



House of Representatives

File No. 890

General Assembly

January Session, 2015

(Reprint of File No. 361)

Substitute House Bill No. 6682
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 26, 2015

AN ACT CONCERNING THE LICENSING OF NEW AND USED CAR DEALERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-52b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) In the event a manufacturer licensed in accordance with the
4 provisions of section 14-67a, as amended by this act, cancels,
5 terminates or fails to renew any franchise, as defined in section 42-
6 133r, as amended by this act, with a new car dealer, as defined in
7 section 14-51, as amended by this act, the Commissioner of Motor
8 Vehicles, upon receipt of written notice of such action by the
9 manufacturer, shall, unless the dealer holds one or more additional
10 franchises, demand that such new car dealer surrender such license to
11 the commissioner. If such action is contested by such dealer in
12 accordance with the provisions of sections 42-133r to 42-133ee,
13 inclusive, as amended by this act, the commissioner shall not demand
14 surrender of such license, and no replacement motor vehicle dealer
15 shall be named for the dealer's point or location, except in accordance

16 with subdivision (10) of section 42-133cc, until the proceedings to
17 contest such action by the manufacturer are finally determined after all
18 means of administrative, judicial and appellate review have been
19 exhausted and the decision is adverse to the dealer.

20 (b) Except as provided in subsections (c) [and (d)] to (e), inclusive, of
21 this section, no person, firm or corporation licensed as a manufacturer
22 in accordance with the provisions of section 14-67a, as amended by
23 this act, may be the holder of a new or used car dealer's license issued
24 in accordance with the provisions of section 14-52, except a
25 manufacturer may operate as a dealer on a temporary basis in
26 accordance with the provisions of subdivision (8) of section 42-133cc.
27 The provisions of this subsection shall apply to any firm or corporation
28 that is owned or controlled by a manufacturer, as determined by the
29 commissioner. Any applicant for a new or used car dealer license that
30 is denied a license under the provisions of this subsection shall be
31 entitled to a hearing in accordance with the provisions of chapter 54.

32 (c) Notwithstanding the provisions of subsection (b) of this section,
33 the commissioner may issue a used car dealer's license to a person,
34 firm or corporation, owned or controlled by a manufacturer, engaged
35 primarily in the business of rental of motor vehicles and industrial and
36 construction equipment, provided: (1) Motor vehicles offered for sale
37 by any such person, firm or corporation are limited to motor vehicles
38 that have been previously used exclusively and regularly in the
39 conduct of the business or motor vehicles traded in by purchasers of
40 such previously used motor vehicles, (2) any warranty repairs
41 performed by such person, firm or corporation are limited to motor
42 vehicles that such person, firm or corporation owns, has previously
43 owned, or has taken in trade, and (3) any retail financing provided or
44 arranged by such person, firm or corporation is limited to vehicles sold
45 by such person, firm or corporation.

46 (d) The commissioner may extend the period of a license issued to a
47 manufacturer to operate a dealership on a temporary basis, in
48 accordance with the provisions of subsection (b) of this section and

49 subdivision (8) of section 42-133cc, for not more than one additional
50 year, up to a maximum period of two years, if the commissioner is
51 satisfied that such manufacturer has made and is continuing to make
52 bona fide efforts to sell and transfer the dealership to a person, firm or
53 corporation that is qualified to hold a new or used dealer's license.

54 (e) (1) For purposes of this subsection, "manufacturer" means a
55 person, firm or corporation licensed as a manufacturer in accordance
56 with the provisions of section 14-67a, as amended by this act, and any
57 subsidiary, affiliate or entity owned or controlled by such
58 manufacturer.

59 (2) Notwithstanding the provisions of subsection (b) of this section,
60 the commissioner may issue a new or used car dealer's license to a
61 manufacturer, provided such manufacturer (A) does not have any
62 franchise agreement with any new car dealer in the state, (B)
63 manufactures only electric vehicles, (C) sells at retail only motor
64 vehicles manufactured by such manufacturer, (D) was selling or
65 servicing its line-make of motor vehicles within the state as of January
66 1, 2014, (E) does not sell new or used motor vehicles at more than three
67 locations within the state, (F) does not hold a controlling interest in
68 another manufacturer, or a subsidiary, affiliate or entity owned or
69 controlled by such other manufacturer, that is licensed as a dealer
70 under this subsection, and (G) is not owned or controlled by another
71 manufacturer, or a subsidiary, affiliate or entity owned or controlled
72 by such other manufacturer, that is licensed as a dealer under this
73 subsection.

