

**2771 WISCONSIN FAIR DEALERSHIP LAW: ADEQUATE NOTICE BY GRANTOR (WIS. STAT. § 135.04)**

Question \_\_\_\_ asks whether (grantor) failed to give (dealer) adequate notice of the (termination) (cancellation) (failure to renew) (substantial change in competitive circumstances). The Fair Dealership Law requires that a grantor, such as \_\_\_\_\_, give a dealer, such as \_\_\_\_, written notice of a (termination) (cancellation) (nonrenewal) (substantial change in competitive circumstances). To be an adequate notice, the notice must:

1. be given to the dealer 90 days in advance of the (termination) (cancellation) (failure to renew) (substantial change in the competitive circumstances); (and)
2. state the reasons for the (e.g. termination)(;) (and)
3. state the steps required of the dealer to correct the deficiency to avoid the (e.g. termination), allowing 60 days for correction.

The burden of proof that the notice was not adequate is on (dealer).

**SPECIAL VERDICT:**

See Wis JI-Civil 2772.

**COMMENT**

This instruction was approved in 2002 and revised in 2004.

This instruction is used where the dealer challenges the adequacy of the grantor's notice required by Wis. Stat. § 135.04.

**Notice.** The notice provisions of Wis. Stat. Ch. 135.04 do not apply if the termination, etc., is grounded in insolvency or an assignment for the benefit of creditors or bankruptcy.

The statutory notice under § 135.04 must be given when the grantor "substantially changes the competitive circumstances of the dealership." Jungbluth v. Hometown, Inc., 201 Wis.2d 320, 548 N.W.2d 519 ©2005, Regents, Univ. of Wis.

(1996). In this case, the court rejected that the grantor's argument that the 90-day notice only applies to a substantial change in the competitive circumstances of a dealership agreement.

Where the termination, etc., is based upon nonpayment of sums due under the dealership, Wis. Stat. § 135.04 provides that the grantor must provide the dealer with at least 90-days' prior written notice. The notice must provide that the dealer has 10 days in which to remedy the default. White Hen Pantry v. Buttke, 100 Wis.2d 169, 177, 301 N.W.2d 216 (1981).