



House of Representatives

General Assembly

File No. 361

January Session, 2015

Substitute House Bill No. 6682

House of Representatives, April 1, 2015

The Committee on Transportation reported through REP. GUERRERA of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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 Section 14-52b of the general statutes is repealed and the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 cancels, terminates or fails to renew any
5 franchise, as defined in section 42-133r, with a new car dealer, as
6 defined in section 14-51, the Commissioner of Motor Vehicles, upon
7 receipt of written notice of such action by the manufacturer, shall,
8 unless the dealer holds one or more additional franchises, demand that
9 such new car dealer surrender such license to the commissioner. If
10 such action is contested by such dealer in accordance with the
11 provisions of sections 42-133r to 42-133ee, inclusive, the commissioner
12 shall not demand surrender of such license, and no replacement motor
13 vehicle dealer shall be named for the dealer's point or location, except
14 in accordance with subdivision (10) of section 42-133cc, until the

15 proceedings to contest such action by the manufacturer are finally
16 determined after all means of administrative, judicial and appellate
17 review have been exhausted and the decision is adverse to the dealer.

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

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

44 (d) The commissioner may extend the period of a license issued to a
45 manufacturer to operate a dealership on a temporary basis, in
46 accordance with the provisions of subsection (b) of this section and
47 subdivision (8) of section 42-133cc, for not more than one additional

48 year, up to a maximum period of two years, if the commissioner is
49 satisfied that such manufacturer has made and is continuing to make
50 bona fide efforts to sell and transfer the dealership to a person, firm or
51 corporation that is qualified to hold a new or used dealer's license.

52 (e) Notwithstanding the provisions of subsection (b) of this section,
53 the commissioner may issue a new or used car dealer's license to a
54 person, firm or corporation licensed as a manufacturer in accordance
55 with the provisions of section 14-67a, or owned or controlled by such
56 manufacturer, provided such manufacturer (1) does not have any
57 franchise agreement with any car dealers in the state, (2) manufactures
58 only electric vehicles, (3) sells only motor vehicles manufactured by
59 such manufacturer, (4) was selling or servicing its line-make of motor
60 vehicles within the state as of January 1, 2014, and (5) does not sell new
61 or used motor vehicles at more than three locations within the state.

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

65 (1) "New car dealer" includes (A) any person, firm or corporation
66 engaged in the business of merchandising new motor vehicles under a
67 manufacturer's or importer's contract for each such make of vehicle,
68 [who may, incidental to such business, sell used motor vehicles and
69 repair motor vehicles. Such person] and (B) any person, firm or
70 corporation licensed as a manufacturer in accordance with the
71 provisions of section 14-67a, or owned or controlled by such
72 manufacturer, that is engaged in the business of merchandising new
73 motor vehicles and licensed as a new car dealer as provided in
74 subsection (e) of section 14-52b, as amended by this act. Such person,
75 firm or corporation may, incidental to such business, sell used motor
76 vehicles and repair motor vehicles, and shall be qualified to conduct
77 such business in accordance with the requirements of section 14-52a.

78 (2) "Used car dealer" includes (A) any person, firm or corporation
79 engaged in the business of merchandising motor vehicles other than
80 new, [who] and (B) any person, firm or corporation licensed as a

81 manufacturer in accordance with the provisions of section 14-67a, or
 82 owned or controlled by such manufacturer, that is engaged in the
 83 business of merchandising motor vehicles other than new and licensed
 84 as a used car dealer as provided in subsection (e) of section 14-52b, as
 85 amended by this act. Such person, firm or corporation may, incidental
 86 to such business, repair motor vehicles. A used car dealer does not
 87 include any person, firm or corporation engaged in the business of
 88 leasing or renting motor vehicles that offers for sale or sells used motor
 89 vehicles incidental to its primary business, if [(A)] such person, firm or
 90 corporation is licensed in accordance with the provisions of section 14-
 91 15, and [(B)] the motor vehicles that it offers for sale were formerly the
 92 subject of one or more lease agreements to which it was a party and
 93 the actual or prospective purchaser is the original lessee pursuant to a
 94 purchase option specified in a lease agreement. Such person shall be
 95 qualified to conduct such business in accordance with the
 96 requirements of section 14-52a.

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)

Statement of Legislative Commissioners:

In section 1(e), "new car dealers" was changed to "car dealers" for accuracy.

TRA *Joint Favorable Subst.*

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 General Fund	GF - Potential Revenue Gain	\$75,000-187,500	\$100,000-\$250,000
Department of Motor Vehicles	TF - Revenue Gain	up to \$2,100	None

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact: None

Explanation

This bill allows the Department of Motor Vehicles (DMV) to issue a new or used car dealer's license to a licensed car manufacturer that meets the provisions of the bill. The bill is anticipated to result in a revenue gain of up to \$2,100 in FY 16 to the Special Transportation Fund. It is anticipated that only one dealer will meet the criteria of the bill and is restricted to three dealerships.

The bill also may result in a potential revenue gain ranging from \$100,000 to \$250,000 by allowing certain manufacturers to obtain car dealer licenses. The actual revenue gain is dependent upon any potential shift in consumer purchases to Connecticut from another state.

Of the adjacent state, New York State does not currently tax purchases of motor vehicles by nonresidents. Rhode Island does not charge Connecticut residents on the purchase of motor vehicles. Massachusetts does charge sales tax on the purchase of motor vehicles on nonresidents.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject the number of new or used dealers established in Connecticut.

OLR Bill Analysis**sHB 6682*****AN ACT CONCERNING THE LICENSING OF NEW AND USED CAR DEALERS.*****SUMMARY:**

This bill allows the motor vehicles commissioner to issue a new or used car dealer's license to a licensed car manufacturer or person, firm, or corporation controlled by one, that:

1. does not have a franchise agreement with a car dealer in the state;
2. manufactures only electric vehicles;
3. sells only motor vehicles that it makes;
4. was selling or servicing its line of motor vehicles in the state as of January 1, 2014; and
5. sells new or used motor vehicles at no more than three locations in the state.

The bill also expands the statutory definitions of new and used car dealers to include such a manufacturer, and generally subjects them 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 motor vehicles 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. temporarily, to operate a dealership for up to one year (or two years if the commissioner makes certain determinations).

Because the bill applies only to manufacturers who do not have a franchise in Connecticut, a law prohibiting manufacturers from unfairly competing with a dealership with whom they have a franchise agreement does not apply (see BACKGROUND).

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

EFFECTIVE DATE: October 1, 2015

BACKGROUND

Motor Vehicle Dealer Laws and Regulations

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

The Department of Motor Vehicles (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 (Connecticut Agency Regs. § 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 this state, or (2) a person who distributes new motor vehicles to new car dealers licensed in this state (CGS § 14-1 (47)).

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 law generally prohibits manufacturers from unfairly competing with a dealer in the same line make (e.g., Toyota or Ford) operating under an agreement or franchise from the manufacturer (CGS § 42-133cc (8)).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 26 Nay 5 (03/18/2015)