80E.135 WAIVERS AND MODIFICATIONS PROHIBITED.

Subdivision 1. **Prohibition.** No manufacturer, distributor, or factory branch shall, before entering into a franchise with a new motor vehicle dealer or during the franchise term, use any written instrument, agreement, or waiver, to attempt to nullify or modify any provision of this chapter or prevent a new motor vehicle dealer from bringing an action in a particular forum otherwise available under law. These instruments, agreements, and waivers are null and void.

Subd. 1a. **Site control agreements.** No manufacturer, distributor, or factory branch shall directly or indirectly condition the awarding of a franchise to a prospective new motor vehicle dealer, the addition of a line make or franchise to an existing dealer, the renewal of a franchise of an existing dealer, the approval of the relocation of an existing dealer's facility, or the approval of the sale or transfer of the ownership of a franchise on the willingness of a dealer, proposed new dealer, or owner of an interest in the dealership facility to enter into a site control agreement or exclusive use agreement. For purposes of this section, the terms "site control agreement" and "exclusive use agreement" include any agreement that has the effect of either:

(1) requiring that the dealer establish or maintain exclusive dealership facilities; or

(2) restricting the ability of the dealer, or the ability of the dealer's lessor in the event the dealership facility is being leased, to transfer, sell, lease, or change the use of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease the dealership facilities, option to purchase the dealership facilities, option to lease the dealership facilities, or other similar agreement, regardless of the parties to the agreement.

Any provision contained in any agreement that is inconsistent with the provisions of this subdivision is voidable at the election of the affected dealer or owner of an interest in the dealership facility. This subdivision does not limit the right of a manufacturer, distributor, factory branch, or importer to exercise a right of first refusal under section 80E.13, clause (10), to acquire a franchisee's assets or ownership in the event of a proposed sale or transfer of a franchise.

Subd. 2. **Applicability.** Subdivision 1a does not apply to a site control agreement or an exclusive use agreement if the agreement:

(1) is voluntarily entered into by the dealer or the dealer's lessor as described in subdivision 1a and its execution is not a condition of approval of a transaction by a manufacturer, distributor, or factory branch;

(2) clearly and conspicuously discloses that the agreement is voluntary; and

(3) provides for a separate consideration to the dealer or dealer's lessor.

History: *1988 c 611 s 9; 2009 c 34 s 5; 2010 c 339 s 4*