

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 849  
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### **DIGEST AND PURPOSE**

Currently, state law requires that motor vehicle manufacturers, distributors, dealers, lessors, and lease facilitators be licensed by an agency of the state, the Texas Motor Vehicle Board (board). The board is an independent licensing and regulatory agency within the Texas Department of Transportation. The board consists of nine members appointed by the governor and employs a director and staff. The law establishes certain rights and duties applicable to the licensees, and also gives the board the authority to regulate relations among manufacturers, dealers, and purchasers/owners of motor vehicles. As proposed, S.B. 849 provides general "house-keeping" amendments to this body of law. The primary purpose of the bill is to make technical corrections and conforming amendments and to update the law in response to changes in the industry since the most recent legislative session.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Motor Vehicle Board of the Texas Department of Transportation in SECTION 6 (Section 3.03) and in SECTION 9 (Section 4.01), Texas Motor Vehicle Commission Code, of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subdivisions (6) and (15), Section 1.03, Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to redefine "converter" and "franchised dealer" for more clarity.

SECTION 2. Amends Sections 203 (b) and (c), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to provide that the office of a member is automatically vacated and is required to be filled as any other vacancy, if the member acquires a substantial interest in a business that manufactures, distributes, converts, leases, or sells motor vehicles or the member becomes an employee or paid consultant, rather than officer, of a trade association in the motor vehicle industry. Amends reference to Section 2.02(c) (1) as Section 2.02(b) (1). Makes conforming changes.

SECTION 3. Amends Section 2.08(d), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to amend reference to Section 2.02(c) as Section 2.02(b).

SECTION 4. Amends Section 2.12(c), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to require the Motor Vehicle Board of the Texas Department of Transportation (board), rather than commission, with regard to each complaint filed by the board for the purposes of enforcing this Act, to keep certain information. Makes a conforming change.

SECTION 5. Amends Section 3.01(a), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to provide that the board has the exclusive original jurisdiction to regulate all aspects of the distribution, sale, and leasing of motor vehicles as provided by this Act. Makes nonsubstantive changes.

SECTION 6. Amends Section 3.03, Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), as follows:

Sec. 3.03. New heading: GENERAL BOARD POWERS. Transfers rulemaking authority from the Department of Transportation to the board. Makes conforming changes.

SECTION 7. Amends Section 3.05(a), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to provide that the board, notwithstanding other law, has the authority to enter an order necessary to implement the terms of this Act, including an order requiring a person to perform certain task.

SECTION 8. Amends Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code) by adding Section 3.07B, as follows:

Sec. 3.07B. CERTAIN TIME LIMITS TOLLED DURING PENDENCY OF MANDATORY MEDIATION PROCEEDINGS. Provides that a time limit relating to board proceedings imposed on the board or on a dealer by the terms of this Act is tolled during the pendency of mandatory mediation proceedings required by this Act or by a franchise agreement.

SECTION 9. Amends Section 4.01(a), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to authorize the board to issue a duplicate license for any license it issues, charge a fee for the issuance of a duplicate license, and adopt rules applicable to the issuance of a duplicate license. Makes conforming changes.

SECTION 10. Amends Section 4.03(c), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to amend reference to Section 5.02 as Sections 5.02A, 5.02B, and 5.02C. Makes a conforming change.

SECTION 11. Amends Section 4.05(a), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to require the annual license fees for licenses issued to be: for each amendment to a license, rather than dealer's license, \$25, and for each duplicate license, \$50.

SECTION 12. Amends Section 4.06(a), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to authorize the board to deny an application for a license, revoke or suspend an outstanding license, or place on probation a person whose license has been suspended, or reprimand a licensee for willfully defrauding any buyer, rather than retail buyer.

SECTION 13. Amends Section 5.02(b), Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), to provide that it is unlawful for any manufacturer, distributor, or representative to fail to pay to a dealer or any lienholder in accordance with their respective interest after the termination of a franchise, notwithstanding the terms of any franchise agreement, the dealer cost of each new motor vehicle in the dealer's inventory with mileage placed on the motor vehicle before it was delivered to the dealer, reduced by the net discount value of each, where "net discount value" is determined according to a specified formula.

SECTION 14. Effective date: upon passage or September 1, 2001.