HOUSE BILL 403:
Clarify Motor Vehicle Franchise Laws.

2021-2022 General Assembly

Committee:	Senate Commerce and Insurance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	August 10, 2021
Introduced by:	Reps. B. Jones, Wray	**Prepared by:**	Amy Darden Committee Counsel
Analysis of:	PCS to Second Edition H403-CSBB-12		

OVERVIEW: House Bill 403 makes the following changes to North Carolina's Motor Vehicle Dealers and Manufacturers Licensing Law:

- ***Prohibits conditioning approval of dealership transfers on dealer's willingness to renovate, relocate, or enter into a right of first refusal.***
- ***Clarifies provisions regulating franchise agreements to facilitate dealers' ability to sell electric vehicles.***
- ***Prohibits manufacturers from requiring dealers to purchase pre-owned vehicles.***
- ***Requires manufacturer to buy a dealer's existing facility if it does not sell if the manufacturer or distributorrequired the dealer to relocate.***
- ***Extends existing grandfather provisions allowing certain manufacturer incentive programs.***
- ***Requires information be provided to dealers regarding how vehicle allocations are made by manufacturers.***
- ***Clarifies provisions regarding reimbursement to dealers who provide loaner vehicles to customers having vehicles serviced when required by the manufacturer.***
- ***Provides that certain dealer facility improvements required by a manufacturer in the 10 years preceding an incentive program comply with program requirements; addresses programs that are discontinued or revised.***
- ***Makes clarifying changes to existing law regarding warranty obligations.***
- ***Clarifies definition of motor vehicle dealer includes one who leases vehicles or offers vehicles for subscription.***
- ***Prohibits manufacturers from requiring dealers to provide financial statements specific to a franchise or line-make if the dealer operates more than one franchise or sells more than one line-make.***

The PCS add Sections 12–15 to the bill which does the following:

- ***Creates a framework for online vehicle reservations or requests to purchase or lease.***
- ***Allows electronic signatures on various documents for manufacturer vehicle loaner programs.***
- ***Clarifies vehicle inspection requirements for transfer of vehicles between affiliated dealerships.***

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- ***Clarifies delivery and execution of prepared documents at a customer's home or place of business do not violate the requirement conducting motor vehicle sales at an established salesroom.***

BILL ANALYSIS: The PCS of House Bill 403 makes the following changes to motor vehicle dealer and manufacturer licensing laws:

Dealership transfer clarifications. Section 1 makes clear that a manufacturer may not condition its approval of a dealership transfer on the dealer's willingness to renovate or relocate or enroll in a facility program, or on the dealer's willingness to enter into a right of first refusal in favor of the manufacturer. It also makes other organizational, technical, and clarifying changes to existing provisions.

Electric vehicles. Section 2 adds clarifying language to provisions regulating franchise agreements regarding electric vehicles. It provides that establishment by a manufacturer of a separate franchise for sale of electric vehicles is considered a change in an established plan of distribution, such that it would have to be offered to its franchised dealers in the same line-make. It also prohibits the manufacturer from coercing franchised dealers to purchase more charging stations than are reasonably necessary or requiring the purchase of unnecessary diagnostic equipment. This section also amends the definition of motor vehicle in the dealers and manufacturers licensing law to clarify a motor propelled vehicle includes motors of all sizes, types, and sources of power.

No requirement to purchase pre-owned vehicles. Section 3 makes clear that a manufacturer is prohibited from requiring a franchised dealer to purchase off-lease or pre-owned vehicles.

Dealer relocation. Section 4 provides that, if a dealer is required by a manufacturer or distributor to relocate, the manufacturer or distributor is required to buy the dealer's existing facility if it does not sell within 180 days of listing or 90 days after the facility relocation. The purchase price would be fair market value as determined by an appraiser agreed upon by the dealer and manufacturer or distributor.

Incentive program grandfather extension. Section 5 extends for three years, from 2022 to 2025, existing grandfather provisions that allow for certain manufacturer incentive programs.

Vehicle allocation. Section 6 requires manufacturers to establish a process for its franchised dealers to appeal vehicle allocations.

Loaner/rental car reimbursement. Section 7 makes clarifying changes to an existing provision prohibiting a manufacturer from failing to reimburse its dealer for the cost of providing a loaner car to a customer having a vehicle serviced if required by the manufacturer. This section clarifies the manufacturer must provide full reimbursement regardless of whether the loaner or rental vehicle is a similar model to the one the customer is having serviced and when all or part of the time the loaner or rental is provided is due to the unavailability of a part provided by the manufacturer. It also clarifies that reimbursement includes applicable taxes and third-party fees.

Facility expenditures/incentive programs. Section 8 provides that a dealer is in compliance with a manufacturer's incentive program requiring facility improvements if improvements that were required or approved by the manufacturer were made within the preceding 10 years. It also provides for continued eligibility for certain facility benefits under a prior program that is revised or discontinued over the 10-year period.

Warranty requirements. Section 9 makes clarifying changes to existing law related to dealer warranty obligations.

Motor vehicle dealer definition. Section 10 amends the definition of motor vehicle dealer in the dealers and manufacturers licensing law to specifically include a person who leases vehicles at retail or offers vehicles for subscription.

Dealership financial statements. Section 11 prohibits a manufacturer from requiring its dealers to provide financial statements specific to a franchise or line-make if the dealer operates more than one franchise or sells more than one line-make.

Dealer Manufacturer Partnership for Online Sales. Section 12 creates a framework to permit retail customers the option of reserving or requesting to purchase or lease a vehicle online.

Electronic Signatures. Section 13 allows electronic signatures on various documents for manufacturer vehicle loaner programs.

Affiliate Dealer Inspection Requirement. Section 14 provides that a previously inspected vehicle for sale is not required to be reinspected if the vehicle was transferred to an affiliated dealership and the inspection occurred within 180 days from the date of sale or within 300 miles from the mileage recorded at the date of sale.

Limited Off-Premises Sales Activities. Section 15 clarifies that delivering a sold or leased motor vehicle to the home or business of a customer and executing relevant paperwork does not violate the requirement for motor vehicle sales to be conducted at an established salesroom.

Section 16 of the bill is a severability clause providing that if any part of the act is found to be invalid, the remaining provisions are still in effect.

EFFECTIVE DATE: Sections 1-11 and Sections 13-16 of this act are effective when they become law, and provisions apply to all current and future franchises and other agreements between new motor vehicle dealers and manufacturers or distributors. Section 12 is effective January 1, 2022, and applies to all existing and future programs and policies of all manufacturers and distributors on or after that date. Except as otherwise provided, this act becomes effective when it becomes law.

***Wendy Ray, Staff Attorney, substantially contributed to this summary.*