

BILL ANALYSIS

C.S.H.B. 2216

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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas mobility motor vehicle dealers provide an essential service to Texans with physical disabilities that require specially modified vehicles for their independent transportation needs. However, under current law, only franchised motor vehicle dealers are authorized to display, advertise, offer to sell, and sell new motor vehicles to consumers. And except for a franchised dealership and its employees, anyone who arranges or offers to arrange a transaction involving the sale of a new motor vehicle is engaged in the unlawful activity of brokering.

C.S.H.B. 2216 enables mobility motor vehicle dealers to inventory, advertise, display, and offer to sell new mobility motor vehicles that have been specially modified to meet the independent transportation needs of the disabled. C.S.H.B. 2216 does not allow mobility motor vehicle dealers to sell the specially modified new mobility motor vehicles at retail to the disabled. The mobility motor vehicle dealers still must refer the retail transaction to a franchised dealer of the chassis line-make.

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

C.S.H.B. 2216 defines "Independent mobility motor vehicle dealer" to mean a nonfranchised dealer who holds a general distinguishing number issued by the board under Chapter 503, Transportation Code; holds a converter's license issued under this chapter; is engaged in the business of buying, selling, or exchanging mobility motor vehicles and servicing or repairing the devices installed on mobility motor vehicles at an established and permanent place of business in this state; and is certified by the manufacturer of each mobility device that the dealer installs, if the manufacturer offers that certification. Defines "Mobility motor vehicle" to mean a motor vehicle that is designed and equipped to transport a person with disability and that has a chassis that contains a permanently lowered floor or lowered frame; or a permanently raised roof and raised door; contains at least one of the following: an electronic or mechanical wheelchair, scooter, or platform lift that enables a person to enter or exit the vehicle while occupying a wheelchair or scooter; an electronic or mechanical wheelchair ramp; or a system to secure a wheelchair or scooter to allow for a person to be safely transported while occupying the wheelchair or scooter; and is installed as an integral part or permanent attachment to the motor vehicle's chassis. Defines "New mobility motor vehicle" to mean a mobility motor vehicle that has not been the subject of a retail sale, regardless of the mobility motor vehicle's mileage. Adds an independent mobility motor vehicle dealer's general distinguishing number to the definition of "Nonfranchised dealer".

C.S.H.B. 2216 authorizes an independent mobility motor vehicle dealer to, notwithstanding any other law or rule, purchase or otherwise acquire a new motor vehicle with a lowered floor or frame or a raised roof and door to fit or equip the motor vehicle for retail sale as a mobility motor vehicle; display a new mobility motor vehicle to a person with a disability to fit or equip the vehicle as a mobility motor vehicle for the person; and sell or arrange for the sale and delivery of a new mobility motor vehicle to a purchaser at the independent mobility motor vehicle dealer's place of business if the transaction occurs through or by a franchised dealer of the motor vehicle's chassis line make. Prohibits an independent mobility motor vehicle dealer who purchased or acquired a new motor vehicle from a franchised dealer to equip the vehicle as a

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mobility motor vehicle from advertising the vehicle for sale until the vehicle is fitted or equipped as a mobility motor vehicle and prohibits an independent mobility motor vehicle dealer from selling or offering to sell a new motor vehicle other than a new mobility motor vehicle.

C.S.H.B. 2216 adds an independent mobility motor vehicle dealer to the definition of "Dealer". Defines "Independent mobility motor vehicle dealer" to have the meaning assigned by Section 2301.002, Occupations Code. Adds an independent mobility motor vehicle dealer to the definition of "Independent motor vehicle dealer".

C.S.H.B. 2216 prohibits a person from engaging in business as a dealer, directly or indirectly, including by consignment, without a dealer general distinguishing number in one of the categories, instead of one of the six categories, described by Section 503.029(a)(6) for each location from which the person conducts business as a dealer.

C.S.H.B. 2216 provides that an applicant for an original or renewal dealer general distinguishing number must submit to the department a written application on a form that specifies whether the applicant proposes to be a independent mobility motor vehicle dealer in addition to other requirements specified in statute.

C.S.H.B. 2216 requires a person who seeks to act as an independent mobility motor vehicle dealer to provide with each application for a general distinguishing number and each renewal application a written statement that the dealer shall maintain written records until at least the third anniversary of the date that adaptive work is performed; and agrees to comply with Chapter 469, Government Code; and proof that the person maintains a garagekeeper's insurance policy in an amount of at least \$50,000 and a products-completed operations insurance policy in an amount of at least \$1 million per occurrence and in the aggregate; holds a welder's certification, or that the person's approved subcontractor holds a certificate, that complies with the standards of the American Welding Society Sections D1.1 and D1.3, if the person or subcontractor will perform any structural modifications; and is registered with the National Highway Traffic and Safety Administration.

C.S.H.B. 2216 authorizes the holder of an independent motor vehicle dealer's general distinguishing number or an independent mobility motor vehicle dealer's general distinguishing number to reassign a certificate of title or other basic evidence of ownership of any type of vehicle owned by the dealer that the dealer is not otherwise prohibited by law from selling or offering for sale.

EFFECTIVE DATE

Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original bill by removing language that added an independent mobility motor vehicle dealer or a bona fide employee of a mobility motor vehicle dealer acting for the mobility motor vehicle dealer to the definition of "Broker". The substitute adds language to the definition of "Independent mobility motor vehicle dealer" to include a nonfranchised dealer who holds a converter's license issued under this chapter; is engaged in servicing or repairing the devices installed on mobility motor vehicles and is certified by the manufacturer of each mobility device that the dealer installs, if the manufacturer offers that certification. The substitute clarifies some of the language in the definition of "Mobility motor vehicle" to mean a motor vehicle that is designed and equipped to transport a person with disability and that has a chassis that contains a permanently lowered floor or lowered frame; or a permanently raised roof and raised door.

The substitute removes language from the original bill that prohibited a person from engaging in the business of buying, selling, or exchanging new motor vehicles unless the person holds an independent mobility motor vehicle dealer's license.

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The substitute amends language in the original bill to authorize an independent mobility motor vehicle dealer, notwithstanding any other law or rule, to purchase or otherwise acquire a new motor vehicle with a lowered floor or frame or a raised roof and door to fit or equip the motor vehicle for retail sale as a mobility motor vehicle; to sell or arrange for the sale and delivery of a new mobility motor vehicle to a purchaser at the independent mobility motor vehicle dealer's place of business if the transaction occurs through or by a franchised dealer of the motor vehicle's chassis line make; to prohibit an independent mobility motor vehicle from advertising the vehicle for sale instead of the resale, until the vehicle is fitted or equipped as a mobility motor vehicle; and to prohibit an independent mobility motor vehicle to sell or offer to sell a new motor vehicle other than a new mobility motor vehicle.

The substitute adds language to the original bill that requires a person who seeks to act as an independent mobility motor vehicle dealer to provide with each application for a general distinguishing number and each renewal application a written statement that the dealer shall maintain written records until at least the third anniversary of the date that adaptive work is performed; and agrees to comply with Chapter 469, Government Code; and proof that the person maintains a garagekeeper's insurance policy in an amount of at least \$50,000 and a products-completed operations insurance policy in an amount of at least \$1 million per occurrence and in the aggregate; holds a welder's certification, or that the person's approved subcontractor holds a certificate, that complies with the standards of the American Welding Society Sections D1.1 and D1.3, if the person or subcontractor will perform any structural modifications; and is registered with the National Highway Traffic and Safety Administration.