

BILL ANALYSIS

Senate Research Center
76R11360 GJH-F

H.B. 3092
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Infrastructure
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Engrossed

DIGEST

Currently, the Texas Motor Vehicle Commission Code provides for the licensing of manufacturers of motor vehicles and their franchised dealers and independent dealers, and includes regulations for relations between and among licensees. The purpose of this bill is to clarify definitions and other provisions contained in the code. H.B. 3092 provides that a person is eligible for appointment to the Texas Motor Vehicle Board (board) if the person is otherwise eligible under this Act and is a natural person who is either a dealer or is the bona fide owner of at least 20 percent of a dealer entity. This bill also requires a manufacturer or distributor to file with the board a copy of the current requirements the manufacturer or distributor places on its dealer with respect to the dealer's duties under the manufacturer's or distributor's warranty, and vehicle delivery and preparation obligations. In addition, this bill defines "incentive programs" and requires a manufacturer or distributor to file with the board a copy of the rules and procedures of the program, and the duties of a dealer under the program.

PURPOSE

As proposed, H.B. 3092 clarifies and expands the duties and authorities of the Texas Motor Vehicle Board.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Motor Vehicle Board in SECTION 9 (Section 4.02(d), Texas Motor Vehicle Commission Code, Article 4413(36), V.T.C.S.), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 1.03(3), (14), (18), (19), (21), and (33), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to redefine "broker," "franchise," "lease facilitator," "lessor," "manufacturer," and "rule."

SECTION 2. Amends Section 1.03(28), Article 4413(36), V.T.C.S., to redefine "party."

SECTION 3. Amends Section 1.03(28), Article 4413(36), V.T.C.S., to redefine "towable recreational vehicle."

SECTION 4. Amends Section 2.02, Article 4413(36), V.T.C.S., by amending Subsection (c) and adding Subsection (d), to set forth qualifications for appointment to the Motor Vehicle Board (board) of the Texas Department of Transportation (TxDOT).

SECTION 5. Amends Sections 2.08(a)-(c), Article 4413(36), V.T.C.S., to provide that the board, rather than the Motor Vehicle Commission (commission), is subject to certain Government Code chapters, and is required to develop and implement certain policies. Deletes text providing that a member appointed under Section 2.02 is not counted in the calculation of a quorum. Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 2.08A(c), Article 4413(36), V.T.C.S., to make conforming and nonsubstantive changes.

SECTION 7. Amends Section 3.02, Article 4413(36), V.T.C.S., to make conforming changes.

SECTION 8. Amends Section 3.08(g), Article 4413(36), V.T.C.S., to require the signature of the

chairman or vice chairman, rather than the Director.

SECTION 9. Amends Section 4.02, Article 4413(36), V.T.C.S., to authorize the board to adopt a rule regulating towable recreational vehicles, and requires the rule to authorize the display and sale of such a vehicle at a certain venue. Deletes text granting rulemaking authority to the commission, and regarding a certain venue. Makes conforming and nonsubstantive changes.

SECTION 10. Amends Section 4.03(b), Article 4413(36), V.T.C.S., to require the applicant to create a certain list of dealers.

SECTION 11. Amends Section 5.01B(a), Article 4413(36), V.T.C.S., to require a statement identifying the manufacturer that owns or controls the entity, under certain conditions, to be included in a specified written notice.

SECTION 12. Amends Section 5.02(b), Article 4413(36), V.T.C.S., to require the board to consider injury or benefit to the public, rather than injury to the public welfare. Deletes text regarding failure to compensate dealers for their services, and dealership ownership. Makes conforming changes.

SECTION 13. Amends Section 6.01, Article 4413(36), V.T.C.S., as follows:

Sec. 6.01. New heading: ADMINISTRATIVE PENALTY. Authorizes the board to determine a violation under Chapter 728A and levy an administrative penalty. Makes conforming and nonsubstantive changes.

SECTION 14. Amends Section 6.07(a), Article 4413(36), V.T.C.S., to redefine “owner.” Deletes text regarding the existing definition of “owner.” Makes conforming changes.

SECTION 15. Amends Section 7.01(f), Article 4413(36), V.T.C.S., to provide that appeal does not affect the enforcement of a final board order unless the board suspends the enforcement of its order pending the final determination of an appeal. Makes conforming changes.

SECTION 16. Amends Article 4413(36), V.T.C.S., by adding Subchapter H, as follows:

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 8.01. WARRANTY REIMBURSEMENT. Requires manufacturers or distributors to file a copy of the obligatory requirements it places on dealers with the board. Sets forth the conditions under which a requirement imposed on a dealer is unenforceable. Sets forth work requiring compensation for the dealers by manufacturers and distributors. Provides that a reimbursement claim under Subsection (c)(3) that is not disapproved by a certain date is considered to be approved. Requires the manufacturer or distributor, if a reimbursement claim is disapproved, to provide the dealer, by written notice, the reasons for disapproval. Sets forth provisions regarding claim approval and disapproval. Sets forth prohibitions against manufacturers or distributors regarding audits and required filing.

Sec. 8.02. MANUFACTURER OR DISTRIBUTOR INCENTIVE PROGRAMS: PROCEDURES. Defines “incentive program.” Requires manufacturers or distributors to file a copy of incentive program rules, procedures, and duties, prior to program implementation. Sets forth prohibitions and provisions regarding a manufacturer’s or distributor’s authority to recoup money. Prohibits the manufacturer or distributor from auditing dealer records under certain circumstances, and provides that clerical error is not fraud.

Sec. 8.03. MANUFACTURER OWNERSHIP OF DEALERSHIP. Defines “agent.” Describes the issue of manufacturer control. Prohibits a manufacturer, distributor, representative, or agent from owning interest in, operating or controlling, or acting in the capacity of, a dealer or dealership. Sets forth provisions for a manufacturer, distributor, representative, or agent to control an interest in a dealership, for not more than 12 months, under certain conditions. Sets forth provisions for a manufacturer, distributor, representative, or agent to temporarily own interest in a dealership, under certain conditions.

SECTION 17. Makes application of this Act prospective, with regard to Section 2.02, Article 4413(36),

V.T.C.S.

SECTION 18. Makes application of this Act prospective, with regard to Section 3.08(g), Article 4413(36), V.T.C.S.

SECTION 19. Makes application of this Act prospective, with regard to Section 6.07(a), Article 4413(36), V.T.C.S.

SECTION 20. Makes application of this Act prospective, with regard to Section 8.03, Article 4413(36), V.T.C.S.

SECTION 21. Emergency clause.
Effective date: upon passage.