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PROHIBIT MANUFACTURER OWNERSHIP OF NEW VEHICLE DEALERSHIPS

House Bill 5554
Sponsor: Rep. Nancy Cassis
Committee: Transportation

Complete to 4-12-00

A SUMMARY OF HOUSE BILL 5554 AS INTRODUCED 4-11-00

House Bill 5554 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.

Under the 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. House Bill 5554 would delete these provisions.

In place of this prohibition (and exceptions), House Bill 5554 specifies that a manufacturer, importer, or distributor could not own an interest in a dealership, operate or control a dealership, act in the capacity of a new motor vehicle dealer, or directly or indirectly sell or offer to sell a new motor vehicle to a person in this state other than a new motor vehicle dealer. This subdivision would not apply to a) the operation by a manufacturer or distributor of a dealership for a period of not more than one year, during the transition from one owner or operator to another; or b) the ownership 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.

Further, under the bill a manufacturer, importer, or distributor could not engage in business as a dealer or manage, control, operate, or directly or indirectly own any interest in a dealership, if the primary business of the dealer or dealership was to perform repair services on new motor vehicles other than motor homes pursuant to a manufacturer's or franchisor's warranty.

House Bill 5554 also would change the definition of "manufacturer." Under current law, "manufacturer" means any person who manufactures or assembles new motor vehicles; or any distributor, factory branch, or factory representative. House Bill 5554 would retain this definition

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and add to it a person affiliated with a manufacturer, and any person who directly, or indirectly through an intermediary, is controlled by or is under common control with a manufacturer.

MCL 445.1564 and 445.1574

Analyst: J. Hunault

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