

HOUSE BILL No. 2479

By Representatives Fairchild, Haswood, Murphy, E. Smith and Xu

11-29

1 AN ACT concerning motor vehicles; relating to the vehicle dealers and
2 manufacturers licensing act; permitting the direct sales of vehicles by
3 certain vehicle manufacturers and distributors; amending K.S.A. 8-
4 2438 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 8-2438 is hereby amended to read as follows: 8-
8 2438. (a) Except as provided by this section, and notwithstanding any
9 other provisions of the vehicle dealers and manufacturers licensing act,
10 with respect to motor vehicles, a first stage manufacturer of vehicles or
11 second stage manufacturer of vehicles, factory branch, distributor branch,
12 or distributor, distributor or factory representative; may not directly or
13 indirectly:

14 (1) Own an interest in a new vehicle dealer or dealership;

15 (2) operate a new vehicle dealer or dealership; or

16 (3) act in the capacity of a new vehicle dealer or dealership, or
17 otherwise sell new vehicles at retail.

18 (b) A first stage manufacturer or second stage manufacturer of
19 vehicles, factory branch, distributor branch, or distributor, distributor or
20 factory representative may own an interest in a franchised dealer or
21 dealership, or otherwise control a dealership, for a period not to exceed 12
22 months from the date the first or second stage manufacturer of vehicles,
23 factory branch, distributor branch, or distributor, distributor or factory
24 representative; acquires the dealership if:

25 (1) The person from whom the dealer or dealership was acquired was
26 a new vehicle dealer; and

27 (2) the dealership is for sale by the first stage manufacturer or second
28 stage manufacturer of vehicles, factory branch, distributor branch, or
29 distributor, distributor or factory representative; at a reasonable price and
30 on reasonable terms and conditions.

31 (c) On a showing of good cause by a first stage manufacturer or
32 second stage manufacturer of vehicles, factory branch, distributor branch,
33 or distributor, distributor or factory representative, as the case may be, the
34 director may extend the time limit set forth in subsection (b) one time for a
35 period of not to exceed 12 months.

36 (d) For the purpose of broadening the diversity of its dealer body and

1 enhancing opportunities for qualified persons who are part of a group who
2 have historically been under-represented in its dealer body, or other
3 qualified persons who lack the resources to purchase a dealership outright,
4 but for no other purpose, a first stage manufacturer or second stage
5 manufacturer of vehicles, factory branch, distributor branch, or distributor,
6 distributor or factory representative; may temporarily own an interest in a
7 new vehicle dealer or dealership if the first or second stage manufacturer
8 of vehicles, factory branch, distributor branch, or distributor, distributor or
9 factory representative's participation in the new vehicle dealer or
10 dealership is in a bona fide relationship with a new vehicle dealer who:

11 (1) Has made a significant investment in the new vehicle dealer or
12 dealership, ~~which that~~ is subject to loss;

13 (2) has an ownership interest in the new vehicle dealer or dealership;
14 and

15 (3) operates the new vehicle dealer or dealership under a plan to
16 acquire full ownership of the new vehicle dealer or dealership within a
17 reasonable time and under reasonable terms and conditions.

18 (e) A first stage manufacturer of vehicles or a second stage
19 manufacturer of vehicles may own a minority interest in an entity that
20 owns and operates a new vehicle dealer, licensed under the dealers and
21 manufacturer's licensing act, of the line-make manufactured by the first or
22 second stage manufacturer if all of the new vehicle dealers owned and
23 operated by the entity in this state are new vehicle dealers of only the line-
24 make manufactured by the manufacturer and if, on January 1, 2000: (1)
25 There were not more than two new vehicle dealers of that line-make
26 licensed as new vehicle dealers in this state; and (2) at the time the
27 manufacturer first acquires an ownership interest or assumes operation or
28 control, the distance between any new vehicle dealer owned and operated
29 by an entity in which the manufacturer has an ownership interest and the
30 nearest unaffiliated new vehicle dealer of the same line-make is not less
31 than 100 miles.

32 (f) The words or phrases used in this section shall have the meanings
33 otherwise provided by law, except the following specific words or phrases:

34 (1) "Dealership" means any physical premises, equipment, and
35 business facilities on or with which a new vehicle dealer operates its
36 business, including the sale or repair of motor vehicles. Dealership
37 includes premises or facilities ~~at which~~ *where* a person engages in the
38 repair of motor vehicles if repairs are performed pursuant to the terms of a
39 franchise agreement or a motor vehicle manufacturer's warranty; and

40 (2) "line-make vehicle" means those new motor vehicles ~~which that~~
41 are offered for sale, lease or distribution under a common name,
42 trademark, service mark or brand name of the manufacturer or distributor
43 of the same.

1 (g) The provisions of this section shall not apply to a first stage
2 manufacturer or second stage manufacturer of vehicles, factory branch,
3 distributor branch, or distributor, distributor or factory representative as to
4 only those dealers or dealerships ~~which~~ *that* are already owned by such
5 first stage manufacturer or second stage manufacturer of vehicles, factory
6 branch, distributor branch, or distributor, distributor or factory
7 representative, as the case may be, on the effective date of this act.

8 (h) *A first or second stage manufacturer or distributor that is*
9 *licensed as a vehicle dealer in Kansas shall be allowed to sell and service*
10 *motor vehicles in Kansas and otherwise act in the capacity of a new*
11 *vehicle dealer or dealership if no other vehicle dealer, factory branch,*
12 *distributor branch or distributor sells and services the same line-make*
13 *vehicles in Kansas.*

14 Sec. 2. K.S.A. 8-2438 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its
16 publication in the statute book.