

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 634

(Senator Forehand)

Judicial Proceedings

Environmental Matters

Vehicle Laws - Vehicle Dealers - Succession

This bill alters provisions governing the relationship between a manufacturer, distributor, or factory branch, and a vehicle dealer.

Fiscal Summary

State Effect: The bill primarily pertains to private-sector activities and would not materially impact State government activities.

Local Effect: The bill would not materially impact local government activities.

Small Business Effect: Potentially significant.

Analysis

Bill Summary: This bill authorizes an officer or other authorized representative of any business entity that is not a partnership or a corporation to sign an application for a dealer license. The bill also establishes requirements and procedures for selecting and removing an individual to represent a dealer to do business with manufacturers, distributors, or factory branches, including in the case of the death or incapacity of a representative.

The bill also specifies that the burden of proof is on the manufacturer, distributor, or factory branch in an administrative hearing before the Motor Vehicle Administration (MVA) in a case in which the manufacturer, distributor, or factory branch seeks to terminate, cancel, or not renew the franchise agreement of a dealer. If the decision of the MVA is appealed, the appeal must be filed in the circuit court for the county in which the

dealer's principal place of business is located. The bill also provides that, if any party appeals the decision of the MVA to a circuit court, the franchise continues in effect until the circuit court makes a final determination.

A manufacturer, distributor, or factory branch may not require or coerce a dealer to exclude from the use of a dealer's facilities a dealership for which the dealer has a franchise agreement to utilize the facilities.

Current Law: An application for a dealer license must be signed by:

- the applicant, if the applicant is an individual;
- a partner or other authorized representative, if the application is made for a partnership; or
- an officer or other authorized representative, if the application is made for a corporation.

A manufacturer, distributor, or factory branch may not require or coerce a dealer to eliminate from the use of a dealer's facilities a dealership for which the dealer has a franchise agreement to utilize the facilities as of March 1, 1996.

A manufacturer, distributor, or factory branch may not terminate, cancel, or fail to renew the franchise of a dealer unless: (1) the dealer has failed to comply substantially with the reasonable requirements of the franchise; and (2) the manufacturer, distributor, or factory branch provides 90 days written notice, with the specific grounds for the action, to both the MVA and the dealer. The time period may be reduced, but to no less than 15 days, if the grounds are the dealer's inability to reasonably serve the public's interests. Notice is not required if the dealer waives the right to notice in writing. The dealer may request a hearing from the MVA to determine whether the dealer has failed to comply substantially with the reasonable requirements of the franchise. The franchise remains in effect until the MVA makes a final determination. The dealer, manufacturer, distributor, or factory branch has the right to appeal the decision to the circuit court of the county in which the person's principal place of business is located.

Small Business Effect: The bill facilitates the succession of vehicle dealerships to a representative designated by the dealer and prohibits coercion of dealers to exclude the use of dealership facilities. To the extent that these measures offer dealers additional protection against termination of the franchise and coercion by manufacturers, distributors, and factory branches, this could have a significant impact on small business.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2006
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Analysis by: Nora C. McArdle

Direct Inquiries to:
(410) 946-5510
(301) 970-5510