

January 29, 1970
Place on Calendar

HOUSE FILE 1137

By COMMITTEE ON COMMERCE

Passed House, Date.....2-11-70..... Passed Senate, Date.....3-9-70.....

Vote: Ayes100..... Nays19..... Vote: Ayes53..... Nays5.....

Approved.....2/20/70.....

Motion to reconsider filed 2-11, tabled 2-11

*Passed per Senate
amendment 3/12
89-16*

A BILL FOR

Sub. for S.F. 1267 3/5

1 An Act to provide for fair trade practices by motor vehicle
2 franchisors.

3 WHEREAS, the sale and distribution of motor vehicles is affected
4 with a public interest, and it is recognized that a significant
5 factor of inducement in the making of a sale of a motor vehicle
6 is the trust and confidence of the purchaser in the retail dealer
7 from whom the purchase is made, and the expectancy that he will
8 remain in business to provide service for the motor vehicle
9 purchased; and

10 WHEREAS, it is further recognized that proper motor vehicle
11 service is important to highway safety, and the manufacturer
12 and distributor of motor vehicles have an obligation to the
13 public not to terminate or refuse to continue their franchise
14 agreements with retail dealers unless and until the manufacturer
15 or distributor has first established good cause for termination
16 or noncontinuance of any such agreement and in the event that
17 good cause is established, then to also establish that on termina-
18 tion or noncontinuance another dealership in the same line-
19 make will be opened in the same community to the end that there
20 shall be no diminution of locally available service or in the
21 alternative to establish that the community cannot reasonably
22 be expected to support such a dealership; and

23 WHEREAS, it is also recognized that the opening of additional
24 dealerships of any line-make which is at that time represented
25 in a community may adversely affect the ability of all dealerships

1 of all product lines to provide efficient and proper motor vehicle
2 service in the community and, therefore, additional dealerships
3 should not be opened in a community unless it is first established
4 that there is good cause therefor; NOW THEREFORE;

5 *Be It Enacted by the General Assembly of the State of Iowa:*

6 Section 1. When used in this Act, unless the context other-
7 wise requires:

8 1. "Person" means a sole proprietor, partnership, corpora-
9 tion, or any other form of business organization.

10 2. "Franchisor" means a person who manufactures or dis-
11 tributes motor vehicles and who may enter into a franchise as
12 hereinafter defined.

13 3. "Franchisee" means a person who receives motor vehicles
14 from the franchisor under a franchise and who offers and sells
15 such motor vehicles to the general public.

16 4. "Franchise" means a contract between two or more persons
17 when all of the following conditions are included:

18 a. A commercial relationship of definite duration or con-
19 tinuing indefinite duration is involved.

20 b. The franchisee is granted the right to offer and sell
21 motor vehicles manufactured or distributed by the franchisor.

22 c. The franchisee, as an independent business, constitutes
23 a component of franchisor's distribution system.

24 d. The operation of franchisee's business is substantially
25 associated with the franchisor's trademark, service mark, trade-
26 name, advertising, or other commercial symbol designating the
27 franchisor.

28 e. The operation of the franchisee's business is substan-
29 tially reliant on franchisor for the continued supply of motor
30 vehicles, parts, and accessories.

31 5. "Motor vehicle" means "motor vehicles" as defined in
32 chapter three hundred twenty-one (321) of the Code which are
33 subject to registration pursuant to the provisions thereof.

34 6. "Community" means the area served by the United States
35 mail through the United States Post Office which is the post

1 office address of the franchisee, or in the case of a metro-
2 politan area, the metropolitan area in which the franchisee
3 is located.

4 7. "Commission" means the Iowa state commerce commission.

5 Sec. 2. Notwithstanding the terms, provisions or conditions
6 of any agreement or franchise, no franchisor shall terminate
7 or refuse to continue any franchise unless the franchisor has
8 first established, in a hearing held under the provisions of
9 this Act, that:

10 1. The franchisor has good cause for termination or non-
11 continuance, and

12 2. Upon termination or noncontinuance, another franchise
13 in the same line-make will become effective in the same com-
14 munity, without diminution of the motor vehicle service for-
15 merly provided, or that the community cannot be reasonably
16 expected to support such a dealership; provided however, a
17 franchisor may terminate a franchise for a particular line-
18 make if the franchisor discontinues that line-make and a
19 franchisor may terminate a franchise if the franchisee's
20 license as a motor vehicle dealer is revoked pursuant to the
21 provisions of chapter three hundred twenty-two (§22) of the
22 Code.

23 Sec. 3. In the event that a franchisor is permitted to ter-
24 minate or not continue a franchise, and is further permitted
25 not to enter into a franchise for the line-make in the com-
26 munity, no franchise shall thereafter be entered into for the
27 sale of motor vehicles of that line-make in the community,
28 unless the franchisor has first established, in a hearing held
29 under the provisions of this Act, that there has been a change
30 of circumstances so that the community at that time can be
31 reasonably expected to support the dealership.

