

1 **NEW MOTOR VEHICLE FRANCHISE**

2 **AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Daniel R. Liljenquist**

6 House Sponsor: Douglas C. Aagard

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies and enacts provisions under the New Automobile Franchise Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies definitions;
- 14 ▶ enacts a definition of "site-control agreement";
- 15 ▶ modifies provisions relating to prohibited actions by a new motor vehicle

16 franchisor;

- 17 ▶ prohibits a new motor vehicle franchisor from taking certain actions;
- 18 ▶ modifies the basis for denial of a franchisee's claim for warranty compensation;
- 19 ▶ enacts a provision relating to site-control agreements;
- 20 ▶ modifies a provision relating to the relocation of a franchisee;
- 21 ▶ modifies a provision relating to a franchisor's obligation to pay a franchisee upon

22 the termination or noncontinuation of a franchise; and

- 23 ▶ enacts a provision governing the termination, cancellation, or nonrenewal of a
- 24 recreational vehicle franchise.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **13-14-102**, as last amended by Laws of Utah 2009, Chapter 318

32 **13-14-201**, as last amended by Laws of Utah 2009, Chapter 318

33 **13-14-204**, as last amended by Laws of Utah 2009, Chapter 318

34 **13-14-302**, as last amended by Laws of Utah 2005, Chapter 249

35 **13-14-307**, as last amended by Laws of Utah 2009, Chapter 318

36 ENACTS:

37 **13-14-206**, Utah Code Annotated 1953

38 **13-14-307.5**, Utah Code Annotated 1953



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

41 Section 1. Section **13-14-102** is amended to read:

42 **13-14-102. Definitions.**

43 As used in this chapter:

44 (1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory
45 Board created in Section 13-14-103.

46 (2) "Affiliate" has the meaning set forth in Section 16-10a-102.

47 (3) "Aftermarket product" means any product or service not included in the
48 [~~manufacturer's~~] franchisor's suggested retail price of the new motor vehicle, as that price
49 appears on the label required by 15 U.S.C. Sec. 1232(f).

50 (4) "Dealership" means a site or location in this state:

51 (a) at which a franchisee conducts the business of a new motor vehicle dealer; and

52 (b) that is identified as a new motor vehicle dealer's principal place of business for
53 licensing purposes under Section 41-3-204.

54 (5) "Department" means the Department of Commerce.

55 (6) "Executive director" means the executive director of the Department of Commerce.

56 (7) (a) "Franchise" or "franchise agreement" means a written agreement, or in the
57 absence of a written agreement, then a course of dealing or a practice for a definite or

58 indefinite period, in which:

59 (i) a person grants to another person a license to use a trade name, trademark, service
60 mark, or related characteristic; and

61 (ii) a community of interest exists in the marketing of new motor vehicles, new motor
62 vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or
63 retail.

64 (b) "Franchise" or "franchise agreement" includes a sales and service agreement.

65 (8) "Franchisee" means a person with whom a franchisor has agreed or permitted, in
66 writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured,
67 produced, represented, or distributed by the franchisor.

68 (9) "Franchisor" means a person who has, in writing or in practice, agreed with or
69 permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured,
70 produced, assembled, represented, or distributed by the franchisor, and includes:

71 (a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;

72 (b) an intermediate distributor; and

73 (c) an agent, officer, or field or area representative of the franchisor.

74 (10) "Lead" means the referral by a franchisor to a franchisee of a potential customer
75 whose contact information was obtained from a franchisor's program, process, or system
76 designed to generate referrals for the purchase or lease of a new motor vehicle, or for service
77 work related to the franchisor's vehicles.

78 (11) "Line-make" means:

79 (a) for other than a recreational vehicle, the motor vehicles that are offered for sale,
80 lease, or distribution under a common name, trademark, service mark, or brand name of the
81 franchisor~~[-or manufacturer of the motor vehicle]~~; or

82 (b) for a recreational vehicle, a specific series of recreational vehicle product that:

83 (i) is identified by a common series trade name or trademark;

84 (ii) is targeted to a particular market segment, as determined by decor, features,
85 equipment, size, weight, and price range;

86 (iii) has a length and floor plan that distinguish the recreational vehicle from other
87 recreational vehicles with substantially the same decor, features, equipment, size, weight, and
88 price;

89 (iv) belongs to a single, distinct classification of recreational vehicle product type
90 having a substantial degree of commonality in the construction of the chassis, frame, and
91 body; and

92 (v) a franchise agreement authorizes a dealer to sell.

93 (12) "Mile" means 5,280 feet.

94 (13) "Motor home" means a self-propelled vehicle, primarily designed as a temporary
95 dwelling for travel, recreational, or vacation use.

96 (14) (a) "Motor vehicle" means:

97 (i) a travel trailer;

98 (ii) except as provided in Subsection (14)(b), a motor vehicle as defined in Section
99 41-3-102;

100 (iii) a semitrailer as defined in Section 41-1a-102;

101 (iv) a trailer as defined in Section 41-1a-102; and

102 (v) a recreational vehicle.

103 (b) "Motor vehicle" does not include:

104 (i) a motorcycle as defined in Section 41-1a-102;

105 (ii) an off-highway vehicle as defined in Section 41-3-102; and

106 (iii) a small trailer as defined in Section 41-3-102.

107 (15) "New motor vehicle" means a motor vehicle as defined in Subsection (14) that
108 has never been titled or registered and has been driven less than 7,500 miles, unless the motor
109 vehicle is a trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.

110 (16) "New motor vehicle dealer" is a person who is licensed under Subsection
111 41-3-202(1)(a) to sell new motor vehicles.

112 (17) "Notice" or "notify" includes both traditional written communications and all
113 reliable forms of electronic communication unless expressly prohibited by statute or rule.

114 (18) (a) "Recreational vehicle" means a vehicular unit other than a mobile home,
115 primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is
116 either self-propelled or pulled by another vehicle.

117 (b) "Recreational vehicle" includes:

118 (i) a travel trailer;

119 (ii) a camping trailer;

120 (iii) a motor home;

121 (iv) a fifth wheel trailer; and

122 (v) a van.

