



General Assembly

Amendment

January Session, 2015

LCO No. 7376



Offered by:
REP. GUERRERA, 29th Dist.

To: Subst. House Bill No. 6682

File No. 361

Cal. No. 218

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 14-52b of the general statutes is repealed and the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

5 (a) In the event a manufacturer licensed in accordance with the
6 provisions of section 14-67a, as amended by this act, cancels,
7 terminates or fails to renew any franchise, as defined in section 42-
8 133r, as amended by this act, with a new car dealer, as defined in
9 section 14-51, as amended by this act, the Commissioner of Motor
10 Vehicles, upon receipt of written notice of such action by the
11 manufacturer, shall, unless the dealer holds one or more additional
12 franchises, demand that such new car dealer surrender such license to
13 the commissioner. If such action is contested by such dealer in

14 accordance with the provisions of sections 42-133r to 42-133ee,
15 inclusive, as amended by this act, the commissioner shall not demand
16 surrender of such license, and no replacement motor vehicle dealer
17 shall be named for the dealer's point or location, except in accordance
18 with subdivision (10) of section 42-133cc, until the proceedings to
19 contest such action by the manufacturer are finally determined after all
20 means of administrative, judicial and appellate review have been
21 exhausted and the decision is adverse to the dealer.

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

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

47 by such person, firm or corporation.

48 (d) The commissioner may extend the period of a license issued to a
49 manufacturer to operate a dealership on a temporary basis, in
50 accordance with the provisions of subsection (b) of this section and
51 subdivision (8) of section 42-133cc, for not more than one additional
52 year, up to a maximum period of two years, if the commissioner is
53 satisfied that such manufacturer has made and is continuing to make
54 bona fide efforts to sell and transfer the dealership to a person, firm or
55 corporation that is qualified to hold a new or used dealer's license.

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

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

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

79 (1) "New car dealer" includes (A) any person, firm or corporation
80 engaged in the business of merchandising new motor vehicles under a
81 manufacturer's or importer's contract for each such make of vehicle,
82 [who may, incidental to such business, sell used motor vehicles and
83 repair motor vehicles. Such person] and (B) any person, firm or
84 corporation licensed as a manufacturer in accordance with the
85 provisions of section 14-67a, as amended by this act, or owned or
86 controlled by such manufacturer, that is engaged in the business of
87 merchandising new motor vehicles and licensed as a new car dealer as
88 provided in subsection (e) of section 14-52b, as amended by this act.
89 Such person, firm or corporation may, incidental to such business, sell
90 used motor vehicles and repair motor vehicles, and shall be qualified
91 to conduct such business in accordance with the requirements of
92 section 14-52a.

93 (2) "Used car dealer" includes (A) any person, firm or corporation
94 engaged in the business of merchandising motor vehicles other than
95 new, [who] and (B) any person, firm or corporation licensed as a
96 manufacturer in accordance with the provisions of section 14-67a, as
97 amended by this act, or owned or controlled by such manufacturer,
98 that is engaged in the business of merchandising motor vehicles other
99 than new and licensed as a used car dealer as provided in subsection
100 (e) of section 14-52b, as amended by this act. Such person, firm or
101 corporation may, incidental to such business, repair motor vehicles. A
102 used car dealer does not include any person, firm or corporation
103 engaged in the business of leasing or renting motor vehicles that offers
104 for sale or sells used motor vehicles incidental to its primary business,
105 if [(A)] such person, firm or corporation is licensed in accordance with
106 the provisions of section 14-15, and [(B)] the motor vehicles that it
107 offers for sale were formerly the subject of one or more lease
108 agreements to which it was a party and the actual or prospective
109 purchaser is the original lessee pursuant to a purchase option specified
110 in a lease agreement. Such person shall be qualified to conduct such

111 business in accordance with the requirements of section 14-52a.

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

114 (a) No person, firm or corporation shall engage in the business of
115 manufacturing motor vehicles for sale in this state without having
116 been issued a manufacturer's license, which license shall expire
117 biennially on the last day of June. Application for such license or
118 renewal thereof may be made to the Commissioner of Motor Vehicles
119 in such form as the commissioner shall require. The commissioner may
120 require with such application all of the following, which [he] the
121 commissioner may consider in determining the fitness of such
122 applicant to engage in business as a manufacturer of motor vehicles for
123 sale in this state:

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

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

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

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

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

146 (5) An affidavit stating the rates such applicant pays or agrees to
147 pay any authorized new car dealer for parts and labor used and
148 expended by such authorized new car dealer for the manufacturer
149 under delivery and preparation obligations under the new car
150 warranty;

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

153 (7) Any other pertinent matter commensurate with the safeguarding
154 of the public interest.

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

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

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

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

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

171 any new motor vehicle to dealers.

172 (3) "Factory branch" means a branch office maintained by a
173 manufacturer for the purpose of selling, or offering for sale, motor
174 vehicles to a distributor or dealer, or for directing or supervising
175 factory or distributor representatives.

176 (4) "Owner" means any person holding an ownership interest in a
177 business entity operating as a dealer or under a franchise as defined in
178 this section either as a corporation, partnership or sole proprietorship.
179 To the extent that the rights of any owner under sections 42-133r to 42-
180 133ee, inclusive, conflict with the rights of any other owner, such rights
181 shall accrue in priority order based on the percentage of ownership
182 interest held by each owner with the owner having the greatest
183 ownership interest having first priority and succeeding priority
184 accruing to other owners in the descending order of their percentage of
185 ownership interest.

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

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

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

198 (8) "New motor vehicle" means a motor vehicle which has been sold
199 to a new motor vehicle dealer and which has not been used for other
200 than demonstration purposes and on which the original title has not
201 been issued from the new motor vehicle dealer.

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

206 (10) "Franchise" means a written agreement or contract between a
207 manufacturer or distributor and a dealer which purports to fix the
208 legal rights and liabilities of the parties to such agreement or contract,
209 and pursuant to which the dealer purchases and resells the franchise
210 product or leases or rents the dealership premises.

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

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

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

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

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

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

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