

FLORIDA FRANCHISE LAW – AG

686.40 Agricultural Equipment Manufacturers and Dealers Act.--Sections 686.40-686.418 shall be known by the popular name the "Agricultural Equipment Manufacturers and Dealers Act."

686.401 Legislative finding and intent; construction of ss. 686.40-686.418.--

(1) The Legislature finds and declares that the distribution and sale of equipment primarily designed for or used in agriculture in this state vitally affects the general economy of the state, the public interest, and the public welfare and that, in the exercise of its police power, it is necessary to regulate the conduct of manufacturers, distributors, and dealers of such equipment, and their representatives, doing business in this state in order to prevent fraud, unfair business practices, unfair methods of competition, impositions, and other abuses upon its citizens.

686.402 Definitions of terms used in ss. 686.40-686.418., unless the context otherwise requires, the word, phrase, or term:

(1) "Dealer" means a person who sells, solicits, or advertises the sale of new and used equipment to the consuming public, but does not include:

- (a) A public officer while performing her or his duties as such officer.
- (b) A person making casual or isolated sales of her or his own equipment.
- (c) A person engaged in the auction sale of equipment.
- (d) A dealer in used equipment.
- (e) A mass-market retailer.

(2) "Dealership" means the business of selling or attempting to effect the sale by a dealer of new equipment or the right conferred by written or oral agreement with the manufacturer, distributor, or wholesaler, for a definite or indefinite period of time, to sell or attempt to effect the sale of new equipment.

(3) "Distributor" or "wholesaler" means any person, firm, association, corporation, or company that sells or distributes new equipment to dealers and that maintains distributor representatives within this state.

(4) "Distributor branch" means a branch office maintained by a distributor or wholesaler which sells or distributes new equipment to dealers.

(5) "Distributor representative" means a representative employed by a distributor, distributor branch, or wholesaler.

(6) "Equipment" means those tractors or farm implements which are primarily designed for or used in agriculture. Equipment designed for or used in off-road construction, mining, utility, and industrial purposes is not included in this definition.

(7) "Factory branch" means a branch office maintained by a manufacturer which manufactures and assembles equipment for sale to distributors or dealers or which is maintained for directing and supervising the representatives of the manufacturer.

(8) "Factory representative" means a representative employed by a manufacturer or factory branch for the purpose of making or promoting the sale of equipment or for supervising, servicing, introducing, or contracting with dealers or prospective dealers.

(9) "Franchise" means a contract or agreement, either expressed or implied, whether oral or written, for a definite or indefinite period of time in which a manufacturer, distributor, or wholesaler grants to a dealer permission to use a trade name, service mark, trademark, or related characteristic and in which there is a common interest or community of interest in the marketing of equipment or services related thereto at wholesale or retail, whether by leasing, sale, or otherwise.

(10) "Franchisee" means a dealer to whom a franchise is offered or granted.

(11) "Franchisor" means a manufacturer, distributor, or wholesaler who grants a franchise to a dealer.

(12) "Fraud" means and includes actual fraud or constructive fraud as normally defined, in addition to the following:

(a) A misrepresentation in any manner, whether intentionally false or arising from gross negligence, of a material fact.

(b) A promise or representation not made honestly and in good faith.

(c) An intentional failure to disclose a material fact.

(d) Any artifice employed to deceive another.

(13) "Manufacturer" means any person engaged in the business of manufacturing or assembling new and unused equipment.

(14) "New equipment" means equipment which has not been previously sold to and put into regular use or service by any person, except a distributor, wholesaler, or dealer for resale.

(15) "Person" means a natural person, corporation, association, partnership, trust, or other business entity and, in the case of a business entity, includes any other entity in which the business entity has a majority interest or which it effectively controls, as well as the individual officers, directors, and other persons in active control of the activities of each such entity.

(16) "Relevant market area" means the geographic area for which a dealer is assigned responsibility for selling or soliciting or advertising the sale of equipment under the terms of a franchise.