74 Sec. 2. Subdivisions (1) and (2) of subsection (a) of section 14-51 of
75 the general statutes are repealed and the following is substituted in
76 lieu thereof (*Effective October 1, 2015*):

77 (1) "New car dealer" includes (A) any person, firm or corporation
78 engaged in the business of merchandising new motor vehicles under a
79 manufacturer's or importer's contract for each such make of vehicle,
80 [who may, incidental to such business, sell used motor vehicles and

81 repair motor vehicles. Such person] and (B) any person, firm or
82 corporation licensed as a manufacturer, as defined in subsection (e) of
83 section 14-52b, as amended by this act, that is engaged in the business
84 of merchandising new motor vehicles and licensed as a new car dealer
85 as provided in subsection (e) of section 14-52b, as amended by this act.
86 Such person, firm or corporation may, incidental to such business, sell
87 used motor vehicles and repair motor vehicles, and shall be qualified
88 to conduct such business in accordance with the requirements of
89 section 14-52a.

90 (2) "Used car dealer" includes (A) any person, firm or corporation
91 engaged in the business of merchandising motor vehicles other than
92 new, [who] and (B) any person, firm or corporation licensed as a
93 manufacturer, as defined in subsection (e) of section 14-52b, as
94 amended by this act, that is engaged in the business of merchandising
95 motor vehicles other than new and licensed as a used car dealer as
96 provided in subsection (e) of section 14-52b, as amended by this act.
97 Such person, firm or corporation may, incidental to such business,
98 repair motor vehicles. A used car dealer does not include any person,
99 firm or corporation engaged in the business of leasing or renting motor
100 vehicles that offers for sale or sells used motor vehicles incidental to its
101 primary business, if [(A)] such person, firm or corporation is licensed
102 in accordance with the provisions of section 14-15, and [(B)] the motor
103 vehicles that it offers for sale were formerly the subject of one or more
104 lease agreements to which it was a party and the actual or prospective
105 purchaser is the original lessee pursuant to a purchase option specified
106 in a lease agreement. Such person shall be qualified to conduct such
107 business in accordance with the requirements of section 14-52a.

108 Sec. 3. Section 14-67a of the general statutes is repealed and the
109 following is substituted in lieu thereof (*Effective October 1, 2015*):

110 (a) No person, firm or corporation shall engage in the business of
111 manufacturing motor vehicles for sale in this state without having
112 been issued a manufacturer's license, which license shall expire
113 biennially on the last day of June. Application for such license or

114 renewal thereof may be made to the Commissioner of Motor Vehicles
115 in such form as the commissioner shall require. The commissioner may
116 require with such application all of the following, which [he] the
117 commissioner may consider in determining the fitness of such
118 applicant to engage in business as a manufacturer of motor vehicles for
119 sale in this state:

120 (1) Information relating to the applicant's solvency and [his]
121 financial standing;

122 (2) A certified copy of any warranty made by the manufacturer or
123 any other party in whom title to such motor vehicle may have been
124 vested prior to possession of such motor vehicle being transferred to a
125 person licensed under the provisions of this section;

126 (3) [A] (A) Except as provided in subparagraph (B) of this
127 subdivision, a copy of the applicant's standard franchise agreement
128 and all supplements thereto, together with a list of the applicant's
129 authorized dealers or distributors in this state and their [address]
130 addresses. Such applicant shall notify the commissioner immediately
131 of the appointment of any additional dealers or distributors or any
132 revisions of or additions to the basic franchise agreement on file with
133 [him] the commissioner, or of any individual dealer or distributor
134 supplements to such agreement;

135 (B) The provisions of this subdivision shall not apply to any
136 manufacturer licensed as a new or used car dealer pursuant to
137 subsection (e) of section 14-52b, as amended by this act.

138 (4) A certified copy of the delivery and preparation obligations of
139 the applicant's new car dealers, which obligations shall constitute such
140 new car dealers' only responsibility for product liability between the
141 dealer and the manufacturer;

142 (5) An affidavit stating the rates such applicant pays or agrees to
143 pay any authorized new car dealer for parts and labor used and
144 expended by such authorized new car dealer for the manufacturer

145 under delivery and preparation obligations under the new car
146 warranty;

147 (6) A biennial license fee of two thousand three hundred dollars,
148 which fee shall not be subject to refund or proration; and

149 (7) Any other pertinent matter commensurate with the safeguarding
150 of the public interest.

151 (b) An application for renewal of such license filed with the
152 commissioner after the expiration date of such license shall be
153 accompanied by a late fee of two hundred fifty dollars. The
154 commissioner shall not renew any license under this section which has
155 expired for more than forty-five days.

