

Sec. 7. **REPEALER.**

Laws 1969, Chapter 950, Section 8, is repealed.

Sec. 8. **EFFECTIVE DATE.**

This act is effective upon compliance with Minnesota Statutes, Section 645.021.

Approved March 18, 1982

CHAPTER 451 — H.F.No. 1955

An act relating to the city of Waconia; authorizing the sale of certain revenue bonds at a price less than par value and in an amount and with a maturity date to be determined by the governing body.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **WACONIA REVENUE BONDS.**

Notwithstanding Minnesota Statutes, Sections 475.54, 475.56 and 475.60, the city of Waconia in Carver County may sell its revenue bonds issued pursuant to Minnesota Statutes, Sections 447.45 to 447.50, at a price not less than 95 percent of their par value, and the bonds may mature in years and amounts as determined by resolution of the Waconia city council. This authorization applies only to bonds sold to finance the project described in the certificate of need, dated July 17, 1981, issued by the Minnesota department of health for the Waconia-Ridgeview Hospital.

Sec. 2. **EFFECTIVE DATE.**

Pursuant to Minnesota Statutes, Section 645.023, Subdivision 1, Clause (a), this act is effective the day after final enactment.

Approved March 18, 1982

CHAPTER 452 — H.F.No. 2011

An act relating to commerce; motor vehicle sale and distribution; providing for the termination or cancellation of franchise agreements and certain payments to be made by manufacturers in the event thereof; specifying certain circumstances establishing good cause for entering into or relocating an additional franchise for the same line make; amending Minnesota Statutes 1981 Supplement, Sections 80E.03, Subdivision 8; 80E.07, Subdivision 1; 80E.09, Subdivisions 1, 2 and 3; 80E.11, Subdivisions 2 and 6; and 80E.14, Subdivision 2; and proposing new law coded in Minnesota Statutes, Chapter 80E.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1981 Supplement, Section 80E.03, Subdivision 8, is amended to read:

Subd. 8. **FRANCHISE.** "Franchise" means the written agreement or contract between any new motor vehicle manufacturer, ~~written or otherwise~~, and any new motor vehicle dealer which grants to the dealer the right to market motor vehicles and which purports to fix the legal rights and liabilities of the parties to the agreement or contract.

Sec. 2. Minnesota Statutes 1981 Supplement, Section 80E.07, Subdivision 1, is amended to read:

Subdivision 1. **CIRCUMSTANCES NOT CONSTITUTING GOOD CAUSE.** Notwithstanding the terms of any franchise agreement or waiver to the contrary, the following examples represent circumstances which do not by themselves constitute good cause for the termination or cancellation of a franchise:

(a) A change of ownership of the new motor vehicle dealer's dealership. This paragraph does not authorize any change in ownership which would have the effect of the sale of the franchise without the manufacturer's or distributor's consent, but consent shall not in any case be unreasonably withheld. The burden of establishing the reasonableness is on the franchisor;

(b) The fact that the new motor vehicle dealer refused to purchase or accept delivery of any new motor vehicle parts, accessories, or any other commodity or services not ordered by the new motor vehicle dealer, other than parts necessary to conduct recall campaigns or perform warranty service; ~~or~~

(c) The fact that the new motor vehicle dealer owns, invests in, participates in the management of, holds a license for the sale of another make or line of new motor vehicle, or has established another make or line of new motor vehicle in the same dealership facilities as those of the manufacturer; provided, that the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicle, and that the new motor vehicle dealer remains in substantial compliance with the terms and conditions of the franchise and with any reasonable capital, credit, or facilities' requirements of the manufacturer; or

(d) A change in the location of the new motor vehicle dealership. This paragraph does not authorize a change in location without the manufacturer's or distributor's consent, but consent shall not in any case be unreasonably withheld. The burden of establishing reasonableness is on the franchisor.

