

S.51

An act relating to Vermont's motor vehicle franchise laws

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 1, § 4085(6), by inserting the word "new" before the words "motor vehicle dealer" wherever they appear

Second: In Sec. 1, 9 V.S.A. § 4085, by adding a subdivision (17) to read:

(17) "Motor home" means a motor vehicle that is primarily designed to provide temporary living quarters, built into as an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must contain at least four of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating or air conditioning or both, a potable water supply system, including a sink and faucet, separate 110-125 volt electrical power supply or an LP gas supply or both.

Third: In Sec. 1, § 4089(e)(3), by substituting the words "line-make" for the words "make, line, or brand" wherever they appear, and by substituting the words "line-make of new motor vehicle" for "line of new motor vehicle"

Fourth: In Sec. 1, 9 V.S.A. § 4090(a)(4), by inserting the word "days" between "180" and "prior to"

Fifth: in Sec. 1, § 4091(a), by inserting the words "or section 4090(a)(4)" between the words "section 4089" and the words "of this title"

Sixth: In Sec. 1, 9 V.S.A. § 4091(a)(4), after the words 500 miles or less on the odometer by adding the following: “, or in the case of a motor home if the vehicle’s odometer has no more than 1,000 miles above the original factory to dealership delivery mileage.”

Seventh: In Sec. 1, § 4091(c), by inserting the word “new” before the words “motor vehicle dealer”

Eighth: In Sec. 1, 9 V.S.A. § 4091, by inserting a subdivision (e) to read:

(e) This section shall not apply to a nonrenewal or termination that is implemented as a result of the sale of the assets or stock of the motor vehicle dealer, unless the franchisor and franchisee otherwise agree in writing.

Ninth: In Sec. 1, § 4096(6), by inserting the word “new” before the words “motor vehicle dealer” wherever they appear

Tenth: In Sec. 1, 9 V.S.A. § 4096, by striking the existing subdivision (8) and inserting in lieu thereof a new (8) and a (9) to read:

(8) to change the location of the dealership or to make any substantial alterations to the dealership premises or facilities when to do so would be unreasonable;

(9) to change the location of the dealership or to make any substantial alterations to the dealership premises or facilities in the absence of written assurance from the manufacturer or distributor of a sufficient supply of new motor vehicles to justify the change in location or the alterations

Eleventh: In Sec. 1, § 4097(13), by inserting the words “new motor vehicle” before the word “dealer” and before the word “dealers”

Twelfth: In Sec. 1, 9 V.S.A. § 4097, by striking the existing subdivision (17) and inserting in lieu thereof a new (17) to read:

(17) to fail or refuse to sell or offer to sell to all motor vehicle franchisees of a line-make, all models manufactured for that line-make, or to require a motor vehicle franchisee to do any of the following as a prerequisite to receiving a model or series of vehicles: requiring the dealer to pay any extra fee; requiring a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or relocate, expand, improve, remodel, renovate, recondition, or alter the dealer’s existing facilities; or requiring the dealer to provide exclusive facilities. However, a manufacturer may require reasonable improvements to the existing facility that are necessary to accommodate special or unique features of a specific model or line. The failure to deliver any such motor vehicle, however, shall not be considered a violation of this section if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo, or other cause over which the franchisor has no control. This subdivision shall not apply to a manufacturer of a motor home;

Thirteenth: In Sec. 1, § 4097(18), by inserting the word “new” before the words “motor vehicle dealer” wherever they appear

Fourteenth: In Sec. 1, 9 V.S.A. § 4097, by striking the existing subdivision (21) and inserting in lieu thereof a new (21) to read:

(21)(A) to vary the price charged to any of its franchised new motor vehicle dealers located in this state for new motor vehicles based on:

(i) the dealer's purchase of new facilities, supplies, tools, equipment, or other merchandise from the manufacturer;

(ii) the dealer's relocation, remodeling, repair, or renovation of existing dealerships or construction of a new facility;

(iii) the dealer's participation in training programs sponsored, endorsed, or recommended by the manufacturer;

(iv) whether or not the dealer offers for sale more than one line-make of new motor vehicle in the same dealership facility;

(v) the dealer's sales penetration, sales volume, or level of sales or customer service satisfaction;

(vi) the dealer's purchase of advertising materials, signage, nondiagnostic computer hardware or software, communications devices, or furnishings; or

(vii) the dealer's participation in used motor vehicle inspection or certification programs sponsored or endorsed by the manufacturer.

