
SENATE BILL No. 497

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-2-2.7.

Synopsis: Vehicle franchise practices. Requires an automobile manufacturer or distributor, as part of a franchise relationship, to make the following payments to an automobile dealer: (1) Not more than 60 days after the termination, cancellation, or nonrenewal of the franchise agreement, or the discontinuance of the line make, the value of certain items that are in the dealer's inventory or possession and whose titles are transferred to the manufacturer or distributor. (2) Upon the termination, cancellation, or nonrenewal of the franchise agreement, or the discontinuance of the line make, the rental value of the dealership facilities. Provides that a failure to make the payments is a deceptive franchise practice.

Effective: July 1, 2009.

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January 15, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 497



A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-2-2.7-8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 8. (a) As used in this section, "fair market value"**
4 **means the fair market value on the date of the termination,**
5 **cancellation, nonrenewal, or discontinuance.**
6 **(b) As used in this section, "termination, cancellation,**
7 **nonrenewal, or discontinuance" refers to the:**
8 **(1) termination;**
9 **(2) cancellation; or**
10 **(3) nonrenewal;**
11 **of a franchise to which a manufacturer or distributor and a dealer**
12 **are parties, or the discontinuance of a line make.**
13 **(c) Not more than sixty (60) days after the receipt of a request**
14 **for payment after termination, cancellation, nonrenewal, or**
15 **discontinuance, the manufacturer or distributor shall pay to the**
16 **dealer the amounts described in subsection (d) for items:**
17 **(1) that are in the dealer's inventory or possession at the time**



1 of termination, cancellation, nonrenewal, or discontinuance;
2 and
3 (2) to which the dealer conveys title to the manufacturer or
4 distributor.

5 (d) A manufacturer or distributor shall pay the following
6 amounts to a dealer:

7 (1) The acquisition cost of current model year motor vehicles
8 and immediately preceding model year motor vehicles with
9 less than three hundred (300) odometer miles that are
10 acquired from the manufacturer or distributor.

11 (2) For all new, unused, and undamaged parts, in their
12 original packages, the result of:

13 (A) one hundred five percent (105%) of dealer cost; minus

14 (B) allowances authorized by the manufacturer or dealer.

15 For distributors of this subdivision, dealer cost is the cost
16 listed in the parts catalog in effect at the time of termination,
17 cancellation, nonrenewal, or discontinuance.

18 (3) The fair market value of supplies and furnishings
19 purchased by the dealer from:

20 (A) the manufacturer;

21 (B) the distributor; or

22 (C) a source approved by the manufacturer or distributor.

23 (4) The fair market value of special tools, equipment, or
24 required computer or special service equipment and software
25 offered for sale by the dealer at any time during the three (3)
26 years immediately preceding the termination, cancellation,
27 nonrenewal, or discontinuance.

28 (5) The fair market value of signs bearing a trademark or
29 trade name whose purchase was recommended or required by
30 the manufacturer or distributor.

31 (e) Title shall be deemed to have passed to the manufacturer or
32 distributor on the date of termination, cancellation, nonrenewal, or
33 discontinuance, and the dealer shall have a perfectable security
34 interest in the assets that have been transferred.

35 (f) The failure to make payment as required under subsection
36 (d) is a deceptive franchise practice.

37 SECTION 2. IC 23-2-2.7-9 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2009]: Sec. 9. (a) As used in this section, "termination,
40 cancellation, nonrenewal, or discontinuance" has the meaning set
41 forth in section 8(b) of this chapter.

42 (b) This section applies in the event of a termination,

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1 cancellation, nonrenewal, or discontinuance, other than a
2 termination, cancellation, nonrenewal, or discontinuance due to a
3 dealer's:

- 4 (1) filing for bankruptcy or receivership;
- 5 (2) license revocation under IC 9-23-2 or IC 9-23-6;
- 6 (3) criminal conviction; or
- 7 (4) commission of fraud.

8 (c) Upon a termination, cancellation, nonrenewal, or
9 discontinuance, the manufacturer shall pay the dealer:

10 (1) if the dealer is leasing the dealership facilities from an
11 individual or entity other than the manufacturer, the lesser
12 of:

13 (A) an amount equal to the rent for the unexpired lease
14 term; or

15 (B) two (2) years' rent under the terms of the lease; or

16 (2) if the dealer owns the dealership facilities, an amount
17 equal to the reasonable rental value of the dealership facilities
18 for two (2) years.

19 For purposes of subdivision (2), the two (2) year period includes
20 the calendar year in which the termination, cancellation,
21 nonrenewal, or discontinuance occurs and the immediately
22 preceding calendar year.

23 (d) A dealer that leases the dealership facilities shall attempt to
24 mitigate damages under the terms of the lease.

25 (e) A manufacturer may discharge its obligations under a lease
26 by negotiating a lease termination payment, sublease, or new lease.

27 (f) The failure to make payment as required under subsection
28 (c) is a deceptive franchise practice.

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