32 Sec. 4. No franchisor shall enter into any franchise for
33 the purpose of establishing an additional motor vehicle dealer-
34 ship in any community in which the same line-make is then
35 represented, unless the franchisor has first established in a

1 hearing held under the provisions of this Act that there is good
2 cause for such additional motor vehicle dealership under such
3 franchise, and that it is in the public interest.

4 Sec. 5. In the event that a franchisor seeks to terminate
5 or not continue any franchise, or seeks to enter into a fran-
6 chise establishing an additional motor vehicle dealership of
7 the same line-make, the franchisor shall file an application
8 with the commission for permission to terminate or not con-
9 tinue the franchise, or for permission to enter into a franchise
10 for additional representation of the same line-make in that
11 community.

12 Sec. 6. Upon receiving an application, the commission shall
13 enter an order fixing a time, which shall be within ninety days
14 of the date of such order, and place of hearing, and shall send
15 by certified or registered mail, with return receipt requested,
16 a copy of the order to the franchisee whose franchise the fran-
17 chisor seeks to terminate or not continue. If the application
18 requests permission to establish an additional motor vehicle
19 dealership, a copy of the order shall be sent to all fran-
20 chisees in the community who are then engaged in the business
21 of offering to sell or selling the same line-make. Copies of
22 orders shall be addressed to the franchisee at the place where
23 the business is conducted. The commission may also give notice
24 of franchisor's application to any other parties whom the com-
25 mission may deem interested persons, such notice to be in the
26 form and substance and given in the manner the commission deems
27 appropriate.

28 Any person who can show an interest in the application may
29 become a party to the hearing, whether or not he receives
30 notice; provided however, a party not receiving notice shall
31 be limited to participation at the hearing on the question of
32 the public interest in the termination or continuation of the
33 franchise or in the establishment of an additional motor
34 vehicle dealership.

35 Sec. 7. If the commission finds it desirable it may upon

1 request continue the date of hearing for a period of ninety
2 days, and may upon application, but not ex parte, continue
3 the date of hearing for an additional period of ninety days.

4 Sec. 8. Upon hearing, the franchisor shall have the burden
5 of proof to establish that under the provisions of this Act he
6 should be granted permission to terminate or not continue the
7 franchise, or to enter into a franchise establishing an addi-
8 tional motor vehicle dealership.

9 Sec. 9. The rules of civil procedure relating to
10 discovery and inspection shall apply to hearings held under
11 the provisions of this Act, and the commission may issue
12 orders to give effect to such rules.

13 In the event issues are raised which would involve viola-
14 tions of any state or federal antitrust or price-fixing law,
15 all discovery and inspection proceedings which would be avail-
16 able under such issues in a state or federal court action
17 shall be available to the parties to the hearing, and the com-
18 mission may issue orders to give effect to such proceedings.

19 Evidence which would be admissible under the issues in a
20 state or federal court action is admissible in a hearing held
21 by the commission.

22 Sec. 10. Notwithstanding the terms, provisions or condi-
23 tions of any agreement or franchise, the following shall not
24 constitute good cause for the termination or noncontinuation
25 of a franchise, or for entering into a franchise for the
26 establishment of an additional dealership in a community for
27 the same line-make:

28 1. The fact that franchisor desires further penetration
29 of the market.

30 2. The change of ownership of the franchisee's dealership
31 or the change of executive management of the franchisee's
32 dealership, unless the franchisor, having the burden of proof,
33 proves that such change of ownership or executive management
34 will be substantially detrimental to the distribution of
35 franchisor's motor vehicles in the community.

1 3. The fact that the franchisee refused to purchase or
2 accept delivery of any motor vehicle or vehicles, parts, ac-
3 cessories or any other commodity or service not ordered by the
4 franchisee.

5 Sec. 11. Notwithstanding the terms, provisions or condi-
6 tions of any agreement or franchise, subject to the provisions
7 of subsection two (2) of section ten (10) of this Act, in the
8 event of the sale or transfer of ownership of the franchisee's
9 dealership by sale or transfer of the business or by stock
10 transfer or in the event of change in the executive management
11 of the franchisee's dealership the franchisor shall give effect
12 to such a change in the franchise.

13 Sec. 12. The commission may issue subpoenas for the purpose
14 of giving effect to the provisions of this Act.

15 Sec. 13. In the event that a franchisor enters into or
16 attempts to enter into a franchise, whether upon termination
17 or refusal to continue another franchise or upon the estab-
18 lishment of an additional motor vehicle dealership in a com-
19 munity where the same line-make is then represented, without
20 first complying with the provisions of this Act, no license
21 under chapter three hundred twenty-two (322) of the Code shall
22 be issued to that franchisee or proposed franchisee to engage
23 in the business of selling motor vehicles manufactured or dis-
24 tributed by that franchisor.

