

FIRST REGULAR SESSION

SENATE BILL NO. 350

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

Read 1st time January 23, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1619S.01I

AN ACT

To repeal section 407.815, RSMo, and to enact in lieu thereof one new section relating to the motor vehicle franchise practices act.

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

Section A. Section 407.815, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 407.815, to read as follows:

407.815. As used in sections 407.810 to 407.835, unless the context
2 otherwise requires, the following terms mean:

3 (1) "Administrative hearing commission", the body established in chapter
4 621, RSMo, to conduct administrative hearings;

5 (2) "All-terrain vehicle", any motorized vehicle manufactured and used
6 exclusively for off-highway use which is fifty inches or less in width, with an
7 unladen dry weight of six hundred pounds or less, traveling on three, four or
8 more low pressure tires, with a seat designed to be straddled by the operator, and
9 handlebars for steering control;

10 (3) "Coerce", to force a person to act in a given manner or to compel by
11 pressure or threat but shall not be construed to include the following:

12 (a) Good faith recommendations, exposition, argument, persuasion or
13 attempts at persuasion;

14 (b) Notice given in good faith to any franchisee of such franchisee's
15 violation of terms or provisions of such franchise or contractual agreement;

16 (c) Any other conduct set forth in section 407.830 as a defense to an action
17 brought pursuant to sections 407.810 to 407.835; or

18 (d) Any other conduct set forth in sections 407.810 to 407.835 that is
19 permitted of the franchisor or is expressly excluded from coercion or a violation
20 of sections 407.810 to 407.835;

21 (4) "Franchise" or "franchise agreement", a written arrangement or
22 contract for a definite or indefinite period, in which a person grants to another
23 person a license to use, or the right to grant to others a license to use, a trade
24 name, trademark, service mark, or related characteristics, in which there is a
25 community of interest in the marketing of goods or services, or both, at wholesale
26 or retail, by agreement, lease or otherwise, and in which the operation of the
27 franchisee's business with respect to such franchise is substantially reliant on the
28 franchisor for the continued supply of franchised new motor vehicles, parts and
29 accessories for sale at wholesale or retail;

30 (5) "Franchisee", a person to whom a franchise is granted;

31 (6) "Franchisor", a person who grants a franchise to another person;

32 (7) "Motor vehicle", for the purposes of sections 407.810 to 407.835, any
33 motor-driven vehicle required to be registered pursuant to the provisions of
34 chapter 301, RSMo, except that, motorcycles and all-terrain vehicles as defined
35 in section 301.010, RSMo, shall not be included. **The term "motor vehicle"**
36 **shall also include any engine, transmission, or rear axle, regardless of**
37 **whether attached to a vehicle chassis, that is manufactured for the**
38 **installation in any motor-driven vehicle with a gross vehicle weight**
39 **rating of more than sixteen thousand pounds that is registered for the**
40 **operations on the highways of this state under chapter 301, RSMo;**

41 (8) "New", when referring to motor vehicles or parts, means those motor
42 vehicles or parts which have not been held except as inventory, as that term is
43 defined in subdivision (4) of section 400.9-109, RSMo;

44 (9) "Person", a natural person, sole proprietor, partnership, corporation,
45 or any other form of business entity or organization.

Copy
✓