

BILL ANALYSIS

Senate Research Center
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S.B. 854
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Transportation
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2011, the Texas Legislature passed S.B. 529, which related to the regulation of motor vehicle dealers, manufacturers, and distributors. Among other statutory changes, S.B. 529 modified Texas law regarding property control agreements. These agreements exist when a motor vehicle manufacturer offers an automobile dealer money to help finance capital improvements at a dealership. In exchange, the manufacturer gets certain agreed upon property control provisions. S.B. 529, as agreed to by both the automobile dealers and the automobile manufacturers, limited the responsibility of a dealer when the property control agreements are not followed by the dealer.

S.B. 854 changes Texas law in the limited circumstances when an automobile manufacturer or distributor offers an automobile dealer real property for use by the dealership. In those circumstances, the manufacturer or distributor will be able to limit the dealer's ability to sell vehicles from other manufacturers on the property, and will be able to limit the dealer's ability to sell or transfer the real property for any use other than as an automobile dealership. These limitations will transfer to subsequent purchasers.

As proposed, S.B. 854 amends current law relating to the regulation of motor vehicle dealers, manufacturers, distributors, and representatives.

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 Subchapter J, Chapter 2301, Occupations Code, by adding Section 2301.483, as follows:

Sec. 2301.483. PROPERTY USE AGREEMENTS RELATED TO PROPERTY OWNED BY MANUFACTURER, DISTRIBUTOR, OR REPRESENTATIVE. (a) Authorizes a dealer, notwithstanding Sections 2301.4671 (Franchise Provision Establishing Restriction on Dealer's Use of Dealership Property), 2301.481 (Property Use Agreement), and 2301.482 (Certain Property Use Agreement), and subject to this section, to enter into a property use agreement for a franchise in which the manufacturer, distributor, or representative has purchased any necessary real estate for the dealership.

(b) Authorizes a property use agreement under this section to include provisions that limit the franchised dealer's ability to add a line-make; prohibit the sale or transfer of the dealership property to any transferee that will not continue to engage in the business of buying, selling, or exchanging new motor vehicles or servicing or repairing motor vehicles under a manufacturer's warranty under a franchise in effect with the manufacturer or distributor that purchased or funded any part of the dealership property; and bind a franchised dealer's successor.

(c) Provides that a property use agreement under this section expires on the earlier of the date provided by the property use agreement or the termination of the franchise between the parties to the property use agreement.

(d) Provides that this section applies to a subsidiary of, or a person controlled by, a manufacturer, distributor, or representative.

SECTION 2. Amends Section 2301.6521(d), Occupations Code, to prohibit a franchised dealer from protesting an application to relocate a dealership under this section if the proposed relocation is not more than two miles, rather than two miles or less, from the dealership's current location or closer to the franchised dealer than the site from which the dealership is being relocated.

SECTION 3. Provides that Section 2301.483, Occupations Code, as added by this Act, applies only to an agreement entered into or renewed under Chapter 2301, Occupations Code, on or after the effective date of this Act. Provides that an agreement entered into or renewed before that date is governed by the law in effect on the date the agreement was entered into or renewed, and the former law is continued in effect for that purpose.

SECTION 4. Provides that Section 2301.6521(d), Occupations Code, as amended by this Act, applies only to an application to relocate a dealership that is made on or after the effective date of this Act. Provides that an application made before that date is governed by the law in effect on the date the application was made, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: upon passage or September 1, 2013.