25 Sec. 14. In determining whether good cause has been estab-
26 lished for terminating or not continuing a franchise, the com-
27 mission shall take into consideration the existing circum-
28 stances, including, but not limited to:

- 29 1. Amount of busness transacted by the franchisee.
- 30 2. Investment necessarily made and obligations incurred by
31 the franchisee in the performance of his part of the franchise.
- 32 3. Permanency of the investment.
- 33 4. Whether it is injurious to the public welfare for the
34 business of the franchisee to be disrupted.
- 35 5. Whether the franchisee has adequate motor vehicle ser-

1 vice facilities, equipment, parts and qualified service per-
2 sonnel to reasonably perform the necessary maintenance and
3 repairs to the motor vehicles sold at retail by such fran-
4 chisee.

5 Sec. 15. In determining whether good cause has been estab-
6 lished for entering into an additional franchise for the same
7 line-make, the commission shall take into consideration the
8 existing circumstances, including, but not limited to:

9 1. Amount of business transacted by other franchisees of
10 the same line-make in that community.

11 2. Investment necessarily made and obligations incurred by
12 other franchisees of the same line-make, in that community, in
13 the performance of their part of their franchises.

14 3. Permanency of the investment.

15 4. Effect of the retail motor vehicle business as a whole
16 in that community.

17 5. Whether it is injurious to the public welfare for an
18 additional franchise to be established.

19 Sec. 16. Any party to a hearing before the commission may
20 take an appeal from any final order entered in such hearing
21 in the manner provided for appeals in section three hundred
22 twenty-two point ten (322.10) of the Code.

23 Sec. 17. If any provision of this Act or the application
24 of the Act to any person or circumstance is held invalid, such
25 invalidity shall not affect provisions or applications of the
26 Act which can be given effect without the invalid provision
27 and to this end the provisions of this Act are declared to be
28 severable.

EXPLANATION

The protection of consumers is of paramount importance and is an essential function of government today. The proper maintenance and service of motor vehicles is a significant factor in highway safety. The purchasers of motor vehicles have a vital interest in the maintenance and repair service available to them after they purchase a motor vehicle. As a result of the termination or nonrenewal of a dealership or the refusal of a factory to allow the transfer of a dealership, maintenance and repair service may not be available. Also, the establishment of too many dealerships in a

community may result in dealerships struggling to exist with a resultant decline in the quality of services rendered. In addition, dealerships maintained without adequate service facilities adversely affect the quality of service in the community.

This bill requires a determination by the Iowa Commerce Commission that there is good cause for termination or nonrenewal of a dealership before a dealership may be terminated or not renewed by a factory, and that if a dealership is terminated or not renewed that a new dealership will be established in the same community, unless it is shown that the community cannot support a dealership. Failure of a dealership to maintain adequate service facilities to service the cars it sells would be grounds for termination or nonrenewal. This bill requires that before an additional dealership for a make already represented in the community can be established, the Iowa Commerce Commission must make a determination that there is good cause for the dealership and that it is in the public interest. **The bill further provides that the factories are bound by the sale of a distributorship unless the sale would adversely affect the distribution of the factory's motor vehicles in the community.** This assures that distributorships can be maintained in our local communities to provide service to the public.

SENATE AMENDMENT TO HOUSE FILE 1187

1 Amend House File 1137, as amended and passed by the House, as
2 follows:

3 1. Page 2, by striking lines 34 and 35, and page 3, by striking
4 lines 1 through 8, and inserting in lieu thereof the following:

5 "6. 'Community' means the franchisee's area of responsibility
6 as stipulated in the franchise."

7 2. Page 3, by adding to section 1 after line 4 the following new
8 subsection:

9 "8. 'Consumer care' means to perform, for the public,
10 necessary maintenance and repairs to motor vehicles."

11 3. Page 4, by inserting after line 3 the following new section
12 and renumbering the remaining sections accordingly:

13 "Sec. 5. Every franchisor and franchisee shall fulfill the
14 terms of any express or implied warranty concerning the sale of
15 a motor vehicle to the public of the line-make which is the
16 subject of a contract or franchise agreement between the parties.
17 If it is determined by the district court that either the
18 franchisor or franchisee, or both, have violated an express
19 or implied warranty, the court shall add to any award or
20 relief granted an additional award for reasonable attorney
21 fees and other necessary expenses for maintaining the litigation."

22 4. Page 5, by adding to section 8 after line 8 the following
23 new paragraph:

24 "Nothing contained in this Act shall be construed to require
25 or authorize any investigation by the commission of any matter
26 before the commission under this Act. Upon hearing, the
27 commission shall hear the evidence introduced by the parties
28 and shall make its decision solely upon the record so made."

29 5. Page 5, by striking the sentence beginning in line 21 and
30 ending in line 28, and inserting in lieu thereof the following:

31 "The commission shall apportion all costs between the parties."

32 6. Page 5, line 30, by adding after the word "The" the word
33 "sole".

34 7. Page 6, line 12, by striking the period and inserting in
35 lieu thereof the following: "unless the transfer of the
36 franchisee's license under chapter three hundred twenty-two
37 (322) of the Code is denied or the new owner is unable to
38 obtain a license under chapter three hundred twenty-two (322)
39 of the Code, as the case may be."

