

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

545B0525

HOUSE BILL NO. 1151

Introduced by: Representative Kredit and Senator Shoener

1 FOR AN ACT ENTITLED, An Act to provide for notification and hearing when motor vehicle
2 franchise agreements are modified or replaced.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No franchisor, notwithstanding the terms of any franchise agreement, may modify or replace
7 a franchisor with a succeeding franchise if the modification or replacement would adversely
8 affect the dealer's sales, investment, or obligations to provide service to the public, unless the
9 franchisor has first given the department and each affected dealer written notice by registered or
10 certified mail of any such action sixty days in advance of the modification or replacement. The
11 written notice shall contain on the first page thereof a conspicuous statement which reads as
12 follows: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST WITH
13 THE SOUTH DAKOTA DEPARTMENT OF REVENUE IN PIERRE, SOUTH DAKOTA,
14 AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE PROPOSED
15 MODIFICATION OR REPLACEMENT OF YOUR FRANCHISE WITH A SUCCEEDING
16 FRANCHISE UNDER THE TERMS OF SOUTH DAKOTA LAW IF YOU OPPOSE THIS

1 ACTION."

2 Within either sixty days after receipt of such notice or the time specified in the notice,
3 whichever is greater, a dealer may file a protest with the department and the modification or
4 replacement may not become effective unless and until the department determines that the party
5 seeking to modify or replace a franchise with a succeeding franchise has demonstrated by a
6 preponderance of the evidence that there is a good cause for the modification or replacement.
7 The prior franchise shall continue in effect until the protest is resolved by the department.