(17) "Sale" means and includes the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, or mortgage in any manner or form, whether by transfer in trust or otherwise, of any equipment or interest therein, or of any franchise related thereto, for a consideration and any option, subscription or other contract, or solicitation, looking to a sale, or offer or attempt to sell in any form, whether in oral or written form for a consideration.

(18) "Termination" means the termination, cancellation, nonrenewal, or noncontinuation of a contract or agreement.

(19) "Tractor" means a vehicle that is operated principally upon a farm, grove, or orchard in connection with agriculture.

686.403 Application of ss. 686.40-686.418.--

(1) Any person who engages directly or indirectly in purposeful agreements or contracts within this state in connection with the sale or advertising for sale of new equipment and parts is subject to ss. 686.40-686.418 and to the jurisdiction of the courts of this state for violations of such sections in accordance with the provisions of the laws of this state.

(2) Sections 686.40-686.418 apply to all written or oral agreements between a manufacturer, distributor, or wholesaler with a dealer, including, but not limited to, the franchise offering; the franchise agreement; sales of goods, services, and advertising; leases or mortgages of real or personal property; promises to pay; security interests; pledges; insurance contracts; advertising contracts; construction or installation contracts; servicing contracts; and all other such agreements in which the manufacturer, distributor, or wholesaler has any direct or indirect interest.

(3) Sections 686.40-686.418 apply to all contracts entered into, renewed, or amended after July 1, 2004.

686.405 Warranty agreements; claims; compensation of dealers.--

(1) Every manufacturer, distributor, wholesaler, factory branch or division, distributor branch or division, or wholesale branch or division shall provide a fair and reasonable warranty agreement on any new equipment which it sells and shall fairly compensate each of its dealers for labor and parts used in fulfilling such warranty agreements.

(2)(a) Each claim for payment under such warranty agreements made by a dealer for such labor and parts shall be paid within 30 days following its approval. Each such claim shall be either approved or disapproved within 30 days after its receipt. When any such claim is disapproved, the dealer who submitted it shall be notified in writing of such disapproval within such period, and such notice shall state the specific grounds upon which the disapproval is based.

(b) Any special handling of claims required of the dealer by the manufacturer, distributor, wholesaler, factory branch or division, distributor branch or division, or wholesale branch or division, which handling is not uniformly required of all dealers of that make, may be enforced only after 30 days' notice in writing to the dealer and upon good and sufficient reason.

(3)(a) The minimum lawful basis for compensating a dealer for warranty work, as provided for in this section, shall be calculated for labor in accordance with the reasonable and customary amount of time required to complete such work, expressed in hours and fractions of hours multiplied by the dealer's established hourly retail labor rate. Prior to filing a claim for reimbursement for warranty work, the dealer must notify the applicable manufacturer, distributor, or wholesaler of his or her hourly retail labor rate.

(b) The minimum lawful basis for compensation to the dealer for parts used in fulfilling such warranty work shall be at the dealer's costs for such parts, including all freight and handling charges applicable to such parts, plus 15 percent of the sum of such costs and charges to reimburse the dealer's reasonable cost of doing business and providing such warranty service on behalf of the manufacturer.

(4) It shall be unlawful to deny, delay payment for, or restrict a claim by a dealer for warranty service or parts, incentives, hold-backs, or other amounts owed to a dealer unless the denial, delay, or restriction is the direct result of a material defect in the claim that affects its validity.

(5) A manufacturer, distributor, or wholesaler may audit warranty claims submitted by its dealers only for a period of up to 1 year following payment of such claims and may charge back to its dealers only those amounts based upon paid claims shown by the audit to be invalid. However, this limitation shall not apply in any case of fraudulent claims.

(6) Any audit of a dealer by or on behalf of a manufacturer, distributor, or wholesaler for sales incentives, service incentives, rebates, or other forms of incentive compensation shall be completed not later than 12 months after the date of termination of such incentive compensation program. However, this limitation shall not apply in any case of fraudulent claims.

