

SUBJECT: Allowing tow truck sales by licensed dealers at trade shows and exhibitions

COMMITTEE: Transportation — favorable, without amendment

VOTE: 8 ayes — Krusee, Phillips, Hamric, Edwards, Garza, Harper-Brown, Hill,
Mercer

0 nays

1 absent — Laney

WITNESSES: For — Tommy Anderson, Tow Expo Productions; Larry Cernosek, Texas
Towing and Storage Association

Against — None

BACKGROUND: The Texas Department of Transportation's Motor Vehicle Division (MVD) regulates sales of new motor vehicles in Texas under the Motor Vehicle Commission Code (VACS, art. 4413(36)). Effective June 1, 2003, this statute is recodified under Occupations Code, chapter 2301. The MVD issues licenses and collects fees from dealers doing business in Texas and from converters who install equipment onto new cabs and chassis to modify them for various uses, including towing equipment on trucks. The Texas Motor Vehicle Board approves new vehicle and product shows and exhibitions, including exhibitors.

In general, state law restricts new vehicle sales to licensed dealers' places of business. Occupations Code, sec. 2301.358(c) exempts towable recreational vehicles, motor homes, ambulances, and firefighting vehicles from the prohibition against new vehicle sales at shows and exhibitions approved by the Texas Motor Vehicle Board.

DIGEST: HB 850 would authorize the sale of tow trucks at board-approved shows or exhibitions of new motor vehicles, as long as the sales were not prohibited by other law.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 850 would treat tow truck sales at trade shows like sales of similar vehicles. It is only fair that such highly specialized vehicles that are not mass-marketed should receive the same advantage as similar vehicles, such as ambulances and fire trucks. Consumers would lose no safeguards, because only licensed dealers regulated by the state could make sales at trade shows.

The bill also would help alleviate a misplaced regulatory burden on towing equipment manufacturers, none of whom are located in Texas. In recent years, the MVD has required these manufacturers to pay a \$375 fee for a converter's license, based on the belief that they install the equipment they make. Often a conversion is necessary to transport the equipment properly and display it effectively at trade shows, although most manufacturers typically do not perform conversions as part of their regular business. Obtaining a converter's license sets in motion the franchise-tax application process, which can be costly and time-consuming. Consequently, 10 major manufacturers did not participate in the 2001 Tow Expo, one of the most successful towing trade shows in America over the past 15 years. This exposition occurs over three days each September in Arlington, attracting approximately 200 exhibitors and 20,000 spectators.

Allowing sales at trade shows should make the converter's license issue moot for manufacturers, since they are not Texas dealers, nor are they engaged primarily in conversion. For smaller dealers who do perform conversions, sales at trade shows would help them financially. Even if the MVD insisted on licensing out-of-state manufacturers, sales at trade shows would allow them to recoup through dealers some of their costs of participation, including sponsorship. If this problem is not addressed, the loss of corporate support from manufacturers could continue, jeopardizing the show's educational and promotional activities, to the economic detriment of Dallas-Fort Worth as well as the state.

**OPPONENTS
SAY:**

HB 850 would add another loophole to new vehicle regulation. Tow trucks operate as emergency vehicles in dangerous roadway situations. They also transport damaged vehicles that can be hazardous to motorists, as well as disabled vehicles that must be transported safely. Such responsibilities dictate that tow trucks undergo at least the same level of governmental oversight as passenger vehicles.

**OTHER
OPPONENTS
SAY:**

Because HB 850 would not change the regulatory procedure applicable to towing equipment manufacturers, it would not reduce their burden of compliance with MVD licensing rules. Whether or not they must obtain a converter's license is a separate issue from sales at trade shows. Allowing such sales by dealers would not preclude the MVD from determining whether equipment manufacturers also are converters, which depends primarily on whether they install the equipment they make.

The MVD enforces "lemon laws," and because conversion is part of the chain of commerce for new vehicles, the division must have the broadest jurisdiction possible to determine warranty disputes. If manufacturers are not converting or selling new vehicles but only the equipment installed on vehicles sold by others, they will not need licenses from the state.