

FIRST REGULAR SESSION

HOUSE BILL NO. 510

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEMBKE.

Read 1st time January 22, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

16461.011

AN ACT

To repeal section 407.815, RSMo, and to enact in lieu thereof one new section relating to motor vehicle franchise practices.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 407.815, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.815, to read as follows:

407.815. As used in sections 407.810 to 407.835, unless the context otherwise requires, the following terms mean:

(1) "Administrative hearing commission", the body established in chapter 621, RSMo, to conduct administrative hearings;

(2) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of six hundred pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control;

(3) "Coerce", to force a person to act in a given manner or to compel by pressure or threat but shall not be construed to include the following:

(a) Good faith recommendations, exposition, argument, persuasion or attempts at persuasion;

(b) Notice given in good faith to any franchisee of such franchisee's violation of terms or provisions of such franchise or contractual agreement;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (c) Any other conduct set forth in section 407.830 as a defense to an action brought
16 pursuant to sections 407.810 to 407.835; or

17 (d) Any other conduct set forth in sections 407.810 to 407.835 that is permitted of the
18 franchisor or is expressly excluded from coercion or a violation of sections 407.810 to 407.835;

19 (4) "Franchise" or "franchise agreement", a written arrangement or contract for a definite
20 or indefinite period, in which a person grants to another person a license to use, or the right to
21 grant to others a license to use, a trade name, trademark, service mark, or related characteristics,
22 in which there is a community of interest in the marketing of goods or services, or both, at
23 wholesale or retail, by agreement, lease or otherwise, and in which the operation of the
24 franchisee's business with respect to such franchise is substantially reliant on the franchisor for
25 the continued supply of franchised new motor vehicles, parts and accessories for sale at
26 wholesale or retail;

27 (5) "Franchisee", a person to whom a franchise is granted;

28 (6) "Franchisor", a person who grants a franchise to another person;

29 (7) "Motor vehicle", for the purposes of sections 407.810 to 407.835, any motor-driven
30 vehicle required to be registered pursuant to the provisions of chapter 301, RSMo, **or any**
31 **engine, transmission, or rear axle, regardless of whether attached to a vehicle, chassis,**
32 **manufactured for installation in any motor-driven vehicle required to be registered under**
33 **the provisions of chapter 301, RSMo, that has the transport of a person or persons, or**
34 **property, on a public highway as its primary purpose and a gross vehicle weight rating of**
35 **more than sixteen thousand pounds,** except that, motorcycles and all-terrain vehicles as
36 defined in section 301.010, RSMo, shall not be included;

37 (8) "New", when referring to motor vehicles or parts, means those motor vehicles or
38 parts which have not been held except as inventory, as that term is defined in subdivision (4) of
39 section 400.9-109, RSMo;

40 (9) "Person", a natural person, sole proprietor, partnership, corporation, or any other
41 form of business entity or organization.

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