123 (19) (a) "Relevant market area," except with respect to recreational vehicles, means:

124 (i) the county in which a dealership is to be established or relocated; and

125 (ii) the area within a [~~ten-mile~~] 15-mile radius from the site of the new or relocated
126 dealership.

127 (b) "Relevant market area," with respect to recreational vehicles, means:

128 (i) the county in which the dealership is to be established or relocated; and

129 (ii) the area within a 35-mile radius from the site of the new or relocated dealership.

130 (20) "Sale, transfer, or assignment" means any disposition of a franchise or an interest
131 in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange,
132 lease, or license.

133 (21) "Serve" or "served," unless expressly indicated otherwise by statute or rule,
134 includes any reliable form of communication.

135 (22) "Site-control agreement" means an agreement, however denominated and
136 regardless of its form or of the parties to it, that has the effect of:

137 (a) controlling in any way the use and development of the premises upon which a
138 franchisee's business operations are located;

139 (b) requiring a franchisee to establish or maintain an exclusive dealership facility on
140 the premises upon which the franchisee's business operations are located; or

141 (c) restricting the ability of the franchisee or, if the franchisee leases the dealership

142 premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of
143 some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease,
144 right of first refusal to purchase or lease, option to purchase or lease, or any similar
145 arrangement.

146 [~~22~~] (23) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
147 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
148 vacation use that does not require a special highway movement permit when drawn by a
149 self-propelled motor vehicle.

150 [~~23~~] (24) "Written," "write," "in writing," or other variations of those terms shall
151 include all reliable forms of electronic communication.

152 Section 2. Section **13-14-201** is amended to read:

153 **13-14-201. Prohibited acts by franchisors -- Affiliates -- Disclosures.**

154 (1) A franchisor may not in this state:

155 (a) except as provided in Subsection (3), require a franchisee to order or accept
156 delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise
157 required by law that is not voluntarily ordered by the franchisee;

158 (b) require a franchisee to:

159 (i) participate monetarily in any advertising campaign; or

160 (ii) contest, or purchase any promotional materials, display devices, or display
161 decorations or materials;

162 (c) require a franchisee to change the capital structure of the franchisee's dealership or
163 the means by or through which the franchisee finances the operation of the franchisee's
164 dealership, if the dealership at all times meets reasonable capital standards determined by and
165 applied in a nondiscriminatory manner by the franchisor;

166 (d) require a franchisee to refrain from participating in the management of, investment
167 in, or acquisition of any other line of new motor vehicles or related products, if the franchisee:

168 (i) maintains a reasonable line of credit for each make or line of vehicles; and

169 (ii) complies with reasonable capital and facilities requirements of the franchisor;

170 (e) require a franchisee to prospectively agree to a release, assignment, novation,
171 waiver, or estoppel that would:

172 (i) relieve a franchisor from any liability, including notice and hearing rights imposed
173 on the franchisor by this chapter; or

174 (ii) require any controversy between the franchisee and a franchisor to be referred to a
175 third party if the decision by the third party would be binding;

176 (f) require a franchisee to change the location of the principal place of business of the
177 franchisee's dealership or make any substantial alterations to the dealership premises, if the
178 change or alterations would be unreasonable or cause the franchisee to lose control of the
179 premises or impose any other unreasonable requirement related to the facilities or premises;

180 (g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an
181 advertising association;

182 (h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with
183 the franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening
184 to cancel a franchise agreement or other contractual agreement or understanding existing
185 between the franchisor and franchisee;

186 (i) adopt, change, establish, enforce, modify, or implement a plan or system for the
187 allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to its
188 franchisees so that the plan or system is not fair, reasonable, and equitable;

189 (j) increase the price of any new motor vehicle that the franchisee has ordered from the
190 franchisor and for which there exists at the time of the order a bona fide sale to a retail
191 purchaser if the order was made prior to the franchisee's receipt of an official written price
192 increase notification;

193 (k) fail to indemnify and hold harmless its franchisee against any judgment for
194 damages or settlement approved in writing by the franchisor:

195 (i) including court costs and attorney fees arising out of actions, claims, or
196 proceedings including those based on:

197 (A) strict liability;

198 (B) negligence;
199 (C) misrepresentation;
200 (D) express or implied warranty;
201 (E) revocation as described in Section 70A-2-608; or
202 (F) rejection as described in Section 70A-2-602; and
203 (ii) to the extent the judgment or settlement relates to alleged defective or negligent
204 actions by the franchisor;
205 (l) threaten or coerce a franchisee to waive or forbear its right to protest the
206 establishment or relocation of a same line-make franchisee in the relevant market area of the
207 affected franchisee;
208 (m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of
209 new motor vehicles of each make, series, and model needed by the franchisee to achieve a
210 percentage of total new vehicle sales of each make, series, and model equitably related to the
211 total new vehicle production or importation being achieved nationally at the time of the order
212 by each make, series, and model covered under the franchise agreement;
213 (n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing
214 dealer facility or facilities, including by:
215 (i) requiring or otherwise coercing a franchisee to exclude or remove from the
216 franchisee's facility operations the selling or servicing of a line-make of vehicles for which the
217 franchisee has a franchise agreement to utilize the facilities; or
218 (ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or
219 line-make in an existing facility owned or occupied by the franchisee that includes the selling
220 or servicing of another franchise or line-make at the facility provided that the franchisee gives
221 the franchisor written notice of the franchise co-location;
222 (o) fail to include in any franchise agreement or other agreement governing a
223 franchisee's ownership of a dealership or a franchisee's conduct of business under a franchise
224 the following language or language to the effect that: "If any provision in this agreement
225 contravenes the laws or regulations of any state or other jurisdiction where this agreement is to

226 be performed, or provided for by such laws or regulations, the provision is considered to be
227 modified to conform to such laws or regulations, and all other terms and provisions shall
228 remain in full force.";

229 (p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to
230 purchasers who acquire the vehicle in this state except through a franchisee with whom the
231 franchisor has established a written franchise agreement, if the franchisor's trade name,
232 trademark, service mark, or related characteristic is an integral element in the distribution,
233 sale, offer for sale, or lease;

