

House Bill 1157

By: Representatives Powell of the 23rd, Parham of the 94th, and Reece of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 22 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
2 relating to the "Georgia Motor Vehicle Franchise Practices Act," so as to make consistent
3 with other provisions of the Act which provide that the Department of Motor Vehicle Safety
4 shall enforce the Act; to provide for related matters; to repeal conflicting law; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 22 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to the
9 "Georgia Motor Vehicle Franchise Practices Act," is amended by striking Code Section
10 10-1-623, relating to actions for violations, and inserting in its place the following:

11 "10-1-623.

12 (a) Notwithstanding the terms, provisions, or conditions of any agreement or franchise or
13 other terms or provisions of any novation, waiver, or other written instrument, any person
14 who is or may be injured by a violation of a provision of this article or any party to a
15 franchise who is so injured in his or her business or property by a violation of a provision
16 of this article relating to that franchise or any person so injured because he or she refuses
17 to accede to a proposal for an arrangement which, if consummated, would be in violation
18 of this article may file a petition with the Department of ~~Revenue~~ Motor Vehicle Safety as
19 provided in Code Section 10-1-667 or may bring an action in any court of competent
20 jurisdiction for damages and equitable relief including injunctive relief. Said person may
21 recover damages therefor in any amount equal to the greater of (1) the actual pecuniary loss
22 or (2) three times the actual pecuniary loss, not to exceed \$750,000.00. In addition, said
23 person may recover costs and reasonable attorney's fees as damages. Upon a prima-facie
24 showing by the person filing the petition or cause of action that a violation of this article
25 has occurred, the burden of proof shall then be upon the opposing party to prove that such
26 violation did not occur.

1 (b) If the franchisor engages in aggravated or continued multiple intentional violations of
2 a provision or provisions of this article, the court may award punitive damages in addition
3 to any other damages authorized under this part.

4 (c) A dealer, owner, or other party, if he has not suffered any loss of money, property,
5 employment rights, or business opportunity, may obtain final equitable relief if it can be
6 shown that the violation of a provision of this article by a franchisor may have the effect
7 of causing such loss of money, property, employment rights, or business opportunity.

8 (d) This Code section shall not prevent a dealer from voluntarily entering into a valid
9 release agreement.

10 (e) Any corporation or association which is primarily owned by or comprised of dealers
11 and which primarily represents the interests of dealers shall have standing to file a petition
12 or cause of action with the Department of ~~Revenue~~ Motor Vehicle Safety or with any court
13 of competent jurisdiction for itself or by, for, or on behalf of any dealer or group of dealers
14 for an alleged violation of this article or for the determination of any rights created by this
15 article.

16 (f) In addition to any county in which venue is proper in accordance with any provision
17 of the Constitution of this state or any other provision of this Code, in any cause of action
18 brought against a manufacturer, franchisor, or distributor which is a corporation by a dealer
19 for any alleged breach of the franchise agreement or alleged violation of this article or for
20 the determination of any rights created by the franchise agreement or this article, venue
21 shall be proper in the county in which the dealer engaged in the business of selling the
22 products or services of such manufacturer, franchisor, or distributor, and the manufacturer,
23 franchisor, or distributor which is a corporation shall be deemed to reside in such county
24 for venue purposes. Any provision of a franchise or other agreement, under which the
25 parties determine, agree to, control, restrict, establish, limit, or direct the venue in which
26 a cause of action under this article shall be brought, shall be void."

27 **SECTION 2.**

28 All laws and parts of laws in conflict with this Act are repealed.