

SECOND REGULAR SESSION

# HOUSE BILL NO. 1615

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DEMPSEY.

Read 1<sup>st</sup> time March 3, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4698L.011

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### AN ACT

To repeal section 407.817, RSMo, and to enact in lieu thereof one new section relating to motor vehicle dealers.

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

Section A. Section 407.817, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.817, to read as follows:

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

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

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

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

17           2. As used in this section, "relocate" and "relocation" shall not include the relocation of  
18 a new motor vehicle dealer within two miles of its established place of business.

19           3. Before a franchisor enters into a franchise establishing or relocating a new motor  
20 vehicle dealer within a relevant market area where the same line-make is represented, the  
21 franchisor shall give written notice to each new motor vehicle dealer of the same line-make in  
22 the relevant market area of its intention to establish an additional dealer or to relocate an existing  
23 dealer within that relevant market area. **After August 28, 2004, before a franchisor enters into**  
24 **a franchise establishing or relocating a new motor vehicle dealer within a relevant market**  
25 **area where the same line-make is represented, the franchisor shall give written notice not**  
26 **less than one year prior to the establishment or relocation within the relevant market area**  
27 **to each new motor vehicle dealer of the same line-make in the relevant market area of its**  
28 **intention to establish an additional dealer or to relocate an existing dealer within that**  
29 **relevant market area.**

30           4. Within thirty days after receiving the notice provided for in subsection 3 of this  
31 section, or within thirty days after the end of any appeal procedure provided by the franchisor,  
32 a new motor vehicle dealer may bring an action pursuant to section 407.822 to determine  
33 whether good cause exists for the establishing or relocating of a proposed new motor vehicle  
34 dealer.

35           5. This section shall not apply to the reopening or replacement in a relevant market area  
36 of a closed dealership that has been closed within the preceding year, if the established place of  
37 business of the reopened or replacement dealer is within two miles of the established place of  
38 business of the closed dealership.

39           6. In determining whether good cause exists for establishing or relocating an additional  
40 new motor vehicle dealer for the same line-make, the court shall take into consideration the  
41 existing circumstances, including, but not limited to, the following:

42           (1) Permanency of the investment;

43           (2) Effect on the retail motor vehicle business and the consuming public in the relevant  
44 market area;

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

46           (4) Whether the new motor vehicle dealers of the same line-make in that relevant market  
47 area are providing adequate competition and convenient consumer care for the motor vehicles  
48 of that line-make in the market area, including the adequacy of motor vehicle sales and qualified  
49 service personnel;

50           (5) Whether the establishment or relocation of the new motor vehicle dealer would  
51 promote competition;

52           (6) Growth or decline of the population and the number of new motor vehicle

53 registrations in the relevant market area; and

54 (7) Effect on the relocating dealer of a denial of its relocation into the relevant market  
55 area.

56 7. The remedies and relief available pursuant to section 407.835 shall apply to this  
57 section.