40 8. Page 6, by striking all of line 13 after the word "subpoenas"
41 and by striking all of line 14 and inserting in lieu thereof
42 the following: ", administer oaths, compel the attendance of
43 witnesses and production of books, papers, documents, and all
44 other evidence. The commission may apply to the district court
45 of the county wherein the hearing is being held for a court
46 order enforcing this section."

47 9. Page 6, by striking line 35 and page 7 by striking lines
48 1 through 4, inclusive, and inserting in lieu thereof the
49 following:

50 "5. Whether the franchisee has adequate motor vehicle

House 74

51 service facilities, equipment, parts and qualified service
52 personnel to reasonably provide consumer care for the motor
53 vehicles sold at retail by the franchisee and any other motor
54 vehicles of the same line-make."

55 10. Page 7, by adding to section 14 the following new sub-
56 sections:

57 "6. Whether the franchisee refuses to honor warranties
58 of the franchisor to be performed by the franchisee, provided
59 that the franchisor reimburses the franchisee for such warranty
60 work performed by the franchisee.

61 "7. Except as provided in section ten (10) of this Act,
62 failure by the franchisee to substantially comply with those
63 requirements of the franchise which are determined by the
64 commission to be reasonable and material.

65 "8. Except as provided in section ten (10) of this Act,
66 bad faith by the franchisee in complying with those terms of
67 the franchise which are determined by the commission to be
68 reasonable and material."

69 10. Page 7, by adding to section 15 after line 18 the follow-
70 ing new subsection:

71 "6. Whether the franchisees of the same line-make in that
72 community are providing adequate consumer care for the motor
73 vehicles of the line-make which shall include the adequacy of
74 motor vehicle service facilities, equipment, supply of parts
75 and qualified service personnel."

76 11. Further amend House File 1137 by correcting the cross
77 references in accordance with this amendment.

Received from the Senate
March 10, 1970

*House Concurred
3/12*

HOUSE FILE 1137

1 Amend House File 1137 as follows:

2 1. Page 2, line 4, striking the words "NOW THEREFORE;" and
3 inserting after line 4 the following paragraphs:

4 WHEREAS, it is further recognized that adequate and safe
5 transportation is vital to the public, the bulk of which is pro-
6 vided by motor vehicle, and it is necessary to insure that the
7 public is protected and assured that motor vehicles are readily
8 available in a consumer market where prices are set by fair
9 competition and that all motor vehicles are properly equipped
10 with all necessary safety devices to insure the maximum pro-
11 tection of the health, safety, and welfare of the traveling
12 public; and

13 WHEREAS, it is further recognized that the protection and
14 preservation of the air we breath is vital to the maintenance
15 of public health and that emissions from motor vehicles daily
16 add poisonous substances to such air which must be eliminated
17 immediately; NOW THEREFORE;

18 2. Page 3, line 4, by inserting the following new subsections:

19 8. "Public" means each individual resident of the state
20 of Iowa.

21 9. "Safety devices" means all accessories, devices, man-
22 ner of design, and any other thing required by the laws of this
23 state or the United States or any rule or regulation adopted
24 pursuant to such laws for the protection of the health, safety
25 and welfare of the traveling public.

26 10. "Pollution control devices" means all accessories,
27 or mechanisms of whatever description as may be required by
28 the laws of this state or the United States or any rule or
29 regulation adopted pursuant to such laws to control or elimin-
30 ate the pollution of the air by motor vehicles.

31 3. Page 3, line 16, by inserting after the word "dealership"
32 the following:

33 ", or that the public interest requires new or additional
34 dealerships to promote fair competition as determined by the
35 commission based upon all the evidence presented".

36 4. Page 3, line 31, by inserting after the word "dealership"
37 the following:

38 ", or that the public interest requires new or additional
39 dealerships to promote fair competition as determined by the
40 commission based upon all the evidence presented".

41 5. Page 4, line 3, by inserting after the word "interest" the
42 following:

43 ", or that the public interest requires new or additional
44 dealerships to promote fair competition as determined by the
45 commission based upon all the evidence presented".

46 6. Page 4, by inserting after line 3 the following new sections
47 and by renumbering the remaining sections accordingly:

48 Sec. 5. Every contract or franchise agreement between a
49 franchisee and franchisor for the sale of motor vehicles to the
50 public shall contain a provision requiring the franchisor to pro-

*Withdrawn
3/9*

Div 1 - adopted

*Withdrawn
3/9*

Senate 10

51 vide the franchisee with a reasonable inventory of safety de-
52 vices and pollution control devices to be placed on any motor
53 vehicle of the line-make which is the subject of such
54 contract or franchise agreement when requested by the public;
55 and further that the franchise shall employ people of suffi-
56 cient skill to properly place such devices in such motor
57 vehicles. Such a provision shall be added by operation of law
58 to each such contract and franchise agreement now in existence
59 or hereafter entered into. If the commission finds upon hear-
60 ing after reasonable notice to all parties concerned that this
61 provision of any contract or franchise is being violated, it
62 shall order compliance by the violating party.