686.406 Parts; availability; return.—

(1) Every manufacturer shall specify, and every dealer shall provide and fulfill, reasonable predelivery and preparation obligations for its equipment prior to delivery of the equipment to retail purchasers.

(2) Every manufacturer shall provide for the availability of repair parts throughout the reasonable useful life of any equipment sold.

(3) Every manufacturer or distributor shall provide to each of its dealers, annually, an opportunity to return a portion of its surplus parts inventories for credit. The surplus procedure shall be administered as follows:

(a) The manufacturer or distributor may specify, and thereupon notify each of its dealers of, a time period of at least 60 days' duration during which each of its dealers may submit its surplus parts list and return the surplus parts to the manufacturer or distributor.

(b) If a manufacturer or distributor has not notified a dealer of a specific time period for returning surplus parts within the preceding 12 months, the manufacturer or distributor shall authorize and allow the dealer's surplus parts return request within 30 days after receipt of such request from such dealer.

(c) A manufacturer or distributor must allow surplus parts return authority on a dollar value of parts equal to 6 percent of the total dollar value of parts purchased from the manufacturer or distributor by the dealer during the 12-month period immediately preceding the notification to such dealer by the manufacturer or distributor of the surplus parts return program, or the month such dealer's return request is made, whichever is applicable. However, the dealer may, at her or his option, elect to return a dollar value of her or his surplus parts equal to less than 6 percent of the total dollar value of parts purchased by such dealer from the manufacturer or distributor during the preceding 12-month period as provided herein.

(d) No obsolete or superseded part may be returned, but any part listed in the manufacturer's, distributor's, or wholesaler's current returnable parts list at the date of notification of the surplus parts return program by the manufacturer or distributor to the dealer, or the date of the dealer's parts return request, whichever is applicable, is eligible for return and credit specified. However, returned parts must be in new and unused condition and must have been purchased from the manufacturer, distributor, or wholesaler to whom they are returned.

(e) The minimum lawful credit to be allowed for returned parts is 85 percent of the wholesale cost of the parts as listed in the manufacturer's, distributor's, or wholesaler's current returnable parts list at the date of the notification of the surplus parts return program by the manufacturer, wholesaler, or distributor to the dealer, or the date of the dealer's parts return request, whichever is applicable.

(f) Applicable credit must be issued or furnished by the manufacturer or distributor to the dealer within 60 days after receipt of her or his returned parts.

(g) The packing and return freight expense incurred in any return of surplus parts pursuant to the terms of this section shall be borne by the dealer.

686.407 Repurchase of inventory upon termination of franchise agreement; establishment or relocation of dealership; sale or lease of new equipment.--

(1) Whenever any dealer enters into a franchise agreement with a manufacturer, distributor, or wholesaler in which agreement the dealer agrees to maintain an inventory of equipment or repair parts and the franchise is subsequently terminated, the manufacturer, distributor, or wholesaler shall repurchase the inventory as provided in this section. However, the dealer may keep the inventory if he or she desires. If the dealer has any outstanding debts to the manufacturer, distributor, or wholesaler, then the repurchase amount may be credited to the dealer's account.

(2) If the dealer decides not to keep the inventory, the manufacturer, distributor, or wholesaler shall repurchase that inventory previously purchased from such manufacturer, distributor, or wholesaler and held by the dealer on the date of termination of the contract. The manufacturer, distributor, or wholesaler shall pay:

(a) One hundred percent of the actual dealer cost, including freight, of all new, unsold, undamaged, and complete equipment which is resalable, less a reasonable allowance for depreciation due to usage by the dealer and deterioration directly attributable to weather conditions at the dealer's location; and

(b) Eighty-five percent of the current wholesale price of all new, unused, and undamaged repair parts and accessories which are listed in the manufacturer's, distributor's, or wholesaler's current returnable parts list. The manufacturer, distributor, or wholesaler shall also pay the dealer 6 percent of the current wholesale price on all new, unused, and undamaged repair parts returned to cover the cost of handling, packing, and loading. However, the manufacturer, distributor, or wholesaler shall have the option of performing the handling, packing, and loading in lieu of paying the 6-percent sum imposed in this subsection for these services; and, in this event, after receipt by the dealer of the full repurchase amount as provided in this section, the dealer shall make available to the manufacturer, distributor, or wholesaler, at the dealer's address or at the places at which the equipment is located, all equipment previously purchased by the dealer.