156 Sec. 4. Section 42-133r of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective October 1, 2015*):

158 (a) As used in sections 42-133r to 42-133ee, inclusive, unless the
159 context indicates a different meaning:

160 (1) "Manufacturer" means any person who manufactures or
161 assembles new motor vehicles, or imports motor vehicles for
162 distribution to dealers or through distributors, or factory branches.

163 (2) "Distributor" means any person who offers for sale, sells or
164 distributes any new motor vehicle to dealers or who maintains factory
165 representatives or who controls any person, firm, association, joint
166 venture corporation or trust, who offers for sale, sells or distributes
167 any new motor vehicle to dealers.

168 (3) "Factory branch" means a branch office maintained by a
169 manufacturer for the purpose of selling, or offering for sale, motor
170 vehicles to a distributor or dealer, or for directing or supervising
171 factory or distributor representatives.

172 (4) "Owner" means any person holding an ownership interest in a
173 business entity operating as a dealer or under a franchise as defined in

174 this section either as a corporation, partnership or sole proprietorship.
175 To the extent that the rights of any owner under sections 42-133r to 42-
176 133ee, inclusive, conflict with the rights of any other owner, such rights
177 shall accrue in priority order based on the percentage of ownership
178 interest held by each owner with the owner having the greatest
179 ownership interest having first priority and succeeding priority
180 accruing to other owners in the descending order of their percentage of
181 ownership interest.

182 (5) "Dealership facilities" means real estate, buildings, fixtures and
183 improvements which are used in the course of business under a
184 franchise by a new motor vehicle dealer.

185 (6) "Dealer" means any person engaged in the business of selling,
186 offering to sell, soliciting or advertising the sale of new motor vehicles
187 and who holds a valid sales and service agreement, franchise or
188 contract, granted by a manufacturer or distributor for the retail sale of
189 the manufacturer's or distributor's new motor vehicles.

190 (7) "Motor vehicle" means a self-propelled vehicle intended
191 primarily for use and operation on the public highways, other than a
192 farm tractor or other machinery or tools used in the production,
193 harvesting and care of farm products.

194 (8) "New motor vehicle" means a motor vehicle which has been sold
195 to a new motor vehicle dealer and which has not been used for other
196 than demonstration purposes and on which the original title has not
197 been issued from the new motor vehicle dealer.

198 (9) "Established place of business" means a permanent, commercial
199 building easily accessible and open to the public at reasonable times
200 and at which the business of a new motor vehicle dealer, including the
201 display and repair of vehicles, may be lawfully carried on.

202 (10) "Franchise" means a written agreement or contract between a
203 manufacturer or distributor and a dealer which purports to fix the
204 legal rights and liabilities of the parties to such agreement or contract,

205 and pursuant to which the dealer purchases and resells the franchise
206 product or leases or rents the dealership premises.

207 (11) "Good faith" means honesty in fact and the observance of
208 reasonable commercial standards of fair dealing in the trade.

209 (12) "Designated family member" means the spouse, child,
210 grandchild, parent, brother or sister of an owner who, in the case of the
211 owner's death, is entitled to inherit the ownership interest in the dealer
212 under the terms of the owner's will, or who has been nominated in any
213 other written instrument, or who, in the case of an incapacitated owner
214 of a dealer, has been appointed by a court as the legal representative of
215 the dealer's property.

216 (13) "Person" means a natural person, partnership, corporation,
217 limited liability company, association, trust, estate or any other legal
218 entity.

219 (14) "Relevant market area" means the area within a radius of
220 fourteen miles around an existing dealer or the area of responsibility
221 defined in a franchise, whichever is greater.

222 (15) "Commissioner" means the Commissioner of Motor Vehicles.

223 (b) The provisions of this section and sections 42-133s to 42-133ee,
224 inclusive, shall not apply to any manufacturer licensed as a new or
225 used car dealer pursuant to subsection (e) of section 14-52b, as
226 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	14-52b
Sec. 2	October 1, 2015	14-51(a)(1) and (2)
Sec. 3	October 1, 2015	14-67a
Sec. 4	October 1, 2015	42-133r

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Resources of the Special Transportation Fund	TF - Revenue Gain	Potential	Potential
Resources of the General Fund	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact: None

Explanation

The bill increases the potential revenue gain to the state by expanding the car dealer license eligibility to additional manufacturers. The actual revenue gain in sales tax would be dependent upon any potential shift in consumer purchases.

House "A" adds language to expand car dealer license eligibility in Connecticut.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future dependent on the number of car dealers.

OLR Bill Analysis**sHB 6682 (as amended by House A)******AN ACT CONCERNING THE LICENSING OF NEW AND USED CAR DEALERS.*****SUMMARY:**

This bill allows a licensed motor vehicle manufacturer to sell the vehicles it makes directly to Connecticut consumers under certain conditions. It does so by authorizing the motor vehicles (DMV) commissioner to issue a new or used car dealer's license to a licensed motor vehicle manufacturer that meets certain requirements.

