

1-1 By: Shapiro S.B. No. 174
1-2 (In the Senate - Filed January 9, 2007; January 29, 2007,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; May 10, 2007, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 0; May 10, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 174 By: Shapiro

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of the sale of certain mobility motor
1-11 vehicles equipped to transport a person with a disability.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 2301.002, Occupations Code, is amended
1-14 by amending Subdivision (25) and adding Subdivisions (17-a),
1-15 (20-a), and (23-a) to read as follows:

1-16 (17-a) "Independent mobility motor vehicle dealer"
1-17 means a nonfranchised dealer who:

1-18 (A) holds a general distinguishing number issued
1-19 by the board under Chapter 503, Transportation Code;

1-20 (B) holds a converter's license issued under this
1-21 chapter;

1-22 (C) is engaged in the business of buying,
1-23 selling, or exchanging mobility motor vehicles and servicing or
1-24 repairing the devices installed on mobility motor vehicles at an
1-25 established and permanent place of business in this state; and

1-26 (D) is certified by the manufacturer of each
1-27 mobility device that the dealer installs, if the manufacturer
1-28 offers that certification.

1-29 (20-a) "Mobility motor vehicle" means a motor vehicle
1-30 that is designed and equipped to transport a person with a
1-31 disability and that:

1-32 (A) has a chassis that contains:

1-33 (i) a permanently lowered floor or lowered
1-34 frame; or

1-35 (ii) a permanently raised roof and raised
1-36 door;

1-37 (B) contains at least one of the following:

1-38 (i) an electronic or mechanical wheelchair,
1-39 scooter, or platform lift that enables a person to enter or exit the
1-40 vehicle while occupying a wheelchair or scooter;

1-41 (ii) an electronic or mechanical wheelchair
1-42 ramp; or

1-43 (iii) a system to secure a wheelchair or
1-44 scooter to allow for a person to be safely transported while
1-45 occupying the wheelchair or scooter; and

1-46 (C) is installed as an integral part or permanent
1-47 attachment to the motor vehicle's chassis.

1-48 (23-a) "New mobility motor vehicle" means a mobility
1-49 motor vehicle that has not been the subject of a retail sale,
1-50 regardless of the mobility motor vehicle's mileage.

1-51 (25) "Nonfranchised dealer" means a person who holds
1-52 an independent motor vehicle dealer's general distinguishing
1-53 number, an independent mobility motor vehicle dealer's general
1-54 distinguishing number, or a wholesale motor vehicle dealer's
1-55 general distinguishing number issued by the board under Chapter
1-56 503, Transportation Code.

1-57 SECTION 2. Subchapter H, Chapter 2301, Occupations Code, is
1-58 amended by adding Section 2301.361 to read as follows:

1-59 Sec. 2301.361. INDEPENDENT MOBILITY MOTOR VEHICLE DEALER.

1-60 (a) Notwithstanding any other law or rule, an independent mobility
1-61 motor vehicle dealer may:

1-62 (1) purchase or otherwise acquire a new motor vehicle
1-63 with a lowered floor or frame or a raised roof and door to fit or

2-1 equip the motor vehicle for retail sale as a mobility motor vehicle;
2-2 (2) display a new mobility motor vehicle to a person
2-3 with a disability to fit or equip the vehicle as a mobility motor
2-4 vehicle for the person; and

2-5 (3) sell or arrange for the sale and delivery of a new
2-6 mobility motor vehicle to a purchaser at the independent mobility
2-7 motor vehicle dealer's place of business if the transaction occurs
2-8 through or by a franchised dealer of the motor vehicle's chassis
2-9 line make.

2-10 (b) An independent mobility motor vehicle dealer who
2-11 purchased or acquired a new motor vehicle from a franchised dealer
2-12 to equip the vehicle as a mobility motor vehicle may not advertise
2-13 the vehicle for sale until the vehicle is fitted or equipped as a
2-14 mobility motor vehicle.

2-15 (c) An independent mobility motor vehicle dealer may not
2-16 sell or offer to sell a new motor vehicle other than a new mobility
2-17 motor vehicle.

2-18 SECTION 3. Section 503.001, Transportation Code, is amended
2-19 by amending Subdivisions (4) and (9) and adding Subdivision (8-a)
2-20 to read as follows:

2-21 (4) "Dealer" means a person who regularly and actively
2-22 buys, sells, or exchanges vehicles at an established and permanent
2-23 location. The term includes a franchised motor vehicle dealer, an
2-24 independent motor vehicle dealer, an independent mobility motor
2-25 vehicle dealer, and a wholesale motor vehicle dealer.