(3) Upon payment within a reasonable time of the repurchase amount to the dealer, the title and right of possession to the repurchased inventory shall transfer or be transferred to the manufacturer, distributor, or wholesaler, as the case may be.

(4) The provisions of this section do not require the repurchase from a dealer of:

(a) Any single repair part which is priced as a set of two or more items.

(b) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning.

(c) Any inventory for which the dealer is unable to furnish evidence, reasonably satisfactory to the manufacturer, distributor, or wholesaler, of good title, free and clear of all claims, liens, and encumbrances.

(d) Any inventory which the dealer desires to keep, if the dealer has a contractual right to keep it.

(e) Any equipment which is not in new, unused, undamaged, and complete condition.

(f) Any equipment which has been used by the dealer or has deteriorated because of weather conditions at the dealer's location unless the manufacturer, distributor, or wholesaler receives a reasonable allowance for such usage or deterioration.

(g) Any repair parts which are not in new, unused, and undamaged condition.

(h) Any inventory which was ordered by the dealer on or after the date of receipt of the notification of termination of the franchise or contractual agreement.

(i) Any inventory which was acquired by the dealer from any source other than the manufacturer, distributor, or wholesaler.

(5) If any manufacturer, distributor, or wholesaler fails or refuses to repurchase any inventory covered under the provisions of this section within 60 days after termination of a dealer's contract, he or she is civilly liable for 100 percent of the current wholesale price of the inventory plus any freight charges paid by the dealer, such dealer's reasonable attorney's fees, court costs, and interest on the current wholesale price computed at the legal interest rate provided in s. 687.01 from the 61st day after termination.

(6) A manufacturer, distributor, or wholesaler that intends to establish a new dealership or to relocate a current dealership for a particular product line or make of equipment within the relevant market area of an existing dealership of the same product line or make of equipment shall give written notice of such intent by certified mail or overnight delivery, return receipt requested, to such existing dealership. The notice shall be delivered at least 180 days prior to establishment of a new dealership or relocation of a current dealership. The notice shall include:

(a) The specific location of the additional or relocated dealership.

(b) The date on or after which the additional or relocated dealership will commence operation at the new location.

(c) The identity of all existing dealerships in whose relevant market area the new or relocated dealership is to be located.

(d) The names of the dealer and principals in the new or relocated dealership.

(7) A manufacturer, distributor, or wholesaler may lease new equipment for use within the state. If the manufacturer, distributor, or wholesaler makes a direct sale or lease of equipment, he or she shall pay to the dealer located within the relevant market area a commission of not less than 7 percent of the sale or lease price of the equipment. This payment shall cover any compensation to the dealer for the cost of customary preparation and delivery as well as any commission on the sale or lease. This compensation must be paid or credited in the same manner as provided in this section. The manufacturer, distributor, or wholesaler, if practicable, shall utilize the dealer in the relevant market area for preparation and delivery. For purposes of this subsection, equipment is considered to be used primarily within a dealer's relevant market area if the new equipment is located or housed at a user's facility located within the relevant market area. This subsection shall not be applicable to any liquidation or sale of equipment which has been ordered by any court.

686.408 Repurchase of inventory upon death or incapacity of dealer.--

(1) In the event of the death or incapacity of a dealer or the majority stockholder of a corporation operating as a dealer, the manufacturer, distributor, or wholesaler shall, at the option of the heirs at law, if the dealer died intestate, or the devisees or transferees under the terms of the deceased dealer's last will and testament, if the dealer died testate, repurchase the inventory from such heirs or devisees as if the manufacturer, distributor, or wholesaler had terminated the contract; and the inventory repurchase provisions of s. 686.407 are made expressly applicable to the repurchase under this section. The heirs or devisees shall have 1 year from the date of the death of the dealer or majority stockholder to exercise their option under this section. However, nothing in this section requires the repurchase of inventory if the heirs or devisees and the

manufacturer, distributor, or wholesaler enter into a new franchise agreement to operate the retail dealership.

