
**Consumer Protection & Business
Committee**

HB 1721

Brief Description: Concerning manufacturers and vehicle dealers.

Sponsors: Representatives Doglio, McEntire, Penner, Fitzgibbon, Parshley, Entenman, Kloba and Zahn.

Brief Summary of Bill

- Allows for direct sales of zero emissions vehicles (ZEV) by manufacturers in specified circumstances.
- Establishes a ZEV Technician Training and Infrastructure Grant Program.
- Modifies the exception for a manufacturer competing with dealers from certain manufacturers with a dealer license on January 1, 2014, to ZEV manufacturers in specified circumstances.
- Establishes new unlawful acts or practices applicable to manufacturers and dealers.
- Provides new requirements for manufacturers and dealers relating to warranty work, unfair practices, relevant market areas, and manufacturer incentive programs.

Hearing Date: 2/14/25

Staff: Megan Mulvihill (786-7304).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Motor Vehicle Dealers and Manufacturers.

The Department of Licensing (Department) regulates persons who engage in businesses as new motor vehicle dealers and motor vehicle manufacturers under the Dealers and Manufacturers Act (Act), and the Department Director has the authority to issue and deny licenses. Under the Act, manufacturers and new motor vehicle dealers are defined as follows:

- "Manufacturers" are persons, firms, associations, corporations, or trusts, resident or nonresident, who manufacture or assemble new, unused, or remanufactured vehicles in whole or in part. Manufacturers further include distributors, factory branches, and factory representatives.
- "New motor vehicle dealers" are those dealers buying, selling, or otherwise dealing in new motor vehicles or new and used motor vehicles at an established place of business, under a franchise agreement with the manufacturer of the new motor vehicles.

Manufacturers' and Dealers' Franchise Agreements.

Manufacturers and new motor vehicle dealers must maintain a franchise relationship, and the responsibilities of each party are delineated in state law and the franchise agreement of the parties. Franchise agreements between a manufacturer and new motor vehicle dealer specify conditions under which the new motor vehicle dealer may sell, service, and repair new motor vehicles, parts, and accessories, under a common name, trademark, or service mark of the manufacturer. State statutes generally dictate when and how a manufacturer may terminate, cancel, or nonrenew a dealer's franchise and the compensation a manufacturer must pay a dealer for warranty work and customer-paid service repairs.

Prohibition on Manufacturers Competing with Dealers.

Various practices are deemed unfair and prohibited, including that a manufacturer may not compete with a dealer of any make or line by acting in the capacity of a dealer, or by owning, operating, or controlling, whether directly or indirectly, a motor vehicle dealership in Washington.

One exception from the prohibition on competing with a dealer provides that it is not a violation for a manufacturer that held a vehicle dealer license on January 1, 2014, to own, operate, or control a new motor vehicle dealership that sells new vehicles that are only of that manufacturer's makes or lines and that are not sold as new by a licensed independent franchise dealer. The manufacturer may also own, operate, control, or contract with companies providing financing, leasing, or servicing of its own makes and lines of vehicles.

Warranty work.

Manufacturers must specify in their franchise agreements a dealer's obligation to perform warranty work or service on the manufacturer's products, including providing dealers with a compensation schedule for any warranty work or service required of the dealer in connection with the manufacturer's products. The schedule of compensation must not be less than the dealer's rates for similar service to its retail customers for nonwarranty service and repairs.

Relevant Market Areas.

Manufacturers must also provide specified notices to the Department and new motor vehicle dealers if the manufacturer intends to enter into a franchise to establish an additional motor vehicle dealer, or relocate an existing motor vehicle dealer within a relevant market area. Relevant market areas are determined by a specified radius based on the population of the county where the proposed new or relocated dealership will be sited.

Unfair Practices.

Notwithstanding the terms of a franchise agreement, manufacturers, distributors, and other factory representatives are prohibited from certain unfair practices. Prohibited practices include discriminating between new motor vehicle dealers by selling a like vehicle to one dealer at a lower actual price than the actual price offered to another dealer, or using confidential or proprietary information obtained from a dealer to unfairly compete with the dealer.

Summary of Bill:

Zero Emissions Vehicles.

Direct Sales.

A qualified zero emissions vehicle (ZEV) manufacturer may provide direct sales of ZEVs if it: (1) establishes at least two service centers within Washington; and (2) provides a mobile service for vehicle owners within the state before the commencement of any direct sales. In addition, a ZEV manufacturer may provide online direct sales of ZEVs if the vehicles are delivered through a designated service center, delivery center, or a partnered dealership. A ZEV sold via direct sale must include a warranty covering repairs and maintenance at a designated service center and comply with the Consumer Protection Act.

Zero Emissions Vehicle Technician and Charging Infrastructure Grant Program.

Subject to funding, the Department of Commerce must establish a ZEV Technician Training and Charging Infrastructure Grant Program (Grant Program) to support traditional auto dealerships and assist them in their transition to ZEV sales. Grant funding may be used for publicly available ZEV charging and supply equipment infrastructure and employee training on ZEV technology and servicing.

A qualified ZEV manufacturer may partner with a traditional auto dealer to operate as service centers or delivery partners for the direct sale of ZEVs. A traditional auto dealer that partners with a qualified ZEV manufacturer is eligible for a one-time grant award to help cover the costs associated with servicing ZEVs from qualified ZEV manufacturers.

