



General Assembly

Amendment

January Session, 2015

LCO No. 7615



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 Section 14-52b of the general statutes is repealed and the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

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

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 Section 14-67a of the general statutes is repealed and the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

112 (a) No person, firm or corporation shall engage in the business of

113 manufacturing motor vehicles for sale in this state without having
114 been issued a manufacturer's license, which license shall expire
115 biennially on the last day of June. Application for such license or
116 renewal thereof may be made to the Commissioner of Motor Vehicles
117 in such form as the commissioner shall require. The commissioner may
118 require with such application all of the following, which [he] the
119 commissioner may consider in determining the fitness of such
120 applicant to engage in business as a manufacturer of motor vehicles for
121 sale in this state:

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

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

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

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

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

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

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

151 (7) Any other pertinent matter commensurate with the safeguarding
152 of the public interest.

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

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

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

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

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

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

173 factory or distributor representatives.

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

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

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

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

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

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

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

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

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

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

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

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

225 (b) The provisions of this section and sections 42-133s to 42-133ee,
 226 inclusive, shall not apply to any manufacturer licensed as a new or
 227 used car dealer pursuant to subsection (e) of section 14-52b, as
 228 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	<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