

BILL ANALYSIS

C.S.H.B. 733
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Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

For decades, Texas law has permitted manufacturers and distributors of heavy and medium duty trucks and their affiliates to have ownership interests in used medium and heavy truck dealerships. This has allowed heavy truck manufacturers to participate in the sale of used heavy trucks, creating an efficient market for Texas consumers, while not infringing on the rights of franchised new motor vehicle dealers. Recently, however, 1999 amendments to the relevant statute have been interpreted to prohibit this decades old practice. Without the manufacturers' participation, many Texas dealers will not have the business structure, interest or financial ability to absorb the huge volumes of heavy and medium duty trucks trades, impairing the viable Texas truck market as a whole. Further, shutting down existing businesses through legislation may have a detrimental impact on the way Texas is perceived as a viable location for new businesses.

The purpose of C.S.H.B. 733 is to clarify an unintended consequence of the 1999 legislative amendments by creating an exception that allows heavy and medium truck manufacturers to continue owning and operating as used truck dealers in the same manner and at the same location they were operating as of January 1, 2007. C.S.H.B. 733 will have no impact upon automobile and light truck dealerships, but will instead merely allow the status quo in the medium and heavy used truck market to continue as it was on January 1, 2007. C.S.H.B. 733 is consistent with similar existing exceptions for recreational vehicle manufacturers and rental car companies, but has been drafted to clarify the intent of a narrow exception to only allow used truck dealers previously licensed by the State to continue operating as they have for years and in the same way and at the same location they were operating on January 1, 2007. C.S.H.B. 733 is not intended to in any way grant additional exceptions or manufacturer participation in sale of motor vehicles in the State of Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1. Amends Section 2301.476 Occupations Code to exempt manufacturers of medium and heavy trucks from the prohibition of having an ownership interest in a used medium and heavy truck dealership by allowing manufacturers and distributors that owned an interest in a used medium and heavy truck dealer or dealership on January 1, 2007 to continue having an ownership interest as long as the ownership and control of the dealer or dealership does not increase or cease. Allows for transfer and relocation of the dealer or dealership under certain circumstances and conditions. Applies only to dealers and dealerships that sell used trucks that have a gross vehicle weight rating of 16,000 or more. Does not apply to dealers or dealerships that sell new motor vehicles, and specifically limits the exception to those expressly stated. Prohibits dealers operating under the clarifying exception from performing any new motor vehicle warranty repair. Only allows manufacturer ownership to be transferred to affiliated entities, and specifically prohibits an increase in the manufacturer's ownership interest. There are specific penalty provisions for any violation of the exception, including civil penalty, civil suit, and the potential for revocation of a dealer's license.

Section 2. Effective date.

EFFECTIVE DATE

September 1, 2008.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 733 is the direct result and product of compromise by all parties with an interest in this issue. C.S.H.B. 733 does not change the intent of HB 733, rather modifies the language to ensure all parties are comfortable with the clarification exception and can endorse C.S.H.B. 733. C.S.H.B. 733 modifies the original HB 733 by providing that if the manufacturer or distributor owned an interest in a licensed independent dealer or dealership on or before January 1, 2007, as opposed to the January 1, 2005 date originally in H.B. 733, then that manufacturer continues to be allowed to own an interest in an independent dealer or dealership engaged in the sale of used motor vehicles as long as the manufacturer's ownership or control of the dealer or dealership does not increase after January 1, 2007. C.S.H.B. 733 also increases the gross vehicle weight rating from 11,000 to 16,000 pounds thus applying only to Class 6 trucks and above, preventing any impact on the car and light truck industry or the sale of new motor vehicles. C.S.H.B. 733 clarifies that the exception is no longer valid if the manufacturer ceases to own an interest in the dealer. C.S.H.B. 733 only permits dealers operating under the exception to sell vehicles taken in on trade with a gross vehicle weight rating of 16,000 or less to wholesale dealers. C.S.H.B. 733 prohibits dealers operating under the exception from performing any new motor vehicle warranty repair. C.S.H.B. 733 only allows a manufacturer to transfer its interest to an affiliated entity, and prohibits any increase in the manufacturer's ownership interest. C.S.H.B. 733 specifically lists the potential penalties that may be assessed for any violation of the exception. C.S.H.B. 733 states that the provisions laid out are set to expire September 1, 2023.