

80E.14 LIMITATIONS ON ESTABLISHING OR RELOCATING DEALERSHIPS.

Subdivision 1. **Notification; protest; hearing.** In the event that a manufacturer seeks to enter into a franchise establishing an additional new motor vehicle dealership or relocating an existing new motor vehicle dealership within or into a relevant market area where the line make is then represented, the manufacturer shall, in writing, first notify each new motor vehicle dealer in this line make in the relevant market area of the intention to establish an additional dealership or to relocate an existing dealership within or into that market area. The relevant market area is a radius of ten miles around an existing dealership. Within 30 days of receiving the notice or within 30 days after the end of any appeal procedure provided by the manufacturer, the new motor vehicle dealership may commence a civil action in a court of competent jurisdiction pursuant to section 80E.17 challenging the establishing or relocating of the new motor vehicle dealership. An action brought under this section shall be placed on the calendar ahead of other civil actions to be heard and determined as expeditiously as possible. Thereafter the manufacturer shall not establish or relocate the proposed new motor vehicle dealership unless the court has determined that there is good cause for permitting the establishment or relocation of the motor vehicle dealership.

For the purposes of this section, the reopening in a relevant market area of a new motor vehicle dealership within two miles of a location at which a former dealership of the same line make had been in operation within the previous two years shall not be deemed the establishment of a new motor vehicle dealership if the reopening is carried out in good faith and does not violate the provisions of section 80E.13, paragraph (i).

The relocation of an existing dealer within its area of responsibility as defined in the franchise agreement shall not be subject to this section, if the proposed relocation site is within five miles of its existing location and is not within a radius of five miles of an existing dealer of the same line make.

A manufacturer's establishment or approval of an additional new motor vehicle sales, service, or parts location by its line make dealer is considered the establishment of a new motor vehicle dealership subject to the requirements of this section.

Subd. 2. **Good cause.** In determining whether good cause has been established for 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 extent, nature, and permanency of the investment of the proposed new dealership and the existing motor vehicle dealers of the same line make in the relevant market area;

(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 existing new motor vehicle dealers of the same line make in the relevant market area and 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;

(g) the growth or decline in population and new car registrations in the relevant market area;

(h) the effect the proposed new dealership would have on the provision of stable, adequate, and reliable sales and service to purchasers of the same line make in the relevant market area; and

(i) the effect the proposed new dealership would have on the stability of existing franchises of the same line make in the relevant market area.

Subd. 3. **Successor manufacturers.** (a) If an entity other than the original manufacturer or distributor of a line-make becomes the manufacturer or distributor for the line-make and intends to distribute motor vehicles of that line-make in this state, the entity shall offer those dealers a new franchise agreement for the line-make on substantially similar terms and conditions.

(b) For purposes of this subdivision, the following definitions apply:

(1) "successor manufacturer" means a motor vehicle manufacturer, distributor, or factory branch that, on or after January 1, 2009, acquires, succeeds to, or assumes any part of the business of another manufacturer, referred to as the "predecessor manufacturer," as the result of a court-approved sale;

(2) "relevant market area" is the area within a ten-mile radius around the site of the previous franchisee's dealership facility; and

(3) "former franchisee" is a new motor vehicle dealer that was party to a franchise agreement with a predecessor manufacturer and that has either:

(i) entered into a termination agreement or deferred termination agreement with a predecessor or successor manufacturer related to the franchise; or

(ii) has had the franchise canceled, terminated, nonrenewed, noncontinued, rejected, nonassumed, or otherwise ended by a predecessor or successor manufacturer.

(c) For a period of three years from the date that a former franchisee was terminated, it shall be unlawful for the successor manufacturer to enter into a same line make franchise with any person or to permit the relocation of any existing same line make franchise, for a line make of the predecessor manufacturer that would be located or relocated within the relevant market area without first offering the additional or relocated franchise to the former franchisee, or the designated successor of such former franchisee in the event the former franchisee is deceased or disabled, at no cost and without any requirements or restrictions other than those imposed generally on the manufacturer's other franchisees at that time, unless one of the following applies:

(1) as a result of the former franchisee's cancellation, termination, noncontinuance, or nonrenewal of the franchise, the predecessor manufacturer had consolidated the line make with another of its line makes for which the predecessor manufacturer had a franchisee with a then existing dealership facility located within that relevant market area;

(2) the successor manufacturer has paid the former franchisee, or the designated successor of such former franchisee in the event the former franchisee is deceased or disabled, all amounts provided in section 80E.09; or

(3) the successor manufacturer proves that the former franchisee, or the designated successor of such former franchisee in the event the former franchisee is deceased or disabled, by reason of lack of training, lack of prior experience, poor past performance, lack of financial ability, or poor character, is unfit to own or manage the dealership pursuant to the successor manufacturer's reasonable requirements for appointment as a dealer. A successor manufacturer who seeks to assert that a former franchisee is unfit to own or manage the dealership shall have the burden of proving lack of fitness in any action to enforce the provisions of this subdivision.

Subd. 4. **Consolidations.** A manufacturer shall not unreasonably deny the request of two or more new motor vehicle dealers who hold franchises representing different line makes of the same manufacturer to consolidate the dealers' ownership and facilities, provided that the resulting new motor vehicle dealer remains in substantial compliance with reasonable capital, credit, and facilities' requirements of the manufacturer, and provided further that the existing location of the dealership holding the franchise or franchises to be relocated is the nearest of that line make to the resulting consolidated facility, and that the resulting facility is not within a radius of ten miles of another dealer of any of the same line makes.

History: 1981 c 59 s 15; 1Sp1981 c 4 art 4 s 3; 1982 c 452 s 8; 1985 c 34 s 5; 1987 c 150 s 1,2; 1995 c 107 s 1; 2000 c 409 s 2; 2009 c 34 s 6; 2010 c 339 s 5,6