

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 996

Introduced by Friesen, 34.

Read first time January 15, 2016

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to motor vehicles; to amend section
- 2 60-1438.01, Revised Statutes Cumulative Supplement, 2014; to change
- 3 provisions relating to the Motor Vehicle Industry Regulation Act;
- 4 and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-1438.01, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 60-1438.01 (1) For purposes of this section, manufacturer or
4 distributor includes (a) a factory representative or a distributor
5 representative or (b) a person who is affiliated with a manufacturer or
6 distributor or who, directly or indirectly through an intermediary, is
7 controlled by, or is under common control with, the manufacturer or
8 distributor. A person is controlled by a manufacturer or distributor if
9 the manufacturer or distributor has the authority directly or indirectly,
10 by law or by agreement of the parties, to direct or influence the
11 management and policies of the person. A franchise agreement with a
12 Nebraska-licensed dealer which conforms to and is subject to the Motor
13 Vehicle Industry Regulation Act is not control for purposes of this
14 section.

15 (2) Except as provided in this section, a manufacturer or
16 distributor shall not directly or indirectly:

17 (a) Own an interest in a franchise, franchisee, or consumer care or
18 service facility, except that a manufacturer or distributor may hold
19 stock in a publicly held franchise, franchisee, or consumer care or
20 service facility so long as the manufacturer or distributor does not by
21 virtue of holding such stock operate or control the franchise,
22 franchisee, or consumer care or service facility;

23 (b) Operate or control a franchise, franchisee, or consumer care or
24 service facility; or

25 (c) Act in the capacity of a franchisee or motor vehicle dealer.

26 (3) A manufacturer or distributor may own an interest in a
27 franchisee or otherwise control a franchise for a period not to exceed
28 twelve months after the date the manufacturer or distributor acquires the
29 franchise if:

30 (a) The person from whom the manufacturer or distributor acquired
31 the franchise was a franchisee; and

1 (b) The franchise is for sale by the manufacturer or distributor.

2 (4) For purposes of broadening the diversity of its franchisees and
3 enhancing opportunities for qualified persons who lack the resources to
4 purchase a franchise outright, but for no other purpose, a manufacturer
5 or distributor may temporarily own an interest in a franchise if the
6 manufacturer's or distributor's participation in the franchise is in a
7 bona fide relationship with a franchisee and the franchisee:

8 (a) Has made a significant investment in the franchise, which
9 investment is subject to loss;

10 (b) Has an ownership interest in the franchise; and

11 (c) Operates the franchise under a plan to acquire full ownership of
12 the franchise within a reasonable time and under reasonable terms and
13 conditions.

14 (5) On a showing of good cause by a manufacturer or distributor, the
15 board may extend the time limit set forth in subsection (3) of this
16 section. An extension may not exceed twelve months. An application for an
17 extension after the first extension is granted is subject to protest by a
18 franchisee of the same line-make whose franchise is located in the same
19 community as the franchise owned or controlled by the manufacturer or
20 distributor.

21 (6) The prohibition in subdivision (2)(b) of this section shall not
22 apply to any manufacturer of manufactured housing, recreational vehicles,
23 or trailers.

24 (7) The prohibitions set forth in subsection (2) of this section
25 shall not apply to a manufacturer that:

26 (a) Does not own or operate more than two such dealers or dealership
27 locations in this state;

28 (b) Owned, operated, or controlled a warranty repair or service
29 facility in this state as of January 1, 2016;

30 (c) Manufactures engines for installation in a motor-driven vehicle
31 with a gross vehicle weight rating of more than sixteen thousand pounds

1 for which motor-driven vehicle evidence of title is required as a
2 condition precedent to registration under the laws of this state,
3 provided that the manufacturer is not otherwise a manufacturer of motor
4 vehicles; and

5 (d) Provides to dealers on substantially equal terms access to all
6 support for completing repairs, including, but not limited to, parts and
7 assemblies, training and technical service bulletins, and other
8 information concerning repairs that the manufacturer provides to
9 facilities owned, operated, or controlled by the manufacturer.

10 Sec. 2. Original section 60-1438.01, Revised Statutes Cumulative
11 Supplement, 2014, is repealed.