

- SUBJECT:** Regulating the display and sale of mobility motor vehicles
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 6 ayes — Flores, Goolsby, Hamilton, Miles, Quintanilla, Thompson
0 nays
3 absent — Geren, Isett, Jones
- WITNESSES:** *(On committee substitute #1 by Goolsby:)*
For — Bill Donley and Jason Roberts, Lone Star Adaptive Auto Dealers Association; Anne-Marie Robinson, Paralyzed Veterans of America; *(Registered, but did not testify:)* Chase Bearden and Dennis Borel, Coalition of Texas with Disabilities; John Haynes, Paralyzed Veterans of America - Texas Chapter; Sarah Mills, Advocacy Inc.; Guy Tucker, Lone Star Adaptive Auto Dealer Association; and 12 others)

Against — Tom Blanton, Texas Automobile Dealers Association

On — Brett Bray, Texas Department of Transportation
- BACKGROUND:** Transportation Code, ch. 503 defines “independent motor vehicle dealer” as a dealer other than a franchised motor vehicle dealer or a wholesale motor vehicle dealer.

Sec. 503.021 provides that a person may not engage in business as a dealer, directly or indirectly, including by consignment, without a dealer general distinguishing number for each location where the person conducts business as a dealer. The distinguishing number specifies the type of dealer the registrant proposes to be.

The holder of an independent motor vehicle dealer’s general distinguishing number may reassign a certificate of title or other basic evidence of ownership of any type of vehicle owned by the dealer where a sale or offer for sale is not prohibited by law.
- DIGEST:** CSHB 2216 would permit the sale of mobility motor vehicles through an independent mobility motor vehicle dealership. The bill would define

“mobility motor vehicle” as a vehicle specially designed and equipped to transport a person with a disability. Among its features, the chassis of such a vehicle would have a permanently lowered floor or frame or raised ceiling and door. In addition, it would have to contain a wheelchair lift or ramp and a permanent system to secure a wheelchair or scooter.

An “independent mobility motor vehicle dealer” would be defined as a non-franchised dealer who:

- held a general distinguishing number and a converter’s license;
- was engaged in the business of buying, selling, or exchanging mobility motor vehicles at an established and permanent place of business in the state; and
- was certified by the manufacturer of each mobility device that the dealer installs, if the manufacturer offered that certification.

The bill would add Occupations Code, sec. 2301.361 to allow an independent mobility motor vehicle dealer to:

- purchase or otherwise acquire a new motor vehicle with a lowered floor or frame or a raised roof and door to fit or equip the motor vehicle for retail sale as a mobility motor vehicle;
- display a new mobility motor vehicle to a person with a disability to fit or equip the vehicle as a mobility motor vehicle for the person; and
- sell or arrange for the sale and delivery of a new mobility motor vehicle to a purchaser at the independent mobility motor vehicle dealer’s place of business if the transaction occurred through or by a franchised dealer of the motor vehicle’s chassis line make.

An independent mobility motor vehicle dealer who purchased or acquired a new motor vehicle from a franchise dealer could not advertise the vehicle for sale until the vehicle was fitted or equipped as a mobility motor vehicle, and an independent mobility motor vehicle dealer could not sell or offer to sell a new motor vehicle other than a new mobility motor vehicle.

A person seeking to act as an independent mobility dealer would need to apply to the Texas Department of Transportation for a general distinguishing number. As part of this process, proof would be required that the applicant:

- agreed to maintain written records of adaptive work for at least three years;
- maintained proof of a garagekeeper's insurance policy of at least \$50,000 and a products-completed operations insurance policy of at least \$1 million;
- held a welder's certification; and
- had registered with the National Highway Traffic and Safety Administration.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 2216 would allow mobility motor vehicle dealers to inventory, advertise, display, and offer to sell new vehicles that have been specially modified to meet the independent transportation needs of customers with disabilities. There is a need for this bill, because it currently is illegal for anyone other than a franchised motor vehicle dealer to display, advertise, and sell new vehicles. As a result, most disabled persons seeking to purchase a converted vehicle rely on catalog purchasing, which often creates long delays before the customer receives the vehicle, and the conversion options are not always sufficient to meet the specific physical needs of the disabled person. CSHB 2216 would give people with disabilities the opportunity to purchase new vehicles that meet their needs in the same manner afforded to everyone else.

In response to concerns about the bill as introduced and an earlier committee substitute, the version CSHB 2216 voted out of committee clarified that the display or sale of new, *unconverted* vehicles would remain the exclusive province of new vehicle franchise dealers. Independent mobility motor vehicle dealers could engage only in the display or sale of vehicles fitted or equipped as motor mobility vehicles.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

Under HB 2216 as introduced, an independent mobility motor vehicle dealer would have fallen under the definition of "broker" in the Occupations Code. An independent mobility motor vehicle dealer also could have displayed a new motor vehicle to a person with a disability and resold a new vehicle fitted or equipped as a mobility motor vehicle

without going through a franchised dealer. CSHB 2216 modified this language and specifies that an independent mobility motor vehicle dealer could not sell or offer to sell a new vehicle other than a new mobility motor vehicle.

The companion bill, SB 174 by Shapiro, has been referred to the Senate Transportation and Homeland Security Committee.