

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

545B0525

SENATE COMMERCE COMMITTEE

ENGROSSED NO. **HB1151** - 2/20/98

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

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 A franchisor may not modify a franchise during the terms of the franchise or upon its renewal
7 if the modification would substantially and adversely affect the dealer's rights, obligations,
8 investment, or return on investment without giving at least thirty days notice of the proposed
9 modification to the dealer unless the change is required by law. Within the thirty-day period, the
10 dealer may file an objection requesting a determination of whether good cause exists for
11 permitting the proposed modification with the Department of Revenue and serve notice on the
12 franchisor. The department shall promptly schedule a hearing to be held under the provisions of
13 chapter 1-26 and decide the matter within sixty days from the date the protest is filed. Multiple
14 protests pertaining to the same proposed modification shall be consolidated for hearing. The
15 proposed modification may not take effect with respect to the protesting dealer's franchise

1 pending the determination of the matter. The written notice shall contain on the first page thereof
2 a conspicuous statement which reads substantially as follows: 'NOTICE TO DEALER: YOU
3 MAY BE ENTITLED TO FILE A PROTEST WITH THE SOUTH DAKOTA DEPARTMENT
4 OF REVENUE IN PIERRE, SOUTH DAKOTA, AND HAVE A HEARING IN WHICH YOU
5 MAY PROTEST THE PROPOSED MODIFICATION OR REPLACEMENT OF YOUR
6 FRANCHISE WITH A SUCCEEDING FRANCHISE UNDER THE TERMS OF SOUTH
7 DAKOTA LAW IF YOU OPPOSE THIS ACTION.'

8 This section does not apply to franchise agreements involving travel trailers or motor homes.

1 **BILL HISTORY**

2 1/20/98 First read in House and referred to Commerce. H.J. 125

3 2/5/98 Scheduled for Committee hearing on this date.

4 2/10/98 Scheduled for Committee hearing on this date.

5 2/10/98 Commerce Do Pass Amended, Passed, AYES 10, NAYS 2. H.J. 504

6 2/11/98 Commerce Hog Housed.

7 2/12/98 House of Representatives Do Pass Amended, Passed, AYES 58, NAYS 8. H.J. 626

8 2/13/98 First read in Senate and referred to Commerce. S.J. 511

9 2/17/98 Scheduled for Committee hearing on this date.

10 2/19/98 Scheduled for Committee hearing on this date.

11 2/19/98 Commerce Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 595