

POWERSPORT VEHICLE FRANCHISE ACT

REVISIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James R. Gowans

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies a powersport vehicle franchisor's obligations upon the termination of a franchise by a franchisee.

Highlighted Provisions:

This bill:

- requires a powersport franchisor to pay certain amounts to a franchisee upon termination of the franchise by the franchisee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-35-307, as enacted by Laws of Utah 2002, Chapter 234

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

Section 1. Section **13-35-307** is amended to read:

13-35-307. Franchisor's repurchase obligations upon termination or



28 **noncontinuation of franchise.**

29 (1) ~~(a) [Upon the termination or noncontinuation of a franchise]~~ Except as provided in
30 Subsection (1)(b), if a franchise is terminated or not continued by the franchisor or franchisee,
31 the franchisor shall pay the franchisee:

32 ~~[(a)]~~ (i) the franchisee's cost of new, undamaged, and unsold powersport vehicles in the
33 franchisee's inventory acquired from the franchisor or another franchisee of the same line-make
34 representing both the current model year at the time of termination or noncontinuation and the
35 immediately prior model year vehicles~~[-];~~;

36 ~~[(i) plus]~~ (ii) any charges made by the franchisor~~[-];~~ for distribution, delivery, or taxes;

37 ~~[(ii) plus]~~ (iii) the franchisee's cost of any accessories added on ~~[the]~~ a vehicle ~~[shall be~~
38 ~~repurchased]; [and]~~

39 ~~[(iii) less all allowances paid or credited to the franchisee by the franchisor;]~~

40 ~~[(b)]~~ (iv) the cost of ~~[all]~~ new, undamaged, and unsold supplies, parts, and accessories
41 as set forth in the franchisor's catalog at the time of termination or noncontinuation ~~[for the~~
42 ~~supplies, parts, and accessories;]~~ less all allowances paid or credited to the franchisee by the
43 franchisor;

44 ~~[(c)]~~ (v) except as provided in Subsection (1)(c), the fair market value, but not less than
45 the franchisee's depreciated acquisition cost₂ of each undamaged sign owned by the franchisee
46 that bears a common name, trade name, or trademark of the franchisor if acquisition of the sign
47 was recommended or required by the franchisor~~[-. If a franchisee has a sign with multiple~~
48 ~~manufacturers listed, the franchisor is only responsible for its pro rata portion of the sign];~~

49 ~~[(d)]~~ (vi) the fair market value, but not less than the franchisee's depreciated acquisition
50 cost₂ of all special tools, equipment, and furnishings acquired from the franchisor or sources
51 approved by the franchisor that were recommended or required by the franchisor and are in
52 good and usable condition; and

53 ~~[(e)]~~ (vii) the cost of transporting, handling, packing, and loading powersport vehicles,
54 supplies, parts, accessories, signs, special tools, equipment, and furnishings.

55 (b) The franchisor may deduct the sum of all allowances paid or credited to the
56 franchisee by the franchisor from the amount owed under Subsection (1)(a).

57 (c) If a franchisee has a sign with multiple manufacturers listed, the franchisor shall
58 pay only for its pro rata portion of the sign described in Subsection(1)(a)(v).

59 (2) The franchisor shall pay the franchisee the amounts specified in Subsection (1)
60 within 90 days after the tender of the property to the franchisor if the franchisee has:

61 (a) ~~has~~ clear title to the property; ~~and~~ or

62 (b) ~~is in a position to convey title to the franchisor~~ the manufacturer's statement of
63 origin.

64 (3) If repurchased inventory and equipment are subject to a security interest, the
65 franchisor may make payment jointly to the franchisee and to the holder of the security interest.

Legislative Review Note
as of 10-8-08 2:57 PM

Office of Legislative Research and General Counsel

H.B. 119 - Powersport Vehicle Franchise Act Revisions

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits local governments. Individuals and businesses may benefit from this change in statute.
