

1973 Assembly Bill 837

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CHAPTER 179, Laws of 1973

AN ACT to create chapter 135 and 893.22 (3) of the statutes, relating to cancellation of dealerships.

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

SECTION 1. Chapter 135 of the statutes is created to read:

**CHAPTER 135
DEALERSHIP PRACTICES**

135.01 Short title. This chapter may be cited as the "Wisconsin Fair Dealership Law".

135.02 Definitions. In this chapter.

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

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

(3) "Grantor" means a person who grants a dealership.

(4) "Community of interest" means a continuing financial interest between the grantor and grantee in either the operation of the dealership business or the marketing of such goods or services.

(5) "Dealer" means a person who is a grantee of a dealership.

(6) "Good cause" means:

(a) Failure by a dealer to comply substantially with essential and reasonable requirements imposed upon him by the grantor, or sought to be imposed by the grantor, which requirements are not discriminatory as compared with requirements imposed on other similarly situated dealers either by their terms or in the manner of their enforcement; or

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

135.03 Cancellation and alteration of dealerships. No grantor, directly or through any officer, agent or employe may terminate, cancel, fail to renew or substantially change the competitive circumstances of a dealership agreement entered into after the effective date of this act (1973) without good cause. The burden of proving good cause shall be on the grantor.

135.04 Notice of termination or change in dealership. Except as provided in this section, a grantor shall provide a dealer at least 90 days' prior written notice of termination, cancellation, nonrenewal or substantial change in competitive circumstances. The notice shall state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and shall provide that the dealer has 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days the notice shall be void. The notice provisions of this section shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial change in competitive circumstances is nonpayment of sums due under the dealership, the dealer shall be entitled to written notice of such default, and shall have 10 days in which to remedy such default from the date of delivery or posting of such notice.

135.05 Application to arbitration agreements. This chapter shall not apply to provisions for the binding arbitration of disputes contained in a dealership agreement concerning the items covered in s. 135.03, if the criteria for determining whether good cause existed for a termination, cancellation, nonrenewal or substantial change of competitive circumstances, and the relief provided is no less than that provided for in this chapter.

135.06 Action for damages and injunctive relief. If any grantor violates this chapter, a dealer may bring an action against such grantor in any court of competent jurisdiction for damages sustained by him as a consequence of the grantor's violation, together with the actual costs of the action, including reasonable actual attorney fees, and the dealer also may be granted injunctive relief against unlawful termination, cancellation, nonrenewal or substantial change of competitive circumstances.

135.07 Nonapplicability to motor vehicle dealers, distributors and wholesalers and door-to-door salesmen. This chapter does not apply to a dealership to which a motor vehicle dealer or motor vehicle distributor or wholesaler as defined in s. 218.01 (1) is a party in such capacity. This chapter does not apply where the goods or services are marketed by the dealership door-to-door.

SECTION 2. 893.22 (3) of the statutes is created to read:

893.22 (3) An action under ch. 135.