(2) This section is subject to that portion of the manufacturer's, distributor's, or wholesaler's contract or agreement with the dealer pertaining to death of the dealer or succession to the extent such contract or agreement is not inconsistent with this section.

686.409 Compensation for inventory upon refusal to renew, termination of, or restriction on transfer of a franchise.--It is unlawful for the manufacturer, distributor, wholesaler, or franchisor, without due cause, to fail to renew a franchise on terms then equally available to all of its dealers, to terminate a franchise, or to restrict the transfer of a franchise unless the franchisee receives fair and reasonable compensation for the inventory of the business. As used in this section, the term "due cause" shall be construed in accordance with the definition of due cause contained in s. 686.413(3)(c)2.

686.41 Indemnification of dealer with respect to legal actions.--A manufacturer, distributor, or wholesaler shall fully indemnify and hold harmless his or her dealer against any losses including, but not limited to, court costs and reasonable attorney's fees or damages arising out of any complaint, claim, or lawsuit involving, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or rescission of the sale when the complaint, claim, or lawsuit relates to the manufacture, assembly, or design of new items covered by ss. 686.40-686.418, parts or accessories, or other functions by the manufacturer, distributor, or wholesaler which are beyond the control of the dealer.

686.413 Unlawful acts and practices.--Unfair methods of competition and unfair or deceptive acts or practices in the conduct of the manufacturing, distribution, wholesaling, franchising, sale, and advertising of equipment are declared to be unlawful.

(1) It is deemed a violation of this section for any manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, wholesaler, or dealer to engage in any action which is arbitrary, capricious, in bad faith, or unconscionable and which causes damage in terms of law or equity to any of the parties or to the public.

(2) It is deemed a violation of this section for a manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division, or officer, agent, or other representative thereof, to coerce, compel, or attempt to coerce or compel any dealer:

(a) To order or accept delivery of any equipment, parts or accessories therefor, or other commodity or commodities which such dealer has not voluntarily ordered.

(b) To order or accept delivery of any equipment with special features, accessories, or equipment not included in the base list price of such equipment as publicly advertised by the manufacturer of the equipment.

(3) It is deemed a violation of this section for a manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division, or officer, agent, or other representative thereof:

(a) To refuse to deliver to any dealer having a franchise or contractual agreement for the retail sale of new equipment sold or distributed by such manufacturer, factory branch or division, distributor branch or division, or wholesale branch or division, in reasonable quantities and within a reasonable time after receipt of the dealer's order, any equipment covered by such franchise or contract specifically advertised or represented by such manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division to be available for immediate delivery. However, the failure to deliver any such equipment is not considered a violation of this section if such failure is due to a prudent and reasonable restriction on the extension of credit by the franchisor to the dealer, an act of God, a work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, a freight embargo, or another cause over which the manufacturer, distributor, or wholesaler, or any agent thereof, has no control whatsoever.

(b) To coerce, compel, or attempt to coerce or compel any dealer to enter into any agreement, whether written or oral, supplementary to an existing franchise with such manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division, or officer, agent, or other representative thereof; or to do any other act prejudicial to such dealer by threatening to cancel any franchise or contractual agreement existing between such manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division and such dealer. However, notice in good faith to any dealer of such dealer's violation or breach of any terms or provisions of such franchise or contractual agreement does not constitute a violation of this section if such notice is in writing and is mailed by registered or certified mail to such dealer at her or his current business address and such notice contains the specific facts as to the dealer's violation or breach of such franchise or contractual agreement.