234 (q) engage in the distribution or sale of a recreational vehicle that is manufactured,
235 rented, sold, or offered for sale in this state without being constructed in accordance with the
236 standards set by the American National Standards Institute for recreational vehicles and
237 evidenced by a seal or plate attached to the vehicle;

238 (r) except as provided in Subsection (2), authorize or permit a person to perform
239 warranty service repairs on motor vehicles, except warranty service repairs:

240 (i) by a franchisee with whom the franchisor has entered into a franchise agreement
241 for the sale and service of the franchisor's motor vehicles; or

242 (ii) on owned motor vehicles by a person or government entity who has purchased new
243 motor vehicles pursuant to a franchisor's [~~or manufacturer's~~] fleet discount program;

244 (s) fail to provide a franchisee with a written franchise agreement;

245 (t) (i) except as provided in Subsection (1)(t)(ii) and notwithstanding any other
246 provisions of this chapter:

247 (A) unreasonably fail or refuse to offer to its same line-make franchised dealers all
248 models manufactured for that line-make;

249 (B) unreasonably require a dealer to:

250 (I) pay any extra fee, remodel, renovate, recondition the dealer's existing facilities; or

251 (II) purchase unreasonable advertising displays or other materials as a prerequisite to
252 receiving a model or series of vehicles;

253 (ii) notwithstanding Subsection (1)(t)(i), a recreational vehicle [~~manufacturer~~]

254 franchisor may split a line-make between motor home and travel trailer products;
255 (u) except as provided in Subsection (6), directly or indirectly:
256 (i) own an interest in a new motor vehicle dealer or dealership;
257 (ii) operate or control a new motor vehicle dealer or dealership;
258 (iii) act in the capacity of a new motor vehicle dealer, as defined in Section 13-14-102;
259 or
260 (iv) operate a motor vehicle service facility;
261 (v) fail to timely pay for all reimbursements to a franchisee for incentives and other
262 payments made by the franchisor;
263 (w) directly or indirectly influence or direct potential customers to franchisees in an
264 inequitable manner, including:
265 (i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of
266 the franchisee's products or services in an amount exceeding the actual cost of the referral;
267 (ii) giving a customer referral to a franchisee on the condition that the franchisee agree
268 to sell the vehicle at a price fixed by the franchisor; or
269 (iii) advising a potential customer as to the amount that the potential customer should
270 pay for a particular product;
271 (x) fail to provide comparable delivery terms to each franchisee for a product of the
272 franchisor, including the time of delivery after the placement of an order by the franchisee;
273 (y) if personnel training is provided by the franchisor to its franchisees, unreasonably
274 fail to make that training available to each franchisee on proportionally equal terms;
275 (z) condition a franchisee's eligibility to participate in a sales incentive program on the
276 requirement that a franchisee use the financing services of the franchisor or a subsidiary or
277 affiliate of the franchisor for inventory financing;
278 (aa) make available for public disclosure, except with the franchisee's permission or
279 under subpoena or in any administrative or judicial proceeding in which the franchisee or the
280 franchisor is a party, any confidential financial information regarding a franchisee, including:
281 (i) monthly financial statements provided by the franchisee;

282 (ii) the profitability of a franchisee; or
283 (iii) the status of a franchisee's inventory of products;
284 (bb) use any performance standard, incentive program, or similar method to measure
285 the performance of franchisees unless the standard or program:
286 (i) is designed and administered in a fair, reasonable, and equitable manner;
287 (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample;
288 and
289 (iii) is, upon request by a franchisee, disclosed and explained in writing to the
290 franchisee, including:
291 (A) how the standard or program is designed;
292 (B) how the standard or program will be administered; and
293 (C) the types of data that will be collected and used in the application of the standard
294 or program;
295 (cc) other than sales to the federal government, directly or indirectly, sell, lease, offer
296 to sell, or offer to lease, a new motor vehicle or any motor vehicle owned by the franchisor,
297 except through a franchised new motor vehicle dealer;
298 (dd) compel a franchisee, through a finance subsidiary, to agree to unreasonable
299 operating requirements, except that this Subsection (1)(dd) may not be construed to limit the
300 right of a financing subsidiary to engage in business practices in accordance with the usage of
301 trade in retail and wholesale motor vehicle financing;
302 (ee) condition the franchisor's participation in co-op advertising for a product category
303 on the franchisee's participation in any program related to another product category or on the
304 franchisee's achievement of any level of sales in a product category other than that which is
305 the subject of the co-op advertising;
306 (ff) except as provided in Subsections (7) through (9), discriminate against a
307 franchisee in the state in favor of another franchisee of the same line-make in the state:
308 (i) by selling or offering to sell a new motor vehicle to one franchisee at a higher
309 actual price, including the price for vehicle transportation, than the actual price at which the

310 same model similarly equipped is offered to or is made available by the franchisor to another
311 franchisee in the state during a similar time period;

312 (ii) except as provided in Subsection (8), by using a promotional program or device or
313 an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor
314 vehicle to the franchisee or later, that results in the sale of or offer to sell a new motor vehicle
315 to one franchisee in the state at a higher price, including the price for vehicle transportation,
316 than the price at which the same model similarly equipped is offered or is made available by
317 the franchisor to another franchisee in the state during a similar time period;

318 (iii) except as provided in Subsection (9), by failing to provide or direct a lead in a
319 fair, equitable, and timely manner; or

320 (iv) if the franchisee complies with any reasonable requirement concerning the sale of
321 new motor vehicles, by using or considering the performance of any of its franchisees located
322 in this state relating to the sale of the [~~manufacturer's~~] franchisor's new motor vehicles in
323 determining the:

324 (A) dealer's eligibility to purchase program, certified, or other used motor vehicles
325 from the [~~manufacturer~~] franchisor;

326 (B) volume, type, or model of program, certified, or other used motor vehicles the
327 dealer is eligible to purchase from the [~~manufacturer~~] franchisor;

328 (C) price of any program, certified, or other used motor vehicles that the dealer is
329 eligible to purchase from the [~~manufacturer~~] franchisor; or

