SENATE BILL REPORT
SB 5592

As of February 1, 2025

Title: An act relating to manufacturers and vehicle dealers.

Brief Description: Concerning manufacturers and vehicle dealers.

Sponsors: Senators Saldaña, Harris and Liias.

Brief History:
Committee Activity: Labor & Commerce: 2/04/25.

Brief Summary of Bill

- Allows for direct sales of zero emissions vehicles (ZEVs) by manufacturers in specified circumstances, provides for a ZEV Technician Training and Infrastructure Grants Program, and requires a report to the Legislature on ZEV sales.
- Makes it unlawful for a vehicle manufacturer to offer certain customer subscription services utilizing already installed components and hardware and to take reservations, dictate sales price, or negotiate binding terms for sale or lease of new vehicles directly between a manufacturer or certain others and a buyer for delivery in Washington.
- Stipulates warranty service and parts compensation from manufacturers to dealers.
- Modifies the term relevant market area to increase the radius miles for smaller counties.
- Adds overburdened communities for diversification in dealership ownership.
- Modifies the exception for a manufacturer competing with dealers from certain manufacturers with a dealers license on January 1, 2014, to ZEV manufacturers in specified circumstances.

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.

- Limits manufacturers from requiring dealers to install fast charging stations unless certain requirements are met.
- Prohibits a manufacturer from implementing inventive programs unless they provide equal opportunities for all dealers in limited circumstances.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Susan Jones (786-7404)

Background: A new motor vehicle manufacturer (manufacturer) or new motor vehicle brand owner maintains a relationship with a new motor vehicle dealer (dealer) through a franchise agreement. Certain responsibilities of each party are delineated in state law and the franchise agreement between the parties. State law generally dictates when a manufacturer may own or terminate a dealer's franchise, that manufacturers may not discriminate between dealers, and how manufacturers must reimburse a dealer for warranty work.

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 State.

One exception from the prohibition on competing with a dealer provides that it is not a violation for a manufacturer that held a Washington State 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, or control or contract with companies providing financing, leasing, or servicing its own makes and lines of vehicles.

A number of these statutes use the term relevant market area. For example, a manufacturer may not coerce, threaten, intimidate, or require a dealer, as a condition to granting or renewing a franchise, to waive, limit, or disclaim a right that the dealer may have to protest the establishment or relocation of another dealer in the relevant market area.

A violation of certain prohibitions on unfair practices related to dealers and manufacturers is deemed to affect the public interest and constitutes an unlawful and unfair practice under the Consumer Protection Act (CPA). The attorney general (AG) is authorized to investigate and prosecute claims under the CPA on behalf of the state or individuals in the state. A person injured by a violation of the CPA may bring a private action for injunctive relief, recovery of actual damages, and reasonable attorneys' fees. The courts may increase awarded damages up to three times the actual damages sustained. A person aggrieved by an

alleged violation may petition the Department of Licensing (DOL) to have the matter handled as an adjudicative proceeding.

Summary of Bill: Direct Sales of Zero Emissions Vehicles by Manufacturers. A qualified zero emissions vehicle (ZEV) manufacturer may provide:

- direct sales of ZEVs if it establishes at least two service centers in Washington; and provides a mobile service for vehicle owners in Washington before commencing sales; and
- online direct sales if the vehicles are delivered through a designated service center, delivery center, or an authorized partnered dealership.

Any ZEV direct sales must include a warranty, covering repairs and maintenance at any designated service center, and comply with the CPA.

Zero Emissions Vehicle Technician Training and Infrastructure Grants. Subject to the availability of appropriated amounts, the Department of Commerce (Commerce) must establish a ZEV Technician Training and Infrastructure Grant Program (Program) to support ZEV technician training and charging infrastructure at traditional auto dealerships and assist them in their transition to ZEV sales. Program funds may only 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 traditional auto dealers to operate as service centers or delivery partners for the direct sale of ZEVs. Any traditional auto dealer that partners with a qualified ZEV manufacturer for the direct sale of ZEVs is eligible for a one-time Program award in an amount as determined by Commerce to help cover the costs associated with servicing ZEVs from qualified ZEV manufacturers.

Until July 1, 2030, and subject to the availability of appropriated amounts, any traditional auto dealer that achieves ZEV sales that account for at least 50 percent of its total annual vehicle sales, consistent with Department of Ecology standards, must receive an additional 50 percent of the award received from the Program.

Report on Zero Emissions Vehicle Direct Sales. By July 1st of each year, beginning July 1, 2026, DOL must review and provide a 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.

Definitions are provided for the terms direct sales, qualified zero emissions vehicle manufacturer, service center, traditional auto dealer, and zero emissions vehicle. Zero emissions vehicle means a vehicle that emits no exhaust gas from the onboard source of power, other than water vapor. Legislative intent regarding ZEVs is provided.

Zero Emissions Vehicle Dealer Charges. It is not an unlawful acts or practices for a dealer

to charge up to $250 per ZEV sale or lease or $275 per ZEV sale or lease if the dealer satisfies ZEV Department of Energy standards to recover certain admin costs related to vehicle sales or leases.

