

CHAPTER 263, Laws of 1975

AN ACT to amend 218.01 (8) (d) and (9); and to create 218.01 (3) (a) 26 and (3c) of the statutes, relating to the succession to an automobile dealership under the existing franchise agreement by a family member of a deceased or incapacitated dealer.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 218.01 (3) (a) 26 and (3c) of the statutes are created to read:

218.01 (3) (a) 26. Being a manufacturer, factory branch, distributor, field representative, officer, agent or any representative of such manufacturer, factory branch or distributor who, notwithstanding the terms of any agreement, refuses to honor the succession to the ownership or operation of a dealership under an existing franchise agreement by a designated family member of a deceased or incapacitated dealer, except in the manner prescribed by sub. (3c), or who unreasonably withholds its approval of a change of ownership or executive management of the dealership after the dealer's death or incapacity.

(3c) FAMILY MEMBER'S RIGHT TO SUCCEED DECEASED OR INCAPACITATED DEALER UNDER EXISTING FRANCHISE AGREEMENT. (a) The term "designated family member", as used in this subsection and in sub. (3) (a) 26, means the spouse, child, grandchild, parent, brother or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will or under the laws of intestate succession of this state, or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term "designated family member" shall also mean and include the duly appointed and qualified personal representative and the testamentary trustee of a deceased dealer.

(b) Any designated family member of a deceased or incapacitated dealer shall have the right to succeed such dealer in the ownership or operation of the dealership under the existing franchise agreement provided he gives the manufacturer, factory branch or distributor written notice of his intention to do so within 120 days of the dealer's death or incapacity and unless there exists good cause for refusal to honor such succession on the part of the manufacturer, factory branch or distributor. The manufacturer, factory branch or distributor may request, and the designated family member shall provide, such personal and financial data as is reasonably necessary to determine whether the succession should be honored.

(c) If a manufacturer, factory branch or distributor believes it has good cause for refusing to honor the succession to the ownership and operation of a dealership by a family member of a deceased or incapacitated dealer under the existing franchise agreement, such manufacturer, factory branch or distributor may, within 30 days of receipt of notice of the designated family member's intent to succeed the dealer in the ownership and operation of the dealership, serve upon such designated family member and the division notice of its refusal to honor the succession and of its intent to discontinue the existing franchise agreement with the dealership no sooner than 60 days from the date such notice is served. Such notice shall state the specific grounds for the refusal to honor the succession and the discontinuance of the franchise agreement. If no notice of such refusal and discontinuance is timely served upon the

family member and division, or if the division rules in favor of the complainant in a hearing held under par. (d), the franchise agreement shall continue in effect subject to termination only in the manner prescribed in this subchapter.

(d) Any designated family member who receives a notice of the manufacturer's, factory branch's or distributor's refusal to honor his succession to the ownership and operation of the dealership may within the 60-day notice period, file in triplicate with the division a verified complaint for a hearing and determination by the division on whether good cause exists for such refusal and discontinuance. The manufacturer, factory branch or distributor shall have the burden of establishing good cause for such refusal by showing that the succession would be detrimental to the public interest or to the representation of the manufacturer, factory branch or distributor. The franchise agreement shall continue in effect until the final determination of the issues raised in such complaint. If the complainant prevails he shall have a cause of action against the defendant for reasonable expenses and attorney's fees incurred in such matter. If the manufacturer, factory branch or distributor prevails, the division shall include in its order approving the termination of the franchise agreement such conditions as are reasonable and adequate to afford the complainant an opportunity to receive fair and reasonable compensation for the value of the dealership.

(e) Nothing in this subsection shall prevent a dealer, during his lifetime, from designating any person as his successor dealer by written instrument filed with the manufacturer, factory branch or distributor.

SECTION 2. 218.01 (8) (d) and (9) of the statutes are amended to read:

218.01 (8) (d) Any person or persons violating sub. (3) (a) 15, 16, 17, 23 ~~or~~, 24 or 26, may in addition to, or in lieu of, the general denial, suspension or revocation penalties in sub. (3), be subject to a fine of not more than \$5,000 or be subject to a suspension or revocation sentence of not more than a year effective only in the territory formerly served by the unfairly canceled dealer, or by both such fine and suspension or revocation, except that in a metropolitan area serviced by several dealers handling the same motor vehicle, the suspension or revocation order shall not be applicable to the remaining dealers.

(9) CIVIL DAMAGES. Any licensee suffering pecuniary loss because of a violation by any other licensee of sub. (3) (a) 4, 11, 15, 16, 17, 23 ~~or~~, 24 or 26 or because of any unfair practice found by the licensor under sub. (5) (a), may recover damages therefor in any court of competent jurisdiction in an amount equal to 3 times the pecuniary loss together with costs including a reasonable attorney's fee.
