



General Assembly

Amendment

February Session, 2016

LCO No. 5922



Offered by:
SEN. LINARES, 33rd Dist.

To: Subst. Senate Bill No. 19

File No. 672

Cal. No. 275

"AN ACT ESTABLISHING THE TRANSIT CORRIDOR DEVELOPMENT ASSISTANCE AUTHORITY."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 14-52b of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2016*):

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) does not hold a
67 controlling interest in another manufacturer, or a subsidiary, affiliate
68 or entity owned or controlled by such other manufacturer, that is
69 licensed as a dealer under this subsection, (E) is not owned or
70 controlled by another manufacturer, or a subsidiary, affiliate or entity
71 owned or controlled by such other manufacturer, that is licensed as a
72 dealer under this subsection, and (F) does not sell new or used motor
73 vehicles at more than two locations in the state, provided any
74 municipality, wherein a development district, as defined in section 1 of
75 this act, is located, may prohibit the enforcement of this section if such
76 manufacturer seeks to sell new or used motor vehicles in such
77 development district.

78 (3) Any manufacturer who holds a license issued pursuant to
79 subdivision (2) of this subsection may sell used or new motor vehicles
80 at no more than five locations within the state, provided such
81 manufacturer operates a warehouse and distribution facility within the

82 state.

83 Sec. 502. Subdivisions (1) and (2) of subsection (a) of section 14-51 of
84 the general statutes are repealed and the following is substituted in
85 lieu thereof (*Effective October 1, 2016*):

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

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

115 in a lease agreement. Such person shall be qualified to conduct such
116 business in accordance with the requirements of section 14-52a.

117 Sec. 503. Section 14-67a of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective October 1, 2016*):

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

129 (1) Information relating to the applicant's solvency and his financial
130 standing;

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

135 (3) [A] (A) Except as provided in subparagraph (B) of this
136 subdivision, a copy of the applicant's standard franchise agreement
137 and all supplements thereto, together with a list of the applicant's
138 authorized dealers or distributors in this state and their [address]
139 addresses. Such applicant shall notify the commissioner immediately
140 of the appointment of any additional dealers or distributors or any
141 revisions of or additions to the basic franchise agreement on file with
142 [him] the commissioner, or of any individual dealer or distributor
143 supplements to such agreement, and (B) the provisions of this
144 subdivision shall not apply to any manufacturer licensed as a new or
145 used car dealer pursuant to subsection (e) of section 14-52b, as
146 amended by this act;

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

151 (5) An affidavit stating the rates such applicant pays or agrees to
152 pay any authorized new car dealer for parts and labor used and
153 expended by such authorized new car dealer for the manufacturer
154 under delivery and preparation obligations under the new car
155 warranty;

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

158 (7) Any other pertinent matter commensurate with the safeguarding
159 of the public interest.

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

165 Sec. 504. Section 42-133r of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective October 1, 2016*):

167 (a) As used in this section and sections [42-133r] 42-133s to 42-133ee,
168 inclusive, unless the context indicates a different meaning:

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

172 (2) "Distributor" means any person who offers for sale, sells or
173 distributes any new motor vehicle to dealers or who maintains factory
174 representatives or who controls any person, firm, association, joint
175 venture corporation or trust, who offers for sale, sells or distributes
176 any new motor vehicle to dealers.

177 (3) "Factory branch" means a branch office maintained by a
178 manufacturer for the purpose of selling, or offering for sale, motor
179 vehicles to a distributor or dealer, or for directing or supervising
180 factory or distributor representatives.

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

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

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

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

203 (8) "New motor vehicle" means a motor vehicle which has been sold
204 to a new motor vehicle dealer and which has not been used for other
205 than demonstration purposes and on which the original title has not
206 been issued from the new motor vehicle dealer.

207 (9) "Established place of business" means a permanent, commercial

208 building easily accessible and open to the public at reasonable times
209 and at which the business of a new motor vehicle dealer, including the
210 display and repair of vehicles, may be lawfully carried on.

211 (10) "Franchise" means a written agreement or contract between a
212 manufacturer or distributor and a dealer which purports to fix the
213 legal rights and liabilities of the parties to such agreement or contract,
214 and pursuant to which the dealer purchases and resells the franchise
215 product or leases or rents the dealership premises.

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

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2016</i>	14-52b
Sec. 502	<i>October 1, 2016</i>	14-51(a)(1) and (2)
Sec. 503	<i>October 1, 2016</i>	14-67a
Sec. 504	<i>October 1, 2016</i>	42-133r