

CHAPTER 2860
DEPARTMENT OF COMMERCE
FRANCHISES

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2860.0200 EXEMPTIONS.

Subpart 1. Isolated sales. The provisions of Minnesota Statutes 1973 Supplement, section 80C.03, clause (a), shall be available to franchisees only. The provisions of this part shall not be interpreted as to require registration of the franchise prior to its transfer under these circumstances. However, no person, in connection with such a transfer, may require a substituted franchisee to sign a franchise contract or agreement that violates the "unfair and inequitable" provisions of parts 2860.4500 to 2860.8300, whichever is applicable.

Subp. 2. Securities. The provisions of Minnesota Statutes 1973 Supplement, section 80C.03, clause (d), shall be available only when the franchise is in fact registered as a security in Minnesota. All reference to Minnesota Statutes, chapter 80 shall include Minnesota Statutes 1973 Supplement, chapter 80A, and provisions amendatory thereto.

Statutory Authority: *MS s 45.023; 80C.18*

History: *14 SR 2631*

2860.2500 ANNUAL REPORT.

[For text of subpart 1, see M.R.]

Subp. 2. Public offering statement. The proposed public offering statement filed in connection with the annual report shall contain all data current as of the end of the franchisor's fiscal year including audited financial statements in accordance with parts 2860.1200 to 2860.1600. All alterations in the text of the public offering statement previously filed as a part of registration shall be indicated by means of underscoring.

Subp. 3. Time. No later than the 120th day following the end of the franchisor's fiscal year, the franchisor shall file financial statements in accordance with parts 2860.1200 to 2860.1600. The newly filed financial statements are to be included in all public offering statements used by the franchisor after such filing date.

[For text of subp 4, see M.R.]

Statutory Authority: *MS s 45.023; 80C.18*

History: *14 SR 2631*

2860.3400 DOCUMENT FORMAT.

[For text of subpart 1, see M.R.]

Subp. 2. [Repealed, 14 SR 2631]

[For text of subps 3 to 5, see M.R.]

2860.3800 ALTERNATIVE APPLICATIONS.

The commissioner may accept as application for registration under Minne-

sota Statutes 1973 Supplement, chapter 80C, any currently effective public offering statement prepared for compliance with the registration provisions of the franchise laws of other jurisdictions as the commissioner may, from time to time, designate. The commissioner reserves the right to require alterations in such statements as necessary to fulfill the requirements of Minnesota Statutes 1973 Supplement, chapter 80C.

The commissioner may accept as application for registration the Uniform Franchise Registration Application adopted by the North American Securities Administrators Association; however, the commissioner reserves the right to require alterations in the Uniform Franchise Offering Circular as necessary.

Statutory Authority: *MS s 45.023; 80C.18*

History: *14 SR 2631*

2860.4200 FILING OF ADVERTISEMENTS.

One copy of each advertisement intended for use shall be filed with the commissioner at least five business days prior to its first publication.

If not disallowed by the commissioner by written notice or otherwise within three business days from the date filed, the advertisement may be published.

No formal approval of the advertisement shall be issued by the commissioner.

The person placing the advertisement shall be responsible for the accuracy and reliability of the advertisement and its conformity with the act and this part.

Statutory Authority: *MS s 45.023; 80C.18*

History: *14 SR 2631*

2860.4400 UNFAIR AND INEQUITABLE PRACTICES.

All franchise contracts or agreements and any other device or practice of a franchisor, shall conform to the following provisions. It shall be unfair and inequitable for any person to:

[For text of items A to D, see M.R.]

E. terminate or cancel a franchise unless:

(1) that person has given written notice setting forth all the reasons for termination or cancellation to the franchisee at least 90 days in advance of termination or cancellation; and

(2) the recipient of the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice, except that the notice shall be effective immediately upon receipt where the alleged grounds are:

(1) voluntary abandonment of the franchise relationship by the franchisee;

(2) the conviction of the franchisee in a court of competent jurisdiction of an offense directly related to the business conducted pursuant to the franchise; or

(3) failure to cure a default under the franchise agreement that materially impairs the good will associated with the franchisor's tradename, trademark, service mark, logotype, or other commercial symbol after the franchisee has received written notice to cure of at least 24 hours in advance thereof;

[For text of items F to I, see M.R.]

J. require a franchisee to waive his or her rights to a jury trial or to waive rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or to consent to liquidated damages, termination penalties, or judgment notes; provided, that the franchise agreement may contain an exclusive arbitra-

tion clause if the agreement allows the franchisee to opt out of the requirements of the clause;

[For text of items K and L, see M.R.]

M. fail to renew a franchise unless the franchisee has been given written notice of the intention not to renew at least 180 days in advance thereof and has been given a opportunity to operate the franchise over a sufficient period of time to enable the franchisee to recover the fair market value of the franchise as a going concern as determined and measured from the date of the failure to renew. This item does not apply if the failure to renew a franchise is for good cause and the franchisee has failed to correct the reasons for termination.

Statutory Authority: *MS s 45.023; 80C.18; L 1986 c 444*

History: *14 SR 2631*

2860.4500 FALSE, FRAUDULENT, AND DECEPTIVE PRACTICES.

In connection with an offer, grant, or sale of a franchise in this state, any person authorizing, aiding in, or causing such offer, grant, or sale of franchises shall be deemed to be engaging in a "false, fraudulent, or deceptive practice" within the meaning of Minnesota Statutes 1973 Supplement, sections 80C.12 and 80C.13, without limiting the authority of the commissioner under Minnesota Statutes 1973 Supplement, section 80C.12, if such person:

[For text of items A to D, see M.R.]

Statutory Authority: *MS s 45.023; 80C.18*

History: *14 SR 2631*

2860.5500 CANCELLATION OF FRANCHISE.

Any provisions regarding cancellation of the franchise agreement shall be governed by items A to C.

[For text of items A and B, see M.R.]

C. No person may cancel a franchise unless:

(1) that person has given written notice to the dealer in person or by certified mail setting forth all the reasons for cancellation at least 90 days in advance of the cancellation; and

(2) the recipient of the notice fails to correct the reasons for cancellation in the notice within 60 days of receipt, except that the notice shall be effective immediately upon receipt when the cause for termination or cancellation is:

(1) criminal misconduct;

(2) fraud;

(3) abandonment;

(4) bankruptcy or insolvency of the dealer;

(5) adulteration of product; or

(6) the giving of a nonsufficient fund check that remains dishonored for a period of ten days after notice, which notice shall be effective on the fifth day after the date of mailing.

Statutory Authority: *MS s 45.023; 80C.18*

History: *14 SR 2631*

2860.5600 RENEWAL OF FRANCHISE.

Any provisions regarding the renewal of a franchise agreement shall be governed by items A and B.

A. Either party to a franchise agreement may refuse to renew the fran-

chise agreement upon giving the other party written notice of his or her intent not to renew at least 180 days prior to the expiration of the franchise agreement.

[For text of item B, see M.R.]

Statutory Authority: *MS s 45.023; 80C.18*

History: *14 SR 2631*

2860.6100 [Repealed, 14 SR 2631]

2860.6200 [Repealed, 14 SR 2631]

2860.6300 [Repealed, 14 SR 2631]

2860.6400 [Repealed, 14 SR 2631]

2860.6500 [Repealed, 14 SR 2631]