

**ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011**  
**COMMITTEE STATEMENT**  
**LB477**

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**Hearing Date:** Monday February 14, 2011  
**Committee On:** Transportation and Telecommunications  
**Introducer:** Fischer  
**One Liner:** Change regulation provisions under the Motor Vehicle Industry Regulation Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 8 Senators Campbell, Dubas, Fischer, Hadley, Janssen, Lautenbaugh, Louden, Price  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Proponents:**  
Dusty Vaughan  
Loy Todd

**Representing:**  
Introducing for Senator Deb Fischer  
Nebraska New Car & Truck Dealers

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 477 puts additional restrictions on motor vehicle manufacturers and franchisors in their dealings with motor vehicle dealer franchises.

Section 2 amends Sec. 60-1420 to give the dealer the right to protest any forced community change and the right to a good-cause hearing before the Industry Licensing Board.

Under current law, franchised dealers and the manufacturers are required to establish an area of responsibility. The dealer is required to serve the public with both sales and service in that area.

Section 7 amends Sec. 60-1436 requires manufacturers to accept dealer returns for unordered parts that the manufacturer sends through a computerized automatic ordering service. No fee may be charged by the manufacturer for the returned parts.

The section prohibits a manufacturer from requiring a dealer to make changes in the dealership which cannot be justified by current business conditions.

The section also prohibits a manufacturer from requiring the dealer to give the manufacturer a customer's information.

Finally, the section prohibits a manufacturer from entering into an agreement with a dealer that gives site control of the premises that does not terminate when certain conditions are met.

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Section 8 amends Sec. 60-1437 to require the manufacturer to disclose the method of distribution of its vehicles to all of the dealers handling the same line-make of vehicles.

The section also prohibits the manufacturer from requiring that the dealer sell only the manufacturer's products.

Section 9 amends Sec. 60-1438 to create a uniform method of payment for reimbursement for warranty parts and services, and determining and adjusting the payment amounts through a statutory formula.

The section outlines the particular instances when a manufacturer may deny reimbursement to a dealer and the appeal process involved when a denial is made.

The section does not apply to recreational vehicles.

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**Explanation of amendments:**

The committee amendment, AM 343, provides clarification to certain provisions of the bill and are not substantive in nature.

Under the bill, the franchisor would have been required to file an application with the licensing board before changing the dealer's area of responsibility. The amendment waives the requirement if the dealer and franchisor have voluntarily agreed to the change.

The original bill prohibited the franchisor from requiring the dealer to engage in the practice of sharing non-public customer information with the manufacturer. The amendment clarifies the fact that the dealer may simply refuse to share the customer's private information. The amendment strikes the original language in two places and replaces it with one specific provision.

The amendment clarifies that a dealer is allowed to have an exclusive sales area within the dealership rather than an entirely separate sales facility for different line-makes. The new language restates the requirement that the dealer is obligated to meet reasonable standards regarding the dealership facilities and practices pursuant to the franchise agreement.

Under the bill the franchisor is not allowed to prevent the dealer from selling or renting the dealership property after a termination. The amendment clarifies that the franchisor and the dealer may come to a separate agreement to restrict any such sale or lease if the dealer has entered into a separate and voluntary agreement.

The bill requires the franchisor to pay legitimate warranty claims within 30 days. It further gives the franchisor the right to audit those claims for 1 year under routine circumstances, and for 4 years for fraud (if reasonably suspected). In the event of either type of audit, the franchisor has the right to charge back the amount of any improper payment from the dealer's account. The amendment clarifies the right of the franchisor to make the charge back in either case, but only after the dealer has been given the opportunity to exhaust all appeal rights regarding the disputed amounts.

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Deb Fischer, Chairperson