



SENATE BILL 608

By Bailey

AN ACT to amend Tennessee Code Annotated, Title 55,
relative to motor vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-18-104, is amended by adding
the following sentence at the end of the section:

The commissioner may promulgate rules as are necessary or proper to carry out this
chapter.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to SB0608

Bailey
Signature of Sponsor

AMEND Senate Bill No. 608

House Bill No. 475*

by deleting all language after the enacting clause and substituting instead:

SECTION 1. Tennessee Code Annotated, Section 55-17-114(c)(1), is amended by deleting the subdivision and substituting instead:

(1) Refused to deliver to a motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new and unused motor vehicles sold or distributed by the manufacturer, distributor, distributor branch, or factory branch a motor vehicle publicly advertised for immediate delivery within sixty (60) days after the dealer's order has been received, except that refusal or failure to deliver a motor vehicle is not a violation of this subdivision (c)(1) if such failure is due to an act of God, a work stoppage or delay due to a strike or other labor action, a lack of available manufacturing capacity, a freight embargo, or other cause or material issue over which the manufacturer, factory branch, factory representative, distributor, or wholesaler, distributor branch, or distributor representative has no control. As it relates to such exceptions, the manufacturer, distributor, distributor branch, or factory branch has the burden of proof;

SECTION 2. Tennessee Code Annotated, Section 55-17-114(c), is amended by adding the following new subdivisions:

(26) Required, coerced, or attempted to coerce a motor vehicle dealer to change the location of the motor vehicle dealer, or to make a substantial alteration or investment to the dealer premises or facilities when doing so would be unreasonable in light of current market and economic conditions, financial expectations, and such dealer's

market for the sale of vehicles. The manufacturer or distributor has the burden of proof to establish a request is reasonable;

(27) Required, coerced, or attempted to coerce the use of a vendor of goods or services selected by the manufacturer, factory branch, factory representative, distributor, wholesaler, distributor branch, or distributor representative for construction or substantial alterations if the dealer, with approval of the manufacturer, factory branch, factory representative, distributor, wholesaler, distributor branch, or distributor representative selects an alternative vendor of goods and services that are of the same design, quality, and kind. This subdivision (c)(27) does not eliminate, impair, damage, or otherwise limit a manufacturer's intellectual property, trademark, or trade dress rights in any way. This subdivision (c)(27) does not apply to goods or services paid for substantially by a manufacturer, factory branch, factory representative, distributor, or wholesaler;

(28) Required the construction of, or substantial alteration to a facility or premises if the same item or design component, consisting of interior or exterior elements of the sales, service, administrative, or parts components, was constructed or substantially altered within the prior ten (10) years and that construction or alteration was required and approved by the manufacturer, factory branch, factory representative, distributor, or wholesaler, distributor branch, or distributor representative. For purposes of this subdivision (c)(28), "substantial alteration" means an alteration that has a major impact on the architectural features, characteristics, appearance, or integrity of a structure or lot, and does not include routine maintenance, such as interior painting reasonably necessary to maintain a dealership facility in attractive condition, nor any changes to items protected by federal intellectual property rights of the manufacturer, factory branch, factory representative, distributor, wholesaler, distributor branch, or distributor representative nor to their initial design or architectural review service. This subdivision (c)(28) does not authorize a dealer to impair or eliminate the intellectual property or trademark rights of the manufacturer, factory branch, factory representative,

distributor, wholesaler, distributor branch, or distributor representative, or their affiliates or initial design or architectural review service, or to permit a dealer to erect or maintain signs that do not conform to the intellectual property usage guidelines of the same. This subdivision (c)(28) does not apply to construction or a substantial alteration made to comply with health or safety laws or a technology requirement that is essential to the sale or service of a motor vehicle that the new motor vehicle dealer is authorized by the franchisor to sell or service;

(29) Required, coerced, or attempted to coerce adherence to performance standards that are not fair, reasonable, and equitable or that are not applied uniformly to other similarly situated dealers. A performance standard, sales objective, or program for measuring dealership performance that may have a material effect on a dealer, including the dealer's right to payment under an incentive or reimbursement program must be fair, reasonable, and equitable; or

(30)

(A) Adopted, changed, established, or implemented a plan or system for the allocation and distribution of new vehicles to dealers that is arbitrary, capricious, or unreasonably discriminatory or modified an existing plan so as to cause the same to be arbitrary, capricious, or unreasonably discriminatory; or

(B) Failed or refused to advise or disclose to a dealer having a franchise agreement, upon written request therefor, the basis upon which new motor vehicles of the same line make are allocated or distributed to dealers in the state and the basis upon which the current allocation or distribution is being made or will be made to the dealer.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.