



# House of Representatives

General Assembly

**File No. 240**

February Session, 2018

House Bill No. 5310

*House of Representatives, April 5, 2018*

The Committee on Transportation reported through REP. GUERRERA of the 29th Dist., Chairperson of the Committee on the part of the House, that the 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 Section 14-52b of the general statutes is repealed and the  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 July 1, 2018*):

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] The commissioner may issue a used car dealer's license to a  
34 person, firm or corporation, owned or controlled by a manufacturer,  
35 engaged primarily in the business of rental of motor vehicles and  
36 industrial and construction equipment, provided: (1) Motor vehicles  
37 offered for sale by any such person, firm or corporation are limited to  
38 motor vehicles that have been previously used exclusively and  
39 regularly in the conduct of the business or motor vehicles traded in by  
40 purchasers of such previously used motor vehicles, (2) any warranty  
41 repairs performed by such person, firm or corporation are limited to  
42 motor vehicles that such person, firm or corporation owns, has  
43 previously owned, or has taken in trade, and (3) any retail financing  
44 provided or arranged by such person, firm or corporation is limited to  
45 vehicles sold 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 the 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) The commissioner may issue a new or used car dealer's license to  
60 a manufacturer, provided such manufacturer: (A) Does not have a  
61 franchise agreement with any new car dealer in the state; (B)  
62 manufactures only electric vehicles; (C) was licensed as a manufacturer  
63 in accordance with the provisions of section 14-67a, as amended by  
64 this act, on or before January 1, 2018; (D) sells at retail only motor  
65 vehicles manufactured by such manufacturer; (E) does not hold a  
66 controlling interest in another manufacturer, or a subsidiary, affiliate  
67 or entity owned or controlled by such other manufacturer, that is  
68 licensed as a dealer under this subsection; and (F) is not owned or  
69 controlled by another manufacturer, or a subsidiary, affiliate or entity  
70 owned or controlled by such other manufacturer, that is licensed as a  
71 dealer under this subsection.

72 Sec. 2. Subdivisions (1) and (2) of subsection (a) of section 14-51 of  
73 the general statutes are repealed and the following is substituted in  
74 lieu thereof (*Effective July 1, 2018*):

75 (1) "New car dealer" includes (A) any person, firm or corporation  
76 engaged in the business of merchandising new motor vehicles under a  
77 manufacturer's or importer's contract for each such make of vehicle,  
78 [who may,] and (B) any person, firm or corporation licensed as a  
79 manufacturer, as defined in subsection (e) of section 14-52b, as  
80 amended by this act, that is engaged in the business of merchandising

81 new motor vehicles and licensed as a new car dealer as provided in  
82 said subsection. Such person, firm or corporation may, incidental to  
83 such business, sell used motor vehicles and repair motor vehicles, [.   
84 Such person] and shall be qualified to conduct such business in  
85 accordance with the requirements of section 14-52a.

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

105 Sec. 3. Section 14-67a of the general statutes is repealed and the  
106 following is substituted in lieu thereof (*Effective July 1, 2018*):

107 (a) No person, firm or corporation shall engage in the business of  
108 manufacturing motor vehicles for sale in this state without having  
109 been issued a manufacturer's license, which license shall expire  
110 biennially on the last day of June. Application for such license or  
111 renewal thereof may be made to the Commissioner of Motor Vehicles  
112 in such form as the commissioner shall require. The commissioner may  
113 require with such application all of the following, which [he] the

114 commissioner may consider in determining the fitness of such  
115 applicant to engage in business as a manufacturer of motor vehicles for  
116 sale in this state:

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

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

123 (3) A copy of the applicant's standard franchise agreement and all  
124 supplements thereto, together with a list of the applicant's authorized  
125 dealers or distributors in this state and their [address] addresses. Such  
126 applicant shall notify the commissioner immediately of the  
127 appointment of any additional dealers or distributors or any revisions  
128 of or additions to the basic franchise agreement on file with [him] the  
129 commissioner, or of any individual dealer or distributor supplements  
130 to such agreement. The provisions of this subdivision shall not apply  
131 to any manufacturer licensed as a new or used car dealer pursuant to  
132 subsection (e) of section 14-52b, as amended by this act;

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

137 (5) An affidavit stating the rates such applicant pays or agrees to  
138 pay any authorized new car dealer for parts and labor used and  
139 expended by such authorized new car dealer for the manufacturer  
140 under delivery and preparation obligations under the new car  
141 warranty;

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

144 (7) Any other pertinent matter commensurate with the safeguarding

145 of the public interest.

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

151 Sec. 4. Section 42-133r of the general statutes is repealed and the  
152 following is substituted in lieu thereof (*Effective July 1, 2018*):

153 As used in [sections 42-133r] this section and sections 42-133s to 42-  
154 133ee, inclusive, unless the context indicates a different meaning:

155 (1) "Manufacturer" means any person who manufactures or  
156 assembles new motor vehicles, or imports motor vehicles for  
157 distribution to dealers or through distributors, or factory branches, but  
158 does not include any manufacturer licensed as a new or used car  
159 dealer pursuant to subsection (e) of section 14-52b, as amended by this  
160 act.