330 (D) availability or amount of any discount, credit, rebate, or sales incentive the dealer
331 is eligible to receive from the manufacturer for the purchase of any program, certified, or other
332 motor vehicle offered for sale by the [~~manufacturer~~] franchisor;

333 (gg) (i) take control over funds owned or under the control of a franchisee based on the
334 findings of a warranty audit or sales incentive audit unless the following conditions are
335 satisfied:

336 (A) the franchisor fully identifies in writing the basis for the franchisor's claim or
337 charge back arising from the audit, including notifying the franchisee that the franchisee has

338 20 days from the day on which the franchisee receives the franchisor's claim or charge back to
339 assert a protest in writing to the franchisor identifying the basis for the protest;

340 (B) the franchisee's protest shall inform the franchisor that the protest shall be
341 submitted to a mediator in the state who is identified by name and address in the franchisee's
342 notice to the franchisor;

343 (C) if mediation is requested under Subsection (1)(gg)(i)(B), mediation shall occur no
344 later than 30 days after the day on which the franchisor receives the franchisee's protest of a
345 claim or charge back;

346 (D) if mediation does not lead to a resolution of the protest, the protest shall be set for
347 binding arbitration in the same venue in which the mediation occurred;

348 (E) binding arbitration under Subsection (1)(gg)(i)(D) shall be conducted:

349 (I) by an arbitrator mutually agreed upon by the franchisor and the franchisee; and

350 (II) on a date mutually agreed upon by the franchisor and the franchisee, but shall be
351 held no later than 90 days after the franchisor's receipt of the franchisee's notice of protest;

352 (F) this Subsection (1)(gg)(i) applies exclusively to warranty audits and sales incentive
353 audits;

354 (G) Subsections (1)(gg)(i)(A) through (E) do not apply if the franchisor reasonably
355 believes that the amount of the claim or charge back is related to a fraudulent act by the
356 franchisee; and

357 (H) the costs of the mediator or arbitrator instituted under this Subsection (1)(gg) shall
358 be shared equally by the franchisor and the franchisee[-]; or

359 (ii) [~~A franchisor may not~~] require a franchisee to execute a written waiver of the
360 requirements of Subsection (1)(gg)(i);

361 (hh) coerce, or attempt to coerce a franchisee to purchase or sell an aftermarket
362 product manufactured by the franchisor, or obtained by the franchisor for resale from a
363 third-party supplier and the franchisor or its affiliate derives a financial benefit from the
364 franchisee's sale or purchase of the aftermarket product as a condition to obtaining preferential
365 status from the franchisor;

366 (ii) through an affiliate, take any action that would otherwise be prohibited under this
367 chapter; [or]

368 (jj) impose any fee, surcharge, or other charge on a franchisee designed to recover the
369 cost of a warranty repair for which the franchisee is paid by the franchisor[-];

370 (kk) directly or indirectly condition any of the following actions on the willingness of
371 a franchisee, prospective new franchisee, or owner of an interest in a dealership facility to
372 enter into a site-control agreement:

373 (i) the awarding of a franchise to a prospective new franchisee;

374 (ii) the addition of a line-make or franchise to an existing franchisee;

375 (iii) the renewal of an existing franchisee's franchise;

376 (iv) the approval of the relocation of an existing franchisee's dealership facility, unless
377 the franchisor pays, and the franchisee voluntarily accepts, additional specified cash
378 consideration to facilitate the relocation; or

379 (v) the approval of the sale or transfer of a franchise's ownership, unless the franchisor
380 pays, and the buyer voluntarily accepts, additional specified cash consideration to facilitate the
381 sale or transfer;

382 (ll) subject to Subsection (11), deny a franchisee the right to return any or all parts or
383 accessories that:

384 (i) were specified for and sold to the franchisee under an automated ordering system
385 required by the franchisor; and

386 (ii) (A) are in good, resalable condition; and

387 (B) (I) the franchisee received within the previous 12 months; or

388 (II) are listed in the current parts catalog; or

389 (mm) subject to Subsection (12), obtain from a franchisee a waiver of a franchisee's
390 right, by threatening:

391 (i) to impose a detriment upon the franchisee's business; or

392 (ii) to withhold any entitlement, benefit, or service:

393 (A) to which the franchisee is entitled under a franchise agreement, contract, statute,

394 rule, regulation, or law; or

395 (B) that has been granted to more than one other franchisee of the franchisor in the
396 state.

397 (2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person
398 to perform warranty service repairs on motor vehicles if the warranty services is for a
399 franchisor of recreational vehicles.

400 (3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee
401 carry a reasonable inventory of:

402 (a) new motor vehicle models offered for sale by the franchisor; and

403 (b) parts to service the repair of the new motor vehicles.

404 (4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee
405 maintain separate sales personnel or display space.

406 (5) Upon the written request of any franchisee, a franchisor shall disclose in writing to
407 the franchisee the basis on which new motor vehicles, parts, and accessories are allocated,
408 scheduled, and delivered among the franchisor's dealers of the same line-make.

409 (6) (a) A franchisor may engage in any of the activities listed in Subsection (1)(u), for
410 a period not to exceed 12 months if:

411 (i) (A) the person from whom the franchisor acquired the interest in or control of the
412 new motor vehicle dealership was a franchised new motor vehicle dealer; and

413 (B) the franchisor's interest in the new motor vehicle dealership is for sale at a
414 reasonable price and on reasonable terms and conditions; or

415 (ii) the franchisor is engaging in the activity listed in Subsection (1)(u) for the purpose
416 of broadening the diversity of its dealer body and facilitating the ownership of a new motor
417 vehicle dealership by a person who:

418 (A) is part of a group that has been historically underrepresented in the franchisor's
419 dealer body;

420 (B) would not otherwise be able to purchase a new motor vehicle dealership;

421 (C) has made a significant investment in the new motor vehicle dealership which is

422 subject to loss;

423 (D) has an ownership interest in the new motor vehicle dealership; and

424 (E) operates the new motor vehicle dealership under a plan to acquire full ownership
425 of the dealership within a reasonable period of time and under reasonable terms and
426 conditions.

