

## Unofficial Draft Copy

As of: June 29, 2006

LC FRANCHISE

A Bill for an Act entitled: "An Act providing that the definition of new motor vehicle dealer includes dealers selling new motor vehicles that are not sold under a franchise agreement with the manufacturer of the new motor vehicles; and amending section 61-4-201, MCA."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section , MCA, is amended to read:

**"61-4-201. Definitions.** As used in this part, the following definitions apply unless the context clearly indicates otherwise:

(1) "Community" means the relevant market area of a franchise. For the purposes of this part, the relevant market area of a franchise is the county or counties in which the franchisee is located.

(2) "Distributor" or "wholesaler" means a person who sells or distributes new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state.

(3) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state.

(4) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state.

(5) "Franchise" means a contract between or among two or more persons when all of the following conditions are included:

(a) a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) the franchisee is granted the right to:

(i) offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor; or

(ii) service motor vehicles pursuant to the terms of a franchise and a manufacturer's warranty;

(c) the franchisee, as an independent and separate business, constitutes a component of the franchisor's distribution system; and

(d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories.

(6) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise and who offers, sells, and services the new motor vehicles to and for the general public.

(7) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles and who may enter into a franchise.

(8) "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

(9) "Manufacturer" means a person who manufactures or assembles new motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment that, when installed, forms an integral part of the new motor vehicle and that constitutes a major manufacturing alteration, but does not include a person who installs a camper on a pickup truck.

(10) "Motor vehicle" includes a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.

(11) "New motor vehicle" means a motor vehicle that has not been the subject of a retail sale regardless of the mileage of the vehicle.

(12) "New motor vehicle dealer" means:

(a) a person who buys, sells, exchanges, or offers or attempts to negotiate a sale or exchange ~~or~~ of any interest in new motor vehicles or used motor vehicles taken in trade on new motor vehicles; or ~~who~~

(b) a person ~~is~~ engaged in the business of selling new motor vehicles under a franchise with the manufacturer of the new motor vehicles or used motor vehicles taken in trade on the new motor vehicles.

(13) (a) "Retail sale" means the sale of a new motor vehicle.

(b) "Retail sale" does not mean a sale:

(i) of a new motor vehicle to a purchaser who is acquiring the vehicle for the purposes of a resale; or

(ii) that is the result of a transfer between two licensed new motor vehicle dealers."

{ Internal References to 61-4-201:

30-11-801 x    30-11-901 x    61-4-131 x    61-4-501 x }

- END -

{ Name: Bartley J. Campbell  
Title: Staff Attorney  
Agency: LSD  
Phone: 444-3087  
E-Mail: bacampbell@mt.gov }