

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-463
HOUSE BILL 1227**

**AN ACT TO CLARIFY THE MOTOR VEHICLE REPAIR ACT AND TO AMEND
MOTOR VEHICLE FRANCHISE LAWS.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-354.2 reads as rewritten:

"§ 20-354.2. Definitions.

As used in this act:

- (1) "Customer" means the person who signs the written repair estimate or any other person whom that person designates as a person who may authorize repair work.
- (2) "Employee" means an individual who is employed full time or part time by a motor vehicle repair shop and performs motor vehicle repairs.
- (3) "Motor vehicle" means any automobile, truck, bus, recreational vehicle, motorcycle, motor scooter, or other motor-powered vehicle, but does not include trailers, mobile homes, travel trailers, or trailer coaches without independent motive power, or watercraft or aircraft.
- (4) "Motor vehicle repair" means all maintenance of and modification and repairs to motor vehicles and the diagnostic work incident to those repairs, including, but not limited to, the rebuilding or restoring of rebuilt vehicles, body work, painting, warranty work, shop supply fees, hazardous material disposal fees incident to a repair, and other work customarily undertaken by motor vehicle repair shops. Motor vehicle repair does not include the sale or installation of tires when authorized by the customer.
- (5) "Motor vehicle repair shop" means any person who, for compensation, engages or attempts to engage in the repair of motor vehicles owned by other persons and includes, but is not limited to:
 - a. Mobile motor vehicle repair shops.
 - b. Motor vehicle and recreational vehicle dealers.
 - c. Garages.
 - d. Service stations.
 - e. Self-employed individuals.
 - f. Truck stops.
 - g. Paint and body shops.
 - h. Brake, muffler, or transmission shops.
 - i. Shops doing glasswork.

Any person who engages solely in the maintenance or repair of the coach portion of a recreational vehicle is not a motor vehicle repair shop."

SECTION 2. G.S. 20-305 reads as rewritten:

"§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

....
(5) To enter into a franchise establishing an additional new motor vehicle dealer or relocating an existing new motor vehicle dealer into a relevant market area where the same line make is then represented without first notifying in writing the Commissioner and each new motor vehicle dealer in that line make in the relevant market area of the intention to establish an additional dealer or to relocate an existing dealer within or into that market area. Within 30 days of receiving such notice or within 30 days after the end of any appeal procedure provided by the manufacturer, any new motor vehicle dealer may file with the Commissioner a protest to the establishing or relocating of the new motor vehicle dealer. When a protest is filed, the Commissioner shall promptly inform the manufacturer that a timely protest has been filed, and that the manufacturer shall not establish or relocate the proposed new motor vehicle dealer until the Commissioner has held a hearing and has determined that there is good cause for permitting the addition or relocation of such new motor vehicle dealer.

a. This section does not apply:

1. To the relocation of an existing new motor vehicle dealer within that dealer's relevant market area, provided that the relocation not be at a site within 10 miles of a licensed new motor vehicle dealer for the same line make of motor vehicle. If this sub-subdivision is applicable, only dealers trading in the same line-make of vehicle that are located within the 10-mile radius shall be entitled to notice from the manufacturer and have the protest rights afforded under this section; or
2. If the proposed additional new motor vehicle dealer is to be established at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicle had ceased operating within the previous two years;
3. To the relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership if the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the relocation;
4. To the relocation of an existing new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is further away from all other new motor vehicle dealers of the same line make in that relevant market area; or
5. To the relocation of an existing new motor vehicle dealer to a location within four and one-half miles of the existing site of the new motor vehicle dealership if the line make has been operating on a regular basis from the existing site for a minimum of 50 years immediately preceding the effective date of this sub-subdivision, provided that the relocation site not be located within four miles of another licensed new motor vehicle dealer for the same line make of motor vehicle.

... "

SECTION 3. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

This bill having been presented to the Governor for his signature on the 23rd day of August, 2005 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law.
This 3rd day of October, 2005

s/ Patrick T. Buffkin
Enrolling Clerk