

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3480-06  
BILL NO.: SCS for SB 826  
SUBJECT: Motor vehicle, Franchise Law  
TYPE: Original  
DATE: March 3, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses  
This fiscal note contains 4 pages.

**FISCAL ANALYSIS**

**ASSUMPTION**

The **Office of the State Courts Administrator, Office of the Secretary of State, Department of Economic Development, Office of Administration - Administrative Hearing Commission, Department of Revenue** and the **Department of Labor and Industrial Relations** assume the proposed legislation would have no fiscal impact on their agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	\$0	\$0	\$0

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	\$0	\$0	\$0

**FISCAL IMPACT - Small Business**

Small businesses which are motor vehicle dealers or sell motor vehicles would be affected by this proposal.

**DESCRIPTION**

This substitute makes several changes to the relationship of automobile dealers and manufacturers within the motor vehicle franchise law.

Expands time limits for the process within the Administrative Hearing Commission (AHC). A party seeking relief may file an application for a hearing. The AHC will then enter an order fixing a date, time and place for a hearing on the record to all parties (407.822.1). The act places a hold on any franchisor action requiring "good cause" when the action is protested by a franchisee, and the administrative law judge determines that good cause does not exist. This act allows parties to obtain discovery in the same manner as other civil actions. Appeals are provided for, and jurisdiction is Cole County.

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DESCRIPTION (continued)

This substitute also requires that new cases filed to enforce an administrative finding in circuit court be held in abeyance if the underlying judgment is on appeal (407.822.2).

This act establishes protections for a dealer's relevant market area (RMA). RMA is defined as either a 12 or 20 mile radius depending on whether the population of the county is over or under 300,000. Any dealer can follow an administrative complaint process when the factory wants to establish or move another dealership within his or her area. (407.817) The AHC uses a list of factors to weigh the benefits of the proposed dealership. The AHC must find 7 of the 10 factors in favor of adding a dealership before it can approve.

This act also requires the manufacturer to compensate the dealership parts used in preparation or in warranty defects within 30 days. (407.825.1(17)) Audits by manufacturers for warranty compensation shall not be done more than 12 months after a claim. (407.825.1(18)) This act also clarifies, in section 407.822.4(2), that manufacturers must approve or deny the sale of a dealership within 60 days.

Manufacturers can only deny reimbursement for warranty work and incentives based on their written guidelines. (407.825.1(19)) Dealers may not be restricted from selling multiple line-makes of cars, and may not be required to be exclusive to selling one brand. This is also known as "dualing" and "exclusivity". (407.825.1(20))

Section 407.923 prohibits, until otherwise prescribed in law, the ownership of a dealership by a manufacturer. Ownership would be currently allowed in two circumstances: temporary holding while the dealership is for sale; and assisting a person who is economically disadvantaged in buying a dealership. This section would also prohibit "factory financing", where a consumer borrows from a subsidiary of the manufacturer.

This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

State Courts Administrator  
Secretary of State  
Department of Economic Development  
Office of Administration  
Administrative Hearing Commission  
Department of Labor and Industrial Relations  
Department of Revenue

**NOT RESPONDING: Circuit Court of Cole County.**



Jeanne Jarrett, CPA  
Director  
March 3, 2000