

BILL ANALYSIS

C.S.H.B. 2559
By: Otto
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Occupations Code, Transportation Code, and Administrative Rules have been interpreted as restricting licensed Texas franchise and independent automobile dealers from using the Internet to advertise and sell vehicles to buyers who choose not to visit the dealership's licensed and established place of business.

Under the current law, existing auto dealers could be deemed to be engaging in offsite sales when they use the Internet to sell and ship vehicles to buyers who never personally appears at the dealer's permanent showroom or business location. Consequently, legitimate dealers fearing civil or criminal sanctions may be reluctant to adopt competitive online marketing and sales strategies.

CSHB 2559 reiterates the legal requirement for dealers to have an established and permanent place of business, which is approved by the Texas Department of Transportation's Motor Vehicles Division, and for which a general distinguishing number has been issued. This bill clarifies that off-site sales are prohibited, but provides licensed dealers a clear exemption to the off-site sales prohibition for sales and offers of sale that they make through the Internet to buyers who never visit the dealer's licensed place of business.

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 2301.361 of the Occupations Code to clarify the definition of offsite motor vehicle sales and provides that it would not be an offsite sale for a licensed Texas dealer, who is otherwise fully in compliance with the law at an established and permanent place of business, to use the Internet to sell motor vehicles to buyers who never physically appear at the dealer's established and permanent place of business.

EFFECTIVE DATE

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

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds the word "advertisement" so that it refers to an "advertisement on the Internet..." This language is aimed at ensuring that advertising violations contained in the Internet vehicle sales postings are treated the same as advertising violations in vehicle print or electronic media, and subject to regulation by the MVD under their advertising rules.