

March 25, 2009

**S 914. CLARIFY MV DEALER TERMINATION ASSISTANCE.** Filed 3/25/09. *TO CLARIFY DEALER TERMINATION ASSISTANCE RIGHTS.*

To be summarized in tomorrow's *Daily Bulletin*.

**Intro. by Hoyle.**

GS 20

March 26, 2009

**S 914. CLARIFY MV DEALER TERMINATION ASSISTANCE.** Filed 3/25/09. *TO CLARIFY DEALER TERMINATION ASSISTANCE RIGHTS.*

Amends GS 20-305(6) to provide that, upon the termination, cancellation, or nonrenewal by any *new* motor vehicle dealer, the manufacturer or distributor is required to purchase from or compensate the dealer for specific vehicles under certain conditions (was, fair and reasonable compensation in specified conditions). Creates a compensation formula, which allows a discount in payment to the manufacturer or distributor depending on vehicle mileage. Establishes a time frame and procedure for compensation. Amends GS 20-305(6)f., pertaining to the applicability of subsections GS 20-305(6)d. & e. to when a manufacturer or distributor provides public notice or notifies a dealer's franchise that it intends to terminate, cancel, or not renew a franchise when an occurrence has or is expected to occur so as to reorder a dealer's franchise unmarketable or saleable only at a price significantly below fair market value before the occurrence becomes public knowledge. Enacts new GS 20-305(6)h. providing that the rights in GS 20-305(6)d. and e. are in addition to any other rights afforded under franchise agreements and limiting waivers of rights. Prohibits a waiver of rights that is in violation or inconsistent with terms or provisions of this Chapter. Makes conforming and technical changes.

**Intro. by Hoyle.**

GS 20

May 12, 2009

**S 914. CLARIFY MV DEALER TERMINATION ASSISTANCE.** Filed 3/25/09. Senate committee substitute makes the following changes to 1st edition. Modifies the amendments to GS 20-305(6)d. pertaining to payments due upon termination, nonrenewal, or cancellation of any franchise by the manufacturer or distributor, including removing provisions assigning compensation depending on vehicle mileage. Restores the exceptions in GS 20-305(6)e. for termination, cancellation, or nonrenewal for license revocation; conviction of a crime of moral turpitude; or fraud. Modifies GS 20-305(6)f. pertaining to the applicability of subsections d. and e.. Deletes GS 20-305(6)h. which provided that the rights provided to new motor vehicle dealers in (6)d. and (6)e. are in addition to any other rights afforded dealers under any franchise or agreement.

August 5, 2009

**S 914. CLARIFY MV DEALER FRANCHISE RIGHTS (NEW).** Filed 3/25/09. House committee substitute makes the following changes to 2nd edition. Replaces existing bill with a bill titled *AN ACT TO CLARIFY MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAWS*. Adds a new GS 20-305(42), prohibiting a vehicle manufacturer from coercing a dealer into a site control agreement or exclusive use agreement. Provides that any provision in any agreement between a manufacturer and dealer that is inconsistent with this prohibition is voided at the election of the dealer.

Adds new GS 20-305.2(c) and (d), prohibiting a successor vehicle manufacturer, defined as a manufacturer that acquires any part of the business of another manufacturer, from offering a franchise to someone other than a terminated franchisee of the predecessor manufacturer in the same relevant market area for five years after the acquisition, without first offering the franchise to the former franchisee at no cost and without additional restrictions. Provides that this prohibition does not apply if any of these conditions applies: (1) within 30 days after terminating the former franchisee, the predecessor manufacturer had consolidated that franchisee's line make with another line make for which the predecessor manufacturer had a franchise with an existing dealership in the relevant market area; (2) the successor manufacturer had paid the former

franchisee the fair market value of the former franchise; or (3) the successor manufacturer proves that the former franchisee is unfit to own or manage the dealership. In the latter situation, the manufacturer may not appoint or franchise a successor dealership until the Commissioner of Motor Vehicles has held a hearing and rendered a determination on the issue of the former franchisee's fitness.

Includes a severability provision.

August 6, 2009

**S 914. CLARIFY MV DEALER FRANCHISE RIGHTS.** Filed 3/25/09. House committee substitute makes the following changes to 3rd edition. Amends proposed GS 20-305(42) by deleting that, notwithstanding the terms, provisions, or conditions of any agreement or waiver, any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative is prohibited from directly or indirectly requiring, coercing, or attempting to coerce an existing new motor vehicle dealer, a prospective new motor vehicle dealer, or the owner of any interest in a dealership facility to enter into a site control agreement or exclusive use agreement.

Amends proposed GS 20-305.2(c) to limit the definition of *successor manufacturer* to any motor vehicle manufacturer, as defined in GS 20-286(8e), that, *on or after January 1, 2009*, acquires, succeeds to, or assumes any part of the business of another manufacturer, referred to as the *predecessor manufacturer*, as a result of one of the specified circumstances. Defines *former franchisee* as a new motor vehicle dealer, as defined in GS 20-286(13), that has entered into a franchise, as defined in GS 20-286(8a) with a predecessor manufacturer and that has either (1) entered into a termination agreement or deferred termination agreement with a predecessor or successor manufacturer related to such franchise or (2) has had such franchise canceled, terminated, non-renewed, non-continued, rejected, non-assumed or otherwise ended. Clarifies in proposed subsection (d) that the provision applies to a same line make franchise [was, a franchise as defined in GS 20-286(8a)]. Modifies the exception from the prohibition on successor manufacturers offering a same line make franchise to a person under certain conditions for a predecessor manufacturer that had consolidated the line make with another of its line makes for which the predecessor manufacturer had a franchisee with a then-existing dealership facility located within that relevant market area, as a result of (was, within 30 days of) the former franchisee's cancellation, termination, noncontinuance, or nonrenewal of the franchise. Makes conforming changes.

August 6, 2009

**S 914. CLARIFY MV DEALER FRANCHISE RIGHTS.** Filed 3/25/09. House amendment makes the following changes to 4th edition. Amends new subdivision (42) to GS 20-305 to clarify that any provision contained in any agreement *entered into on or after the effective date of this act* that is inconsistent with the provisions of subdivision (42) can be voided at the election of the affected dealer, prospective dealer, or owner of an interest in the dealership facility.

Amends GS 20-305.2 to prohibit a successor vehicle manufacturer to enter into (was, offer) a same line make franchise with any person other than a terminated franchisee of the predecessor manufacturer in the same relevant market area for four years (was, five years) after the acquisition, without first offering the franchise to the former franchisee at no cost and without additional restrictions, providing that certain specified conditions do not apply. Provides that the Commissioner of Motor Vehicles must try to conduct a hearing and render a final determination within 120 days after a successor manufacturer files a petition for a hearing based on an assertion that the former franchisee or the former franchisee's designated successor is unfit to own or manage the dealership. Clarifies that the terms and provisions of the act are applicable to all franchises and other agreements entered into on or after the effective date of the act (was, applicable to all franchises and other agreements in existence) between any new motor vehicle dealer located in the state and a manufacturer or distributor (was, as of the effective date of this act and to all future franchises and other agreements).

September 1, 2009

**SL 2009-496 (S 914). CLARIFY MOTOR VEHICLE DEALER FRANCHISE RIGHTS. AN  
ACT TO CLARIFY MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAWS.**  
Summarized in *Daily Bulletin* 3/26/09, 5/12/09, 8/5/09, and 8/6/09. Enacted August 26, 2009.  
Effective August 26, 2009.