Sec. 3. Minnesota Statutes 1981 Supplement, Section 80E.09, Subdivision 1, is amended to read:

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Subdivision 1. **REQUIREMENTS.** Upon the termination or cancellation of any franchise, the new motor vehicle dealer shall, in the time prescribed, be allowed fair and reasonable compensation by the manufacturer for the following items:

(a) New motor vehicle inventory which was originally acquired from the manufacturer, as limited in clause (f);

(b) Equipment and furnishings if the new motor vehicle dealer purchased them from the manufacturer;

(c) Special tools;

(d) Supplies, including accessories and parts, purchased from the manufacturer. Fair and reasonable compensation as applied to parts means that the manufacturer shall reimburse the dealer for 100 percent of the net cost of all current unused automobile and truck parts, including transportation charges, and 85 percent of the current net prices on repair parts, including superseded parts listed in current price lists or catalogs plus five percent of the current net price of all parts returned to compensate the dealer for the handling, packing, and loading of the parts;

(e) Except as provided in paragraph (f), dealership facilities if the facilities were required to be purchased or constructed as a precondition to obtaining the franchise or its renewal by the manufacturer. If the facilities described in this clause were leased and the lease was required by the manufacturer as a precondition to obtaining the franchise or to its renewal, then the manufacturer is liable for one year's payment of the rent or the remainder of the term of the lease, whichever is less. The manufacturer has no obligations under this clause if the termination or cancellation was for good cause based on the conviction or a plea of nolo contendere of the dealer or one of its principal owners for a crime which constitutes a felony as defined in section 609.02, subdivision 2, or where it has been demonstrated that the new motor vehicle dealer has repeatedly exhibited a course of conduct constituting fraud with respect to the manufacturer or the general public. A sum equal to the current fair rental value of the dealership facilities for a period of one year from the effective date of the termination or cancellation, or the remainder of the term of the lease, whichever is less. Payment under this clause shall not be required if the termination or cancellation was for good cause based on a conviction or plea of nolo contendere of the dealer or one of its principal owners for a crime which constitutes a felony as described in section 609.02, subdivision 2, or if it has been demonstrated that the dealer has exhibited a course of conduct constituting fraud with respect to the manufacturer or the general public;

(f) In the event the termination or cancellation is due to a failure of performance of the dealer in sales or service as described in section 80E.06, subdivision 2, the manufacturer shall have no obligation to purchase facilities

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owned by the dealer but shall be required to pay the dealer a sum equivalent to the reasonable rental value of the facilities for one year. In all other respects the provisions of paragraph (e) shall apply

Fair and reasonable compensation as applied to paragraphs (a) and (d) means the manufacturer shall reimburse the dealer for 100 percent of the net cost to the dealer, including transportation, of all new current model year motor vehicle inventory acquired from the manufacturer which has not been materially altered or substantially damaged, and all new motor vehicle inventory not of the current model year which has not been materially altered or substantially damaged; provided the noncurrent model year vehicles were acquired from the manufacturer and drafted on the dealer's financing source or paid for within 120 days prior to the effective date of the termination or cancellation. The manufacturer shall reimburse the dealer for 85 percent of the current net prices on motor vehicle accessories and parts, including superseded parts listed in current price lists or catalogues plus five percent of the current net price of all accessories and parts returned to compensate the dealer for handling, packing, and loading the parts.

Sec. 4. Minnesota Statutes 1981 Supplement, Section 80E.09, Subdivision 2, is amended to read:

Subd. 2. **TIME IN WHICH PAYMENTS MUST BE MADE.** Fair and reasonable compensation shall be paid by the manufacturer when possible within 90 days of the effective date of termination or cancellation, provided the dealer has clear title to the inventory and other items, is in a position to convey that title to the manufacturer and as long as this period will allow compliance with the notification requirements of sections 336.6-101 to 336.6-111 or any other state or federal laws relating to creditor notification.

Sec. 5. Minnesota Statutes 1981 Supplement, Section 80E.09, Subdivision 3, is amended to read:

Subd. 3. **VOLUNTARY TERMINATIONS OR CANCELLATIONS.** For the purposes of reimbursement under this section, termination or cancellation includes a voluntary termination or cancellation by the dealer, and the compensation provided for in section 80E.09, subdivision 1, except clause (c) thereof, shall be paid to the dealer.

