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**SFA**



**BILL ANALYSIS**

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Senate Bill 1197 (as enrolled)  
Sponsor: Senator Mat J. Dunaskiss  
Senate Committee: Transportation and Tourism  
House Committee: Transportation

**PUBLIC ACT 239 of 2000**

Date Completed: 11-6-00

**CONTENT**

**The bill amended Public Act 118 of 1981, which regulates motor vehicle manufacturers, distributors, wholesalers, and dealers, to replace provisions under which a manufacturer, importer, or distributor could not establish a dealership that unfairly competed with a new motor vehicle dealer of the same line make operating in the relevant market area. The bill prohibits a manufacturer, importer, or distributor from directly or indirectly owning, operating, or controlling a new motor vehicle dealer, and describes situations in which the prohibition does not apply. In addition, the bill prohibits a manufacturer, importer, or distributor from selling a new motor vehicle directly to a retail customer other than through its franchised dealers, unless the customer is a nonprofit organization or a Federal, State, or local government or agency.**

The bill was tie-barred to House Bill 5554 (Public Act 240 of 2000), which amended Public Act 118 of 1981 to update citations to the Uniform Commercial Code in the Act's definition of "good faith" and to the Michigan Vehicle Code in the definition of "motor vehicle".

**Manufacturer Dealership Ban**

Previously, a manufacturer, importer, or distributor was prohibited from establishing a dealership that unfairly competed 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. A manufacturer or distributor was not considered to be competing unfairly if it was operating a dealership temporarily for a reasonable period, operating a dealership that was for sale at a reasonable price, or operating a dealership with another person who had made a significant investment in the dealership and who was to acquire full ownership of the dealership under reasonable terms and conditions. The bill deleted these

provisions.

Under the bill, a manufacturer, importer, or distributor is prohibited from directly or indirectly owning, operating, or controlling a new motor vehicle dealer, including a new motor vehicle dealer engaged primarily in performing warranty repair services on motor vehicles pursuant to the manufacturer's warranty. The bill specifies that this prohibition does not apply to either of the following:

- The ownership, operation, or control by a manufacturer or distributor of a new motor vehicle dealer for a period of not more than 24 months during the transition from one owner or operator to another. The circuit court may extend the 24-month time period for an additional 12 months upon receiving an application from a manufacturer or distributor and a showing of good cause.
- The ownership, operation, or control of a new motor vehicle dealer by a manufacturer or distributor while it is being sold under a bona fide contract or purchase option to the operator of the new motor vehicle dealer.

In addition, the prohibition does not apply to 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 are met:

- As of May 1, 2000, the manufacturer for at least 12 months had continuously owned, directly or indirectly, one or more new motor vehicle dealers in the State.
- All of the new motor vehicle dealers selling the manufacturer's motor vehicles in the State trade exclusively in the manufacturer's line make.
- As of January 1, 2000, at least one-half of the new motor vehicle dealers of the line make within the State owned and operated at least two new motor vehicle dealer facilities in the geographic

territory or area covered by the franchise agreement with the manufacturer.

-- For a manufacturer or any entity in which the manufacturer has more than a 45% ownership interest, the manufacturer or entity has not acquired, operated, or controlled a new motor vehicle dealer that the manufacturer does not directly or indirectly own as of May 1, 2000.

#### Direct Sale

The bill prohibits a manufacturer, importer, or distributor from selling any new motor vehicle directly to a retail customer other than through its franchised dealers, unless the retail customer is a nonprofit organization or a Federal, State, or local government or agency. The bill specifies that this provision does not prohibit a manufacturer from providing information to a consumer for the purpose of marketing or facilitating the sale of new motor vehicles or from establishing a program to sell or offer to sell new motor vehicles through the manufacturer's new motor vehicle dealers.

MCL 445.1574

Legislative Analyst: L. Arasim

#### **FISCAL IMPACT**

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: J. Runnels

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.