

1 TO THE HONORABLE SENATE:

2 The Committee on Transportation to which was referred Senate Bill No. 47
3 entitled “An act relating to motor vehicle manufacturers and motor vehicle
4 warranty or service facilities” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

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

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

16 (A) selling, or leasing;

17 (B) offering to sell, or lease;

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

19 (D) ~~of new motor vehicles and who holds, or held at the time a cause~~
20 ~~of action under this chapter accrued, a valid sales and service agreement,~~
21 ~~franchise, or contract, granted by the manufacturer or distributor for the retail~~

1 ~~sale of said manufacturer's or distributor's new motor vehicles offering~~
2 through a subscription or like agreement.

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

4 (18) "Non-franchised zero emissions vehicle manufacturer" means a
5 manufacturer that:

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

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

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

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

19 (E) is a dealer registered pursuant to 23 V.S.A. chapter 7,
20 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 emissions 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 or the retail sale of parts and accessories for
3 those new motor vehicles:

4 (i) selling or leasing;

5 (ii) offering to sell or lease;

6 (iii) soliciting or advertising the sale or lease; or

7 (iv) offering through a subscription or like agreement.

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

15 * * *

16 Sec. 5. AMENDMENTS TO THE MOTOR VEHICLE

17 MANUFACTURERS, DISTRIBUTORS, AND DEALERS

18 FRANCHISING PRACTICES ACT; CREATION OF A DIRECT

19 SHIPPER LICENSE; REPORT

20 (a) It is the intent of the General Assembly to amend the Motor Vehicle
21 Manufacturers, Distributors, and Dealers Franchising Practices Act, 9 V.S.A.

1 chapter 108, in the 2021 Adjourned Session. Amendments may address
2 facility requirements as regulated under 9 V.S.A. § 4096, warranty and
3 predelivery obligations under 9 V.S.A. § 4086, potentially unreasonable
4 standards contained in franchise agreements, and the protection of consumer
5 data.

6 (b) Any persons that are interested in proposing amendments to the Motor
7 Vehicle Manufacturers, Distributors, and Dealers Franchising Practices Act,
8 9 V.S.A. chapter 108, shall provide them to the Department of Motor Vehicles
9 not later than December 1, 2021 through an e-mail address to be posted on the
10 website for the Department of Motor Vehicles. Persons may also file
11 proposals on the establishment of a direct shipper license to be administered by
12 the Department of Motor Vehicles with the Department of Motor Vehicles not
13 later than December 1, 2021, through the same e-mail address that is posted on
14 the website for the Department of Motor Vehicles. To the extent practicable,
15 entities should cooperate and file joint proposals.

16 (c) The Department of Motor Vehicles shall file a written report containing
17 any proposals it receives under subsections (a) and (b) of this section and its
18 own proposal, if it so chooses, on the creation and implementation of a direct
19 shipper license with the House and Senate Committees on Transportation, the
20 House Committee on Commerce and Economic Development, and the Senate

1 Committee on Economic Development, Housing and General Affairs not later
2 than January 15, 2022.

3 Sec. 6. EFFECTIVE DATE

4 This act shall take effect on passage.

5 and that after passage the title of the bill be amended to read: “An act
6 relating to motor vehicle manufacturers, dealers, and warranty or service
7 facilities”

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12 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE