

FIRST REGULAR SESSION

# HOUSE BILL NO. 392

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES AVERY, BIVINS (Co-sponsors) AND ERVIN.

Read 1<sup>st</sup> time February 5, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1255L.011

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### AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to motor vehicle franchise dealers.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.818, to read as follows:

**407.818. 1. For purposes of this section, "relevant market area" means:**

**(1) For a proposed franchisee or franchisee who plans to relocate his or her place of business in a county having a population which is greater than one hundred thousand, the area within a radius of ten miles of the intended site of the proposed or relocated franchisee. The ten-mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing franchisee's principal place of business and the nearest surveyed boundary line of the proposed or relocated franchisee's principal place of business; or**

**(2) For a proposed franchisee or a franchisee who plans to relocate his or her place of business in a county having a population which is not greater than one hundred thousand, the area within a radius of twenty-five miles of the intended site of the proposed or relocated franchisee, or the county line, whichever is closer to the intended site. The twenty-five mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing franchisee's principal place of business and the nearest surveyed boundary line of the proposed or relocated franchisee's principal place of business.**

**2. As used in this section, "relocate" and "relocation" shall not include the relocation of a franchisee within two miles of its established place of business.**

19           **3. As used in this section, "motor vehicle" shall include motorcycles and all-terrain**  
20 **vehicles as defined in section 407.1025, and personal watercraft as defined in section**  
21 **306.010, RSMo.**

22           **4. Before a franchisor enters into a franchise establishing or relocating a franchisee**  
23 **within a relevant market area where the same line-make is represented, the franchisor**  
24 **shall give written notice to each franchisee of the same line-make in the relevant market**  
25 **area of its intention to establish an additional franchisee or to relocate an existing**  
26 **franchisee within that relevant market area.**

27           **5. Within thirty days after receiving the notice provided for in subsection 3 of this**  
28 **section, or within thirty days after the end of any appeal procedure provided by the**  
29 **franchisor, a franchisee may bring an action pursuant to section 407.1031 to determine**  
30 **whether good cause exists for the establishing or relocating of a proposed franchisee.**

31           **6. This section shall not apply to the reopening or replacement in a relevant market**  
32 **area of a closed dealership that has been closed within the preceding year, if the established**  
33 **place of business of the reopened or replacement franchisee is within two miles of the**  
34 **established place of business of the closed dealership.**

35           **7. In determining whether good cause exists for establishing or relocating an**  
36 **additional franchisee for the same line-make, the court shall take into consideration the**  
37 **existing circumstances, including but not limited to, the following:**

38           **(1) Permanency of the investment;**

39           **(2) Effect on the retail motor vehicle business and the consuming public in the**  
40 **relevant market area;**

41           **(3) Whether it is injurious or beneficial to the public welfare;**

42           **(4) Whether the franchisees of the same line-make in that relevant market area are**  
43 **providing adequate competition and convenient consumer care for the motor vehicles of**  
44 **that line-make in the market area, including the adequacy of the motor vehicle sales and**  
45 **qualified service personnel;**

46           **(5) Whether the establishment or relocation of the franchisee would promote**  
47 **competition;**

48           **(6) Growth or decline of the population and the number of new motor vehicle**  
49 **registrations in the relevant market area; and**

50           **(7) Effect on the relocating franchisee of a denial of its relocations into the relevant**  
51 **market area.**

52           **8. The remedies and relief available pursuant to section 407.1049 shall apply to this**  
53 **section.**