

SENATE BILL REPORT

SB 6039

AS REPORTED BY COMMITTEE ON TRANSPORTATION, JANUARY 25, 1994

Brief Description: Establishing procedures for changing a vehicle dealer's relevant market area.

SPONSORS: Senators Gaspard, Prince, Vognild, Nelson and Erwin

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6039 be substituted therefor, and the substitute bill do pass.

Signed by Senators Vognild, Chairman; Morton, Nelson, Oke, Prentice, Prince, M. Rasmussen, Schow, Sellar and Winsley.

Minority Report: Do not pass.

Signed by Senators Loveland, Vice Chairman; Drew and Haugen.

Staff: Brad Lovaas (786-7307)

Hearing Dates: January 18, 1994; January 25, 1994

BACKGROUND:

The establishment of new car dealerships is not restricted by statute. The establishment of a new dealership of the same line of motor vehicles within the same geographic area is of concern to existing motor vehicle dealerships.

Few manufacturers' new motor vehicle franchise agreements provide arbitration as a means for resolving disputes relating to the establishment or relocation of a new motor vehicle dealer.

There are approximately 385 new motor vehicle dealerships located in Washington State.

SUMMARY:

New motor vehicle franchisees are allowed to protest the establishment or relocation of a same line motor vehicle dealership within a geographic area.

A "relevant market area" is established around each new motor vehicle dealership. A relevant market area is a geographic area measured in miles. In the case of a county with a population of over 400,000 the relevant market area is the area within a radius of eight miles around the proposed site. In the case of a county with a population of under 400,000 the relevant market area is the area within a radius of sixteen miles around the proposed site.

If a manufacturer intends to establish or relocate an existing new motor vehicle dealership of the same line, within a relevant market area of an existing dealer or dealers, the manufacturer must provide 60 days notice to all same line dealerships in that relevant market area. Notice requirements include the location, date of opening, identity of all impacted existing same line dealerships, names of principal investors and the specific grounds for the establishment of an additional or relocation of an existing dealership.

Procedures are established for an existing dealership to protest the establishment or relocation. Upon filing of a protest and receipt of the filing fee, the Department of Licensing shall promptly notify the manufacturer and request the appointment of an administrative law judge.

If a franchise agreement calls for arbitration, then the provisions of this legislation that provide for an administrative law judge do not apply.

The manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation.

The administrative law judge shall consider 12 points established in this legislation as to whether good cause exists for the proposed establishment or relocation. These 12 points range from: investment information; population and vehicle registration information in the relevant market area; to whether or not the manufacturer has provided the existing dealership(s) of the same line with the opportunity for reasonable growth, market expansion, establishment of a subagency, or relocation. The administrative law judge shall consider all 12 points listed in this legislation and any other relevant facts. All 12 points are to be given equal weight, and at least nine of the 12 points must weigh in favor of the manufacturer establishing or relocating a new dealership.

The administrative law judge shall hold a hearing or hearings as provided for by the state Administrative Procedure Act. The administrative law judge shall render the final decision within 120 days after the protest is filed. An appeal process is provided for in current statute.

Specific situations are set forward that preclude the application of this legislation; for example, if a proposed relocation of an existing dealership is two miles or less from the existing location.

This act applies to all franchisees and contracts existing on the effective date of this act.

A manufacturer shall not coerce a dealer to waive the rights provided for by this legislation.

EFFECT OF PROPOSED SUBSTITUTE:

All provisions of the original bill remain intact except for two changes. First, motor vehicle dealerships who exclusively market vehicles 19,000 pounds gross vehicle weight and above are exempt from the requirements of this legislation.

Secondly, the relevant market area boundaries are changed. In a county with a population of over 400,000 the relevant market area remains eight miles. In a county with a population between 200,000 and 400,000 the relevant market area is established at 12 miles. If the population of a county is less than 200,000 the relevant market area is a radius of 16 miles around the proposed site.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR:

This legislation will make manufacturers produce economic justification for the siting of new or relocated dealerships.

TESTIMONY AGAINST:

The price of vehicles sold in the state of Washington will increase.

TESTIFIED: PRO: Janet Cunningham, Washington Dealers Association; Lee Peterson, auto dealer; Dr. Lyman Oslin; Jim Boldt, Washington Dealers Association; CON: Jim Austin, American Automobile Manufacturers Association; Mark Highland, Chrysler manufacturer; Steve Blankenship, Ford manufacturer; David Zatz, Ford manufacturer