

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1409 Session of  
2014

INTRODUCED BY RAFFERTY, PILEGGI, WOZNIAK, YUDICHAK, SCHWANK,  
SMITH, KASUNIC, MENSCH, HUGHES, GREENLEAF, VULAKOVICH,  
EICHELBERGER, HUTCHINSON, DINNIMAN, SOLOBAY, ALLOWAY, BLAKE,  
WHITE, BROWNE, BAKER, BREWSTER, YAW, ERICKSON, LEACH,  
TEPLITZ, COSTA AND ARGALL, JUNE 9, 2014

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL  
LICENSURE, AS AMENDED, JUNE 17, 2014

## AN ACT

1 Amending the act of December 22, 1983 (P.L.306, No.84), entitled  
2 "An act providing for the State Board of Vehicle  
3 Manufacturers, Dealers and Salespersons; and providing  
4 penalties," further providing for unlawful acts by  
5 manufacturers or distributors.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Section 12(c)(6) of the act of December 22, 1983  
9 (P.L.306, No.84), known as the Board of Vehicles Act, amended  
10 September 3, 2009 (P.L.378, No.41), is amended and the  
11 subsection is amended by adding a paragraph to read:

12 Section 12. Unlawful acts by manufacturers or distributors.

13 \* \* \*

14 (c) Restriction on ownership of dealer.--

15 \* \* \*

16 (6) [A manufacturer may own, directly or indirectly, an  
17 interest in an entity that owns, operates or controls a motor

1 vehicle dealership trading solely in motor vehicles having a  
2 gross vehicle weight less than 8,500 pounds that are of the  
3 same line-make franchised by the manufacturer, provided that  
4 each of the following conditions are met:

5 (i) All of the motor vehicle dealerships selling  
6 such manufacturer's motor vehicles in this Commonwealth  
7 trade exclusively in the manufacturer's line-make.

8 (ii) All of the manufacturer's franchise agreements  
9 confer rights on the dealer of the line-make to develop  
10 and operate, within a defined geographic territory or  
11 area, as many dealership facilities as the dealer and  
12 manufacturer shall agree are appropriate.

13 (iii) Not fewer than half of the dealers of the  
14 line-make within this Commonwealth own and operate two or  
15 more dealership facilities in the geographic territory or  
16 area covered by the franchise agreement with the  
17 manufacturer.

18 (iv) During any period in which the manufacturer has  
19 such an ownership interest, the manufacturer has no more  
20 than 12 franchise agreements with new motor vehicle  
21 dealers licensed by the board to do business within this  
22 Commonwealth.

23 (v) Except as otherwise permitted under other  
24 provisions of this act, the manufacturer does not acquire  
25 or hold, either directly or indirectly, an ownership  
26 interest of more than 45% in any motor vehicle dealership  
27 that the manufacturer did not already own, directly or  
28 indirectly, as of the effective date of this subsection.

29 (vi) As of the effective date of this subsection,  
30 the manufacturer shall have continuously owned, directly

1 or indirectly, for a period of not less than 18 months,  
2 one or more new motor vehicle dealerships in this  
3 Commonwealth of the same line-make as the manufacturer.]

4 The following shall apply:

5 (i) A manufacturer or distributor may own, operate  
6 or control a new vehicle dealership trading solely in  
7 electric vehicles, as defined in 75 Pa.C.S. § 102  
8 (relating to definitions), that are not sold as new  
9 vehicles by a licensed independent new vehicle dealer  
10 pursuant to a franchise with the AN EXISTING FRANCHISE <--  
11 WITH A manufacturer or distributor, if each of the  
12 following conditions are met:

13 (A) Each of the new vehicle dealerships selling  
14 the manufacturer's NEW motor vehicles in this <--  
15 Commonwealth trade exclusively in the manufacturer's  
16 line-make.

17 (B) Each of the new vehicle dealerships selling  
18 the manufacturer's motor vehicles in this  
19 Commonwealth are DETERMINED TO BE in compliance with <--  
20 this act and 49 Pa. Code Ch. 19 (relating to State <--  
21 Board of Vehicle Manufacturers, Dealers and  
22 Salespersons).

23 (C) Either of the following apply:

24 (I) The manufacturer, distributor or a  
25 subsidiary, affiliate or controlled entity has  
26 not acquired, nor does it hold a controlling  
27 interest in another manufacturer or distributor,  
28 required to be licensed under this act.

29 (II) If a controlling interest is acquired,  
30 the manufacturer, distributor or a subsidiary,

1 affiliate or controlled entity may not CONTINUE <--  
2 TO operate or control a new vehicle dealership  
3 under this subsection for a period ~~exceeding~~ NOT <--  
4 MORE THAN 12 months from the date it acquired the  
5 controlling interest.

6 (D) Either of the following apply:

7 (I) A controlling interest in the original  
8 manufacturer, distributor or any subsidiary,  
9 affiliate or controlled entity was not  
10 transferred, sold or conveyed to another  
11 manufacturer, distributor, person or entity  
12 required to be licensed under this act.

13 (II) If a controlling interest is  
14 transferred, sold or conveyed to another  
15 manufacturer, distributor, person or entity  
16 required to be licensed under this act, the  
17 entity may not CONTINUE TO operate or control a <--  
18 new vehicle dealership under this subsection for  
19 a period ~~exceeding~~ NOT MORE THAN 12 months from <--  
20 the date it acquired the controlling interest.

21 ~~(E) On the effective date of this subclause, the~~ <--  
22 ~~manufacturer shall have continuously held a new~~  
23 ~~vehicle dealer license for a period of not less than~~  
24 ~~12 months.~~

25 (E) THE MANUFACTURER SHALL HAVE CONTINUOUSLY <--  
26 OFFERED ELECTRIC VEHICLES FOR SALE FOR A PERIOD OF  
27 NOT LESS THAN 12 MONTHS PRIOR TO THE EFFECTIVE DATE  
28 OF THIS CLAUSE.

29 (ii) Nothing under this act shall prohibit a  
30 manufacturer operating or controlling a new vehicle

1        dealership under this paragraph from owning, operating or  
2        controlling a warranty facility for warranty repairs on  
3        the manufacturer's line-make of vehicles.

4        (7) Nothing under this subsection shall prohibit the  
5        sale or lease of used vehicles OBTAINED AS A RESULT OF A        <--  
6        TRADE OR RETURN OF A VEHICLE DURING THE PURCHASE OF A NEW  
7        VEHICLE UNDER PARAGRAPH (6) at a manufacturer's licensed  
8        location.

9        \* \* \*

10       Section 2. This act shall take effect ~~in 60 days~~        <--

11       IMMEDIATELY.        <--