2-26 (8-a) "Independent mobility motor vehicle dealer" has
2-27 the meaning assigned by Section 2301.002, Occupations Code.

2-28 (9) "Independent motor vehicle dealer" means a dealer
2-29 other than a franchised motor vehicle dealer, an independent
2-30 mobility motor vehicle dealer, or a wholesale motor vehicle dealer.

2-31 SECTION 4. Section 503.021, Transportation Code, is amended
2-32 to read as follows:

2-33 Sec. 503.021. DEALER GENERAL DISTINGUISHING NUMBER. A
2-34 person may not engage in business as a dealer, directly or
2-35 indirectly, including by consignment, without a dealer general
2-36 distinguishing number in one of the [~~six~~] categories described by
2-37 Section 503.029(a)(6) for each location from which the person
2-38 conducts business as a dealer.

2-39 SECTION 5. Subsection (a), Section 503.029, Transportation
2-40 Code, is amended to read as follows:

2-41 (a) An applicant for an original or renewal dealer general
2-42 distinguishing number must submit to the department a written
2-43 application on a form that:

2-44 (1) is provided by the department;
2-45 (2) contains the information required by the
2-46 department;

2-47 (3) contains information that demonstrates the person
2-48 meets the requirements prescribed by Section 503.032;

2-49 (4) contains information that demonstrates the
2-50 applicant has complied with all applicable state laws and municipal
2-51 ordinances;

2-52 (5) states that the applicant agrees to allow the
2-53 department to examine during working hours the ownership papers for
2-54 each registered or unregistered vehicle in the applicant's
2-55 possession or control; and

2-56 (6) specifies whether the applicant proposes to be a:
2-57 (A) franchised motor vehicle dealer;
2-58 (B) independent motor vehicle dealer;
2-59 (C) wholesale motor vehicle dealer;
2-60 (D) motorcycle dealer;
2-61 (E) house trailer dealer; [~~or~~]
2-62 (F) trailer or semitrailer dealer; or
2-63 (G) independent mobility motor vehicle dealer.

2-64 SECTION 6. Subchapter B, Chapter 503, Transportation Code,
2-65 is amended by adding Section 503.0295 to read as follows:

2-66 Sec. 503.0295. INDEPENDENT MOBILITY MOTOR VEHICLE DEALERS.
2-67 A person who seeks to act as an independent mobility motor vehicle
2-68 dealer shall provide with each application for a general
2-69 distinguishing number and each renewal application:

3-1 (1) a written statement that the dealer:

3-2 (A) shall maintain written records until at least
3-3 the third anniversary of the date that adaptive work is performed;
3-4 and

3-5 (B) agrees to comply with Chapter 469, Government
3-6 Code; and

3-7 (2) proof that the person:

3-8 (A) maintains a garagekeeper's insurance policy
3-9 in an amount of at least \$50,000 and a products-completed
3-10 operations insurance policy in an amount of at least \$1 million per
3-11 occurrence and in the aggregate;

3-12 (B) holds a welder's certification, or that the
3-13 person's approved subcontractor holds a certificate, that complies
3-14 with the standards of the American Welding Society Sections D1.1
3-15 and D1.3, if the person or subcontractor will perform any
3-16 structural modifications; and

3-17 (C) is registered with the National Highway
3-18 Traffic Safety Administration.

3-19 SECTION 7. Subsection (b), Section 503.036, Transportation
3-20 Code, is amended to read as follows:

3-21 (b) The holder of an independent motor vehicle dealer's
3-22 general distinguishing number or an independent mobility motor
3-23 vehicle dealer's general distinguishing number may reassign a
3-24 certificate of title or other basic evidence of ownership of any
3-25 type of vehicle owned by the dealer that the dealer is not otherwise
3-26 prohibited by law from selling or offering for sale.

3-27 SECTION 8. This Act takes effect immediately if it receives
3-28 a vote of two-thirds of all the members elected to each house, as
3-29 provided by Section 39, Article III, Texas Constitution. If this
3-30 Act does not receive the vote necessary for immediate effect, this
3-31 Act takes effect September 1, 2007.

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