

Superseded 5/12/2015

13-14-304 Hearing regarding termination, relocation, or establishment of franchises.

- (1)
 - (a) Within 10 days of receiving an application from a franchisee under Subsection 13-14-301(3) challenging its franchisor's right to terminate or not continue a franchise, or an application under Section 13-14-302 challenging the establishment or relocation of a franchise, the executive director shall:
 - (i) enter an order designating the time and place for the hearing; and
 - (ii) send a copy of the order by certified or registered mail, with return receipt requested, or by any form of reliable delivery through which receipt is verifiable to:
 - (A) the applicant;
 - (B) the franchisor; and
 - (C) if the application involves the establishment of a new franchise or the relocation of an existing dealership, to all franchisees in the relevant market area engaged in the business of offering to sell or lease the same line-make.
 - (b) A copy of an order mailed under Subsection (1)(a) shall be addressed to the franchisee at the place where the franchisee's business is conducted.
- (2) Any person who can establish an interest in the application may intervene as a party to the hearing, whether or not that person receives notice.
- (3) Any person may appear and testify on the question of the public interest in the termination or noncontinuation of a franchise or in the establishment of an additional franchise.
- (4)
 - (a)
 - (i) Any hearing ordered under Subsection (1) shall be conducted no later than 120 days after the application for hearing is filed.
 - (ii) A final decision on the challenge shall be made by the executive director no later than 30 days after the hearing.
 - (b) Failure to comply with the time requirements of Subsection (4)(a) is considered a determination that the franchisor acted with good cause or, in the case of a protest of a proposed establishment or relocation of a dealer, that good cause exists for permitting the proposed additional or relocated new motor vehicle dealer, unless:
 - (i) the delay is caused by acts of the franchisor or the additional or relocating franchisee; or
 - (ii) the delay is waived by the parties.
- (5) The franchisor has the burden of proof to establish by a preponderance of the evidence that under the provisions of this chapter it should be granted permission to:
 - (a) terminate or not continue the franchise;
 - (b) enter into a franchise agreement establishing an additional franchise; or
 - (c) relocate the dealership of an existing franchisee.