427 (b) After receipt of the advisory board's recommendation, the executive director may,
428 for good cause shown, extend the time limit set forth in Subsection (6)(a) for an additional
429 period not to exceed 12 months.

430 (c) A franchisor who was engaged in any of the activities listed in Subsection (1)(u) in
431 this state prior to May 1, 2000, may continue to engage in that activity, but may not expand
432 that activity to acquire an interest in any other new motor vehicle dealerships or motor vehicle
433 service facilities after May 1, 2000.

434 (d) Notwithstanding Subsection (1)(u), a franchisor may own, operate, or control a
435 new motor vehicle dealership trading in a line-make of motor vehicle if:

436 (i) as to that line-make of motor vehicle, there are no more than four franchised new
437 motor vehicle dealerships licensed and in operation within the state as of January 1, 2000;

438 (ii) the franchisor does not own directly or indirectly, more than a 45% interest in the
439 dealership;

440 (iii) at the time the franchisor first acquires ownership or assumes operation or control
441 of the dealership, the distance between the dealership thus owned, operated, or controlled and
442 the nearest unaffiliated new motor vehicle dealership trading in the same line-make is not less
443 than 150 miles;

444 (iv) all the franchisor's franchise agreements confer rights on the franchisee to develop
445 and operate as many dealership facilities as the franchisee and franchisor shall agree are
446 appropriate within a defined geographic territory or area; and

447 (v) as of January 1, 2000, no fewer than half of the franchisees of the line-make within
448 the state own and operate two or more dealership facilities in the geographic area covered by
449 the franchise agreement.

450 (7) Subsection (1)(ff) does not apply to recreational vehicles.

451 (8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is
452 functionally available to all competing franchisees of the same line-make in the state on
453 substantially comparable terms.

454 (9) Subsection (1)(ff)(iii) may not be construed to:

455 (a) permit provision of or access to customer information that is otherwise protected
456 from disclosure by law or by contract between a franchisor and a franchisee; or

457 (b) require a franchisor to disregard the preference volunteered by a potential customer
458 in providing or directing a lead.

459 (10) Subsection (1)(ii) does not limit the right of an affiliate to engage in business
460 practices in accordance with the usage of trade in which the affiliate is engaged.

461 (11) (a) Subsection (1)(ll) does not apply to parts or accessories that the franchisee
462 ordered and purchased outside of an automated parts ordering system required by the
463 franchisor.

464 (b) In determining whether parts or accessories in a franchisee's inventory were
465 specified and sold under an automated ordering system required by the franchisor, the parts
466 and accessories in the franchisee's inventory are presumed to be the most recent parts and
467 accessories that the franchisor sold to the franchisee.

468 (12) (a) Subsection (1)(mm) does not apply to a good faith settlement of a dispute,
469 including a dispute relating to contract negotiations, in which the franchisee gives a waiver in
470 exchange for fair consideration in the form of a benefit conferred on the franchisee.

471 (b) Subsection (12)(a) may not be construed to defeat a franchisee's claim that a
472 waiver has been obtained in violation of Subsection (1)(mm).

473 Section 3. Section **13-14-204** is amended to read:

474 **13-14-204. Franchisor's obligations related to service -- Franchisor audits --**
475 **Time limits.**

476 (1) Each franchisor shall specify in writing to each of its franchisees licensed as a new
477 motor vehicle dealer in this state:

478 (a) the franchisee's obligations for new motor vehicle preparation, delivery, and
479 warranty service on its products;

480 (b) the schedule of compensation to be paid to the franchisee for parts, work, and
481 service; and

482 (c) the time allowance for the performance of work and service.

483 (2) (a) The schedule of compensation described in Subsection (1) shall include
484 reasonable compensation for diagnostic work, as well as repair service, parts, and labor.

485 (b) Time allowances described in Subsection (1) for the diagnosis and performance of
486 warranty work and service shall be reasonable and adequate for the work to be performed.

487 (3) (a) In the determination of what constitutes reasonable compensation under this
488 section, the principal factor to be considered is the prevailing wage rates being paid by
489 franchisees in the relevant market area in which the franchisee is doing business.

490 (b) Compensation of the franchisee for warranty service work may not be less than the
491 amount charged by the franchisee for like parts and service to retail or fleet customers, if the
492 amounts are reasonable. In the case of a recreational vehicle franchisee, reimbursement for
493 parts used in the performance of warranty repairs, including those parts separately warranted
494 directly to the consumer by a recreational vehicle parts supplier, may not be less than the
495 franchisee's cost plus 20%. For purposes of this Subsection (3)(b), the term "cost" shall be
496 that same price paid by a franchisee to a franchisor or supplier for the part when the part is
497 purchased for a nonwarranty repair.

498 (4) A franchisor may not fail to:

499 (a) perform any warranty obligation;

500 (b) include in written notices of franchisor's recalls to new motor vehicle owners and
501 franchisees the expected date by which necessary parts and equipment will be available to
502 franchisees for the correction of the defects; or

503 (c) compensate any of the franchisees for repairs effected by the recall.

504 (5) If a franchisor disallows a franchisee's claim for a defective part, alleging that the
505 part is not defective, the franchisor at its option shall:

506 (a) return the part to the franchisee at the franchisor's expense; or

507 (b) pay the franchisee the cost of the part.

508 (6) (a) A claim made by a franchisee pursuant to this section for labor and parts shall
509 be paid within 30 days after its approval.

510 (b) A claim shall be either approved or disapproved by the franchisor within 30 days
511 after receipt of the claim on a form generally used by the franchisor and containing the
512 generally required information. Any claim not specifically disapproved of in writing within 30
513 days after the receipt of the form is considered to be approved and payment shall be made
514 within 30 days.

515 (7) Warranty service audits of franchisee records may be conducted by the franchisor
516 on a reasonable basis.

517 (8) A franchisee's claim for warranty compensation may ~~[not]~~ be denied ~~[except for~~
518 ~~good cause such as performance of nonwarranty repairs, lack of material documentation,~~
519 ~~fraud, or misrepresentation.]~~ only if:

520 (a) the franchisee's claim is based on a nonwarranty repair;

521 (b) the franchisee lacks material documentation for the claim;

522 (c) the franchisee fails to comply materially with specific substantive terms and
523 conditions of the franchisor's warranty compensation program; or

524 (d) the franchisor has a bona fide belief based on competent evidence that the
525 franchisee's claim is intentionally false, fraudulent, or misrepresented.

