

By: Shapiro

S.B. No. 174

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the sale of certain mobility motor vehicles equipped to transport a person with a disability.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2301.002, Occupations Code, is amended by amending Subdivisions (3) and (25) and adding Subdivisions (17-a), (20-a), and (23-a) to read as follows:

(3) "Broker" means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale of a new motor vehicle, other than a person who is:

(A) a franchised dealer or a bona fide employee of a franchised dealer acting for the franchised dealer;

(B) a representative or a bona fide employee of a representative acting for the representative;

(C) a distributor or a bona fide employee of a distributor acting for the distributor; ~~[or]~~

(D) an independent mobility motor vehicle dealer or a bona fide employee of a mobility motor vehicle dealer acting for the mobility motor vehicle dealer; or

(E) the owner of the vehicle at any point in the transaction.

(17-a) "Independent mobility motor vehicle dealer" means a nonfranchised dealer who:

1 (A) holds a general distinguishing number issued
2 by the board under Chapter 503, Transportation Code; and

3 (B) is engaged in the business of buying,
4 selling, or exchanging mobility motor vehicles and servicing or
5 repairing mobility motor vehicles at an established and permanent
6 place of business.

7 (20-a) "Mobility motor vehicle" means a motor vehicle
8 that is designed and equipped to transport a person with a
9 disability and that:

10 (A) contains:

11 (i) a lowered floor or lowered frame; or

12 (ii) a raised roof and raised door;

13 (B) contains at least one of the following:

14 (i) an electronic or mechanical wheelchair,
15 scooter, or platform lift that enables a person to enter or exit the
16 vehicle while occupying a wheelchair or scooter;

17 (ii) an electronic or mechanical wheelchair
18 ramp; or

19 (iii) a system to secure a wheelchair or
20 scooter to allow for a person to be safely transported while
21 occupying the wheelchair or scooter; and

22 (C) is installed as an integral part or permanent
23 attachment to the motor vehicle's chassis.

24 (23-a) "New mobility motor vehicle" means a mobility
25 motor vehicle that has not been the subject of a retail sale,
26 regardless of the mobility motor vehicle's mileage.

27 (25) "Nonfranchised dealer" means a person who holds

1 an independent motor vehicle dealer's general distinguishing
2 number, an independent mobility motor vehicle dealer's general
3 distinguishing number, or a wholesale motor vehicle dealer's
4 general distinguishing number issued by the board under Chapter
5 503, Transportation Code.

6 SECTION 2. Section 2301.252(a), Occupations Code, is
7 amended to read as follows:

8 (a) A person may not engage in the business of buying,
9 selling, or exchanging new motor vehicles unless the person:

10 (1) holds a franchised dealer's license issued under
11 this chapter for the make of new motor vehicle being bought, sold,
12 or exchanged; ~~or~~

13 (2) is a bona fide employee of the holder of a
14 franchised dealer's license; or

15 (3) holds an independent mobility motor vehicle
16 dealer's license.

17 SECTION 3. Subchapter H, Chapter 2301, Occupations Code, is
18 amended by adding Section 2301.361 to read as follows:

19 Sec. 2301.361. INDEPENDENT MOBILITY MOTOR VEHICLE DEALER.

20 (a) Notwithstanding any other law or rule, an independent mobility
21 motor vehicle dealer may:

22 (1) purchase or otherwise acquire a new motor vehicle
23 from a franchised dealer to fit or equip the motor vehicle for
24 retail sale as a mobility motor vehicle;

25 (2) display a new motor vehicle to a person with a
26 disability to fit or equip the vehicle as a mobility motor vehicle
27 for the person; and

1 (3) resell a new motor vehicle that has been fitted or
2 equipped as a new mobility motor vehicle without the resale
3 occurring through or by a franchised dealer.

4 (b) An independent mobility motor vehicle dealer who
5 purchased or acquired a new motor vehicle from a franchised dealer
6 to equip the vehicle as a mobility motor vehicle may not advertise
7 the vehicle for resale until the vehicle is fitted or equipped as a
8 mobility motor vehicle.

9 (c) An independent mobility motor vehicle dealer may not,
10 except as permitted by Subsection (a)(2), display or offer to
11 display a new motor vehicle that is not a mobility motor vehicle to
12 the public.

13 SECTION 4. Section 503.001, Transportation Code, is amended
14 by amending Subdivisions (4) and (9) and adding Subdivision (8-a)
15 to read as follows:

16 (4) "Dealer" means a person who regularly and actively
17 buys, sells, or exchanges vehicles at an established and permanent
18 location. The term includes a franchised motor vehicle dealer, an
19 independent motor vehicle dealer, an independent mobility motor
20 vehicle dealer, and a wholesale motor vehicle dealer.

21 (8-a) "Independent mobility motor vehicle dealer" has
22 the meaning assigned by Section 2301.002, Occupations Code.

23 (9) "Independent motor vehicle dealer" means a dealer
24 other than a franchised motor vehicle dealer, an independent
25 mobility motor vehicle dealer, or a wholesale motor vehicle dealer.

26 SECTION 5. Section 503.021, Transportation Code, is amended
27 to read as follows:

1 Sec. 503.021. DEALER GENERAL DISTINGUISHING NUMBER. A
2 person may not engage in business as a dealer, directly or
3 indirectly, including by consignment, without a dealer general
4 distinguishing number in one of the [~~six~~] categories described by
5 Section 503.029(a)(6) for each location from which the person
6 conducts business as a dealer.

7 SECTION 6. Section 503.029(a), Transportation Code, is
8 amended to read as follows:

9 (a) An applicant for an original or renewal dealer general
10 distinguishing number must submit to the department a written
11 application on a form that:

12 (1) is provided by the department;

13 (2) contains the information required by the
14 department;

15 (3) contains information that demonstrates the person
16 meets the requirements prescribed by Section 503.032;

17 (4) contains information that demonstrates the
18 applicant has complied with all applicable state laws and municipal
19 ordinances;

20 (5) states that the applicant agrees to allow the
21 department to examine during working hours the ownership papers for
22 each registered or unregistered vehicle in the applicant's
23 possession or control; and

24 (6) specifies whether the applicant proposes to be a:

25 (A) franchised motor vehicle dealer;

26 (B) independent motor vehicle dealer;

27 (C) wholesale motor vehicle dealer;

- 1 (D) motorcycle dealer;
- 2 (E) house trailer dealer; [~~or~~]
- 3 (F) trailer or semitrailer dealer; or
- 4 (G) independent mobility motor vehicle dealer.

5 SECTION 7. Section 503.036(b), Transportation Code, is
6 amended to read as follows:

7 (b) The holder of an independent motor vehicle dealer's
8 general distinguishing number or an independent mobility motor
9 vehicle dealer's general distinguishing number may reassign a
10 certificate of title or other basic evidence of ownership of any
11 type of vehicle owned by the dealer that the dealer is not otherwise
12 prohibited by law from selling or offering for sale.

13 SECTION 8. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2007.