

SENATE BILL REPORT

SB 5459

As Reported By Senate Committee On:
Commerce & Trade, February 19, 2003

Title: An act relating to the relationship between motor vehicle manufacturers and dealers.

Brief Description: Regulating motor vehicle manufacturer and dealer relationships.

Sponsors: Senators Honeyford, Prentice, Roach, Winsley, Hewitt, Reardon and Franklin.

Brief History:

Committee Activity: Commerce & Trade: 2/14/03, 2/19/03 [DPS].

SENATE COMMITTEE ON COMMERCE & TRADE

Majority Report: That Substitute Senate Bill No. 5459 be substituted therefor, and the substitute bill do pass.

Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; Franklin, Keiser and Mulliken.

Staff: John Dzedzic (786-7784)

Background: The Manufacturers' and Dealers' Franchise Agreements law, Chapter 46.96 RCW, regulates the relationship between motor vehicle dealers and new automobile manufacturers.

Generally, manufacturers may not compete with dealers by "owning, operating, or controlling, whether directly or indirectly, a motor vehicle dealership in this state." Temporary ownership of a dealership by a manufacturer is permitted under limited circumstances, such as in conjunction with a bona fide business relationship with an independent person, including "persons who have historically been underrepresented" in the manufacturer's dealership body, but only when the independent person has made a significant capital investment in the dealership. Temporary ownership of a dealership by a manufacturer is also permitted during the transition from the former dealer to an independent buyer.

Other issues addressed in the Manufacturers' and Dealers' Franchise Agreement law include a notice and appeal process required when a manufacturer intends to either cancel a new motor vehicle dealership franchise, or locate or re-locate a franchise within the market area of an established dealership; the right of a dealership owner to designate a family successor; a requirement that a manufacturer not unreasonably withhold consent to the sale of a dealership; warranty reimbursement procedures; and a prohibition against unfair or discriminatory practices.

Summary of Substitute Bill: When a manufacturer is permitted to temporarily own a dealership as part of the transition, under a bona fide business relationship, to a new independent purchaser, the purchaser is no longer required to have made the required capital

investment prior to the purchase. The purchaser is allowed two years in which to complete the capital investment.

A manufacturer has the burden of proving that "reasonable business conditions" exist in order to prohibit a dealership from offering to sell or service another make or line of new motor vehicles.

A franchise agreement may include a manufacturer's "right of first refusal" in the sale of a dealership. Such right may be exercised with conditions, including the requirement that the manufacturer pay certain costs of the dealership and the former purchaser.

A dealer must submit claims for warranty reimbursement within one year from the date the work was performed. A provision is included creating a similar system for seeking payment for claims under a manufacturer's incentive program.

"Stepchild" is added to the list of family members against whom a "right of first refusal cannot be exercised" and who are entitled to inherit ownership interest in a dealership. Washington is the venue for all actions arising out of a franchise agreement.

Substitute Bill Compared to Original Bill: Several technical changes agreed to by manufacturers and dealers are made.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Manufacturers and dealers have worked together for over a year to agree upon language, which is included in the substitute bill, dealing with issues of venue, transfers of ownership to successors, dealer development arrangements, warranty procedures, and what costs are to be paid by a manufacturer when exercising a right of first refusal over the sale of a dealership. The parties are continuing negotiations in an attempt to resolve remaining issues regarding incentive program auditing procedures and timelines.

Testimony Against: None.

Testified: PRO: Jim Boldt, WA Auto Dealers; Jon Credon, Vancouver Auto Dealer; Nancee Wildermuth, Alliance of Automobile Manufacturers; Cliff Webster, General Motors.