

Superseded 5/12/2015

13-14-302 Issuance of additional franchises -- Relocation of existing franchisees.

- (1) Except as provided in Subsection (6), a franchisor shall provide the notice and documentation required under Subsection (2) if the franchisor seeks to:
 - (a) enter into a franchise agreement establishing a motor vehicle dealership within a relevant market area where the same line-make is represented by another franchisee; or
 - (b) relocate an existing motor vehicle franchisee.
- (2)
 - (a) If a franchisor seeks to take an action listed Subsection (1), prior to taking the action, the franchisor shall, in writing, notify the advisory board and each franchisee in that line-make in the relevant market area.
 - (b) The notice required by Subsection (2)(a) shall:
 - (i) specify the intended action described under Subsection (1);
 - (ii) specify the good cause on which it intends to rely for the action; and
 - (iii) be delivered by registered or certified mail or by any form of reliable delivery through which receipt is verifiable.
- (3)
 - (a) Except as provided in Subsection (3)(c), the franchisor shall provide to the advisory board and each franchisee in that line-make in the relevant market area the following documents relating to the notice described under Subsection (2):
 - (i)
 - (A) any aggregate economic data and all existing reports, analyses, or opinions based on the aggregate economic data that were relied on by the franchisor in reaching the decision to proceed with the action described in the notice; and
 - (B) the aggregate economic data under Subsection (3)(a)(i)(A) includes:
 - (I) motor vehicle registration data;
 - (II) market penetration data; and
 - (III) demographic data;
 - (ii) written documentation that the franchisor has in its possession that it intends to rely on in establishing good cause under Section 13-14-306 relating to the notice;
 - (iii) a statement that describes in reasonable detail how the establishment of a new franchisee or the relocation of an existing franchisee will affect the amount of business transacted by other franchisees of the same line-make in the relevant market area, as compared to business available to the franchisees; and
 - (iv) a statement that describes in reasonable detail how the establishment of a new franchisee or the relocation of an existing franchisee will be beneficial or injurious to the public welfare or public interest.
 - (b) The franchisor shall provide the documents described under Subsection (3)(a) with the notice required under Subsection (2).
 - (c) The franchisor is not required to disclose any documents under Subsection (3)(a) if:
 - (i) the documents would be privileged under the Utah Rules of Evidence;
 - (ii) the documents contain confidential proprietary information;
 - (iii) the documents are subject to federal or state privacy laws;
 - (iv) the documents are correspondence between the franchisor and existing franchisees in that line-make in the relevant market area; or
 - (v) the franchisor reasonably believes that disclosure of the documents would violate:
 - (A) the privacy of another franchisee; or
 - (B) Section 13-14-201.

- (4)
 - (a) Within 45 days of receiving notice required by Subsection (2), any franchisee that is required to receive notice under Subsection (2) may protest to the advisory board the establishment or relocation of the dealership.
 - (b) When a protest is filed, the department shall inform the franchisor that:
 - (i) a timely protest has been filed;
 - (ii) a hearing is required;
 - (iii) the franchisor may not establish or relocate the proposed dealership until the advisory board has held a hearing; and
 - (iv) the franchisor may not establish or relocate a proposed dealership if the executive director determines that there is not good cause for permitting the establishment or relocation of the dealership.
- (5) If multiple protests are filed under Subsection (4), hearings may be consolidated to expedite the disposition of the issue.
- (6) Subsections (1) through (5) do not apply to a relocation of an existing or successor dealer to a location that is:
 - (a) within the same county and less than two aeronautical miles from the existing location of the existing or successor franchisee's dealership; or
 - (b) further away from a dealership of a franchisee of the same line-make.
- (7) For purposes of this section:
 - (a) relocation of an existing franchisee's dealership in excess of two aeronautical miles from its existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise;
 - (b) the reopening in a relevant market area of a dealership that has not been in operation for one year or more is considered the establishment of an additional motor vehicle dealership; and
 - (c)
 - (i) except as provided in Subsection (7)(c)(ii), the establishment of a temporary additional place of business by a recreational vehicle franchisee is considered the establishment of an additional motor vehicle dealership; and
 - (ii) the establishment of a temporary additional place of business by a recreational vehicle franchisee is not considered the establishment of an additional motor vehicle dealership if the recreational vehicle franchisee is participating in a trade show where three or more recreational vehicle dealers are participating.