63 Sec. 6. Whenever it is required in this Act that the in-
64 terest of the public be protected, that the public welfare
65 requires fair competition, or that the public welfare requires
66 safety devices or pollution control devices, such public inter-
67 est shall be protected by the commission. The commission shall
68 cause all such matters to be fully investigated on behalf of
69 the public and thereafter to have any competent and relevant
70 evidence presented to the commission for its determination.
71 The commission may in all cases covered by this Act apply to
72 the district court of the county wherein the violator conducts
73 his business, if the franchisee, or the Polk county district
74 court, if the franchisor, for a court order to enforce its de-
75 termination. The commission shall in all cases covered by this
76 act assess the reasonable cost of any investigation conducted
77 by it, any hearings held, and any other costs incurred in en-
78 forcing this Act in favor of the prevailing party. Such costs
79 may be recovered by the state in a civil action against the
80 party assessed.

81 Sec. 7. Each franchisor shall cause to be furnished to
85 reasonable repair and safe operating condition. Each franchisee
83 to keep or place a motor vehicle of the line-make which is the
84 subject of any contract or franchise agreement between them in
85 reasonable repair and safe operating condition. Each franchisee
86 shall employ people of sufficient skill to properly repair and
87 place such parts, accessories and other items upon such motor
88 vehicles in order to keep such motor vehicles in reasonable
89 repair and safe operating conditions. The public may file a
90 complaint with the commission if there is reasonable cause to
91 believe that this section is being violated. If, after investi-
92 gation the commission has cause to believe such complaint is
93 true, it shall hold a hearing thereon, after reasonable notice
94 to all parties affected, otherwise the complaint shall be dis-
95 missed. The commission upon such hearing shall order compliance
96 with this section by the proper party or dismiss such complaint.

97 Sec. 9. Every franchisor and franchisee shall fulfill the
98 terms of any express or implied warranty concerning the sale of
99 a motor vehicle to the public of the line-make which is the sub-
100 ject of a contract or franchise agreement between the parties.
101 If it is determined by the district court that either the fran-
102 chisor or franchisee, or both, have violated an express or im-

Withdrawn
3/9

D.V.I.
Adopted
3/9

Senate 11

108 plied warranty, the court shall add to any award or relief
104 granted an additional award for reasonable attorney fees and
105 other necessary expenses for maintaining the litigation.

106 7. Page 4, line 84, by inserting after the word "dealership"
107 the following:

108 " , unless the hearing is to allow new or additional dealer-
109 ships to promote fair competition in which case participation
110 shall be unlimited".

111 8. Page 5, line 8, by inserting after the word "dealership"
112 the following:

113 " , unless the hearing is to allow new or additional dealer-
114 ships to promote fair competition in which case the commission
115 shall make its determination upon the basis of the public in-
116 terest without regard to the burden of proof".

117 9. Page 6, after line 4, by inserting the following new para-
118 graph:

119 However, if a new or additional dealership is to be al-
120 lowed to promote fair competition in the public interest the
121 provisions of this section shall not apply.

122 10. Page 6, line 13, by striking all after the word "subpoenas"
123 and all of line 14 and by inserting in lieu thereof the follow-
124 ing:

125 " , administer oaths, compel the attendance of witnesses
126 and production of books, papers, documents, and all other evi-
127 dence. The commission may apply to the district court of the
128 county wherein the hearing is being held for a court order en-
129 forcing this section."

130 11. Page 7, line 4, by inserting before the period the follow-
131 ing words:

132 "and any other motor vehicles of the same line-make".

133 12. Page 7, after line 18, by inserting the following new para-
134 graph:

135 However, if a new or additional dealership is to be allowed
136 to promote fair competition in the public interest, the provi-
137 sions of this section shall not apply.

