

2860.5400 UNFAIR PRACTICES.

The provisions of part 2860.4400 shall not apply. All motor vehicle fuel franchise agreements shall conform to the following provisions. A violation of any of these provisions shall be considered "unfair and inequitable."

A. The dealer shall have the unconditional right to cancel the franchise agreement until midnight of the seventh business day after the day on which the agreement was signed, by giving the supplier in person or by certified mail written notice of cancellation; provided, that any money, equipment, or merchandise loaned, sold, or delivered to the dealer is returned to the supplier for full credit, or cash equivalent, together with delivery of full possession of the service station location, if leased from the supplier, to the supplier within ten days after delivery of notice.

B. The price at which the dealer sells products shall not be fixed or maintained by the supplier.

C. No dealer shall be required to use or utilize any promotion, premium, coupon, giveaway, or rebate in the operation of the business. Except as otherwise provided by law, nothing herein shall be construed to prohibit the dealer from voluntarily participating financially in a promotion, premium, coupon, giveaway, or rebate sponsored by the supplier.

D. In the event of any termination or cancellation, whether by mutual agreement or otherwise, the supplier shall be required to purchase from the dealer within 30 days from the date of termination at the then current wholesale prices any and all merchantable products purchased by the dealer from the supplier; provided, however, that in the event of purchase, the supplier shall have the right to apply the proceeds against any existing indebtedness owed to the supplier by the dealer and that the repurchase obligation is enforceable to the extent that there are not other valid claims or liens against the products by or on behalf of other creditors of the dealer.

E. No supplier shall unreasonably withhold its consent to any assignment, transfer, or sale of a franchise agreement.

F. No supplier shall restrict or inhibit, directly or indirectly, the right of free association among dealers for any lawful purpose.

G. No supplier shall require a dealer to assent to a release or waiver of the dealer's rights hereunder. The right of either party to trial by jury or the interposition of counterclaims or crossclaims, shall not be waived by agreement of the parties. Any agreement to the contrary is void.

H. The supplier may set forth in the franchise agreement the required number of hours per day and days per week that the dealer must maintain the retail outlet open for business. However, the supplier shall not unreasonably withhold consent to a modification of such requirements where dictated by changes of circumstances.

I. The supplier may set forth in the franchise agreement prohibitions and limitations on the conduct of any other business at the service station site by the dealer, including a charge for additional rent where another business is permitted and conducted. However, the supplier shall not:

(1) unreasonably withhold its consent to the performance of another business;

(2) impose unreasonable limitation on the dealer's ability to perform another business; or

(3) charge an unreasonable rent for the conduct of another business, considering the fair rental value of the site and any imposition upon the supplier's business.

J. A security deposit shall not be required except for the purpose of securing against loss of or damage to real or personal property. Any security deposit required of the dealer may be satisfied by the deposit of cash or a pledge of a savings account or its equivalent in a Minnesota banking institution.

K. No supplier shall require a dealer to waive any of the dealer's rights under Minnesota Statutes, chapter 80C and the rules adopted under it or United States Code, title 15, sections 2801 to 2806 (1978). Any such waiver is void.

L. No supplier shall include in its franchise agreements a release of any claims that the dealer may have against the supplier. Any such release is void.

M. No supplier shall require or encourage its dealer to violate or conspire to violate any law of the state of Minnesota.

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

History: *10 SR 276; 17 SR 1279*

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