

the request for a consultation with the attorney. At all times through the period of custody, whether or not the person restrained has been charged, tried, convicted, or is serving an executed sentence, reasonable telephone access to the attorney shall be provided to the person restrained at no charge to the attorney or to the person restrained. Every officer or person who shall violate any provision of this section shall be guilty of a misdemeanor and, in addition to the punishment prescribed therefor shall forfeit \$100 to the person aggrieved, to be recovered in a civil action.

Subd. 2. TELEPHONE ACCESS IN LOCAL CORRECTIONAL FACILITIES. Except as provided in subdivision 3 and except in cases where imminent danger of escape or injury exists, all officers or persons having in their custody a person restrained of liberty whether or not the person restrained has been charged, tried, or convicted, shall provide private telephone access to any attorney retained by or on behalf of the person restrained, or whom the restrained person may desire to consult at no charge to the attorney or to the person restrained. Reasonable telephone access under this subdivision shall be provided following the request of the person restrained and before other proceedings shall be had regarding the alleged offense causing custody.

Subd. 3. TELEPHONE ACCESS IN STATE CORRECTIONAL FACILITIES. Except in cases where imminent danger of escape or injury exists, all officers or persons having in their custody a person restrained of liberty while serving an executed sentence in a state correctional facility, shall provide private telephone access to any attorney retained by or on behalf of the person restrained, or whom the restrained person may desire to consult at no charge to the attorney or to the person restrained. Telephone access under this subdivision shall be provided following the request of the person restrained and in accordance with policies adopted by the institution that meet constitutional requirements.

Subd. 4. CRIMINAL PENALTY. (a) Except as provided in paragraph (b), whoever violates subdivision 1 or 2 is guilty of a misdemeanor and shall also forfeit \$100 to the person aggrieved, to be recovered in a civil action.

(b) The penalties described in paragraph (a) do not apply to officers or persons having in their custody persons restrained of liberty while serving an executed sentence in a state correctional facility.

Presented to the governor April 12, 2000

Signed by the governor April 14, 2000, 2:07 p.m.

CHAPTER 409—H.F.No. 2731

An act relating to commerce; motor vehicle sales and distribution; regulating unfair practices by manufacturers, distributors, and factory branches; amending Minnesota Statutes 1998, sections 80E.13; and 80E.14, subdivision 1.

New language is indicated by underline, deletions by ~~strikeout~~.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 80E.13, is amended to read:

80E.13 UNFAIR PRACTICES BY MANUFACTURERS, DISTRIBUTORS, FACTORY BRANCHES.

It is unlawful and an unfair practice for a manufacturer, distributor, or factory branch to engage in any of the following practices:

(a) ~~To~~ delay, refuse, or fail to deliver new motor vehicles or new motor vehicle parts or accessories in reasonable time and in reasonable quantity relative to the new motor vehicle dealer's facilities and sales potential in the dealer's relevant market area, after having accepted an order from a new motor vehicle dealer having a franchise for the retail sale of any new motor vehicle sold or distributed by the manufacturer or distributor, if the new motor vehicle or new motor vehicle parts or accessories are publicly advertised as being available for delivery or actually being delivered. This clause is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer;

(b) ~~To~~ refuse to disclose to any new motor vehicle dealer handling the same line make, the manner and mode of distribution of that line make within the relevant market area;

(c) ~~To~~ obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and the other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the new motor vehicle dealer;

(d) ~~To~~ increase prices of new motor vehicles which the new motor vehicle dealer had ordered for private retail consumers prior to the dealer's receiving the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each order if the vehicle is in fact delivered to that customer. In the event of manufacturer price reductions, the amount of any reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer;

(e) ~~To~~ offer any refunds or other types of inducements to any new motor vehicle dealer for the purchase of new motor vehicles of a certain line make without making the same offer to all other new motor vehicle dealers in the same line make within the relevant market area;

(f) ~~To~~ release to any outside party, except under subpoena or in an administrative or judicial proceeding involving the manufacturer or dealer, any business, financial, or personal information which may be provided by the dealer to the manufacturer, without the express written consent of the dealer or unless pertinent to judicial or governmental administrative proceedings or to arbitration proceedings of any kind;

(g) ~~To~~ deny any new motor vehicle dealer the right of free association with any other new motor vehicle dealer for any lawful purpose;

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(h) To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new vehicle dealers to make warranty adjustments with retail customers;

(i) To compete with a new motor vehicle dealer in the same line make operating under an agreement or franchise from the same manufacturer in the relevant market area, distributor, or factory branch. A manufacturer, distributor, or factory branch is considered to be competing when it has an ownership interest, other than a passive interest held for investment purposes, in a dealership of its line make located within the state. A manufacturer, distributor, or factory branch shall not, however, be deemed to be competing

(1) when operating a dealership, either temporarily or for a reasonable period, which is for sale to any qualified independent person at a fair and reasonable price, or when involved in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership and full management and operational control of the dealership within a reasonable time on reasonable terms and conditions, or

(2) if it has an existing direct or indirect ownership interest in a new motor vehicle dealer in this state as of January 1, 2000, and has no more than four franchised dealers in this state. A manufacturer, distributor, or factory branch described in this clause that has unaffiliated dealers of the same line make in this state may acquire an interest in existing dealers of that line make but it may not establish any new dealership in which it would own an interest or approve an additional location for the sale of new motor vehicles by an affiliated dealership. A manufacturer, distributor, or factory branch described in this clause is permitted to alter its ownership interest in a new motor vehicle dealer;