DIV 1
Adopted
3/9

Withdrawn
3/9

DIV 2
Adopted
3/9

DIV 3
Adopted 3/9

Withdrawn
3/9

Filed

February 27, 1970

By GAUDINEER, SHIRLEY and WEIMER

1 Amend House File 1137 as follows:
 2 1. By striking lines 3 through 25 on page 1 and lines 1 through
 3 4 on page 2.
 4 2. By striking lines 13 through 15 on page 2 and inserting in
 5 lieu thereof the following:
 6 "3. 'Franchisee' means a person who receives motor vehicles
 7 from the franchisor under a franchise and who sells and services
 8 such vehicles to and for the general public."
 9 8. By striking lines 20 and 21 on page 2 and inserting in lieu
 10 thereof the following:
 11 "b. The franchisee is granted the right to sell and service
 12 motor vehicles manufactured or distributed by the franchisor."
 13 4. By striking the period (.) on page 2, line 30, and
 14 adding the following: "and the franchisee providing
 15 automobile service to the public for the franchisor's products."
 16 5. By striking on page 2, lines 34 and 35, and on page 3,
 17 lines 1 through 3, and inserting in lieu thereof the following:
 18 "6. 'Community' means area of responsibility as stipulated
 19 in the franchise agreement."
 20 6. By adding after line 4, page 3, the following sub-
 21 section:
 22 "8. 'Consumer care' means the duty of the franchisee
 23 to provide, for the benefit of the public, new motor vehicles,
 24 motor vehicles service facilities, equipment, parts and
 25 qualified service personnel to reasonably perform necessary
 26 motor vehicle sales and service according to the general
 27 quality existing in similar franchisees within the community
 28 or a similar community."
 29 7. By adding after the word "The" on page 5, line 28,
 30 the word "sole".
 31 8. By striking the period (.) on page 6, line 4, and adding
 32 the following: "except such inventory as is necessary to provide
 33 consumer care."
 34 9. By striking lines 11 and 12 on page 6 and inserting in
 35 lieu thereof the following: "of the franchisee's dealership the
 36 franchisor shall not arbitrarily withhold approval of such change
 37 in the franchise so long as the transferee or executive management
 38 thereof substantially meets the qualifications required of the
 39 transferor in obtaining his original franchise."
 40 10. By striking lines 3 and 4 on page 7 and inserting in
 41 lieu thereof the following: "repairs to the motor vehicles
 42 of the line-make represented by the franchisee within the community
 43 and to other motor vehicles sold at retail by the franchisee."
 44 11. By adding two new subsections to section 14 as follows:
 45 "6. Failure by the franchisee to substantially comply with
 46 those requirements of the franchise, which are determined by
 47 the commission to be reasonable.
 48 7. Bad faith by the franchisee in complying with the terms
 49 of the franchise."
 50 12. By adding to section 15 after line 18 on page 7 the follow-
 51 ing new subsection:
 52 "6. Whether or not the other franchisees within the community
 53 are providing adequate line-make motor vehicle service to the
 54 public which shall include the adequacy of facilities, equipment,
 55 supply of parts and qualified service personnel as well as the
 56 general quality and reputation of existing franchisees in the
 57 community and their ability to provide consumer care."

Div 1
Lost
3/9

Withdrawn
3/9

Div 2
Lost
3/9

Div 3
Lost
3/9

Withdrawn
3/9

1 Amend House File 1137 as follows:
2 1. By striking all of line four (4), page three (3) and
3 inserting in lieu thereof: "7. 'Commissioner' means the
4 Commissioner of Public Safety."
5 2. By striking from line twenty-three (23), page four (4)
6 the word "commission" and inserting in lieu thereof the word
7 "commissioner".
8 3. By striking from line twenty-six (26), page four (4)
9 the word "commission" and inserting in lieu thereof the word
10 "commissioner".
11 4. By striking from line thirty-five (35), page four (4)
12 the word "commission" and inserting in lieu thereof the word
13 "commissioner".
14 5. By striking from line eleven (11), page five (5) the
15 word "commission" and inserting in lieu thereof the word
16 "commissioner".
17 6. By striking from line twenty-one (21), page five (5)
18 the word "commission" and inserting in lieu thereof the word
19 "commissioner".
20 7. By striking from line thirteen (13), page six (6) the
21 word "commission" and inserting in lieu thereof the word
22 "commissioner".
23 8. By striking from lines twenty-six (26) and twenty-seven
24 (27), page six (6) the word "commission" and inserting in lieu
25 thereof the word "commissioner".
26 9. By striking from line nineteen (19), page seven (7)
27 the word "commission" and inserting in lieu thereof the word
28 "commissioner".

Offered from the floor and lost
February 11, 1970

GANNON of Jasper

1 Amend House File 1137 as follows:
2 1. By adding after line four (4), page seven (7), the
3 following new subsection:
4 "6. Evidence that other franchisees of the same line
5 make, in that community have falsified the odometer readings
6 on automobiles within their possession."
7 2. By adding after line eighteen (18), page seven (7)
8 the following new subsection:
9 "6. Evidence that other franchisees of the same line
10 make, in that community have falsified the odometer readings
11 on automobiles within their possession."

Offered from the floor and lost
February 11, 1970

GANNON of Jasper

1 Amend House File 1137 by adding the following new
2 section:
3 "Sec. 18. There is hereby appropriated from the
4 general fund of the state to the Commerce Commission for the
5 biennium beginning July 1, 1969, and ending June 30, 1971, to
6 carry out the purposes of this act the sum of thirty thousand
7 dollars (30,000)."

Offered from the floor and ruled out of order
February 11, 1970

GANNON of Jasper

- 1 Amend House File 1137, page 7, line four (4), by
- 2 striking the word "chisee" and inserting in lieu thereof
- 3 the word "chisees".

Offered from the floor and adopted
February 11, 1970

HUFF of Polk

- 1 Amend House File 1137, page 5, line twenty-one (21),
- 2 by adding after the word "commission" the following new
- 3 sentence:
- 4 "Upon completion of said hearing the commission shall
- 5 apportion all costs between the parties to the hearing."

Offered from the floor and adopted
February 11, 1970

KREAMER of Polk

- 1 Amend House File 1137 as follows:
- 2 1. Page 1, by striking lines 3 through 25,
- 3 2. Page 2, by striking lines 1 through 4.