Unlawful Actions—Offering Subscription Services by Manufacturers. It is unlawful for a manufacturer to offer to a consumer a subscription service for any vehicle feature that utilizes components and hardware already installed on the vehicle at the time of purchase or lease and would function after activation without ongoing cost to or support by the dealer, manufacturer, distributor, or a third-party service provider. The features include any convenience or safety function included on the vehicle, such as heated seats or driver assistance, that typically is offered to a consumer as an upgrade at the time of purchase or lease of the motor vehicle. Subscription service means a service provided in exchange for a recurring payment, but does not include a reoccurring payment made pursuant to a conditional sales contract or lease contract. There is an exception for navigation system updates, satellite radio, roadside assistance, software-dependent driver assistance or driver automation features, and vehicle-connected services that rely on cellular or other data networks for continued operation.

Unlawful Actions—Certain Direct Reservations, Sales, and Leases. It is unlawful to take reservations, dictate the selling price, or negotiate binding terms of sale or leasing of a new motor vehicle directly between the manufacturer, factory branch, distributor, or distributor branch and retail buyers or lessees including purchase agreements, trade-in value, or other substantive terms of sale or leasing of new vehicles if the new motor vehicle will be delivered for sale or lease in Washington. There is an exception for certain ZEV manufacturers described below.

Rates for Warranty Service or Parts. Provisions are modified related to the requirement that written agreements between manufacturers and dealers specify warranty work or service on the manufacturer's products and provide a schedule for compensation, which must not be less than the rates charged by the dealer for similar service to retail customers for nonwarranty service and repairs. If a manufacturer or distributor furnishes or arranges the order or distribution of a part or component to a dealer at no or reduced cost to use in performing repairs, the manufacturer or distributor must compensate the dealer for the part or component at retail parts rate on the wholesale cost for the part or component as listed in the manufacturer's or distributor's price schedule, minus the wholesale cost for the part or component. A manufacturer must not establish or implement a special number for parts in certain circumstances if it results in lower compensation to the dealer.

A manufacturer must pay the dealer for labor and diagnostic work at a rate calculated by dividing the total customer labor charges for qualifying nonwarranty repairs in the repair orders by the total number of hours that would be allowed for the repairs if the repairs were made under the manufacturer's, importer's, or distributor's time allowances used in compensating the dealer for warranty work, in addition for any documentation work.

Modifying Distance for Certain Relevant Market Areas. For counties with populations of 400,000 or more in which a proposed new or relocated dealership is to be located, the relevant market area is the geographic area within a radius of ten miles around the proposed site, rather than eight miles around the proposed site.

Prohibited Actions by Manufacturers and Others—Competing. The exception to the prohibition on manufacturers, distributors, factory branches, or factory representatives competing with a dealer by owning or operating a dealership in conjunction with an independent person to broaden the diversity and enhance opportunities for underrepresented groups in its dealer body is expanded to allow for independent persons in overburdened communities. An overburdened community is a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes highly impacted communities, which are communities designated by the Department of Health based on cumulative impact analyses or a community located in census tracts that are fully or partially on Indian country.

Modification of the Exception to a Manufacturer Competing with Dealers. The exception, allowing a manufacturer holding a dealer license on January 1, 2014 to compete with dealers described above, is modified. The exception applies to a manufacturer that has not previously offered a franchise to a dealer in Washington State and produces only ZEVs to own, operate, or control a new motor vehicle dealership that sells new vehicles that are only of that manufacturer's makes or lines, or to own, operate, or 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. This exception does not apply where there is a common entity of the manufacturer that entered into a franchise agreement with an independent dealer for the sale of new motor vehicles. Common entity is defined.

Prohibited Actions by Manufacturers and Others—Charging Stations. A manufacturer, distributor, factory branch, or factory representative may not implement a program that encourages or requires a franchisee to install direct current fast charging stations, unless the program:

- requires the franchisor, for public required access stations, to reimburse the dealer for one-half of the cost to install and maintain the stations if the dealer pays the franchisor half of the net income generated from the ongoing use of the stations;
- does not encourage or require the franchisee to install direct current fast charging stations at its dealership location if the franchisee can obtain access to direct current fast charging stations that satisfy the program or policy within a reasonable distance, with a minimum of five miles, of the franchisee's dealership location;
- is reasonable in light of all existing circumstances including local conditions, supply constraints, time constraints, advancements in vehicular technology, and electric grid integration; and
- allow a dealer the right to purchase or lease goods or services of like kind and quality from an alternative vendor selected by the dealer if the goods or services are to be

supplied by a vendor selected, identified, or designated by the manufacturer or distributor.

Prohibited Actions by Manufacturers—Incentive Programs. A manufacturer may not implement an incentive program that does not provide an equal opportunity for all 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 use of specific software or service vendors to qualify.

The definition of manufacturer is modified to include certain related entities.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Requested on January 30, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.