526 (9) (a) Any charge backs for warranty parts or service compensation and service
527 incentives shall only be enforceable for the ~~[+2-month]~~ six-month period immediately
528 following the date the payment for warranty reimbursement was made by the franchisor.

529 (b) Except as provided in Subsection (9)(c), all charge backs levied by a franchisor for
530 sales compensation or sales incentives arising out of the sale or lease of a motor vehicle sold or
531 leased by a franchisee shall be compensable only if written notice of the charge back is
532 received by the franchisee within ~~[+2]~~ six months immediately following the sooner of:

533 (i) the date when the sales incentive program terminates; or

534 (ii) the date when payment for the sales compensation or sales incentive was made by
535 the franchisor to the franchisee.

536 (c) (i) Upon an audit, the franchisor shall provide the franchisee automated or written
537 notice explaining the amount of and reason for a charge back.

538 (ii) A franchisee may respond in writing within 30 days after the notice under
539 Subsection (9)(c)(i) to:

540 (A) explain a deficiency; or

541 (B) provide materials or information to correct and cure compliance with a provision
542 that is a basis for a charge back.

543 (d) A charge back:

544 (i) may not be based on a nonmaterial error that is clerical in nature; and

545 (ii) (A) shall be based on one or more specific instances of material noncompliance
546 with the franchisor's warranty compensation program or sales incentive program; and

547 (B) may not be extrapolated from a sampling of warranty claims or sales incentive
548 claims.

549 [~~(c)~~] (e) The time limitations of this Subsection (9) do not preclude charge backs for
550 any fraudulent claim that was previously paid.

551 Section 4. Section **13-14-206** is enacted to read:

552 **13-14-206. Site-control agreements.**

553 (1) A site-control agreement entered into on or after May 11, 2010:

554 (a) may be voluntarily terminated by a franchisee, subject to Subsection (2)(a); and

555 (b) terminates immediately upon:

556 (i) a franchisor's sale, assignment, or other transfer of the right to manufacture or
557 distribute the line-make of vehicles covered by the franchisee's franchise;

558 (ii) a franchisor's ceasing to manufacture or distribute the line-make of vehicles
559 covered by the franchisee's franchise;

560 (iii) a franchisor's termination of a franchisee's franchise without cause and against the
561 franchisee's will; or

562 (iv) the failure of the franchisor or its affiliate to exercise a right of first refusal to
563 purchase the assets or ownership of the franchisee's business when given the opportunity to do
564 so under the franchise or other agreement, subject to the repayment requirements of
565 Subsection (2) if the right of first refusal arises because of the voluntary action of the
566 franchisee.

567 (2) (a) If a franchisee voluntarily terminates a site-control agreement after the
568 franchisor has paid and the franchisee or other recipient has accepted additional specified cash
569 consideration, the site-control agreement remains valid only until the franchisee or other
570 recipient satisfies the repayment terms specified in Subsection (2)(b).

571 (b) (i) If the franchisor's additional specified cash consideration was used for the
572 construction of a building or improvement on the property that is the subject of the site-control
573 agreement, the amount of the repayment under Subsection (2)(a):

574 (A) is based on any repayment terms specified in the site-control agreement, if the
575 parties to the site-control agreement have willingly agreed to the terms; and

576 (B) may not exceed the market value of the portion of the building or improvement
577 constructed with the additional specified cash consideration paid by the franchisor, after
578 allowing for depreciation based on a market-based depreciation schedule, as determined by an
579 independent appraiser at the request of the franchisee or other recipient.

580 (ii) If the franchisor's additional specified cash consideration was not used for
581 construction of a building or improvement on the property that is the subject of the site-control
582 agreement, the amount of the repayment under Subsection (2)(a) is an equitable portion of the
583 cash consideration, as determined under any terms specified in the site-control agreement for
584 the equitable repayment following a franchisee's voluntary termination of the agreement.

585 (c) Immediately upon the repayment under Subsection (2)(b):

586 (i) the site-control agreement is terminated; and

587 (ii) the franchisor or other party that is the beneficiary under the site-control agreement
588 shall prepare and deliver to the franchisee a recordable notice of termination of:

589 (A) the site-control agreement; and

590 (B) any lien or encumbrance arising because of the site-control agreement and
591 previously recorded against the property that is the subject of the site-control agreement.

592 Section 5. Section **13-14-302** is amended to read:

593 **13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.**

594 (1) Except as provided in Subsection (6), a franchisor shall provide the notice and
595 documentation required under Subsection (2) if the franchisor seeks to:

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

598 (b) relocate an existing motor vehicle franchisee.

599 (2) (a) If a franchisor seeks to take an action listed Subsection (1), prior to taking the
600 action, the franchisor shall, in writing, notify the advisory board and each franchisee in that
601 line-make in the relevant market area.

602 (b) The notice required by Subsection (2)(a) shall:

603 (i) specify the intended action described under Subsection (1);

604 (ii) specify the good cause on which it intends to rely for the action; and

605 (iii) be delivered by registered or certified mail or by any form of reliable delivery
606 through which receipt is verifiable.

607 (3) (a) Except as provided in Subsection (3)(c), the franchisor shall provide to the
608 advisory board and each franchisee in that line-make in the relevant market area the following
609 documents relating to the notice described under Subsection (2):

610 (i) (A) any aggregate economic data and all existing reports, analyses, or opinions
611 based on the aggregate economic data that were relied on by the franchisor in reaching the
612 decision to proceed with the action described in the notice; and

613 (B) the aggregate economic data under Subsection (3)(a)(i)(A) includes:

614 (I) motor vehicle registration data;

615 (II) market penetration data; and

616 (III) demographic data;

617 (ii) written documentation that the franchisor has in its possession that it intends to

618 rely on in establishing good cause under Section 13-14-306 relating to the notice;

619 (iii) a statement that describes in reasonable detail how the establishment of a new
620 franchisee or the relocation of an existing franchisee will affect the amount of business
621 transacted by other franchisees of the same line-make in the relevant market area, as compared
622 to business available to the franchisees; and

623 (iv) a statement that describes in reasonable detail how the establishment of a new
624 franchisee or the relocation of an existing franchisee will be beneficial or injurious to the
625 public welfare or public interest.

