

BILL ANALYSIS

Senate Research Center

S.B. 854
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Transportation
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2011, the Texas Legislature passed S.B. 529, which related to the regulation of motor vehicle dealers, manufacturers, and distributors. Among other statutory changes, S.B. 529 modified Texas law regarding property control agreements. These agreements exist when a motor vehicle manufacturer offers an automobile dealer money to help finance capital improvements at a dealership. In exchange, the manufacturer gets certain agreed upon property control provisions. S.B. 529, as agreed to by both the automobile dealers and the automobile manufacturers, limited the responsibility of a dealer when the property control agreements are not followed by the dealer.

S.B. 854 amends current law relating to the regulation of motor vehicle dealers, manufacturers, distributors, and representatives.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter J, Chapter 2301, Occupations Code, by adding Section 2301.483, as follows:

Sec. 2301.483. SPECIFIC USE AGREEMENTS. (a) Defines "necessary real estate," "owner," "specific use agreement," and "transferee" in this section.

(b) Provides that, to the extent of any conflict between this section and another section of this chapter (Sale or Lease of Motor Vehicles) regarding a specific use agreement, this section controls. Authorizes a specific use agreement, notwithstanding any other section of this chapter and except as provided by this section, to include provisions that allow an owner to:

(1) limit the transferee's ability to add a line-make after the transferee has opened a franchised dealership on the property to which the specific use agreement applies;

(2) prohibit the sale or sublease of the dealership property by the transferee to a person for a purpose other than the operation of a dealership under a franchise with the owner of the property; or

(3) make the limitations described by Subdivisions (1) and (2) applicable to any successor or sublessee of the transferee.

(c) Prohibits an owner from coercing or attempting to coerce an existing franchised dealer of the owner to relocate an existing dealership of the same line-make to property that is subject to a specific use agreement. Provides that, if it is proven in a civil suit that a person entered into a specific use agreement

containing a provision described by Subsection (b) as a result of coercion, the specific use agreement is void.

(d) Authorizes a specific use agreement executed in conjunction with the sale of real property to apply only to the necessary real estate.

(e) Provides that a specific use agreement executed in conjunction with the sale of real property to an existing franchised dealer for the purpose of relocating an existing dealership of the same line-make to property that is the subject of the specific use agreement or to a person for the purpose of establishing a new dealership expires on the earliest of:

(1) the date established by the specific use agreement;

(2) the termination or discontinuance of the franchise between the parties to the specific use agreement as a result of the owner:

(A) discontinuing all line-makes applicable to the necessary real estate that are under the control of a manufacturer or distributor holding property use rights for the necessary real estate under the specific use agreement;

(B) ceasing to do business in this state; or

(C) changing the distributor or method of distribution of the owner's products in this state;

(3) the 10th anniversary of the date the dealership opens for business; or

(4) any time after the expiration of nine years from the date the dealership opens for business if the transferee has performed all the transferee's financial duties as provided by the contract and title to the property has passed to the transferee.

(f) Provides that unless a specific use agreement associated with the sale of property expressly provides otherwise, there is no penalty for the full performance by the transferee and transfer of title to the transferee prior to the time set forth by the contract's terms.

SECTION 2. Amends Section 2301.6521(d), Occupations Code, to prohibit a franchised dealer from protesting an application to relocate a dealership under this section (Right to Protest: Certain Relocations) if the proposed relocation site is not more than two miles from the site where the dealership is currently located, rather than is two miles or less from the dealership's current location, or closer to the franchised dealer than the site from which the dealership is being relocated.

SECTION 3. Provides that Section 2301.483, Occupations Code, as added by this Act, applies only to an agreement entered into or renewed under Chapter 2301, Occupations Code, on or after the effective date of this Act. Provides that an agreement entered into or renewed before that date is governed by the law in effect on the date the agreement was entered into or renewed, and the former law is continued in effect for that purpose.

SECTION 4. Provides that Section 2301.6521(d), Occupations Code, as amended by this Act, applies only to an application to relocate a dealership that is made on or after the effective date of this Act. Provides that an application made before that date is governed by the law in effect on the date the application was made, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: upon passage or September 1, 2013.