Offered from the floor and lost
February 11, 1970
In: Commerce committee

McINTYRE of Linn

- 1 Amend the Senate amendment to House File 1137 as follows:
- 2 1. By striking lines 9 and 10 and substituting in lieu thereof
- 3 the following:
- 4 "8. 'Consumer care' means the duty of the franchisee to
- 5 provide, for the benefit of the public, new motor vehicles,
- 6 motor vehicle service facilities, equipment, parts and qualified
- 7 service personnel to reasonably perform necessary motor vehicle
- 8 sales and service according to standards relating to the general
- 9 quality existing in similar franchisees within the community
- 10 or a similar community as determined by the commerce commission."
- 11 2. Line 31, by inserting after the word "party" the following:
- 12 "and there shall be no expense whatsoever to the state of Iowa".
- 13 3. By striking lines 34, 35, 36, 37, 38 and 39 and inserting
- 14 in lieu thereof the following:
- 15 "7. Page 6, line 11, by striking the words 'give effect'
- 16 and line 12, by striking the word 'to' and inserting in lieu
- 17 thereof the words 'not arbitrarily withhold approval of'."

*with
draw
3/12*

*Lost
3/12*

Offered and deferred
March 11, 1970

KREAMER of Polk
WELDEN of Hardin

1 Amend the Gaudineer, et al., amendment to House File
2 1137, filed February 27, 1970, found on pages 687, 688,
3 and 689 of the Senate Journal, by adding after line 137
4 a new division as follows:

5 "Page 3, by adding after line 3 the following new
6 subsection and renumbering the following subsections as
7 required:

8 'Fair competition' means competition with other indepen-
9 dent franchised dealers in new vehicles and shall not
10 include competition with dealership owned in whole or in
11 part by any franchisor which is hereby declared not to be
12 fair competition."

Filed - *withdrawn 3/9*
March 5, 1970

By DeKOSTER

1 Amend the Denman-DeKoster-Kyhl amendment, filed February 26,
1970,
2 pages 646 and 647 of the Senate Journal, to House File 1137,
3 line 17, by striking the numeral "28" and inserting in lieu
4 thereof "30".

Filed - *Adopted 3/9*
March 5, 1970

By DENMAN

1 Amend the Rigler, et al., amendment to House File 1137,
2 filed February 27, 1970, as follows:
3 1. By striking from line 39 the word "original" and
4 insert in lieu thereof the word "current".
5 2. By striking from line 52 the word "other" and
6 insert in lieu thereof the word "line-make".
7 3. By adding in line 56 after the word "existing" the
8 word "line-make".

*Div 1
Adopted
3/9*

*Div 2
Withdrawn
3/9*

Filed
March 5, 1970

By RIGLER

1 Amend the Rigler-Lange-O'Malley amendment, filed February 27,
1970,
2 pages 685, 686 and 687 of the Senate Journal, to House File 1137,
3 line 29, by striking the numeral "28" and inserting in lieu
4 thereof "30".

Filed - *Withdrawn 3/9*
March 5, 1970

By RIGLER

1 Amend the Denman, et al., amendment to House File 1137,
2 filed February 26, 1970, found on page 646 of the Senate
3 Journal, by striking lines 12 through 16, inclusive, and
4 by inserting in lieu thereof the following:
5 "The commission shall cause its staff to investi-
6 gate on behalf of the public all matters presented to it
7 under this Act and thereafter cause the results of each
8 investigation to be presented to it at a hearing for
9 proper determination by the commission."

Filed and lost
March 9, 1970

By GAUDINEER

FISCAL NOTE

Date prepared March 5, 1970

Requested by Senator Gaudineer.

Prepared in regard to House File 1137, a bill for an act to provide for fair trade practices by motor vehicle franchisors. (Gaudineer, Shirley, Weimer amendment filed February 27, 1970.)

Following is the fiscal effect in dollars of the legislative proposal as required by Rule 31:

The amendment provides that "the commission shall in all cases covered by this act assess the reasonable cost of any investigation conducted by it, and hearings held, and any other costs incurred in enforcing this act, in favor of the prevailing party."

Therefore, there will be no cost to the state.

GERRY D. RANKIN
Legislative Fiscal Director

FISCAL NOTE

Date prepared February 18, 1970

Requested by Senator Griffin.

Prepared in regard to House File 1137, as passed by the House, a bill for an act to provide for fair practices by motor franchisors.

Following is the fiscal effect in dollars of the legislative proposal as required by Rule 31:

The Commerce Commission is responsible for the execution of House File 1137. While we are unable to predict exactly the amount of activity the Commerce Commission may be engaged in such execution, we give the following estimate of costs:

Maintenance and support expenses such as Court Reporters, travel, supplies, etc.—\$5,900 per year.

If the commission should find it necessary to obtain information aside from that presented by the parties involved, they could do so by hiring outside professional consultants at approximately \$40 per hour.

GERRY D. RANKIN
Legislative Fiscal Director

- 1 Amend House File 1137, as passed by the House, page 5,
- 2 by striking the sentence beginning in line 21 and ending in
- 3 line 23, and inserting in lieu thereof the following:
- 4 "The commission shall apportion all costs between the
- 5 parties."