626 (b) The franchisor shall provide the documents described under Subsection (3)(a) with
627 the notice required under Subsection (2).

628 (c) The franchisor is not required to disclose any documents under Subsection (3)(a)
629 if:

630 (i) the documents would be privileged under the Utah Rules of Evidence;

631 (ii) the documents contain confidential proprietary information;

632 (iii) the documents are subject to federal or state privacy laws;

633 (iv) the documents are correspondence between the franchisor and existing franchisees
634 in that line-make in the relevant market area; or

635 (v) the franchisor reasonably believes that disclosure of the documents would violate:

636 (A) the privacy of another franchisee; or

637 (B) Section 13-14-201.

638 (4) (a) Within 45 days of receiving notice required by Subsection (2), any franchisee
639 that is required to receive notice under Subsection (2) may protest to the advisory board the
640 establishment or relocation of the dealership.

641 (b) When a protest is filed, the department shall inform the franchisor that:

642 (i) a timely protest has been filed;

643 (ii) a hearing is required;

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

646 (iv) the franchisor may not establish or relocate a proposed dealership if the executive
647 director determines that there is not good cause for permitting the establishment or relocation
648 of the dealership.

649 (5) If multiple protests are filed under Subsection (4), hearings may be consolidated to
650 expedite the disposition of the issue.

651 (6) Subsections (1) through (5) do not apply to a relocation of an existing or successor
652 dealer to a location that is:

653 (a) within the same county and less than ~~[one]~~ two aeronautical ~~[mile]~~ miles from the
654 existing location of the existing or successor franchisee's dealership; ~~[and]~~ or

655 ~~[(b) within the same county.]~~

656 (b) further away from a dealership of a franchisee of the same line-make.

657 (7) For purposes of this section:

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

661 (b) the reopening in a relevant market area of a dealership that has not been in
662 operation for one year or more is considered the establishment of an additional motor vehicle
663 dealership; and

664 (c) (i) except as provided in Subsection (7)(c)(ii), the establishment of a temporary
665 additional place of business by a recreational vehicle franchisee is considered the
666 establishment of an additional motor vehicle dealership; and

667 (ii) the establishment of a temporary additional place of business by a recreational
668 vehicle franchisee is not considered the establishment of an additional motor vehicle
669 dealership if the recreational vehicle franchisee is participating in a trade show where three or
670 more recreational vehicle dealers are participating.

671 Section 6. Section **13-14-307** is amended to read:

672 **13-14-307. Franchisor's obligations upon termination or noncontinuation of**
673 **franchise or line-make.**

674 (1) Upon the termination or noncontinuation of a franchise or a line-make ~~by the~~
 675 ~~franchisor~~, the franchisor shall pay the franchisee:

676 (a) an amount calculated by:

677 ~~[(a)]~~ (i) including the franchisee's cost of ~~[new, undamaged, and]~~ unsold motor
 678 vehicles that:

679 (A) are in the franchisee's inventory;

680 (B) were acquired;

681 (I) from the franchisor; or

682 (II) in the ordinary course of business from another franchisee of the same line-make
 683 [representing both];

684 (C) are new, undamaged, and, except for franchisor accessories, unaltered; or

685 (D) represent the current model year at the time of termination or noncontinuation
 686 [and the immediately prior model year vehicles:], or the two model years immediately before
 687 the time of termination or noncontinuation;

688 (ii) reducing the amount in Subsection (1)(a)(i) by a prorated 1% for each 1,000 miles
 689 over 500 miles registered on a new vehicle's odometer;

690 ~~[(i) plus]~~ (iii) adding any charges made by the franchisor, for distribution, delivery, or
 691 taxes;

692 ~~[(ii) plus]~~ (iv) adding the franchisee's cost of any franchisor accessories added on the
 693 vehicle, except only those recreational vehicle accessories that are listed in the franchisor's
 694 wholesale product literature as options for that vehicle shall be repurchased; and

695 ~~[(iii) less]~~ (v) subtracting all allowances paid or credited to the franchisee by the
 696 franchisor;

697 (b) the franchisee's cost of new and undamaged motor vehicles in the franchisee's
 698 inventory of demonstrator vehicles, reduced by a prorated 1% for each 1000 miles over 500
 699 miles registered on the demonstrator vehicle's odometer, except recreational vehicles whose
 700 cost shall be reduced by 2% for each 1,000 miles registered on the odometer of demonstrator
 701 self-propelled recreational vehicles, exclusive of miles incurred in delivery of the vehicle, and

702 the cost of demonstrator nonself-propelled recreational vehicles shall be reduced by 10% of
703 the franchisee's vehicle cost:

704 (i) plus any charges made by the franchisor for distribution, delivery, or taxes;

705 (ii) plus the franchisee's cost of any accessories added on the vehicles, except only
706 those recreational vehicle accessories that are listed in the franchisor's wholesale product
707 literature as options for that vehicle shall be repurchased; and

708 (iii) less all allowances paid or credited to the franchisee by the franchisor;

709 (c) the cost of all new, undamaged, and unsold supplies, parts, and accessories as set
710 forth in the franchisor's catalog at the time of termination or noncontinuation for the supplies,
711 parts, and accessories, less all allowances paid or credited to the franchisee by the franchisor;

712 (d) the fair market value, but not less than the franchisee's depreciated acquisition cost
713 of each undamaged sign owned by the franchisee that bears a common name, trade name, or
714 trademark of the franchisor if acquisition of the sign was recommended or required by the
715 franchisor. If a recreational vehicle franchisee has a sign with multiple manufacturers listed,
716 the franchisor is only responsible for its pro rata portion of the sign;

717 (e) the fair market value, but not less than the franchisee's depreciated acquisition cost,
718 of all special tools, equipment, and furnishings acquired from the franchisor or sources
719 approved by the franchisor that were [~~recommended or~~] required by the franchisor and are in
720 good and usable condition;

721 (f) the cost of transporting, handling, packing, and loading motor vehicles, supplies,
722 parts, accessories, signs, special tools, equipment, and furnishings;

723 (g) subject to Subsection (5), reasonable compensation to the franchisee for any cost
724 incurred pertaining to the unexpired term of a lease agreement for the dealership's existing
725 location;

726 (h) the negotiated fair market value of the dealership premises, based on the fair
727 market value of the real property, if the dealer opts to sell the dealership premises; and

728 (i) compensate the franchisee for the blue sky or goodwill of the dealership, as
729 determined in accordance with the applicable industry standards taking into consideration the

730 effect that the timing of the manufacturer's announcement of discontinuance of a line make
731 has or will have on future profitability of the dealership.

