

1 S.47

2 An act relating to motor vehicle manufacturers, dealers, and warranty or
3 service facilities

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 Sec. 1. 9 V.S.A. § 4085(13) is amended to read:

6 (13) “New motor vehicle dealer” means any person ~~engaged in the~~
7 ~~business of~~ who holds, or held at the time a cause of action under this chapter
8 accrued, a valid sales and service agreement, franchise, or contract granted by
9 the manufacturer or distributor for the retail sale of said manufacturer’s or
10 distributor’s new motor vehicles, is not affiliated by ownership or control with
11 a franchisor, and is engaged in the business of any of the following with
12 respect to new motor vehicles or the parts and accessories for those new motor
13 vehicles:

14 (A) selling, or leasing;

15 (B) offering to sell, or lease;

16 (C) soliciting, or advertising the sale or lease; or

17 (D) ~~of new motor vehicles and who holds, or held at the time a cause~~
18 ~~of action under this chapter accrued, a valid sales and service agreement,~~
19 ~~franchise, or contract, granted by the manufacturer or distributor for the retail~~
20 ~~sale of said manufacturer’s or distributor’s new motor vehicles~~ offering
21 through a subscription or like agreement.

1 Sec. 2. 9 V.S.A. § 4085(18) is added to read:

2 (18) “Non-franchised zero-emission vehicle manufacturer” means a
3 manufacturer that:

4 (A) only manufacturers zero-emission vehicles, including plug-in
5 electric vehicles as defined in 23 V.S.A. § 4(85);

6 (B) only sells or leases directly to consumers new or used zero-
7 emission vehicles that it manufactures or vehicles that have been traded in in
8 conjunction with a new zero-emission vehicle sale;

9 (C) does not currently sell or lease, and has never sold or leased,
10 motor vehicles in Vermont through a franchisee;

11 (D) has not sold or transferred a combined direct or indirect
12 ownership interest of greater than 30 percent in such non-franchised zero-
13 emission vehicle manufacturer to a franchisor, subsidiary, or other entity
14 controlled by a franchisor or has not acquired a combined direct or indirect
15 ownership interest of greater than 30 percent in a franchisor, subsidiary, or
16 other entity controlled by a franchisor; and

17 (E) is a dealer registered pursuant to 23 V.S.A. chapter 7,
18 subchapter 4.

1 Sec. 3. 9 V.S.A. § 4086(i) is amended to read:

2 (i) It is unlawful for a franchisor, manufacturer, factory branch, distributor
3 branch, or subsidiary to own, operate, or control, either directly or indirectly, a
4 motor vehicle warranty or service facility located in the State except:

5 (1) on an emergency or interim basis ~~or~~;

6 (2) if no qualified applicant has applied for appointment as a dealer in a
7 market previously served by a new motor vehicle dealer of that manufacturer's
8 line-make; or

9 (3) if the manufacturer is a non-franchised zero-emission vehicle
10 manufacturer that directly owns, operates, and controls the warranty or service
11 facility.

12 Sec. 4. 9 V.S.A. § 4097 is amended to read:

13 § 4097. MANUFACTURER VIOLATIONS

14 It shall be a violation of this chapter for any manufacturer defined under this
15 chapter:

16 * * *

17 (8)(A) To compete with a new motor vehicle dealer ~~in the same line-~~
18 ~~make~~ operating under an agreement or franchise from the aforementioned
19 manufacturer ~~in the relevant market area~~ in the State.

20 (B) For purposes of this subdivision (8), any manufacturer that is not
21 a non-franchised zero-emission vehicle manufacturer competes with a new

1 motor vehicle dealer if it engages in the business of any of the following with
2 respect to new motor vehicles:

3 (i) selling or leasing;

4 (ii) offering to sell or lease; or

5 (iii) soliciting or advertising the sale or lease.

6 (C) A manufacturer shall not, however, be deemed to be competing
7 when operating a dealership either temporarily for a reasonable period, or in a
8 bona fide retail operation that is for sale to any qualified independent person at
9 a fair and reasonable price, or in a bona fide relationship in which an
10 independent person has made a significant investment subject to loss in the
11 dealership and can reasonably expect to acquire full ownership of the
12 dealership on reasonable terms and conditions.

13 * * *

14 Sec. 4a. 9 V.S.A. § 4097(8) is amended to read:

15 (8)(A) To compete with a new motor vehicle dealer operating under an
16 agreement or franchise from the aforementioned in the State.

17 (B) For purposes of this subdivision (8), any manufacturer that is not
18 a non-franchised zero-emission vehicle manufacturer competes with a new
19 motor vehicle dealer if it engages in the business of any of the following with
20 respect to new motor vehicles or the retail sale of parts and accessories for
21 those new motor vehicles:

- 1 (i) selling or leasing;
- 2 (ii) offering to sell or lease; or
- 3 (iii) soliciting or advertising the sale or lease; or
- 4 (iv) offering through a subscription or like agreement.

5 * * *

6 Sec. 5. AMENDMENTS TO THE MOTOR VEHICLE
7 MANUFACTURERS, DISTRIBUTORS, AND DEALERS
8 FRANCHISING PRACTICES ACT; CREATION OF A DIRECT
9 SHIPPER LICENSE; REPORT

10 (a) It is the intent of the General Assembly to amend the Motor Vehicle
11 Manufacturers, Distributors, and Dealers Franchising Practices Act, 9 V.S.A.
12 chapter 108, in the 2021 Adjourned Session. Amendments may address
13 facility requirements as regulated under 9 V.S.A. § 4096, warranty and
14 predelivery obligations under 9 V.S.A. § 4086, potentially unreasonable
15 standards contained in franchise agreements, and the protection of consumer
16 data.

17 (b) Any persons that are interested in proposing amendments to the Motor
18 Vehicle Manufacturers, Distributors, and Dealers Franchising Practices Act,
19 9 V.S.A. chapter 108, shall provide them to the Department of Motor Vehicles
20 not later than December 1, 2021 through an e-mail address to be posted on the
21 website for the Department of Motor Vehicles. Persons may also file

1 proposals on the establishment of a direct shipper license to be administered by
2 the Department of Motor Vehicles with the Department of Motor Vehicles not
3 later than December 1, 2021, through the same e-mail address that is posted on
4 the website for the Department of Motor Vehicles. To the extent practicable,
5 entities should cooperate and file joint proposals.

6 (c) The Department of Motor Vehicles shall file a written report containing
7 any proposals it receives under subsections (a) and (b) of this section and its
8 own proposal, if it so chooses, on the creation and implementation of a direct
9 shipper license with the House and Senate Committees on Transportation, the
10 House Committee on Commerce and Economic Development, and the Senate
11 Committee on Economic Development, Housing and General Affairs not later
12 than January 15, 2022.

13 Sec. 6. EFFECTIVE DATES

14 (a) Sec. 4a (manufacturer violations) shall take effect on July 1, 2022.

15 (b) All other sections shall take effect on passage.