Until July 1, 2030, any traditional auto dealer that achieves at least 50 percent of its total annual vehicle sales in ZEVs must receive an additional award equal to 50 percent of the award received from the Grant Program.

Report on Direct Zero Emissions Vehicles Sales.

By July 1 of each year, beginning July 1, 2026, the Department of Licensing must review and report to the Legislature on the effectiveness in expanding ZEV access while supporting

traditional auto dealers. The report due on July 1, 2034, must include a recommendation on whether or not to retain, modify, or repeal the authorization of ZEV direct sales by qualified ZEV manufacturers.

Zero Emissions Vehicle Dealer Charges.

A dealer is permitted to charge up to \$250 per ZEV sale or lease or \$275 per ZEV sale or lease if the dealer satisfies the Department of Energy's ZEV standards to recover certain administration costs related to vehicle sales or leases, such as collecting taxes and verifying titles.

Motor Vehicle Dealers and Manufacturers.

The definition of "manufacturer" in the Dealers and Manufacturers statute is modified to include any person, firm association, corporation, or trust, whether resident or nonresident, who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under the common direction and possesses direct or indirect power to direct or cause the direction of, the management and policies of such person, firm, association, corporation, or trust, whether resident or nonresident.

Two additional acts or practices are deemed unlawful under the Dealers and Manufacturers statute. First, a manufacturer is prohibited from offering a subscription service for any motor vehicle feature that uses components and hardware already installed at the time of purchase or lease, which would function after activation without ongoing cost to or support by the dealer, manufacturer, distributor, or a third-party service provider. This prohibition does not apply to navigation system updates, satellite radio, roadside assistance, software-dependent driver assistance or driver automation, and vehicle-connected services that rely on cellular or other data networks for continued operation. Second, a manufacturer may not take reservations, dictate the selling price, or negotiate binding terms of a sale or lease of a new motor vehicle directly between the manufacturer, factory branch, distributor, or distributor branch and retail buyers or lessees.

Manufacturers' and Dealers' Franchise Agreements.

Modification to the Exception to a Manufacturer Competing with Dealers.

The exception that allowed a manufacturer holding a dealer license on January 1, 2014, to compete with dealers is modified. Instead, a manufacturer that has not previously offered a franchise agreement to a dealer in the state and only produces ZEVs is allowed to:

- own, operate, or control a new motor vehicle dealership that sells new vehicles that are only of that manufacturer's makes or lines;
- own, operate, control, or contract with companies that provide finance, leasing, or service for vehicles that are of that manufacturer's makes or lines; or
- provide service for vehicles that are of that manufacturer's makes or lines.

The exception does not apply if a common entity of the manufacturer has ever entered into a franchise agreement with an independent dealer for the sale of new motor vehicles.

Warranty Work.

As part of warranty work required pursuant to a franchise agreement, if a manufacturer furnishes a part or component to a new motor vehicle dealer at no or reduced cost for repairs, the manufacturer must compensate the dealer at the retail parts rate on the wholesale cost for the part as listed in the manufacturer's price schedule, minus the wholesale cost for the part. A manufacturer may not establish a special part or component number for parts used in predelivery, dealer preparation, warranty, service contract, certified preowned warranty, recall, campaign service, authorized goodwill, or maintenance-only applications if it results in lower compensation to the dealer than as calculated under the foregoing requirement.

Additionally, a manufacturer must compensate a dealer for labor and diagnostic work at a rate determined by dividing the total customer labor charges for qualifying nonwarranty repairs in the repair orders submitted by the total number of hours that would be allowed for the repairs if the repairs were made under the manufacturer's time allowances used in compensating the dealer for warranty work.

Relevant Market Area.

Relevant market areas for counties with a population of 400,000 or more include the geographic area within a radius of 10 miles, rather than 8 miles, around a proposed new or relocated dealership site.

Unfair Practices.

Notwithstanding the terms of a franchise agreement, manufacturers, distributors, and factory branches and their representatives may not implement a program or policy encouraging or requiring franchises to install direct current fast charging stations (charging stations), unless all of the following are satisfied:

- If public access to the charging station is required, the franchisor must reimburse a dealer for one-half of the cost to install and maintain the charging stations if the dealer pays the franchisor half of the net income generated from charging station use.
- Franchisees can obtain access to charging stations within a minimum of 5 miles from the franchisee's dealership location that satisfy the program or policy.
- The program or policy is reasonable in light of all existing circumstances, including local conditions, supply constraints, time constraints, advancements in vehicular technology, and electric grid integration.
- A new motor vehicle dealer has the right to purchase or lease goods or services of like kind and quality from an alternative vendor the dealer selects if the goods or services would otherwise be supplied by a vendor selected, identified, or designated by the manufacturer or distributor.

While manufacturers, distributors, and factory branches and their representatives may not compete with a new motor vehicle dealer by acting as a new motor vehicle dealer, or owning, operating, or controlling a motor vehicle dealership in Washington, it is not prohibited for a manufacturer, distributor, or factory branch or their representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship to enhance opportunities for qualified persons who represent overburdened communities.

Manufacturer Incentive Programs.

A manufacturer may not implement an incentive program that:

- does not provide an equal opportunity for all motor vehicle dealers to qualify based on consideration of dealership location and sales volume;
- predetermines the price of a vehicle;
- limits eligibility based on nonvehicle product penetration; or
- requires the use of specific software or service vendors to qualify.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.