

Regular Session, 2010

SENATE BILL NO. 222

BY SENATOR APPEL

COMMERCIAL REGULATIONS. Provides relative to the relationship of automobile manufacturers and dealers. (8/15/10)

1 AN ACT

2 To amend and reenact R.S. 32:1261(1)(introductory paragraph) and to enact R.S.
3 32:1261(1)(x) and (y), relative to the relationship of automobile manufacturers and
4 dealers; to provide for unauthorized acts; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 32:1261(1)(introductory paragraph) is hereby amended and reenacted
7 and R.S. 32:1261(1)(x) and (y) are hereby enacted to read as follows:

8 §1261. Unauthorized acts

9 It shall be a violation of this Chapter:

10 (1) For a manufacturer, a distributor, a wholesaler, distributor branch, factory
11 branch, converter or officer, agent, ~~or other~~ representative, **subsidiary, affiliate,**
12 **entity, or relation** thereof:

13 * * *

14 **(x) To induce, force, coerce or require, or to attempt to induce, force,**
15 **coerce or require any motor vehicle dealer or licensee to enter into any real**
16 **estate agreement with a manufacturer, distributor, wholesaler, distributor**
17 **branch or factory branch, agent, representative, subsidiary, affiliate, entity or**

1 relation thereof for any one of the following circumstances:

2 (i) For the purpose of using or threatening to use their position as, or
3 their relationship with, a landlord to a licensee in an effort to force the
4 termination or relocation, or otherwise adversely affect the franchise of the
5 licensee, or to influence the rent or relationship between the licensee and its
6 landlord.

7 (ii) Where the cost of entering into or renewing such real estate lease
8 with a licensee is greater than the fair market rent of the subject real estate, said
9 rent being valued "as restricted for the exclusive use as a franchisee of that
10 manufacturer."

11 (iii) Where the licensee is not granted a provision in such lease agreement
12 allowing the licensee the right to purchase the property at any time at the
13 licensee's option of either of the following values:

14 (aa) The fair market value, with the restriction prohibiting the use of the
15 property as a franchisee of another manufacturer for a maximum of ten years.

16 (bb) Unrestricted fair market value.

17 (y) To refuse to re-lease, or to amend or extend a lease on a real estate
18 property to a licensee other than on the grounds set forth in Subparagraph (x)
19 of this Paragraph, and on the manufacturer's standard form lease terms.

20 * * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

Present law prohibits certain acts of automobile manufacturers, distributors, wholesalers, distributor branches, factory branches, converters, officers, agents, or other representatives.

Proposed law provides for additional unauthorized acts, including:

1. Any attempt to induce, force, coerce or require, or to induce, force, coerce or require any motor vehicle dealer or licensee to enter into any real estate agreement with a manufacturer, distributor, wholesaler, distributor branch or factory branch, agent, representative, subsidiary, affiliate, entity or relation thereof for any one of the following circumstances.
 - (a) Using or threatening to use their position as, or their relationship with, a

landlord to a licensee in an effort to force the termination or relocation, or otherwise adversely affect the franchise of the licensee, or to influence the rent or relationship between the licensee and its landlord.

- (b) Where the cost of entering into or renewing such real estate lease with a licensee is greater than the fair market rent of the subject real estate, said rent being valued "as restricted for the exclusive use as a franchisee of that manufacturer."
 - (c) Where the licensee is not granted a provision in such lease agreement allowing the licensee the right to purchase the property at any time at the licensee's option of either of the following values:
 - (i) The fair market value, with the restriction prohibiting the use of the property as a franchisee of another manufacturer for a maximum of 10 years.
 - (ii) Unrestricted fair market value.
2. Refusal to re-lease, or to amend or extend a lease on a real estate property to a licensee other than on the grounds set forth in proposed law, and on the manufacturer's standard form lease terms.

Effective August 15, 2010.

(Amends R.S. 32:1261(1)(intro para); adds R.S. 32:1261(1)(x) and (y))