

LFC Requester:

Felix Chavez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/31/2025

Check all that apply:

Bill Number: SB 194

Original Correction
Amendment Substitute

Sponsor: Sen. Joshua Sanchez and Sen. Roberto Gonzales

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Notice of Termination of Franchises

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This bill seeks to amend the Franchise Termination Act found in Chapter 57, Article 23 of the NMSA.

Section 1: Amends the language in the Short Title section of the Act.

Section 2: This section amends certain definitions in the Franchise Termination Act. It amends the definition of “dealer” to include persons involved in the retail sale of *new or used* equipment and attachments, and goes on to add persons selling utility tractors, industrial tractors, construction equipment, outdoor power equipment and the attachments of all of the above in the definition of dealer. This section also adds the defined term of “good cause” and defines it as the failure of a dealer to comply with the essential requirements imposed upon them by the franchise, provided that such requirements are not different from those requirements imposed on other dealers. The section goes on to list specific occurrences that would qualify as “good cause.” This section also modifies the definitions of “inventory” and “supplier” to include outdoor power equipment and construction equipment.

Section 3: This section of the bill adds a whole new section to the Franchise Termination Act. This section requires a dealer to give a supplier 30 days’ written notice of the termination of a franchise. It adds that a supplier may not terminate a franchise without good cause, and that the supplier will have the burden of proof to establish good cause. Additionally, this section provides that a supplier must provide 180 days’ written notice to a dealer for the termination of a franchise. The notice must state the reasons for termination and give the dealer 60 days to cure any deficiency, at which point the notice is void if the deficiencies are cured. An exception is made for terminations as a result of the dealer consistently failing to meet the supplier’s requirements for reasonable standards and performance objectives; for terminations of this kind the supplier must provide the dealer two years’ notice before the termination takes effect, and if the dealer satisfies the supplier’s standards before the expiration of this two year period, the notice is void. The section then provides that the notice and right-to-cure provisions shall not apply if the reason for termination is any of the specific occurrences listed in the previous section as examples of “good cause” (paragraphs 1-7 of subsection E). This Section then goes on to add that if the supplier has contractual authority to approve or deny a request for a sale or transfer of equity ownership in the dealer’s business, the supplier must issue its decision within 60 days. If the supplier fails to issue a decision within 60 days, the request is deemed approved. If the supplier denies the request, they must provide the dealer written notice that states the reasons for

the denial. The section also restricts suppliers to denying the request only for the reason that the proposed transferees do not meet the reasonable requirements consistently imposed by the supplier. Finally, the section imposes requirements for transfers in the event of a dealer's death. Essentially the requirements are the same as those listed above except the request is made by the dealer's estate and all notice is provided to the same. Finally, the section adds that any attempt to terminate a franchise as a result of the death of a dealer will be delayed until the section is complied with.

Section 4: This section voids any attempted waiver of any provision of the Franchise Termination Act, and voids any provision purporting to elect the application of the law of another state and any provision in a franchise that requires a dealer to pay attorney's fees incurred by a supplier.

Section 5: This section provides that the provisions of the Franchise Termination Act are supplemental to any franchise between a dealer and supplier, meaning that a dealer can pursue remedies provided for in the contract, state law, or both.

Section 6: This section provides nonexclusive remedies under the Franchise Termination Act. It provides a dealer may bring suit for damages sustained as a result of the supplier's violation, and can seek injunctive relief against an unlawful termination.

Section 7: This section says that the bill applies to all franchises in effect on the effective date that have no expiration date and all other franchises entered into after the effective date of the bill.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A