(j) To prevent a new motor vehicle dealer from receiving fair and reasonable compensation for the value of the new motor vehicle dealership. There shall be no transfer, assignment of the franchise, or major change in the executive management of the dealership, except as is otherwise provided in sections 80E.01 to 80E.17, without consent of the manufacturer, which shall not be unreasonably withheld. Denial of the request must be in writing and delivered to the new motor vehicle dealer within 60 days after the manufacturer receives the information necessary to evaluate the proposed transfer. If a denial is not sent within this period, the manufacturer shall be deemed to have given its consent to the proposed transfer or change;

(k) To threaten to modify or replace or modify or replace a franchise with a succeeding franchise that would adversely alter the rights or obligations of a new motor vehicle dealer under an existing franchise or that substantially impairs the sales or service obligations or investments of the motor vehicle dealer;

(l) To unreasonably deny the right to acquire factory program vehicles to any dealer holding a valid franchise from the manufacturer to sell the same line make of vehicles, provided that the manufacturer may impose reasonable restrictions and limitations on the purchase or resale of program vehicles to be applied equitably to all of its franchised dealers. For the purposes of this paragraph, "factory program vehicle"

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has the meaning given the term in section 80E.06, subdivision 2.;

(m) fail or refuse to offer to its same line make franchised dealers all models manufactured for that line make, other than alternative fuel vehicles as defined in section 216C.01, subdivision 1b. Failure to offer a model is not a violation of this section if the failure is not arbitrary and is due to a lack of manufacturing capacity, a strike, labor difficulty, or other cause over which the manufacturer, distributor, or factory branch has no control;

(n) require a dealer to pay an extra fee, or remodel, renovate, or recondition the dealer's existing facilities, or purchase unreasonable advertising displays, training, tools, or other materials, or to require the dealer to establish exclusive facilities or dedicated personnel as a prerequisite to receiving a model or a series of vehicles.

Sec. 2. Minnesota Statutes 1998, section 80E.14, subdivision 1, is amended to read:

Subdivision 1. **NOTIFICATION; PROTEST; HEARING.** In the event that a manufacturer seeks to enter into a franchise establishing an additional new motor vehicle dealership or relocating an existing new motor vehicle dealership within or into a relevant market area where the line make is then represented, the manufacturer shall, in writing, first notify each new motor vehicle dealer in this line make in the relevant market area of the intention to establish an additional dealership or to relocate an existing dealership within or into that market area. The relevant market area is a radius of ten miles around an existing dealership. Within ~~15~~ 30 days of receiving the notice or within ~~15~~ 30 days after the end of any appeal procedure provided by the manufacturer, the new motor vehicle dealership may commence a civil action in a court of competent jurisdiction pursuant to section 80E.17 challenging the establishing or relocating of the new motor vehicle dealership. An action brought under this section shall be placed on the calendar ahead of other civil actions to be heard and determined as expeditiously as possible. Thereafter the manufacturer shall not establish or relocate the proposed new motor vehicle dealership unless the court has determined that there is good cause for permitting the establishment or relocation of the motor vehicle dealership.

For the purposes of this section, the reopening in a relevant market area of a new motor vehicle dealership within two miles of a location at which a former dealership of the same line make had been in operation within the previous two years shall not be deemed the establishment of a new motor vehicle dealership if the reopening is carried out in good faith and does not violate the provisions of section 80E.13, paragraph (i).

The relocation of an existing dealer within its area of responsibility as defined in the franchise agreement shall not be subject to this section, if the proposed relocation site is within five miles of its existing location and is not within a radius of five miles of an existing dealer of the same line make.

A manufacturer's establishment or approval of an additional new motor vehicle sales, service, or parts location by its line make dealer is considered the establishment of a new motor vehicle dealership subject to the requirements of this section.

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Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

Presented to the governor April 12, 2000

Signed by the governor April 14, 2000, 2:15 p.m.

CHAPTER 410—S.F.No. 2363

An act relating to health; regulating dental benefit plans; proposing coding for new law in Minnesota Statutes, chapter 62Q.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [62Q.76] DEFINITIONS.

Subdivision 1. APPLICABILITY. For purposes of sections 62Q.76 to 62Q.79, the terms defined in this section have the meanings given them.

Subd. 2. DENTAL CARE SERVICES. "Dental care services" means services performed by a licensed dentist or any person working under the dentist's supervision as permitted under chapter 150A, which an enrollee might reasonably require to maintain good dental health, including preventive services, diagnostic services, emergency dental care, and restorative services.

Subd. 3. DENTAL PLAN. "Dental plan" means a policy, contract, or certificate offered by a dental organization for the coverage of dental care services. Dental plan means individual or group coverage.

Subd. 4. DENTIST. "Dentist" means a person licensed to practice dentistry under chapter 150A.

Subd. 5. EMERGENCY DENTAL CARE. "Emergency dental care" means the provision of dental care services for a sudden, acute dental condition that would lead a prudent layperson to reasonably expect that the absence of immediate care would result in serious impairment to the dentition or would place the person's oral health in serious jeopardy.

Subd. 6. ENROLLEE. "Enrollee" means an individual covered by a dental organization and includes an insured, policyholder, subscriber, contract holder, member, covered person, or certificate holder.

Subd. 7. DENTAL ORGANIZATION. "Dental organization" means a health insurer licensed under chapter 60A; a health service plan corporation licensed under chapter 62C; a health maintenance organization licensed under chapter 62D; a community integrated service network licensed under chapter 62N; or a third party administrator that:

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