

BILL ANALYSIS

C.S.H.B. 1504
By: Kuempel
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Industry observers have noted that the retail automobile industry is recovering in Texas after a recent contraction and that, consequently, manufacturers and distributors have insisted that franchised dealers make upgrades to their facilities to meet image program requirements. These dealership upgrades often are costly projects, requiring substantial financial resources of the dealer to complete. According to interested parties, as part of the image program requirements for dealerships, automobile manufacturers and distributors typically limit the vendors or materials that a particular dealer can use on a project and allow a dealer to use the materials and vendors of the dealer's choice only by means of an exception. By limiting the vendors and materials in this way, franchised dealers often face delays and significant additional expense in obtaining the services of vendors outside their local area or the state.

C.S.H.B. 1504 seeks to provide franchised dealers additional flexibility in complying with image program requirements with regard to the selection of materials, goods, services, and vendors for motor vehicle dealership upgrades and improvements.

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. 1504 amends the Occupations Code to prohibit a motor vehicle manufacturer or distributor from requiring a motor vehicle dealer to purchase or use specific materials or to purchase materials, goods, or services from a specific vendor when making an upgrade or improvement to the dealer's dealership or from directly or indirectly taking an adverse action against a dealer who chooses materials, goods, or services or a vendor for an upgrade to the dealer's dealership as provided by the bill's provisions. The bill authorizes a dealer, if a manufacturer or distributor provides money, credit, an allowance, or a reimbursement directly or indirectly to the dealer to compensate the dealer for the cost of, or a substantial portion of the cost of, a specific upgrade or improvement to the dealer's dealership, to select the materials, goods, services, and vendors for the upgrade or improvement but requires the dealer to select materials, goods, services, and vendors that are of like kind and quality to those specified by the manufacturer or distributor, if any. The bill's provisions do not allow a dealer or a vendor selected by a dealer to infringe on, eliminate, or impair a manufacturer's or distributor's intellectual property rights and do not apply to a sign that contains intellectual property owned by a manufacturer or distributor.

C.S.H.B. 1504 establishes that its provisions apply to a manufacturer, distributor, and dealer regardless of the date the person's license is issued or renewed and regardless of the date a franchise agreement is entered into or renewed.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1504 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter J, Chapter 2301, Occupations Code, is amended by adding Section 2301.483 to read as follows:

Sec. 2301.483. SELECTION BY DEALER OF VENDOR OR MATERIALS FOR DEALERSHIP IMPROVEMENT. (a) Except as provided by Subsection (b), a manufacturer or distributor may not:

(1) require a dealer to purchase or use specific materials or to purchase goods or services from a specific vendor when making an upgrade or improvement to the dealer's dealership; or

(2) directly or indirectly take an adverse financial or other action against a dealer who chooses materials or a vendor as provided by this section.

(b) If a manufacturer or distributor provides money directly or indirectly to a dealer to compensate the dealer for a specific upgrade or improvement, the dealer may select the materials and vendors for upgrade or improvement but shall select materials and vendors that are of like kind and quality to those specified by the manufacturer or distributor, if any.

SECTION 2. The changes in law made by this Act apply to a manufacturer, distributor,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter J, Chapter 2301, Occupations Code, is amended by adding Section 2301.483 to read as follows:

Sec. 2301.483. SELECTION BY DEALER OF VENDOR OR MATERIALS FOR DEALERSHIP IMPROVEMENT. (a) Except as otherwise provided by this section, a manufacturer or distributor may not:

(1) require a dealer to purchase or use specific materials or to purchase materials, goods, or services from a specific vendor when making an upgrade or improvement to the dealer's dealership; or

(2) directly or indirectly take an adverse action against a dealer who chooses materials, goods, or services or a vendor for an upgrade to the dealer's dealership as provided by this section.

(b) If a manufacturer or distributor provides money, credit, an allowance, or a reimbursement directly or indirectly to a dealer to compensate the dealer for the cost of, or a substantial portion of the cost of, a specific upgrade or improvement to the dealer's dealership, the dealer may select the materials, goods, services, and vendors for the upgrade or improvement, but shall select materials, goods, services, and vendors that are of like kind and quality to those specified by the manufacturer or distributor, if any.

(c) This section does not allow a dealer or a vendor selected by a dealer to infringe on, eliminate, or impair a manufacturer's or distributor's intellectual property rights.

(d) This section does not apply to a sign that contains intellectual property owned by a manufacturer or distributor.

SECTION 2. Same as introduced version.

and dealer regardless of the date the person's license is issued or renewed under Chapter 2301, Occupations Code, and regardless of the date a franchise agreement is entered into or renewed.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 3. Same as introduced version.