

**Effective 5/12/2015**

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

- (1)
  - (a) Within 10 days after the day on which the advisory board receives an application from a franchisee under Subsection 13-14-301(3) challenging a 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, each affected municipality and to each franchisee 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) An affected municipality and any other 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, including an affected municipality, 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 90 days after the day on which the application for hearing is filed.
    - (ii) A final decision on the challenge shall be made by the executive director no later than 20 days after the day on which the hearing ends.
  - (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.
- (6) Any party to the hearing may appeal the executive director's final decision in accordance with Title 63G, Chapter 4, Administrative Procedures Act, including the franchisor, an existing franchisee of the same line-make whose relevant market area includes the site of the proposed dealership, or an affected municipality.

Amended by Chapter 268, 2015 General Session