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

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

170 (4) "Owner" means any person holding an ownership interest in a  
171 business entity operating as a dealer or under a franchise as defined in  
172 this section either as a corporation, partnership or sole proprietorship.  
173 To the extent that the rights of any owner under [sections 42-133r] this  
174 section and sections 42-133s to 42-133ee, inclusive, conflict with the  
175 rights of any other owner, such rights shall accrue in priority order

176 based on the percentage of ownership interest held by each owner  
177 with the owner having the greatest ownership interest having first  
178 priority and succeeding priority accruing to other owners in the  
179 descending order of their percentage of ownership interest.

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

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

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

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

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

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

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	14-52b
Sec. 2	<i>July 1, 2018</i>	14-51(a)(1) and (2)
Sec. 3	<i>July 1, 2018</i>	14-67a
Sec. 4	<i>July 1, 2018</i>	42-133r

**TRA**      *Joint Favorable*

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:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 19 \$</b>	<b>FY 20 \$</b>
Resources of the General Fund	GF - Revenue Gain	Potential	Potential
Department of Motor Vehicles	TF - Revenue Gain	up to \$20,000	up to \$20,000

Note: GF=General Fund; TF=Transportation Fund

**Municipal Impact:** None

**Explanation**

The bill results in a potential revenue gain of up to \$20,000 to the Special Transportation Fund by expanding car dealer license eligibility to additional manufacturers, which is dependent on the number of licenses issued by the Department of Motor Vehicles.

The bill also increases the potential sales tax revenue to the General Fund. The actual revenue gain in sales tax would be dependent upon any potential shift in consumer purchases from out-of-state to in-state purchases.

Connecticut requires sales tax to be paid on vehicles registered for less than thirty days in another state, upon registration of the vehicle in this state; however, Connecticut does provide credit for sales tax paid out-of-state if the registrant provides supporting documentation.

Of the adjacent states, Massachusetts is the only state that charges

sales tax on the purchase of motor vehicles on nonresidents.<sup>1</sup> Vehicle purchases from Massachusetts are therefore likely to qualify for the sales tax credit for out-of-state purchases. Any potential shift in sales from Massachusetts to Connecticut under this bill, would result in the full sales tax payment in Connecticut, rather than an out-of-state sales tax credit, and therefore may result in a potential revenue gain.

***The Out Years***

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

---

<sup>1</sup> 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.

**OLR Bill Analysis****HB 5310*****AN ACT CONCERNING THE LICENSING OF NEW AND USED CAR DEALERS.*****SUMMARY**

This bill expands the ability of certain licensed motor vehicle manufacturers to sell their vehicles directly to Connecticut consumers under specific conditions. It does this by authorizing the motor vehicles commissioner to issue a new or used car dealer's license to a manufacturer that meets certain requirements.

Current law bars motor vehicle manufacturers from holding a new or used car dealer's license (see BACKGROUND) except that:

1. the motor vehicles commissioner may issue a used car dealer's license to a person, firm, or corporation owned or controlled by a manufacturer, primarily in the business of 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.

EFFECTIVE DATE: July 1, 2018

**CRITERIA A MOTOR VEHICLE MANUFACTURER MUST MEET TO SELL DIRECTLY TO CONNECTICUT RESIDENTS**

To qualify for a new or used car dealer's license under the bill, a licensed manufacturer:

1. cannot have a franchise agreement with a new car dealer in Connecticut;
2. must manufacture only electric vehicles;
3. must have obtained its manufacturer's license by January 1, 2018;
4. must sell at retail only vehicles it makes;
5. cannot hold a controlling interest in another manufacturer, or a subsidiary, affiliate, or entity owned or controlled by another manufacturer, 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, licensed as a dealer under the bill.

The bill exempts a manufacturer who meets these qualifications 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 car dealer" and "used car dealer" to include such a manufacturer and generally subjects the manufacturer to the rules governing these dealers. Under the bill, if a manufacturer is licensed as a new car dealer, it may also repair vehicles and sell used vehicles; if licensed as a used car dealer, it may also repair vehicles.

## **BACKGROUND**

### ***Motor Vehicle Franchises and Dealerships***

Under the laws governing motor vehicle franchises, a motor vehicle manufacturer makes or assembles new motor vehicles or imports them for distribution to dealers or through distributors or factory branches. A dealer sells motor vehicles and holds a valid sales and service agreement, franchise, or contract with a manufacturer or distributor for retail sale of the manufacturer's or distributor's new motor vehicles

(CGS § 42-133r).

The motor vehicle franchise laws set out, among other things, the respective obligations of manufacturers and dealerships (CGS §§ 42-133r to 42-133ee). They generally prohibit a manufacturer from unfairly competing with a dealer who sells the manufacturer's "line make" of vehicles (e.g., Toyota or Ford) and is operating under an agreement or franchise with the manufacturer in the relevant market area (CGS § 42-133cc(8)).

### ***Motor Vehicle Dealer Laws and Regulations***

Motor vehicle dealers are subject to laws governing vehicle sales, 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, or an officer or major stockholder of the dealer, has been convicted of violating any laws pertaining to the business or certain other crimes, such as fraud (CGS §§ 14-52 & 14-52a).

Dealers must follow motor vehicle laws and regulations in such areas as use of dealer plates, record-keeping, sales agreements, vehicle registration, and customer complaints (Conn. Agencies Reg. § 14-63-1 et seq.).

### ***Manufacturer***

Under the motor vehicle statutes, a manufacturer generally 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(48)).

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's license must apply to DMV and pay a biennial license fee of \$2,300 (CGS § 14-67a(a)).

**COMMITTEE ACTION**

Transportation Committee

Joint Favorable

Yea 25    Nay 11    (03/23/2018)