**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3888**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harrison, Cato, Sandifer, Rice, Owens, Huggins, Toole, D.C. Moss, Duncan, Forrester, Sottile, Harvin, Bowers, Vick, Bannister, T.R. Young, G.A. Brown, Barfield, Littlejohn, Frye, Spires, Hiott, Wylie, Stringer, Gambrell, Willis, Neilson, Hayes, G.M. Smith, Weeks, M.A. Pitts, Lowe, Clemmons, Jennings, Erickson, Crawford, Brady, D.C. Smith, Ott, Whitmire, Anderson, Hutto, Horne, Whipper and R.L. Brown

Document Path: l:\council\bills\swb\5861cm09.docx

Companion/Similar bill(s): 630

Introduced in the House on April 2, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Motor vehicle dealers

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/2/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑124

4/2/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑124

4/21/2009 House Member(s) request name added as sponsor: Rice, Owens, Huggins, Toole, D.C.Moss, Duncan, Forrester, Sottile, Harvin, Bowers, Vick, Bannister, T.R.Young, G.A.Brown, Barfield

4/21/2009 House Member(s) request name removed as sponsor: Bedingfield

4/22/2009 House Member(s) request name added as sponsor: Littlejohn, Frye, Spires, Hiott, Wylie, Stringer, Gambrell, Willis, Neilson, Hayes, G.M.Smith, Weeks, M.A.Pitts, Lowe, Clemmons, Jennings, Erickson

4/23/2009 House Member(s) request name added as sponsor: Crawford

4/28/2009 House Member(s) request name added as sponsor: Brady, D.C.Smith, Ott, Whitmire, Anderson

4/29/2009 House Member(s) request name added as sponsor: Hutto

5/12/2009 House Member(s) request name added as sponsor: Horne

5/14/2009 House Member(s) request name added as sponsor: Whipper, R.L.Brown

**VERSIONS OF THIS BILL**

[4/2/2009](file:///p:\pprever\2009-10\3888_20090402.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑15‑65 SO AS TO PROHIBIT MOTOR VEHICLE MANUFACTURERS OR DISTRIBUTORS FROM REQUIRING DEALERS TO RELOCATE OR MAKE ALTERATIONS TO THEIR DEALERSHIPS UNLESS CERTAIN REQUIREMENTS ARE MET; BY ADDING SECTION 56‑15‑75 SO AS TO PROHIBIT MOTOR VEHICLE MANUFACTURERS OR DISTRIBUTORS FROM PREVENTING DEALERS FROM INVESTING IN, MANAGING, OR ACQUIRING ANY OTHER LINE‑MAKE OF NEW MOTOR VEHICLES OR RELATED PRODUCTS IF CERTAIN REQUIREMENTS ARE MET; AND TO AMEND SECTION 56‑15‑90, RELATING TO MOTOR VEHICLE DEALERS, SO AS TO PROVIDE CERTAIN FACTORS THAT MUST BE CONSIDERED IN CALCULATING THE FAIR AND REASONABLE COMPENSATION FOR THE VALUE OF A MOTOR VEHICLE DEALERSHIP.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑65. It is unlawful for a manufacturer, distributor, factory representative, or distributor representative to require, coerce, or attempt to coerce a motor vehicle dealer to change the location of a motor vehicle dealership or to make any substantial alterations to the dealer’s premises or facilities unless:

(1) the manufacturer demonstrates that the change or alteration is reasonable in light of the current market and economic conditions; and

(2) the motor vehicle dealer has been provided written assurance from the manufacturer or distributor of a sufficient supply of motor vehicles to justify the change or alteration.”

SECTION 2. Article 1, Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑75. It is unlawful for a manufacturer, distributor, factory branch, distributor branch, factory representative, or distributor representative to require, coerce, or attempt to coerce a motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of another make or line of new motor vehicles or related products if:

(1) the requirements are unreasonable considering current economic conditions and are not otherwise justified by reasonable business considerations;

(2) the motor vehicle dealer has maintained a reasonable line of credit for each make or line of new motor vehicle; and

(3) the motor vehicle dealer remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the manufacturer.

Reasonable facilities requirements shall not include any requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space, unless the manufacturer or distributor establishes by clear and convincing evidence that the requirements are justified by current economic conditions or reasonable business considerations.”

SECTION 3. Section 56‑15‑90 of the 1976 Code is amended to read:

“Section 56‑15‑90. (A) Anything to the contrary, notwithstanding, it shall be unlawful for the manufacturer, wholesaler, distributor, or franchisor, without due cause, to fail to renew on terms then equally available to all its motor vehicle dealers, to terminate a franchise or to restrict the transfer of a franchise unless the ~~franchise~~ franchisee shall receive fair and reasonable compensation for the value of the business and compensation for its dealership facilities or location as provided in subsection (C).

(B) In determining the fair and reasonable compensation for a business, pursuant to subsection (A) or (D), the value of the business shall include, but not be limited to:

(1) all new untitled motor vehicle inventory purchased from the manufacturer or from another dealer;

(2) supplies and parts purchased from the manufacturer or its approved sources;

(3) equipment, furnishings, and signage purchased from the manufacturer or its approved sources;

(4) special tools purchased from the manufacturer or its approved sources; and

(5) all return shipping and handling charges incurred as a result of returning such items.

If the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer, the fair and reasonable compensation for the value of the business shall not be less than the acquisition price and must be paid by the manufacturer within sixty days of the effective date of the termination, nonrenewal, or the restriction of the transfer of a franchise.

(C) Within sixty days of the termination, cancellation, or nonrenewal of a franchise by a manufacturer, wholesaler, distributor, or franchisor, such party shall pay the franchisee an amount equal to:

(1) the franchisee’s reasonable cost to rent or lease its dealership facility or location for one year or the unexpired term of the lease or rental period, whichever is less; or

(2) the reasonable rental value of the facilities or location for one year if the franchisee owns the facility or location.

If more than one franchise is being terminated, canceled, or not renewed, the reimbursement shall be prorated equally among the different manufacturers, wholesalers, distributors, and franchisors.

(D) If a franchisee terminates the franchise agreement with the manufacturer, wholesaler, distributor, or franchisor, then it is unlawful for the manufacturer, wholesaler, distributor, or franchisor to not abide by the provisions included in subsection (B) in determining fair and reasonable compensation to the dealer.”

SECTION 4. This act takes effect upon approval by the Governor.

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