

By: Van de Putte

S.B. No. 854

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of motor vehicle dealers, manufacturers,
distributors, and representatives.

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

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

Sec. 2301.483. SPECIFIC USE AGREEMENTS. (a) In this
section:

(1) "Necessary real estate" means real estate that is
necessary for the proper operation of a dealership in the
dealership's location as determined by the manufacturer's,
distributor's, or representative's facility requirements or to
comply with any applicable law or zoning requirement.

(2) "Owner" means a manufacturer, distributor, or
representative, including an entity owned or controlled by a
manufacturer, distributor, or representative.

(3) "Specific use agreement" means a property use
agreement that is executed in conjunction with a sale or as part of
the terms of a lease by an owner of real property to a transferee for
use by the transferee as a dealership under the terms of a franchise
executed or to be executed between the owner and the transferee.

(4) "Transferee" means a person who is a purchaser or
lessee of real property subject to a specific use agreement.

(b) To the extent of any conflict between this section and

1 another section of this chapter regarding a specific use agreement,
2 this section controls. Notwithstanding any other section of this
3 chapter and except as provided by this section, a specific use
4 agreement may include provisions that allow an owner to:

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

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

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

14 (c) An owner may not coerce or attempt to coerce an existing
15 franchised dealer of the owner to relocate an existing dealership
16 of the same line-make to property that is subject to a specific use
17 agreement. If it is proven in a civil suit that a person entered
18 into a specific use agreement containing a provision described by
19 Subsection (b) as a result of coercion, the specific use agreement
20 is void.

21 (d) A specific use agreement executed in conjunction with
22 the sale of real property may apply only to the necessary real
23 estate.

24 (e) A specific use agreement executed in conjunction with
25 the sale of real property to an existing franchised dealer for the
26 purpose of relocating an existing dealership of the same line-make
27 to property that is the subject of the specific use agreement or to

1 a person for the purpose of establishing a new dealership expires on
2 the earliest of:

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

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

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

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

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

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

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

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

25 SECTION 2. Subsection (d), Section 2301.6521, Occupations
26 Code, is amended to read as follows:

27 (d) A franchised dealer may not protest an application to

1 relocate a dealership under this section if the proposed relocation
2 site is not:

3 (1) more than two miles [~~or less~~] from the site where
4 the dealership is currently located; or

5 (2) closer to the franchised dealer than the site from
6 which the dealership is being relocated [~~dealership's current~~
7 ~~location~~].

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

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

21 SECTION 5. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2013.