

1                   **NEW AUTOMOBILE FRANCHISE ACT AMENDMENTS**

2                                   2014 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Jim Bird**

5                           Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends Title 13, Chapter 14, New Automobile Franchise Act.

10 **Highlighted Provisions:**

11       This bill:

12           ▶ exempts a franchisor from certain notice and adjudicative requirements relating to  
13 the establishment of a new dealership or the relocation of an existing dealership if  
14 the new dealership or the relocated dealership will be located in a city of the first  
15 class.

16 **Money Appropriated in this Bill:**

17       None

18 **Other Special Clauses:**

19       None

20 **Utah Code Sections Affected:**

21 AMENDS:

22       **13-14-302**, as last amended by Laws of Utah 2011, Chapter 203

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

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

26       **13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.**

27       (1) Except as provided in Subsection (6), a franchisor shall provide the notice and



28 documentation required under Subsection (2) if the franchisor seeks to:

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

31 (b) relocate an existing motor vehicle franchisee.

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

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

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

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

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

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

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

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

47 (I) motor vehicle registration data;

48 (II) market penetration data; and

49 (III) demographic data;

50 (ii) written documentation that the franchisor has in its possession that it intends to rely  
51 on in establishing good cause under Section [13-14-306](#) relating to the notice;

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

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

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

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

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

63 (ii) the documents contain confidential proprietary information;

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

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

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

68 (A) the privacy of another franchisee; or

69 (B) Section 13-14-201.

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

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

74 (i) a timely protest has been filed;

75 (ii) a hearing is required;

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

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

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

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

85 (a) within the same county and less than two aeronautical miles from the existing  
86 location of the existing or successor franchisee's dealership; or

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

88 (7) For purposes of this section:

89 (a) relocation of an existing franchisee's dealership in excess of two aeronautical miles

90 from its existing location is considered the establishment of an additional franchise in the  
91 line-make of the relocating franchise;

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

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

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

102 (8) The provisions of this section do not apply if the new dealership or the relocated  
103 dealership will be located in a city of the first class, as defined in Section 10-2-301.

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**Legislative Review Note**  
**as of 1-6-14 10:28 AM**

**Office of Legislative Research and General Counsel**