

SCS HCS HB 214 -- MOTORCYCLE FRANCHISES

(Vetoed by the Governor)

This bill contains new provisions governing motorcycle franchises.

The bill sets out procedures for filing an application with the Administrative Hearing Commission seeking relief relating to a dispute on a motorcycle franchise. The procedure for a hearing is specified in addition to the time of notice and method of service upon parties. The order providing the hearing date will stop the complained-of activity until the final decision is issued. The decision of the Administrative Hearing Commission may only be reviewed in appellate court.

Franchisors must give written notice of proposed acts to terminate the franchise, prevent the franchisee from changing its capital structure, prevent transfer of franchisee's interest, or prevent succession of legal heirs to a franchise, with certain exceptions. The notice must inform the franchisee of the right to a hearing. The burden of proof will be on the franchisor in proceedings where the franchisor must give notice of proposed actions; in all other proceedings, the burden of proof will be on the franchisee.

The bill contains language dealing with prohibited or unlawful practices such as coercing a franchisee to accept deliveries which were not ordered or to enter into an agreement by threatening to cancel the franchise, imposing unreasonable performance standards, prohibiting the right of free association among fellow franchisees, preventing succession by any legal heir under certain conditions, preventing a franchisee from changing its capital structure, preventing the transfer of interest of a franchise, preventing the changing of executive management, failing to reasonably deliver sufficient motorcycles, requiring a franchisee to release any person from liability, and failing to pay reasonable compensation to a franchisee upon termination.

When a franchise dealer or manufacturer proposes to establish or relocate within St. Louis City, the dealer or manufacturer must make every reasonable effort to establish or relocate a dealership in an area of the city that improves the equitable distribution of dealerships and is conveniently located to serve minorities who reside in the city. The Motor Vehicle Commission when approving licenses for dealer franchises in any metropolitan statistical area with a population of more than one million inhabitants will ensure that the community of dealer franchises reflects an adequate percentage of minority-owned businesses.

No franchisee or franchisor can use false, deceptive, or misleading advertising.

The remedies provided by this bill are not exclusive and a motorcycle franchisee may also bring a civil action for damages or injunctive relief.