

1 **NEW AUTOMOBILE FRANCHISE ACT**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Greg J. Curtis**

5

LONG TITLE

6 **General Description:**

7 This bill modifies the New Automobile Franchise Act to amend provisions relating to
8 the issuance or relocation of a franchise.

9 **Highlighted Provisions:**

10 This bill:

11 ▶ requires a franchisor to provide certain documents with a notice that the franchisor
12 intends to enter into a franchise or relocate a franchise within the relevant market
13 area to the Utah Motor Vehicle Franchise Advisory Board and existing franchisees
14 within the relevant market area;

15 ▶ provides that if a document required to be provided with the notice is not provided,
16 it may not be used in a hearing as evidence to establish good cause; and

17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **13-14-302**, as last amended by Chapter 86, Laws of Utah 2000

25

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section **13-14-302** is amended to read:

29 **13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.**

30 (1) (a) Except as provided in Subsection (2), a franchisor shall ~~[comply with]~~ provide
31 the notice and documentation required under Subsection (1)(b) if the franchisor seeks to:

32 (i) enter into a franchise establishing a motor vehicle dealership within a relevant
33 market area where the same line-make is represented by another franchisee; or

34 (ii) relocate an existing motor vehicle dealership.

35 (b) (i) If a franchisor seeks to take an action listed Subsection (1)(a), prior to taking the
36 action, the franchisor shall, in writing, notify the board and each franchisee in that line-make in
37 the relevant market area ~~[that the franchisor intends to take an action described in Subsection~~
38 ~~(1)(a)]~~.

39 (ii) The notice required by Subsection (1)(b)(i) shall:

40 (A) specify the intended action described under Subsection (1)(a);

41 ~~[(A)]~~ (B) specify the good cause on which it intends to rely for the action; and

42 ~~[(B)]~~ (C) be delivered by registered or certified mail or by any form of reliable
43 electronic communication through which receipt is verifiable.

44 (iii) (A) Except as provided in Subsection (1)(b)(iii)(C), the franchisor shall provide to
45 the board and each franchisee in that line-make in the relevant market area the following
46 documents relating to the notice described under Subsection (1)(b)(i):

47 (I) the economic and demographic report with references to the data relied on by the
48 franchisor in reaching the decision that good cause exists for the action described in the notice;

49 (II) written communications within the past three years between the franchisor and
50 franchisees located in the relevant market area where the subject matter of the notice was
51 discussed or presented;

52 (III) written documentation that the franchisor has in its possession that it intends to
53 rely on in establishing good cause under Section 13-14-306;

54 (IV) a statement that describes in reasonable detail how the establishment of a new
55 franchisee or the relocation of an existing franchisee will affect the amount of business
56 transacted by other franchisees of the same line-make in the relevant market area, as compared
57 to business available to the franchisees;

58 (V) a statement that describes in reasonable detail how the establishment of a new

59 franchisee or the relocation of an existing franchisee will be beneficial or injurious to the
60 public welfare or public interest; and

61 (VI) written documentation in the possession of the franchisor that would not support a
62 finding of good cause for the action described in the notice.

63 (B) The franchisor shall provide the documents described under Subsection
64 (1)(b)(iii)(A) with the notice required under Subsection (1)(b)(i).

65 (C) The franchisor shall make available upon request by the board or a franchisee in
66 that line-make in the relevant market area the data relied on by the franchisor in preparing the
67 economic and demographic report under Subsection (1)(b)(iii)(A)(I).

68 (D) The franchisor is not required to disclose any documents under Subsection
69 (1)(b)(iii) if those documents would be privileged under the Utah Rules of Evidence.

70 (E) If the franchisor does not provide a document as required under Subsection
71 (1)(b)(iii), that document may not be used as evidence to establish good cause under Section
72 13-14-306.

73 (c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee
74 that is required to receive notice under Subsection (1)(b) may protest to the board the
75 establishing or relocating of the dealership. When a protest is filed, the board shall inform the
76 franchisor that:

77 (i) a timely protest has been filed;

78 (ii) a hearing is required;

79 (iii) the franchisor may not establish or relocate the proposed dealership until the board
80 has held a hearing; and

81 (iv) the franchisor may not establish or relocate a proposed dealership if the board
82 determines that there is not good cause for permitting the establishment or relocation of the
83 dealership.

84 (d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated
85 to expedite the disposition of the issue.

86 (2) Subsection (1) does not apply to a relocation that is:

87 (a) less than one aeronautical mile from the existing location of the franchisee's
88 dealership; and

89 (b) within the same county.

90 (3) For purposes of this section:

91 (a) relocation of an existing franchisee's dealership in excess of one mile from its
92 existing location is considered the establishment of an additional franchise in the line-make of
93 the relocating franchise; and

94 (b) the reopening in a relevant market area of a dealership that has not been in
95 operation for one year or more is considered the establishment of an additional motor vehicle
96 dealership.

Legislative Review Note
as of 2-3-04 11:20 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0149

New Automobile Franchise Act

09-Feb-04

12:52 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst