

RECREATIONAL VEHICLE FRANCHISE ACT (EXCERPT)

Act 33 of 2009

445.1929 Termination or nonrenewal of dealer agreement by manufacturer; good cause required; burden; factors; notice; option by manufacturer to repurchase from dealer; return of items; "good cause" defined.

Sec. 9. (1) A manufacturer, directly or through any officer, agent, or employee, may not terminate or not renew a dealer agreement without good cause.

(2) A manufacturer has the burden of showing good cause for terminating or not renewing a dealer agreement. All of the following factors must be considered in determining whether there is good cause for a proposed termination or nonrenewal of a dealer agreement by a manufacturer:

- (a) The extent of the dealer's penetration in the relevant market area.
- (b) The nature and extent of the dealer's investment in its business.
- (c) The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel.
- (d) The effect of the proposed action on the community.
- (e) The extent and quality of the dealer's service under recreational vehicle warranties.
- (f) Whether the dealer fails to follow agreed upon procedures or standards related to the overall operation of the dealership.
- (g) The dealer's performance under the terms of dealer agreement.

(3) Except as otherwise provided in this section, a manufacturer shall provide a dealer with written notice of a termination or nonrenewal of a dealer agreement. All of the following apply to a notice described in this subsection:

(a) Except as provided in subdivision (d) or (e), the manufacturer shall provide the notice at least 90 days before the effective date of the termination or nonrenewal.

(b) The notice shall state all of the reasons for the termination or nonrenewal.

(c) The notice shall state that if the dealer provides to the manufacturer a written notification of intent to cure all claimed deficiencies within 30 days after the dealer receives the notice, the dealer has 30 days after the date of the notice to correct the deficiencies. If all of the deficiencies are corrected within that 30-day period, the notice is void and the manufacturer may not terminate or not renew the dealer agreement because of the deficiencies stated in the notice. If the dealer does not provide a notification of intent to cure deficiencies in that 30-day period, the termination or nonrenewal takes effect 90 days after the dealer received the notice.

(d) A manufacturer may reduce the notice period described in subdivision (a) to 10 days, and is not required to allow the dealer an opportunity to correct the deficiencies, if the manufacturer's grounds for termination or nonrenewal are any of the specific categories of good cause described in subsection (6)(a) to (e).

(e) A manufacturer is not required to provide notice or an opportunity to correct deficiencies under this subsection if the manufacturer's grounds for termination or nonrenewal is that the dealer becomes insolvent, is bankrupt, or makes an assignment for the benefit of creditors.

(4) If a manufacturer terminates or does not renew a dealer agreement for good cause under this section, the manufacturer at its option may repurchase any of the following from the dealer:

(a) All new, untitled recreational vehicles that were acquired from the manufacturer within 12 months before the effective date of the notice of termination that have not been used, except for demonstration purposes, and that have not been altered or damaged, at 100% of the net invoice cost of the recreational vehicles, including transportation, less applicable rebates and discounts to the dealer.

(b) All current and undamaged accessories and proprietary parts sold to the dealer for resale within the 12 months before the effective date of the termination that are accompanied by the original invoice, at 105% of the original net price paid to the manufacturer to compensate the dealer for handling, packing, and shipping the accessories and parts.

(c) Any properly functioning diagnostic equipment, special tools, current signage, and other equipment and machinery, purchased by the dealer within the 5 years before the effective date of the termination at the manufacturer's request, if it cannot be used in the normal course of the dealer's ongoing business, at 100% of the dealer's net cost, plus freight, destination, delivery, and distribution charges and sales taxes.

(5) The dealer shall promptly return or arrange for the return of all of the items the manufacturer elects to repurchase under subsection (4) at the manufacturer's expense and the manufacturer shall pay all of the amounts owed to the dealer under subsection (4) to the dealer within 30 days after it receives the returned items.

(6) As used in this section, "good cause" includes, but is not limited to, any of the following:

- (a) Conviction of, or plea of nolo contendere by, a dealer or an owner of a dealer to a felony.
- (b) Abandonment or closing the business operations of a dealer for 10 consecutive business days unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the dealer has no control.
- (c) A material misrepresentation to a manufacturer by a dealer that affects the business relationship between the dealer and the manufacturer.
- (d) Suspension or revocation of a dealer's license, or refusal to renew a dealer's license, by the department.
- (e) A material violation of this act by a dealer that is not cured within 30 days after written notice of the violation by a manufacturer.
- (f) The dealer becomes insolvent, is bankrupt, or makes an assignment for the benefit of creditors.

History: 2009, Act 33, Eff. Dec. 1, 2009.