

April 21, 2005

H 1527. CLARIFY MV DEALER FRANCHISE LAWS (=S 647). *TO CLARIFY THE MOTOR VEHICLE DEALER FRANCHISE LAWS.* Substantively identical to S 647, introduced 3/17/05.

Intro. by Cole.

Ref. to Judiciary III

GS 20

May 26, 2005

H 1527. CLARIFY MV DEALER FRANCHISE LAWS. Intro. 4/21/05. House committee substitute makes the following changes to 1st edition. Modifies proposed GS 20-297.1(a) definition of "franchise-related form agreements" to include agreements under which a franchise motor vehicle dealer: (1) is granted the right to sell and service new motor vehicles manufactured or distributed by the manufacturer or distributor or to service vehicles under the manufacturer's warranty; (2) is a component of the manufacturer or distributor's distribution system as an independent business; (3) is substantially associated with the manufacturer or distributor's trademark, trade name, and commercial symbol; or (4) substantially relies on the manufacturer or distributor for a continued supply of motor vehicles, parts, and accessories. Also includes agreements in which any right, duty, or obligation granted or imposed under GS Chapter 20 is affected. Modifies proposed GS 20-297.1(b) to delete requirement that any person or entity owned or controlled by a manufacturer or distributor comply with notice requirements of act.

Amends proposed new GS 20-305(5)a.5. to require that 50-year time period be calculated from the date act becomes law (was, date of relocation). Redesignates proposed new GS 20-305(41) as new GS 20-304.1 and deletes reference to "unreasonable or onerous" terms. Further amends section to permit manufacturers and distributors to require that a dealer grant a power of attorney for the following additional purposes: in order to correct an error in the customer's finance application or title processing document, for the purpose of processing regular titling of the vehicle, or to purchase an inventory of motor vehicles pursuant to an agreement between the dealer and the captive finance source. Removes prohibition against requiring that a dealer indemnify a captive finance source against any claims or that dealer repurchase or pay off motor vehicle sales contracts in those cases in which it has been proven that a material breach of the agreement with the captive finance source has occurred. Defines "material breach." Specifically permits a dealer to indemnify a captive finance source for certain environmental risks. Creates exceptions to prohibition against requiring a dealer to contribute to any reserve of contingency account or to repossess a vehicle.

Modifies proposed new GS 20-305.7 concerning equipment leases and computer services contracts with motor vehicle dealers by prohibiting contracts that are unreasonable (was, "unreasonable or onerous") and providing that unreasonableness is to be determined by the Comm'r of Motor Vehicles or a court. Provides that prohibition against the extension of contractual terms over three years beyond the initial term of the agreement does not prohibit month-to-month continuation of agreement. Requires that written consent for computer vendor to obtain access to customer or dealership information obtained from dealer must not be effective for a period over 180 days and must include the statement set forth in act. Provides that section does not prohibit the disclosure of information necessary to comply with federal or State safety requirements or to implement manufacturer recalls. Amends GS 20-308.2 to make Article's provisions applicable to written agreements only (was, oral and written) and to delete requirement that any entity owned by manufacturer comply with Article. In list of agreements to which Article applies, deletes reference to letter of intent, sales and service agreements, performance agreements, and side agreements. Amends GS 20-286(10)a. to define "new motor vehicle" as a vehicle that has never been the subject of a completed, successful, or conditional sale that was subsequently approved (was, sale). Makes technical changes.

August 12, 2005

H 1527. CLARIFY MV DEALER FRANCHISE LAWS. Intro. 4/21/05. Senate committee substitute makes the following changes to 2nd edition. (1) Deletes proposed amendment to GS 20-305(5), which would have exempted from the application of that section the relocation of an existing new motor vehicle dealer to a location within 4.5 miles of the dealer's existing site if the

line make has been operating on a regular basis from the existing site for at least 50 years immediately preceding effective date of act and the relocation site is not located within 4 miles of another licensed new motor vehicle dealer for the same line make. (2) Replaces and rewrites proposed provisions regarding prohibited contractual requirements imposed by manufacturer, distributor, or captive finance source with a new Article 12A of GS Chapter 20 regulating motor vehicle captive finance sources, as follows. Revises and rewrites description of prohibited practices. Adds provisions granting Commissioner of Motor Vehicles power to make rules, hold hearings, and take other actions to enforce provisions of new article. Adds provisions creating civil action to remedy violations of new article. New article is effective January 1, 2006. (3) Rewrites provisions of new GS 20-305.7 regarding protection of dealership data information and consent to access dealership information and provides that violation of new section does not constitute a misdemeanor. Makes technical changes.

September 21, 2005

SL 2005-409 (H 1527). CLARIFY MOTOR VEHICLE DEALER FRANCHISE LAWS. AN ACT TO CLARIFY THE MOTOR VEHICLE DEALER FRANCHISE LAWS. Summarized in *Daily Bulletin* 4/21/05, 5/26/05, and 8/12/05. Enacted September 20, 2005. Section 3 is effective January 1, 2006. The remainder is effective September 20, 2005.