

**SUBJECT:** Revising the Motor Vehicle Commission Code

**COMMITTEE:** Transportation — favorable, without amendment

**VOTE:** 8 ayes — Alexander, Bosse, Alonzo, Clemons, Moreno, Price, Siebert, Uher  
0 nays  
1 absent — Edwards

**SENATE VOTE:** On final passage, April 20 — 31-0

**WITNESSES:** None

**BACKGROUND:** The Texas Motor Vehicle Commission Code regulates motor vehicle manufacturers and franchised dealers and their dealings with purchasers of new motor vehicles. The Texas Department of Transportation (TxDOT)'s Texas Motor Vehicle Board, known as the Texas Motor Vehicle Commission until the 1991 consolidation of state transportation entities, has regulatory authority under the code, but other TxDOT divisions also regulate vehicle dealers.

**DIGEST:** SB 1139 would amend the Texas Motor Vehicle Commission Code to consolidate regulation of automotive dealers under TxDOT's Motor Vehicle Board. The bill would extend the commission's regulatory authority to include dealers in motor vehicles, not just new vehicles, and charge the commission with enforcement of VACS art. 6686, which concerns dealer and manufacturer plates and tags.

The bill would define a franchised dealer as any holder of a general distinguishing number issued by the department under VACS art. 6686. The bill would also define non-franchised dealer, dealer, dealership and licensee, and would redefine franchise, broker and warranty work. Dealership would mean the physical premises and business facilities on which franchised dealers operates their business, including the sale and repair of motor vehicles. The term would include premises or facilities at which a person engages only in the repair of motor vehicles if repairs are

performed pursuant to the terms of a franchise and a motor vehicle manufacturer's warranty.

The bill would provide that in the case of conflict between the motor commission code and VACS art. 6686, the law under which dealers other than franchised dealers have been regulated, the Texas Motor Vehicle Commission Code would prevail.

The bill also would:

- reestablish, notwithstanding any funds consolidation provisions to the contrary, that revenue paid to the commission under the act would be deposited in the state Treasury, and would dedicate the money to the credit of the state highway fund;
- authorize the commission, by final order, to dismiss a complaint, protest, or response without holding a contested case hearing;
- require a person to obtain a permit to perform repair services pursuant to the terms of a manufacturer's warranty, whether or not the person sells motor vehicles at the same location;
- distinguish between dealers and franchised dealers and authorize a franchised dealer to conduct the business of a dealership at more than one location;
- increase license fees for franchise dealers, representatives and converters and vary fees for franchise dealers according to the number of new motor vehicles sold;
- provide that the relocation of a dealership may only be protested if the proposed location is closer to the franchised dealer than the original location;
- require TxDOT's board to protect franchised dealers from retribution by distributors, in addition to manufacturers, for complying with local ordinances;

- provide that information filed with the Motor Vehicle Board under the "lemon law" is not a public record and is not subject to release under the open records laws until the complaint is finally resolved;
- provide that all general distinguishing numbers expire one year from the date of issuance and allow the board to adopt rules governing the administration of numbers for the department.

SB 1139 would take effect January 1, 1996.

**SUPPORTERS  
SAY:**

SB 1139 would make the regulatory structure of automotive dealers conform with current business practices and enact many technical corrections to the Texas Motor Vehicle Commission Code. The bill's most important purpose is to consolidate the regulation of all automotive dealers under one regulatory authority, TxDOT's Motor Vehicle Board.

The bill would increase fees to be paid by manufacturers and distributors, dealers, representatives and converters. These fee increases are supported by industry representatives and are designed to cover the costs of additional hearing examiners and staff requested by manufacturers and dealer licensees to provide speedier resolution of disputes.

SB 1139 would define dealership for the first time in the code to establish without question that a dealer's operation includes all aspects of a franchise and motor vehicle business.

SB 1139 also would provide that information filed with the Motor Vehicle Board under the "lemon law" is not a public record and is not subject to release under the open records act until a complaint is finally resolved. This change in the law would protect consumers from unsolicited communications from overzealous attorneys offering their services.

The legislation specifically would provide for continuation of the application of the Deceptive Trade Practices Act to licensees without regard to changes made to that law.

The bill also directs the board to develop a plan for the staggering of expiration dates of general distinguishing numbers (GDN). Under current,

longstanding law, all GDN's expire on the same date. The bill would bring about an orderly change of an archaic system, creating a more efficient system in which licenses would initially be divided into 12 groups with one group of numbers expiring each month for the next year. When the GDN was reissued, the license would be for a full year.

**OPPONENTS  
SAY:**

SB 1139 proposes to seal the records and complaints filed under the lemon laws until a very late stage in the process. Protecting consumers against unscrupulous automotive dealers and manufacturers is difficult enough without these records being sealed from public view. Such a step would assure that fewer consumers would be adequately represented in their attempts to resolve complaints about defective vehicles. Many experienced attorneys practicing in this area check the records to see who has filed a complaint so that they can offer professional assistance. Consumers also may want to use these records to see how many complaints have been filed against a particular dealer or manufacturer.