

BILL ANALYSIS

Senate Research Center
80R10238 JMM-F

H.B. 733
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Transportation & Homeland Security
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It is unclear whether a manufacturer is prohibited from selling used a heavy duty pre-owned truck because of the definition of dealer under current statute. "Dealer" is defined as any person who holds a General Distinguishing Number license under Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code. This means that both new and used vehicle dealerships are subject to the prohibitions in Section 2301.476 (Manufacturer or Distributor Ownership, Operation, or Control of Dealership), Occupations Code.

H.B. 733 provides an exception for a manufacturer that owned on or before January 1, 2007, an interest in a motor vehicle dealer engaged in the sale of used motor vehicles and that did not agree to or had not been ordered by a court order or ruling to comply with the statute. This bill provides an exception that allows manufacturers who meet a certain criteria to sell used heavy-duty trucks with a gross weight rating of 16,000 pounds or more under certain conditions for 15 years.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2301.476, Occupations Code, by adding Subsections (j) through (o), as follows:

(j) Provides that this section (Manufacturer or Distributor Ownership, Operation, or Control of Dealership) does not prohibit a manufacturer or distributor that owned an interest in a motor vehicle dealer (dealer) on or before January 1, 2007, and that is engaged in the sale of used motor vehicles and that has not agreed to or been ordered by a court order or ruling to comply with Subsection (c) (regarding certain prohibitions on manufacturer or distributor relating to a dealer or dealership), from continuing to directly or indirectly own an interest in the dealer if the manufacturer's or distributor's ownership and control of the dealer does not increase after January 1, 2007. Sets forth certain circumstances under which the exception provided by this subsection does and does not apply.

(k) Provides that a dealer under Subsection (j) violates that subsection if the dealer sells or offers to sell a motor vehicle with a gross weight rating of less than 16,000 pounds, other than a motor vehicle the dealer acquired as a trade-in under certain circumstances, if the dealer performs or offers to perform new motor vehicle warranty repair, or if the dealer sells or offers for sale a new motor vehicle.

(l) Provides that a manufacturer or distributor described by Subsection (j) violates that subsection if the manufacturer or distributor sells, assigns, or otherwise transfers an interest in the dealer or a portion of that interest to an unaffiliated manufacturer or distributor, or increases its ownership in the dealer.

(m) Provides that a person who violates Subsection (j), (k), or (l) is subject to a civil penalty under Section 2301.801 (Civil Penalty), Occupations Code, a suit for injunctive relief under Section 2301.804 (Suit for Injunctive Relief or Civil Penalty), Occupations

Code, or denial, revocation, or suspension of a license under Section 2301.651 (Denial, Revocation, or Suspension Generally), Occupations Code.

(n) Provides that a reference to a dealer includes the physical premises, business facilities, and operations where motor vehicle sales occur for purposes of Subsections (j), (k), and (l).

(o) Provides that this subsection, Subsections (j) through (n), and the exception provided by Subsection (j) expire September 1, 2023.

SECTION 2. Effective date: September 1, 2008.