

## **BILL ANALYSIS**

Senate Research Center

S.B. 1250  
By: Cain  
Infrastructure  
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As Filed

### **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. S.B. 1250 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, S.B. 1250 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 7 (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 Section 1.03, Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to redefine "broker," "franchise," "lessor," "manufacturer," "party," "rule," and defines "towable recreational vehicle." Deletes a definition for "towable recreational vehicle." Makes conforming changes.

SECTION 2. Amends Section 2.02, Article 4413(36), V.T.C.S., by adding Subsection (d), to set forth qualifications for appointment to the Motor Vehicle Board (board) of the Texas Department of Transportation (TxDOT).

SECTION 3. Amends Sections 2.08(a)-(c), Article 4413(36), V.T.C.S., to provide that a member's vote does not count if that member is appointed under Section 2.02(b), rather than Section 2.02, Texas Motor Vehicle Commission Code. Provides 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.

SECTION 4. Amends Section 2.08A(c), Article 4413(36), V.T.C.S., to make conforming and nonsubstantive changes.

SECTION 5. Amends Section 3.02, Article 4413(36), V.T.C.S., to make conforming changes.

SECTION 6. 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 7. 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 8. Amends Section 4.03(b), Article 4413(36), V.T.C.S., to require the applicant to create a certain list of dealers.

SECTION 9. Amends Section 5.01(a), Article 4413(36), V.T.C.S., to require a statement identifying the manufacturer that owns or controls the entity, under certain conditions, is included in a specified written notice.

SECTION 10. 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 11. Amends Article 4413(36), V.T.C.S., by adding Sections 5.02A-C, as follows:

Sec. 5.02A. **WARRANTY REIMBURSEMENT.** Requires manufacturers or distributors to file a copy of the obligatory requirements it places on dealers, and requires the board to verify that the requirements are reasonable. Provides that the warranty or preparation requirements are only enforceable if they comply with Subsection (a). Sets forth work requiring compensation for the dealers by manufacturers and distributors. Prohibits manufacturers or distributors from paying less than a retail customer for the dealer's nonwarranty work, and requires payment within 30 days after claim approval. Sets forth provisions regarding claim approval and disapproval. Prohibits manufacturers or distributors from charging a dealer to recoup money which satisfied a claim, and sets forth provisions for recouping claims. Sets forth prohibitions against manufacturers or distributors regarding audits and required filing.

Sec. 5.02B. **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 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. 5.02C. **MANUFACTURER OWNERSHIP OF DEALERSHIP.** Defines "manufacturer." Describes the issue of manufacturer control. Prohibits a manufacturer from owning interest in, operating or controlling, or acting in the capacity of, a dealer or dealership. Authorizes a manufacturer to control a franchised dealership for a maximum of 12 months under certain conditions. Sets forth provisions for a manufacturer to temporarily own interest in a dealership, under certain conditions.

SECTION 12. Amends Section 6.01, Article 4413(36), V.T.C.S., to authorize the board to determine a violation under Chapter 728A. Makes conforming changes.

SECTION 13. Amends Section 6.07(a), Article 4413(36), V.T.C.S., to define "owner." Deletes text regarding the existing definition of "owner." Makes a conforming change.

SECTION 14. Amends Section 7.01(f), Article 4413(36), V.T.C.S., to authorize the board to suspend enforcement of its order pending the final determination of an appeal. Makes a conforming change.

SECTION 15. Emergency clause.  
Effective date: upon passage.