Sec. 6. Minnesota Statutes 1981 Supplement, Section 80E.11, Subdivision 2, is amended to read:

Subd. 2. **PERSONAL AND FINANCIAL DATA.** As soon as possible after designating a family member pursuant to this section, the dealer shall inform the manufacturer, factory branch, distributor, or importer of the designation and, upon request, shall provide personal and financial data that is reasonably necessary to determine whether the succession should be honored. Failure to inform the manufacturer, factory branch, distributor or importer shall not

affect the right of the designee to succeed to ownership of the dealership. At the time of serving notice under subdivision 1, the designated family member shall provide, upon the request of the manufacturer, distributor, factory branch, or importer, a current update of the personal and financial data that is reasonably necessary to determine whether the succession should be honored described above.

Sec. 7. Minnesota Statutes 1981 Supplement, Section 80E.11, Subdivision 6, is amended to read:

Subd. 6. **BURDEN OF PROOF.** In determining whether good cause for the refusal to honor the succession exists, the manufacturer, distributor, factory branch, or importer has the burden of proving that the successor is a *person who is not of good moral character and or does not meet the franchisor's existing and reasonable standards and, considering the volume of sales and service of the new motor vehicle dealer, uniformly applied minimum business experience standards in the market area.*

Sec. 8. Minnesota Statutes 1981 Supplement, Section 80E.14, Subdivision 2, is amended to read:

Subd. 2. **GOOD CAUSE.** In determining whether good cause has been established for ~~not~~ entering into or relocating an additional franchise for the same line make, the court shall take into consideration the existing circumstances, including, but not limited to:

- (a) The permanency of the investment;
- (b) The effect on the retail new motor vehicle business and the consuming public in the relevant market area;
- (c) Whether it is injurious to the public welfare for an additional new motor dealership to be established;
- (d) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of the line make in the market area including the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel;
- (e) Whether the new motor vehicle dealers of the same line make in the relevant market area are providing adequate market penetration and representation; provided, that good cause shall not be shown solely by a desire for further market penetration;
- (f) Whether the establishment of an additional new motor vehicle dealership would increase competition, and therefore be in the public interest; and
- (g) The growth or decline in population and new car registrations in the relevant market area.

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Sec. 9. [80E.18] NO RETROACTIVE APPLICATION.

The provisions of chapter 80E shall not apply to any action to terminate or cancel a motor vehicle franchise if the notice to terminate or cancel was given prior to May 1, 1981. Any such action to terminate or cancel shall be governed by the laws and regulations of the state of Minnesota in effect on the day notice to terminate or cancel was given.

Sec. 10. LEGISLATIVE INTENT.

The provisions of this act are a restatement and clarification of the legislative intent of chapter 80E and shall not be construed as a modification of existing law.

Sec. 11. EFFECTIVE DATE.

Sections 1 to 10 are effective the day following final enactment.

Approved March 18, 1982

CHAPTER 453 — S.F.No. 1837

An act relating to health; establishing a permanent council on health promotion and wellness; proposing new law coded in Minnesota Statutes, Chapter 145.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [145.98] COUNCIL ON HEALTH PROMOTION AND WELLNESS.

Subdivision 1. CREATION; MEMBERSHIP. There is established in the executive branch a council on health promotion and wellness. Members of the council shall be appointed by the governor. They shall be experienced or interested in health promotion and wellness. There shall be 15 members with at least one member from each congressional district. The initial membership shall include all persons holding current membership on the governor's council on health promotion and wellness established by Executive Order No. 81-6. The chairperson shall be appointed by the governor from among the members. Members shall not receive per diem pay but may be reimbursed for travel and other expenses in the same manner and amount as state employees. Terms of office shall be governed by section 15.0575.

Subd. 2. DUTIES. The council shall prepare a written biennial report on the state of the state's health beginning with a report to the legislature and the governor in January, 1983. The council shall:

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