(c)1. To terminate the franchise or selling agreement of any dealer without due cause, as defined in subparagraph 2. The termination of a franchise or selling agreement, without due cause, constitutes an unfair termination, regardless of the specified time period of such franchise or selling agreement. Except when the ground for such termination falls within sub-subparagraph 2.c., such manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division, or officer, agent, or other representative thereof, shall notify a dealer in writing of the termination of the franchise or selling agreement of such dealer at least 180 days before the effective date of the termination, stating the specific ground for such termination. In no event shall the contractual term of any such franchise or selling agreement expire, without the written consent of the dealer involved, prior to the expiration of at least 180 days following such written notice. During the 180-day period, either party may, in appropriate circumstances, petition a court of competent jurisdiction to modify such 180-day stay or to extend it pending a final determination of such proceeding on the merits. The court shall have authority to grant temporary, preliminary, and final injunctive relief. Should a dealer cure the claimed deficiency within the 180-day period, the franchise or selling agreement shall not be terminated.

2. As used in this subparagraph, tests for determining what constitutes due cause for a manufacturer or distributor to terminate a franchise agreement include whether the dealer:

a. Has transferred an ownership interest in the dealership without the manufacturer's or distributor's consent;

- b. Has made a material misrepresentation in applying for or in acting under the franchise agreement;
- c. Has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against her or him which has not been discharged within 60 days after the filing, is in default under the provisions of a security agreement in effect with the manufacturer or distributor, or is in receivership;
- d. Has engaged in unfair business or trade practices;
- e. Has inadequately represented the manufacturer's or distributor's products with respect to sales, service, or warranty work;
- f. Has inadequate and insufficient sales and service facilities and personnel;
- g. Has failed to comply with an applicable federal, state, or local licensing law;
- h. Has been convicted of a crime, the effect of which would be detrimental to the manufacturer, distributor, or dealership;
- i. Has failed to operate in the normal course of business for 10 consecutive business days or has terminated her or his business;
- j. Has relocated her or his place of business without the manufacturer's or distributor's consent;
or
- k. Has failed to comply with the terms that are not in conflict with this chapter or the terms of the dealership or franchise agreement.

3. Before termination of the franchise or selling agreement because of the dealer's failure to meet marketing criteria or market penetration, the manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division, or officer, agent, or other representative thereof, shall provide written notice of such intention at least 1 year in advance. After such notice, the manufacturer or other entity issuing the notice shall make good faith efforts to work with the dealer to gain the desired market share, including, without limitation, reasonably making available to the dealer an adequate inventory of new equipment and parts and competitive marketing programs. The manufacturer or other entity, at the end of the 1-year notice period, may terminate or elect not to renew the agreement only upon further written notice specifying the reasons for determining that the dealer failed to meet reasonable marketing criteria or market penetration. Such written notice must specify that termination is effective 90 days from the date of the notice. Either party may petition the court pursuant to subparagraph 1. for the relief specified in such subparagraph. Should a dealer cure the claimed deficiency within the 90-day period, the franchise or selling agreement shall not be terminated.

(d) To resort to or use any false or misleading advertisement in connection with its business as such manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division, or officer, agent, or other representative thereof.

(e) To offer to sell or to sell any new equipment, or parts or accessories therefor, to any other dealer at a lower actual price therefor than the actual price offered to any other dealer for the same model equipment identically equipped or to utilize any device, including, but not limited to, sales promotion plans or programs, which results in such lesser actual price or results in a fixed price predetermined solely by the manufacturer or distributor. However, the provisions of this paragraph do not apply to sales to a dealer for resale to any unit or agency of the United States Government, the state or any of its political subdivisions, or any municipality located within this state. Further, the provisions of this paragraph do not apply so long as a manufacturer, distributor, or wholesaler, or any agent thereof, sells or offers to sell such new equipment, parts, or accessories to all of its franchised dealers at an equal price.

(f) To willfully discriminate, either directly or indirectly, in price, programs, or terms of sale offered to franchisees, when the effect of such discrimination may be to substantially lessen competition or to give to one holder of a franchise any economic, business, or competitive advantage not offered to all holders of the same or similar franchise.

