

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

329B0526

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB117** - 1/27/98

Introduced by: Senator Shoener and Representative Kredit

1 FOR AN ACT ENTITLED, An Act to prevent the inclusion of certain conditions in motor  
2 vehicle franchise agreements.

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

4 Section 1. That § 32-6B-49.1 be amended to read as follows:

5 32-6B-49.1. No franchisor may require a franchisee to agree to the inclusion of a term or  
6 condition in a franchise, or in any lease or agreement ancillary or collateral to a franchise as a  
7 condition to the offer, grant or renewal of such franchise, lease or agreement, that:

8 (1) Requires the franchisee to waive trial by jury involving the franchisor;

9 (2) Specifies the jurisdictions, venues or tribunals in which disputes arising with respect  
10 to the franchise, lease or agreement shall or may not be submitted for resolution or  
11 otherwise prevents a franchisee from bringing an action in a particular forum  
12 otherwise available under the law; ~~or~~

13 (3) Requires that disputes between the franchisor and franchisee be submitted to  
14 arbitration or to any other binding alternate dispute resolution procedure. However,  
15 any franchise, lease or agreement may authorize the submission of a dispute to

1 arbitration or to binding alternate dispute resolution if the franchisor and franchisee  
2 voluntarily agree to submit the dispute to arbitration or binding alternate dispute  
3 resolution at the time the dispute arises; or

4 (4) Requires a franchisee to pay the attorney fees of a franchisor.

5 This section does not apply to agreements pertaining to the lease or sale of real property.

1    **BILL HISTORY**

2    1/21/98 First read in Senate and referred to Transportation. S.J. 136

3    1/27/98 Scheduled for Committee hearing on this date.

4    1/27/98 Transportation Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 212

5    1/27/98 Transportation Place on Consent Calendar.