

2007 -- H 5275

LC00463

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO COMMERCIAL LAW -- THE RHODE ISLAND FAIR DEALERSHIP ACT

Introduced By: Representatives Ucci, Pacheco, Segal, Petrarca, and Picard

Date Introduced: February 01, 2007

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW – GENERAL  
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 50

4 THE RHODE ISLAND FAIR DEALERSHIP ACT

5 **6-50-1. Short title.** – This chapter shall be known as the "Rhode Island Fair Dealership  
6 Act."

7 **6-50-2. Definitions.** – In this chapter:

8 (1) "Community of interest" means a continuing financial interest between the grantor  
9 and the grantee in either the operation of the dealership business or the marketing of such goods  
10 or services;

11 (2) "Dealer" means a person who is a grantee of a dealership situated in this state;

12 (3) "Dealership" means any of the following:

13 (a) A contract or agreement, either expressed or implied, whether oral or written, between  
14 two (2) or more persons, by which a person is granted the right to sell or distribute goods or  
15 services, or use a trade name, trademark, service mark, logotype, advertising or other commercial  
16 symbol, in which there is a community of interest in the business of offering, selling or  
17 distributing goods or services at wholesale, retail, by lease, agreement or otherwise.

18 (4) "Good cause" means:

19 (a) Failure by a dealer to comply substantially with essential and reasonable requirements

1 imposed upon the dealer by the grantor, or sought to be imposed by the grantor, which  
2 requirements are not discriminatory as compared with requirements imposed on other similarly  
3 situated dealers either by their terms or in the manner of their enforcement; or

4 (b) Bad faith by the dealer in carrying out the terms of the dealership.

5 (5) "Grantor" means a person who grants a dealership;

6 (6) "Person" means a natural person, partnership, joint venture, corporation or other  
7 entity.

8 **6-50-3. Purposes; rules of construction; variation by contract.** – (1) This chapter shall  
9 be liberally construed and applied to promote its underlying remedial purposes and policies.

10 (2) The underlying purposes and policies of this chapter are:

11 (a) To promote the compelling interest of the public in fair business relations between  
12 dealers and grantors, and in the continuation of dealerships on a fair basis;

13 (b) To protect dealers against unfair treatment by grantors, who inherently have superior  
14 economic power and superior bargaining power in the negotiation of dealerships;

15 (c) To provide dealers with rights and remedies in addition to those existing by contract  
16 or common law;

17 (d) To govern dealerships, including any renewals or amendments, to the full extent  
18 consistent with the constitutions of this state and the United States.

19 (3) The effect of this chapter may not be varied by contract or agreement. Any contract or  
20 agreement purporting to do so is void and unenforceable to that extent only.

21 **6-50-4. Notice of termination or change in dealership.** – Except as provided in this  
22 section, a grantor shall provide a dealer at least ninety (90) days' prior written notice of  
23 termination, cancellation, nonrenewal or substantial change in competitive circumstances. The  
24 notice shall state all the reasons for termination, cancellation, nonrenewal or substantial change in  
25 competitive circumstances and shall provide that the dealer has sixty (60) days in which to rectify  
26 any claimed deficiency. If the deficiency is rectified within sixty (60) days the notice shall be  
27 void. The notice provisions of this section shall not apply if the reason for termination,  
28 cancellation or nonrenewal is insolvency, the occurrence of an assignment for the benefit of  
29 creditors or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial  
30 change in competitive circumstances is nonpayment of sums due under the dealership, the dealers  
31 shall be entitled to written notice of such default, and shall have ten (10) days in which to remedy  
32 such default from the date of delivery or posting of such notice.

33 **6-50-5. Repurchase of inventories.** – If a dealership is terminated by the grantor, the  
34 grantor, at the option of the dealer, shall repurchase all inventories sold by the grantor to the

1 dealer for resale under the dealership agreement at the fair wholesale market value. This section  
2 applies only to merchandise with a name, trademark, label or other mark on it which identifies the  
3 grantor.

4 **6-50-6. Application to arbitration agreements.** -- This chapter shall not apply to  
5 provisions for the binding arbitration of disputes contained in a dealership agreement, if the  
6 criteria for determining whether good cause existed for a termination, cancellation, nonrenewal or  
7 substantial change of competitive circumstances, and the relief provided is no less than that  
8 provided for in this chapter.

9 **6-50-7. Action for damages and injunctive relief.** – If any grantor violates this chapter,  
10 a dealer may bring an action against such grantor in any court of competent jurisdiction for  
11 damages sustained by the dealer as a consequence of the grantor's violation, together with the  
12 actual costs of the action, including reasonable actual attorneys' fees, and the dealer also may be  
13 granted injunctive relief against unlawful termination, cancellation, nonrenewal or substantial  
14 change of competitive circumstances.

15 **6-50-8. Temporary injunctions.** – In any action brought by a dealer against a grantor  
16 under this chapter, any violation of this chapter by the grantor is deemed an irreparable injury to  
17 the dealer in determining if temporary injunctions should issue.

18 **6-50-9. Nonapplicability.** – This chapter shall not apply to intoxicating liquor  
19 dealerships, motor vehicle dealerships, insurance agency relationships and door to door sales  
20 dealerships.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO COMMERCIAL LAW -- THE RHODE ISLAND FAIR DEALERSHIP ACT

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1           This act would provide protection for dealership owners within this state from the  
2 superior economic power of dealership grantors.

3           This act would take effect upon passage.

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