

2860.4400 UNFAIR AND INEQUITABLE PRACTICES.

All franchise contracts or agreements and any other device or practice of a franchisor, shall conform to the following provisions. It shall be unfair and inequitable for any person to:

A. restrict or inhibit, directly or indirectly, the free association among franchisees for any lawful purpose;

B. discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any business dealing, unless any classification of or discrimination between franchisees is based on franchises granted at different times, geographic, market, volume, or size differences, costs incurred by the franchisor, or other reasonable grounds considering the purposes of Minnesota Statutes 1973 Supplement, sections 80C.01 to 80C.22;

C. compete with the franchisee in an exclusive territory or grant competitive franchises in the exclusive territory previously granted to another franchisee if the terms of the franchise agreement provide that an exclusive territory has been specifically granted to a franchisee;

D. require a franchisee to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statutes 1973 Supplement, sections 80C.01 to 80C.22; provided, that this part shall not bar the voluntary settlement of disputes;

E. terminate or cancel a franchise unless:

(1) that person has given written notice setting forth all the reasons for termination or cancellation to the franchisee at least 90 days in advance of termination or cancellation; and

(2) the recipient of the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice, except that the notice shall be effective immediately upon receipt where the alleged grounds are:

(a) voluntary abandonment of the franchise relationship by the franchisee;

(b) the conviction of the franchisee in a court of competent jurisdiction of an offense directly related to the business conducted pursuant to the franchise; or

(c) failure to cure a default under the franchise agreement that materially impairs the good will associated with the franchisor's tradename, trademark, service mark, logotype, or other commercial symbol after the franchisee has received written notice to cure of at least 24 hours in advance thereof;

F. terminate or cancel a franchise except for "good cause," which shall be defined as failure by the franchisee substantially to comply with those reasonable requirements imposed by the franchise, including but not limited to:

- (1) the bankruptcy or insolvency of the franchisee;
- (2) assignment for the benefit of creditors or similar disposition of the assets of the franchise business;
- (3) voluntary abandonment of the franchise business;
- (4) conviction or a plea of guilty or no contest to a charge of violating any law relating to a franchise business; or
- (5) any act by or conduct of the franchisee which materially impairs the good will associated with the franchisor's trademark, tradename, service mark, logotype, or other commercial symbol;

G. impose on a franchisee by contract or rule, whether written or oral, any standard of conduct that is unreasonable;

H. unreasonably withhold consent to any assignment, transfer, or sale of the franchise whenever the franchisee to be substituted meets the present qualifications and standards required of the franchisees of the particular franchisor;

I. enforce any unreasonable covenant not to compete after the franchise relationship ceases to exist;

J. require a franchisee to waive his or her rights to a jury trial or to waive rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or to consent to liquidated damages, termination penalties, or judgment notes; provided that this part shall not bar an exclusive arbitration clause;

K. require a security deposit except for the purpose of securing against damage to property, equipment, inventory, or leaseholds;

L. require or prohibit any change in management or personnel of any franchisee unless the current or potential management or personnel fails to meet the present qualifications and standards required by the particular franchisor; or

M. fail to renew a franchise unless the franchisee has been given written notice of the intention not to renew at least 180 days in advance thereof and has been given a opportunity to operate the franchise over a sufficient period of time to enable the franchisee to recover the fair market value of the franchise as a going concern as determined and measured from the date of the failure to renew. This item does not apply if the failure to renew a franchise is for good cause and the franchisee has failed to correct the reasons for termination.

Statutory Authority: *MS s 45.023; 80C.14; 80C.18; L 1986 c 444*

History: *14 SR 2631; 15 SR 2104; 17 SR 1279*

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