(g) To prevent or attempt to prevent, by contract or otherwise, any dealer from changing the capital structure of her or his dealership or the means by or through which the dealer finances the operation of her or his dealership, provided the dealer at all times meets any reasonable capital standards agreed to between the dealership and the manufacturer, distributor, or wholesaler and provided such change by the dealer does not result in a change in the executive management of the dealership.

(h) To prevent or attempt to prevent, by contract or otherwise, any dealer or any officer, member partner, or stockholder of any dealer from selling or transferring any part of the interest of any of them to any other person or persons or party or parties. However, no dealer, officer, partner, or stockholder has the right to sell, transfer, or assign the franchise or power of management or control thereunder without the written consent of the manufacturer, distributor, or wholesaler, except that such consent may not be unreasonably withheld.

(i) To impose, directly or indirectly, unreasonable restrictions on the dealer relative to transfer, renewal, termination, location, or site control.

(j) To prevent a dealer from having an investment in or holding a dealership contract for the sale of competing product lines or makes of equipment, or to require a dealer to provide separate facilities for competing product lines or makes of equipment.

(k) To obtain money, goods, services, anything of value, or any other benefit from any other person with whom the dealer does business or employs on account of or in relation to the transactions between the dealer, the franchisor, and such other person.

(l) To require a dealer to assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by ss. 686.40-686.418.

(4) It is deemed a violation of this section for a dealer:

(a) To require a retail purchaser of new equipment, as a condition of sale and delivery of the equipment, also to purchase special features, appliances, equipment, parts, or accessories not

desired or requested by the purchaser. However, this prohibition does not apply to special features, appliances, equipment, parts, or accessories which are already installed when the equipment is received by the dealer from the manufacturer, distributor, or wholesaler of such equipment.

(b) To represent and sell as new and unused any equipment which has been used and operated for demonstration or other purposes without stating to the purchaser prior to the sale the approximate amount of use the equipment has experienced or undergone.

(c) To resort to or use any false or misleading advertisement in connection with her or his business as such dealer.

686.415 Unenforceable contract or franchise agreement.--Any contract or franchise agreement or part thereof or practice thereunder which is in violation of any provision of ss. 686.40-686.418 is deemed against public policy and is void and unenforceable.

686.417 Remedies.--

(1) In addition to temporary, preliminary, or final injunctive relief as provided in s. 686.413(3)(c)1., any person who is aggrieved or injured in his or her business or property by reason of anything forbidden in ss. 686.40-686.418 may bring an action therefor in the appropriate circuit court of this state and shall recover the actual damages sustained and the costs of such action, including a reasonable attorney's fee.

(2) Without regard and in addition to any other remedy or relief to which a person is entitled, anyone aggrieved by a violation of ss. 686.40-686.418 may bring an action to obtain a declaratory judgment that an act, action, or practice violates such sections and to enjoin a manufacturer, distributor, wholesaler, or dealer who has violated, is violating, or is otherwise likely to violate such sections.

(3) When such action is one of common or general interest to many persons or when the parties are numerous and it is impracticable to bring them all before the court, one or more may bring a class action for the benefit of the whole, including an action for injunctive relief.

(4) In an action for money damages, if a judge or jury finds that the defendant acted maliciously, the judge or jury may award punitive damages as permitted by state law.

(5) The Department of Legal Affairs or the state attorney, if a violation of ss. 686.40-686.418 occurs in his or her judicial circuit, may bring an action for injunctive or other appropriate civil relief for any violation of ss. 686.40-686.418.

(6) The remedies provided in this section are in addition to any other remedies provided by law or in equity.

686.418 Effect of act on other remedies.--Sections 686.40-686.418 are supplemental to and do not preempt local ordinances dealing with prohibited or unlawful conduct in the manufacturing, distribution, wholesaling, advertising, or sale of equipment if such ordinances are not inconsistent with such sections.