To qualify for a car dealer's license, a licensed manufacturer:

1. cannot have a franchise agreement with a new car dealer in the state;
2. must manufacture only electric vehicles, and sell at retail only vehicles it makes;
3. had to have been selling or servicing its line of motor vehicles in Connecticut as of January 1, 2014;
4. can sell new or used motor vehicles at no more than three state locations;
5. cannot hold a controlling interest in another manufacturer, or a subsidiary, affiliate, or entity owned or controlled by another manufacturer, that is licensed as a dealer under the bill; and
6. cannot be owned or controlled by another manufacturer, or a subsidiary, affiliate, or entity owned or controlled by another manufacturer, that is licensed as a dealer under the bill.

The bill exempts such a manufacturer from motor vehicle franchise laws (see BACKGROUND). Under the bill, a manufacturer is any person, firm, or corporation licensed as a motor vehicle manufacturer under state law, and any subsidiary, affiliate, or entity it owns or controls.

The bill expands the statutory definitions of new and used car dealers to include such a manufacturer and generally subjects the manufacturer to the rules governing dealers. It allows such a manufacturer, if it is licensed as a (1) new car dealer, to also repair vehicles and sell used vehicles, or (2) used car dealer, to also repair vehicles.

Current motor vehicle law bars manufacturers from holding a new or used car dealer's license, except:

1. the DMV commissioner may issue a used car dealer's license to a manufacturer primarily engaged in renting motor vehicles and industrial and construction equipment under certain conditions; and
2. a manufacturer may operate a dealership for up to one year (or two years if the commissioner makes certain determinations).

The bill also makes technical and conforming changes.

Tesla Motors is apparently the only manufacturer that currently meets the bill's criteria.

*House Amendment "A" replaces the underlying bill (File 361). It (1) adds the conditions on (a) holding a controlling interest in, or (b) being owned or controlled by, another manufacturer licensed under the bill's provisions; (2) exempts a manufacturer licensed as a car dealer under the bill from motor vehicle franchise laws that would otherwise apply; and (3) specifies, as one condition of licensing as a dealer, that a manufacturer sell at retail only electric vehicles it makes.

EFFECTIVE DATE: October 1, 2015

BACKGROUND

Motor Vehicle Dealer Laws and Regulations

Motor vehicle dealers are subject to laws governing vehicle licensing, registration, and recordkeeping, among other things.

DMV requires new and used car dealers to pay a biennial license fee of \$700 and \$560 respectively. New and used car dealers also must post a \$50,000 cash or surety bond and comply with applicable state and federal laws. The commissioner may refuse to grant or renew a license if the dealer, an officer, or major stockholder has been convicted of violating any criminal laws pertaining to the business, or certain other crimes, such as fraud (CGS §§ 14-52 & 52a).

Dealers must follow DMV regulations in such areas as use of dealer plates, record-keeping, motor vehicle guarantees, odometer readings, issuing vehicle registrations, and customer complaints (Conn. Agencies Reg. § 14-63-1 et seq.).

Manufacturer

By law, a manufacturer is (1) a person, whether or not a Connecticut resident, engaged in the business of constructing or assembling new motor vehicles of a type required to be registered by the commissioner, for operation upon any highway, except a utility trailer, which are offered for sale in Connecticut, or (2) a person who distributes new motor vehicles to new car dealers licensed in Connecticut (CGS § 14-1 (47)).

The law prohibits any person, firm, or corporation from engaging in the business of manufacturing motor vehicles without receiving a manufacturer's license, which expires biennially on June 30. Applicants for a manufacturer license must apply to DMV and pay a biennial license fee of \$2,300 (CGS § 14-67a).

Motor Vehicle Franchises and Dealerships

Under the laws governing motor vehicle franchises, a motor vehicle manufacturer makes or assembles new motor vehicles for distribution

to dealers or through distributors. A dealer sells motor vehicles and holds a valid sales and service agreement, franchise, or contract with a manufacturer for retail sale of the vehicles (CGS § 42-133r).

The motor vehicle franchise laws set out, among other things, the respective obligations of manufacturers and dealerships (CGS §§ 42-133r - 42-133mm). It generally prohibits a manufacturer from unfairly competing with a dealer who sells the manufacturer’s “line make” of vehicles (e.g., Toyota or Ford) and who is operating under an agreement or franchise with the manufacturer (CGS § 42-133cc (8)).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 26 Nay 5 (03/18/2015)