Filed - *4 depted 3-9*
February 16, 1970

By GRIFFIN

1 Amend House File 1137 by numbering properly and insert-
2 ing on page 7, after line 28, the following new section:
3 "Sec. 18. A franchisor shall be deemed to have engaged
4 in fair trade practice unless each franchiser shall remit to
5 the treasurer of state upon September 1, January 1, April 1,
6 and July 1 of each year a sum of money equal to five dollars
7 for each motor vehicle shipped to a franchisee for sale in
8 this state. The treasurer shall place such moneys collected
9 into a fund to be known as the auto junk disposal fund. The
10 office of planning and programming shall undertake studies in
11 order to determine the most economical and feasible manner to
12 dispose of junk motor vehicles or cars. The office of planning
13 and programming may allocate from such fund direct grants to
14 a city, town, county, or a group of such governmental agencies
15 who have entered into an intergovernmental agreement pursuant
16 to chapter twenty-eight E (28E) of the Code for the purpose
17 of establishing a sanitary land fill or other means for dis-
18 posing of such junk cars that is approved by the office of
19 planning and programming."

Filed - Ruled out of order

March 6, 1970

By DODERER, DAVIS and GAUDINEER

1 Amend House File 1137 by adding after page 7, line 28,
2 the following new section:
3 "Section three hundred twenty-two point three (322.3),
4 Code 1966, is amended by striking subsection nine (9)."

Filed and ruled out of order

March 9, 1970

By REICHARDT

1 Amend House File 1137 as follows:
2 On page 3, by striking all of lines 32 through 35
3 and on page 4, by striking all of lines 1 through 3, and
4 by renumbering the subsequent sections.

Filed and lost

March 9, 1970

By GLENN

1 Amend the Griffin amendment, filed February 16, 1970 to
2 House File 1137, line 5, by inserting after the word
3 "parties" the following: "and there shall be no expense
4 whatsoever to the state of Iowa."

Filed and lost

March 9, 1970

By RIGLER

1 Amend House File 1137, page two (2) by striking the
2 period in line thirty-three (33) and inserting in lieu
3 thereof: "and 'farm tractors' and 'implements of husbandry'
4 as defined in Chapter three hundred twenty-one (321) of
5 the Code."

Filed and ruled out of order

March 9, 1970

By SHIRLEY, SCHABEN, BRILES and KLINK

1 Amend House File 1137 as follows:

2 1. By striking on page 2, lines 34 and 35, and on page 3,
3 lines 1 through 3, and inserting in lieu thereof the following:

4 "6. 'Community' means the franchisee's area of responsibility
5 as stipulated in the franchise." } 1

6 2. By adding to section 1 after line 4 on page 3 the following
7 new subsection: } 2

8 "8. 'Consumer care' means to perform, for the public, neces-
9 sary maintenance and repairs to motor vehicles." }

10 3. By adding to section 8 after line 8 on page 5 the follow-
11 ing new paragraph:

12 "Nothing contained in this Act shall be construed to require
13 or authorize any investigation by the commission of any matter
14 before the commission under this Act. Upon hearing, the commis- } 3
15 sion shall hear the evidence introduced by the parties and shall
16 make its decision solely upon the record so made." }

17 4. By adding after the word "The" on page 5, line 28, the
18 word "sole". } *amend*

19 5. By striking the period on page 6, line 12, and adding
20 the following: "unless the transfer of the franchisee's license
21 under chapter three hundred twenty-two (322) of the Code is denied" } 5

22 or the new owner is unable to obtain a license under chapter
23 three hundred twenty-two (322) of the Code, as the case may be." }

24 6. By striking on page 6, line 35, and on page 7, lines 1
25 through 4, and inserting in lieu thereof the following: } 6

26 "5. Whether the franchise has adequate motor vehicle service
27 facilities, equipment, parts and qualified service personnel to
28 reasonably provide consumer care for the motor vehicle sold at
29 retail by the franchisee." }

30 7. By adding to section 14 the following new subsections:

31 "6. Whether the franchisee refuses to honor warranties of the
32 franchisor to be performed by the franchisee, provided that the
33 franchisor reimburses the franchisee for such warranty work per- } 7
34 formed by the franchisee." }

35 7. Except as provided in section ten (10) of this Act, fail-
36 ure by the franchisee to substantially comply with those require-
37 ments of the franchise which are determined by the commission to
38 be reasonable and material. }

39 8. Except as provided in section ten (10) of this Act, bad
40 faith by the franchisee in complying with those terms of the
41 franchise which are determined by the commission to be reasonable
42 and material." } 8

43 8. By adding to section 15 after line 18 on page 7 the fol-
44 lowing new subsection:

45 "6. Whether the franchisees of the same line-make in that
46 community are providing adequate consumer care for the motor
47 vehicles of the line-make which shall include the adequacy of motor
48 vehicle service facilities, equipment, supply of parts and quali-
49 fied service personnel." }

Filed - *Adopted as amended 3/9*
February 26, 1970

By DENMAN, DeKOSTER and KYHL