacturer can refuse the required service without having to deal directly with the customer or, particularly important, to bear the cost of litigation or related action that may follow. Under this bill, the manufacturer-franchisor would be required to bear such expenses when they are related to his inadequate warranty service to the consumer. The bill makes it clear, however, that if the expenses result from negligence or willful malfeasance by the franchisee-retailer, there is no cost to the franchisor.

The bill furthermore assures the consumer of first-class warranty service in that the manufacturer cannot require cut-rate services and parts under the warranty—the consumer must receive the same service and parts under the warranty as any “cash customer.”

Finally, the bill assures that warranty work will be done under generally accepted standards, a criterion which historically has been subject to court enforcement.

This bill represents another strong step forward in safeguarding consumers in some of their most important and costly purchases. At the same time it offers protection to the competent retailer against arbitrary actions by manufacturers who too often hold a life-and-death power over his business and his ability to serve his customers.

[SENATE REPRINT]

ASSEMBLY, No. 1956

with Senate committee amendments adopted October 7, 1976

STATE OF NEW JERSEY

INTRODUCED MAY 24, 1976

By Assemblymen McMANIMON and LITTELL

Referred to Committee on Commerce, Banking and Insurance

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3 *assembling motor vehicles, who will, under normal business con-*
4 *ditions during the year, manufacture or assemble at least 10 new*
5 *motor vehicles, and his motor vehicle distributors; "motor vehicle*
6 *franchisee" means every franchisee actively engaged in the busi-*
7 *ness of buying, selling or exchanging motor vehicles or motorcycles*
8 *and who has an established place of business.**

1 ***[1.]*** *2.* All **motor vehicle** franchisors shall indemnify and
2 hold harmless their **motor vehicle** franchisees from any and all
3 claims, losses, damages, and expenses, including attorneys' fees,
4 resulting from or related to **complaints, claims or suits against*
5 *the motor vehicle franchisee by third parties concerning** defects or
6 alleged defects in any of the merchandise or service systems, pro-
7 cedures or methods of the **motor vehicle** franchisors which are
8 sold or performed by the **motor vehicle** franchisee. With regards
9 to services rendered by a **motor vehicle** franchisee, the **motor*
10 *vehicle** franchisor shall not be liable to the **motor vehicle** fran-
11 chisee by virtue of this section for any claims, losses, expenses or
12 damages arising as a result of negligence or willful malfeasance
13 by the **motor vehicle** franchisee, but the **motor vehicle** fran-
14 chisor shall be liable for damages arising from or in connection
15 with any services rendered by a **motor vehicle** franchisee in
16 accordance with any service system, procedure or method suggested
17 or required by the **motor vehicle** franchisor. The foregoing

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7 retail price **charged by such motor vehicle franchisee** for such
8 services and parts in circumstances where such services are
9 rendered or such parts supplied other than pursuant to warranty*;
10 *provided that such motor vehicle franchisee's prevailing retail*
11 *price is not unreasonable when compared with that of the holders*
12 *of motor vehicle franchises from the same motor vehicle franchisor*
13 *for identical merchandise or services in the geographic area in*
14 *which the motor vehicle franchisee is engaged in business**.

15 b. The **motor vehicle** franchisor shall not by agreement, by
16 restrictions upon reimbursement, or otherwise, restrict the nature
17 and extent of services to be rendered or parts to be provided so
18 that such restriction prevents the **motor vehicle** franchisee from
19 satisfying the warranty by rendering services in a good and work-
20 manlike manner and providing parts which are required in ac-
21 cordance with generally accepted standards. Any such restriction
22 shall constitute a prohibited practice hereunder.

1 ***[3.]*** **4.** This act shall take effect immediately.

SENATE COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 1956

STATE OF NEW JERSEY

ADOPTED OCTOBER 7, 1976

Amend page 1, Enactment clause, after line 2, insert new section as follows:

“1. For the purposes of this act: “motor vehicle franchisor” means a franchisor engaged in the business of manufacturing or assembling motor vehicles, who will, under normal business conditions during the year, manufacture or assemble at least 10 new motor vehicles, and his motor vehicle distributors; “motor vehicle franchisee” means every franchisee actively engaged in the business of buying, selling or exchanging motor vehicles or motorcycles and who has an established place of business.”.

Amend page 1, section 1, line 1, omit “1.”, insert “2.”; after “All”, insert “motor vehicle”; after “their”, insert “motor vehicle”.

Amend page 1, section 1, line 3, after “related to”, insert “complaints, claims or suits against the motor vehicle franchisee by third parties concerning”.

Amend page 1, section 1, line 5, after “the”, insert “motor vehicle”.

Amend page 1, section 1, line 6, after “the”, insert “motor vehicle”; after “by a”, insert “motor vehicle”.

Amend page 1, section 1, line 7, after “, the”, insert “motor vehicle”; after “to the”, insert “motor vehicle”.

Amend page 1, section 1, line 9, after “by the”, insert “motor vehicle”.

Amend page 1, section 1, line 10, after “but the”, insert “motor vehicle”.

Amend page 1, section 1, line 11, after “by a”, insert “motor vehicle”.

Amend page 1, section 1, line 13, after “by the”, insert “motor vehicle”.

Amend page 1, section 1, line 16, after “from the”, insert “motor vehicle”; after “to the”, insert “motor vehicle”; after “franchisee”, insert “in situations in which the motor vehicle franchisor designates the carrier or method of transportation”.

Amend page 1, section 2, line 1, omit “2.”, insert “3.”; after “If any”, insert “motor vehicle”; after “permit”, insert “motor vehicle”.

Amend page 1, section 2, line 3, after “the”, insert “motor vehicle”.

Amend page 1, section 2, line 4, after "The", insert "motor vehicle"; after "reimburse", omit "the", insert "each motor vehicle".

Amend page 1, section 2, line 6, after "price", insert "charged by such motor vehicle franchisee".

Amend page 1, section 2, line 8, after "warranty", insert "; provided that such motor vehicle franchisee's prevailing retail price is not unreasonable when compared with that of the holders of motor vehicle franchises from the same motor vehicle franchisor for identical merchandise or services in the geographic area in which the motor vehicle franchisee is engaged in business".

Amend page 1, section 2, line 9, after "The", insert "motor vehicle".

Amend page 2, section 2, line 12, after "prevents the", insert "motor vehicle".

Amend page 2, section 3, line 1, omit "3.", insert "4.".

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

MAY 9, 1977

ANNE BURNS

Governor Brendan Byrne today signed A-1956, sponsored by Assemblyman Francis J. McManimon, which will improve warranty service provided by motor vehicle dealers and manufacturers.

The bill will equalize the rates charged automobile manufacturers for warranty parts and service with those charged to consumers for non-warranty service and parts.

When a motor vehicle is under warranty, the vehicle's manufacturer reimburses the dealer at a fixed rate for any service or repairs done.

This bill requires manufacturers to reimburse dealers for warranty work at the same rate the dealer receives for non-warranty work.

The bill is intended to help ensure that the quality of service provided to warranty customers is of the same caliber provided for cash customers.

The bill also requires manufacturers to indemnify dealers for expenses, including attorneys' fees, for defects in the merchandise or service systems of the manufacturer, unless it can be proven that the dealer's negligence caused the defect.

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