

VADA RESPONSE TO DRAFT 1.3 of S.47

First, Sec. 2, in Section 4085(18)(D), in the definition of “non-franchised zero emissions vehicle manufacturer” VADA used the term “not affiliated.” Draft 1.3 changes that to a “controlling interest.” VADA is proposing to replace “controlling interest” with “a direct or indirect ownership of greater than ten percent” to prevent a franchisor from having some control over a non-franchised zero emissions vehicle manufacturer that would allow the franchisor input into the non-franchised zero emissions vehicle manufacturer’s sale of new vehicles into the State. Unlike other states that prevent any manufacturer, whether or not franchised, from selling new vehicles directly to consumers, VADA is focused just on preventing franchised manufacturers from having any involvement with competing in the sale of new vehicles with its franchised motor vehicle dealers who have substantial investments in their dealerships.

Sec. 2, Section 4085(18)(D) – strike and replace with

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

Second, VADA’s recommends that the language be amended to say that a franchised OEM is prohibited from operating any dealership. Accordingly, we recommend the following two additional highlighted revisions:

Sec. 1

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

Sec. 4

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