

§1363. Prohibited conduct

The following are unfair methods of competition and unfair and deceptive practices. [PL 1993, c. 195, §1 (NEW).]

1. Damage to public. It is unlawful for a manufacturer, distributor or dealer to engage in an action that is arbitrary, in bad faith or unconscionable and that causes damage to another manufacturer, distributor or dealer or to the public.

[PL 1993, c. 195, §1 (NEW).]

2. Coercion involving deliveries and orders. It is unlawful for a manufacturer or an officer, agent or other representative of a manufacturer to coerce or attempt to coerce a dealer or distributor:

A. To order or accept delivery of goods or parts or accessories for goods or other commodities that the distributor or dealer has not voluntarily ordered; or [PL 1993, c. 195, §1 (NEW).]

B. To order goods or a commodity for a person. [PL 1993, c. 195, §1 (NEW).]
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3. Certain interference in business. It is unlawful for a manufacturer or an officer, agent or other representative of a manufacturer:

A. To coerce or attempt to coerce a distributor or dealer to enter into an agreement with that manufacturer or officer, agent or other representative or to act in a manner that is prejudicial to a distributor or dealer by threatening to cancel a franchise or a contractual agreement between the manufacturer and the distributor or dealer. However, notice in good faith to a distributor or dealer of violation of any terms or provisions of a franchise or contractual agreement does not constitute a violation of this chapter; [PL 1993, c. 195, §1 (NEW).]

B. To cancel, terminate, fail to renew or refuse to continue a franchise relationship with a distributor or dealer, notwithstanding the terms, provisions or conditions of an agreement or franchise or the terms or provisions of a waiver, unless a manufacturer:

- (1) Has satisfied the notice requirement of section 1366;
- (2) Has acted in good faith as defined in this chapter; and
- (3) Has good cause for the cancellation, termination, nonrenewal or noncontinuance; or [PL 1993, c. 195, §1 (NEW).]

C. To terminate, fail to renew or refuse to continue any franchise relationship with a distributor or dealer, notwithstanding the terms, provisions or conditions of an agreement or franchise or the terms or provisions of a waiver, without good cause. The manufacturer has good cause for a termination, cancellation, nonrenewal or noncontinuance as follows.

(1) Failure by the distributor or dealer to comply with a provision of the franchise agreement that is reasonable and of material significance to the franchise relationship when the manufacturer first acquired actual or constructive knowledge of the failure not more than 180 days before the date on which written notification is given pursuant to section 1366 is good cause.

(2) If the failure by the distributor or dealer, as set forth in subparagraph (1), relates to the performance by the distributor or dealer in sales or service, then good cause is the failure of the distributor or dealer to carry out effectively the performance provisions of the franchise when:

- (a) The distributor or dealer was notified by the manufacturer in writing of that failure, the notification stated that notice was provided of failure of performance pursuant to this section and the distributor or dealer was given a reasonable opportunity for a period of not less than 6 months to make good-faith efforts to carry out the performance provisions;

(b) The failure continued within the period that began not more than 180 days before the date on which notification of termination, cancellation or nonrenewal was given pursuant to section 1366; and

(c) The distributor or dealer has not substantially complied with reasonable performance criteria established by the manufacturer and communicated to the distributor or dealer.

(3) There is good cause when the manufacturer and the dealer or distributor agree not to renew the franchise.

(4) There is good cause when the manufacturer discontinues production or distribution of the franchise goods. [PL 1993, c. 195, §1 (NEW).]

[PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

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