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PROHIBIT AUTO MANUFACTURERS FROM OPERATING DEALERSHIPS

House Bill 5554 (Substitute H-3)

Sponsor: Rep. Nancy Cassis

Committee: Transportation

Senate Bill 1197 (Substitute H-1)

Sponsor: Rep. Mat J. Dunaskiss

House Committee: Transportation

**Senate Committee: Transportation and
Tourism**

Complete to 5-31-00

A SUMMARY OF SENATE BILL 1197 (SUBSTITUTE H-1) AND HOUSE BILL 5554 (SUBSTITUTE H-3)

Senate Bill 1197 and House Bill 5554 together would amend Public Act 118 of 1981, which regulates motor vehicle manufacturers, distributors, wholesalers, dealers, and their representatives, to prohibit manufacturer ownership of new vehicle dealerships with some exceptions. The bills are tie-barred.

Under current law, a manufacturer, importer, or distributor cannot establish a dealership which would unfairly compete with a new motor vehicle dealer of the same line make operating under a dealer agreement with the manufacturer or distributor in the relevant market area. The law specifies that a manufacturer or distributor is not considered to be unfairly competing if a) operating a dealership temporarily for a reasonable period; b) operating a dealership which is for sale at a reasonable price; and, c) operating a dealership with another person who has made a significant investment in the dealership and who will acquire full ownership of the dealership under reasonable terms and conditions. The bills would delete these provisions.

In place of this prohibition (and exceptions), the bills would prohibit a manufacturer, importer, or distributor from directly or indirectly owning, operating or controlling a new motor vehicle dealership, including (but not limited to) a dealership engaged primarily in performing warranty repair work. However, the prohibition would not apply to:

- the ownership, operation, or control by a manufacturer or distributor of a dealership for a period of not more than two years during the transition from one owner or operator to another (and, the bill would provide that a circuit court could extend the two-year time period for an additional one year upon a showing of good cause by a manufacturer);
- the ownership, operation, or control of a dealership by a manufacturer or distributor while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or,

- the direct or indirect ownership by a manufacturer of an entity that owns, operates, or controls a new motor vehicle dealer of the same line make franchised by the manufacturer, if all of the following conditions were met: a) as of May 1, 2000, the manufacturer had continuously owned, for a period of at least 12 months, one or more dealerships in the state; b) all of the dealers selling that manufacturer's vehicles in the state trade exclusively in that manufacturer's line make; c) as of January 1, 2000, at least half of the dealers in the state trading in that line make own and operate two or more dealerships in the geographic territory or area covered by the franchise agreement with the manufacturer; and d) for a manufacturer or any entity in which the manufacturer has more than a 45 percent ownership interest, the manufacturer or entity has not acquired, operated, or controlled a dealership that it did not own as of May 1, 2000.

Further, the bills would prohibit a manufacturer, importer, or distributor from selling any new vehicle directly from a retail customer other than through its franchised dealers, unless the customer was a nonprofit organization or a federal, state, or local government or agency. This provision would not, however, prohibit a manufacturer from providing information to a consumer for the purpose of marketing or facilitating the sale of vehicles, or from establishing a program to sell or offer to sell vehicles through its dealerships.

MCL 445.1564 and 445.1574

Analyst: D. Martens

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.