HOUSE BILL No. 2479

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

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

Be it enacted by the Legislature of the State of Kansas:

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

(1) Own an interest in a new vehicle dealer or dealership;
(2) operate a new vehicle dealer or dealership; or
(3) act in the capacity of a new vehicle dealer or dealership, or otherwise sell new vehicles at retail.

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

(1) The person from whom the dealer or dealership was acquired was a new vehicle dealer; and
(2) the dealership is for sale by the first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative; at a reasonable price and on reasonable terms and conditions.

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

(d) For the purpose of broadening the diversity of its dealer body and
enhancing opportunities for qualified persons who are part of a group who
have historically been under-represented in its dealer body, or other
qualified persons who lack the resources to purchase a dealership outright,
but for no other purpose, a first stage manufacturer or second stage
manufacturer of vehicles, factory branch, distributor branch, or distributor,
distributor or factory representative, may temporarily own an interest in a
new vehicle dealer or dealership if the first or second stage manufacturer
of vehicles, factory branch, distributor branch, or distributor, distributor or
factory representative's participation in the new vehicle dealer or
dealership is in a bona fide relationship with a new vehicle dealer who:
(1) Has made a significant investment in the new vehicle dealer or
dealership, which that is subject to loss;
(2) has an ownership interest in the new vehicle dealer or dealership;
and
(3) operates the new vehicle dealer or dealership under a plan to
acquire full ownership of the new vehicle dealer or dealership within a
reasonable time and under reasonable terms and conditions.
(e) A first stage manufacturer of vehicles or a second stage
manufacturer of vehicles may own a minority interest in an entity that
owns and operates a new vehicle dealer, licensed under the dealers and
manufacturer's licensing act, of the line-make manufactured by the first or
second stage manufacturer if all of the new vehicle dealers owned and
operated by the entity in this state are new vehicle dealers of only the line-
make manufactured by the manufacturer and if, on January 1, 2000: (1)
There were not more than two new vehicle dealers of that line-make
licensed as new vehicle dealers in this state; and (2) at the time the
manufacturer first acquires an ownership interest or assumes operation or
control, the distance between any new vehicle dealer owned and operated
by an entity in which the manufacturer has an ownership interest and the
nearest unaffiliated new vehicle dealer of the same line-make is not less
than 100 miles.
(f) The words or phrases used in this section shall have the meanings
otherwise provided by law, except the following specific words or phrases:
(1) "Dealership" means any physical premises, equipment, and
business facilities on or with which a new vehicle dealer operates its
business, including the sale or repair of motor vehicles. Dealership
includes premises or facilities at which where a person engages in the
repair of motor vehicles if repairs are performed pursuant to the terms of a
franchise agreement or a motor vehicle manufacturer's warranty; and
(2) "line-make vehicle" means those new motor vehicles which that
are offered for sale, lease or distribution under a common name,
trademark, service mark or brand name of the manufacturer or distributor
of the same.
(g) The provisions of this section shall not apply to a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative as to only those dealers or dealerships which are already owned by such first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, as the case may be, on the effective date of this act.

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

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

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