WEST VIRGINIA CODE: §47-11C-3

§47-11C-3. Franchise agreement.

Every franchise agreement between a producer and a dealer shall be subject to the following provisions whether or not they are expressly set forth in the agreement:

(1) The term of the initial agreement between the producer and the dealer relating to specific premises shall not be less than one year; the term of the second agreement between the producer and the dealer, relating to the same premises, shall also be for not less than one year; and the term of all subsequent agreements between the producer and the dealer, relating to the same premises, shall be of not less than two years. This subdivision shall not be construed to require a term of greater duration than the remainder of the term to which the producer is entitled under its lease without regard to any renewal rights which the producer may have;

(2) No producer shall require a dealer to keep his station open for business more than seventy-two hours per week;

(3) The dealer alone shall determine his retail sale price of the products listed in the franchise agreement;

(4) In the absence of any express agreement, the dealer shall not be required to participate financially in the use of any premium, coupon, giveaway or rebate in the operation of his retail outlet: Provided, That the producer may require the dealer to distribute to customers premiums, coupons or giveaways which are furnished to the dealer at the expense of the producer;

(5) In the event of any termination, cancellation or failure to renew, whether by mutual agreement or otherwise, a producer shall, within thirty days, tender to the dealer, for the products he sold to the dealer which the dealer has been unable to sell, except to the extent that such may be damaged or not resalable, the full price originally paid by the dealer for the products: Provided, That the producer shall have the right to apply the proceeds against any existing indebtedness owed to him by the dealer and that such repurchase obligation is conditioned upon there being no other claims or liens against such products by or on behalf of other creditors of the dealer. Such repurchase shall not constitute a waiver of the dealer's other rights and remedies under this article. If the producer does not make such tender within thirty days, the dealer may sell the products for a price which is not less than the full price originally paid by the dealer for such products, and shall have a cause of action against the producer for the balance;

(6) The right of either party to a trial by jury or to the interposition of counterclaims or cross claims shall not be waived;

WV Legislature

(7) Liability imposed on, and rights granted to, any person by this article shall not be waived;

(8) The dealer shall not be required to forego his right of free association with other dealers for any lawful purpose;

(9) No transfer or assignment of a franchise by a dealer to a qualified transferee or assignee shall be unreasonably disapproved by the producer;

(10) No producer shall require any dealer to sell exclusively any products, other than petroleum products, that such producer offers for sale.

WV Legislature