732 (2) Subsections (1)(g), (h), and (i) do not apply if a franchise is terminated:

733 (a) by the franchisor for cause as defined in Subsections 13-14-301(1)(b) and (2)(a);

734 (b) upon mutual written agreement of the franchisor and franchisee as provided in
735 Subsection 13-14-301(2)(b); or

736 (c) upon voluntary termination by the franchisee as provided in Subsection
737 13-14-301(4).

738 (3) The franchisor shall pay the franchisee the amounts specified in Subsection (1)
739 within 90 days after the tender of the property to the franchisor if the franchisee:

740 (a) has clear title to the property; and

741 (b) is in a position to convey title to the franchisor.

742 (4) If repurchased inventory, equipment, or demonstrator vehicles are subject to a
743 security interest, the franchisor may make payment jointly to the franchisee and to the holder
744 of the security interest.

745 (5) Subsection (1)(g) does not relieve the franchisee or its lessor from an obligation
746 under their lease agreement to mitigate damages.

747 (6) (a) This section does not apply to a franchisee's voluntary termination or
748 noncontinuation of its franchise that occurs as a result of the franchisee's sale of its dealership
749 business entity or substantially all of the assets of that entity to a third party if the franchisor
750 contemporaneously grants a franchise to the third party on terms and conditions that are
751 comparable to those of the terminating or noncontinuing franchise.

752 (b) Subsection (6)(a) may not be construed to impair a contractual right of a
753 terminating or noncontinuing franchisee under a franchise or related agreement with a
754 franchisor or its affiliate, including a right to return unsold parts.

755 (7) This section does not apply to a termination, cancellation, or nonrenewal of:

756 (a) a recreational vehicle franchise; or

757 (b) a line-make by a recreational vehicle franchisor.

758 Section 7. Section **13-14-307.5** is enacted to read:

759 **13-14-307.5. Termination, cancellation, or nonrenewal of a recreational vehicle**
760 **franchise agreement.**

761 (1) This section applies only to a recreational vehicle franchisee's termination,
762 cancellation, or nonrenewal of:

763 (a) a recreational vehicle franchise; or

764 (b) a recreational vehicle line-make.

765 (2) (a) A recreational vehicle franchisee may, at any time and with or without good
766 cause, terminate, cancel, or not renew its recreational vehicle franchise agreement or a
767 recreational vehicle line-make by giving 30 days' prior written notice to the recreational
768 vehicle franchisor.

769 (b) A franchisee has the burden of showing that a termination, cancellation, or
770 nonrenewal is for good cause.

771 (c) Good cause for a franchisee's termination, cancellation, or nonrenewal is
772 considered to exist if:

773 (i) the franchisor is convicted of or enters a plea of nolo contendere to a felony;

774 (ii) the business operations of the franchisor are:

775 (A) abandoned; or

776 (B) closed for 10 consecutive business days, unless the closing is due to an act of God,
777 a strike, a labor difficulty, or another cause over which the franchisor has no control;

778 (iii) the franchisor makes a misrepresentation that materially and adversely affects the
779 business relationship with the recreational vehicle franchisee;

780 (iv) a material violation of this chapter is not cured within 30 days after the franchisee
781 gives 30 days' written notice of the violation to the recreational vehicle franchisor; or

782 (v) the recreational vehicle franchisor:

783 (A) becomes insolvent;

784 (B) declares bankruptcy; or

785 (C) makes an assignment for the benefit of creditors.

786 (3) If the franchisee terminates, cancels, or does not renew the recreational vehicle
787 franchise agreement or line-make for cause, the franchisor shall, at the franchisee's election
788 and within 45 days after termination, cancellation, or nonrenewal, repurchase:

789 (a) (i) all new, unaltered recreational vehicles, including demonstrators, that the
790 franchisee acquired from the franchisor within 18 months before the date of the termination,
791 cancellation, or nonrenewal; and

792 (ii) for a repurchase price equal to 100% of the original net invoice cost, including
793 transportation, reduced by:

794 (A) any applicable rebates and discounts to the franchisee; and

795 (B) the cost to repair any damage to a repurchased recreational vehicle, if the vehicle
796 is damaged after delivery to the franchisee but before repurchase occurs;

797 (b) (i) all undamaged accessories and proprietary parts sold by the recreational vehicle
798 franchisor to the franchisee within one year before termination, cancellation, or nonrenewal, if
799 accompanied by the original invoice; and

800 (ii) for a repurchase price equal to 100% of the original net invoice cost, plus an
801 additional 5% of the original net invoice cost to compensate the franchisee for packing and
802 shipping the returned accessories and parts to the franchisor; and

803 (c) (i) any properly functioning diagnostic equipment, special tools, current signage,
804 and other equipment and machinery that:

805 (A) the franchisee purchased:

806 (I) from the franchisor within five years before termination, cancellation, or
807 nonrenewal; and

808 (II) at the franchisor's request or because of the franchisor's requirement; and

809 (B) are no longer usable in the normal course of the franchisee's ongoing business, as
810 the franchisee reasonably determines; and

811 (ii) for a repurchase price equal to 100% of the original net cost that the franchisee
812 paid, plus any applicable shipping charges and sales taxes.

813 (4) A recreational vehicle franchisor shall pay the franchisee all money due under

814 Subsection (3) within 30 days after the franchisor's receipt of the repurchased items.