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Senate Bill 1308 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 1309 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Jud Gilbert, II (S.B. 1308)
Senator Buzz Thomas (S.B. 1309)
Committee: Economic Development and Regulatory Reform

CONTENT

Senate Bill 1308 (S-2) would amend Public Act 118 of 1981, which regulates automobile dealer franchises, to do all of the following:

- Expand the Act's list of prohibited activities by a manufacturer.
- Prohibit a manufacturer from imposing a property use agreement on a dealer, unless monetary consideration or separate and valuable consideration that could be calculated to a sum certain were offered and accepted for the agreement.
- Prohibit a manufacturer from charging back to a dealer an approved and paid warranty claim, unless the manufacturer showed that the claim was fraudulent or false within two years after payment or showed it to be unsubstantiated, to lack proper documentation, or to be improperly diagnosed or repaired within 12 months after payment.
- Allow a manufacturer to conduct an audit of a dealer's records relating to a warranty or promotion claim submitted by the dealer.
- Provide that a manufacturer that violated the Act "may" (rather than "shall") be liable for all court costs and attorney fees incurred by a dealer.

Senate Bill 1309 (S-2) would amend Public Act 118 to revise requirements for a manufacturer to compensate a dealer for certain items upon the termination of a dealer agreement. The bill would do the following (among other things):

- Require the payment of fair and reasonable compensation for each vehicle that met certain criteria.
- Require compensation for certain data processing programs, software, and equipment, the net cost of any upgrades or alterations to dealership facilities that the manufacturer required in the last two years, and the net cost of any furnishings the manufacturer required the dealer to purchase in the last two years.
- Establish procedures for determining compensation for a dealer's fair rental value.
- Require compensation for a dealer's goodwill under certain circumstances and specify procedures for determining the value of that goodwill.

The bill also would redefine "relevant market area" with regard to provisions that require a manufacturer, before entering into a dealer agreement establishing or relocating a new vehicle dealer within a relevant market area where the same line make is represented, to notify each dealer of the same line make in the relevant market area; and that allow the dealer to bring a court action to determine whether there is good cause for establishing or relocating the proposed new dealer. Under the bill, in a county with a population over 150,000, "relevant market area" would mean the area within a radius of nine miles of the site of the intended place of business. In a county with a population of 150,000 or less,

"relevant market area" would mean the area within a radius of 15 miles of the site of the intended place of business.

The bills are tie-barred.

MCL 445.1574 et al. (S.B. 1308)
445.1562 et al. (S.B. 1309)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have no impact on the Department of State and an indeterminate impact on local units of government. The bills would have an indeterminate impact on property tax revenue depending on the number of dealerships affected.

Date Completed: 6-30-10

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.