(B) The price of the vehicle, for purposes of this subdivision (21), shall include the manufacturer's use of rebates, credits, or other consideration

that has the effect of causing a variance in the price of new motor vehicles offered to its franchised dealers located in the state;

Fifteenth: In Sec. 1, § 4097(22), by substituting the words “new motor vehicle dealer” for the words “new vehicle dealer” wherever they appear

Sixteenth: In Sec. 1, 9 V.S.A. § 4100, by inserting the word “new” before the words “motor vehicle”

Seventeenth: In Sec. 1, 9 V.S.A. § 4100a, by inserting the word “new” before the words “motor vehicle” wherever they appear

Eighteenth: In Sec. 1, § 4100e, by inserting the word “new” before the words “motor vehicle dealer” wherever they appear, and by substituting the words “new motor vehicle dealer” for the words “new vehicle dealer”

Nineteenth: In Sec. 2, § 3(2), by inserting the word “new” before the words “motor vehicle dealer” wherever they appear

Twentieth: First: By striking Sec. 1a in its entirety

Twenty-first: In Sec. 1, by striking § 4100c in its entirety and inserting in lieu thereof a new § 4100c to read:

§ 4100c. FINANCING; VERMONT TRANSPORTATION BOARD

(a) On July 1, 2009, and every year thereafter, there is imposed an annual fee upon each new motor vehicle dealer of \$60.00 for each dealer license held by that dealer, and there is imposed upon each manufacturer an annual fee of

\$600.00 for each line-make of new motor vehicle that the manufacturer sells or distributes within this state.

(b) Upon the filing of a protest under this chapter, the protesting party shall pay to the board a filing fee of \$1,500.00.

(c) The transportation board shall administer the fees imposed under this section, and the fees shall be deposited into the transportation fund.

(d) The amount of the fee imposed by this section is intended to correlate to the amount of funding required by the transportation board to administer its duties under 9 V.S.A. chapter 108.

Twenty-second: In Sec. 3(d), by adding a subdivision (12) at the end thereof, to read:

(12) maintain the accounting functions for the duties imposed by 9 V.S.A. chapter 108 separately from the accounting functions relating to its other duties.

Twenty-third: In Sec. 3(d), by adding a subdivision (12) at the end thereof, to read:

(12) maintain the accounting functions for the duties imposed by 9 V.S.A. chapter 108 separately from the accounting functions relating to its other duties.

Twenty-fourth: By adding new Secs. 4, 5 and 6 to read:

Sec. 4. ALLOCATION TO TRANSPORTATION BOARD FOR DUTIES

UNDER 9 V.S.A. CHAPTER 108

The sum of \$50,000.00 is appropriated from the transportation fund to the transportation board for the purpose of implementing the provisions of 9 V.S.A. chapter 108.

Sec. 5. REPORT

By January 15, 2011, the transportation board shall report to the house and senate committees on transportation regarding the cost of administering the provisions of 9 V.S.A. chapter 108, and based on that cost shall make recommendations regarding the amount of the fees imposed under 9 V.S.A. § 4100c. After the initial report is presented by January 15, 2011, the transportation board shall ensure that the ongoing cost of administering 9 V.S.A. chapter 108 and associated fee recommendations are presented to the house and senate committees on transportation under the customary periodic motor vehicle fee review.

Sec. 6. TRANSPORTATION BOARD; ANNUAL BUDGET FOR DUTIES

UNDER 9 V.S.A. CHAPTER 108

Each year, the transportation board shall request a line item appropriation for its duties under 9 V.S.A. chapter 108 separate and apart from its budget for its other functions. This request shall be based upon its expenditures for those duties in the prior fiscal year.