

2017 Regular Session

HOUSE BILL NO. 167

BY REPRESENTATIVE CARMODY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES: Provides for unauthorized acts relative to motor vehicles

1 AN ACT

2 To amend R.S. 32:1261(A)(1)(k), relative to unauthorized acts regarding motor vehicles; to  
3 modify certain requirements regarding sales or offers to sell made directly to a  
4 consumer; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 32:1261(A)(1)(k) is hereby amended and reenacted to read as  
7 follows:

8 §1261. Unauthorized acts

9 A. It shall be a violation of this Chapter:

10 (1) For a manufacturer, a distributor, a wholesaler, distributor branch, factory  
11 branch, converter or officer, agent, or other representative thereof:

12 \* \* \*

13 (k)(i) To sell or offer to sell a new or unused motor vehicle directly to a  
14 consumer ~~except as provided in this Chapter, or to compete with a licensee in the~~  
15 ~~same-line makes, models, or classifications operating under an agreement or~~  
16 ~~franchise from the aforementioned manufacturer. A manufacturer shall not,~~  
17 ~~however, be deemed to be competing~~ when any one of the following conditions are  
18 met:

19 (aa) Operating a previously existing, licensed, and franchised motor vehicle  
20 dealership temporarily for a reasonable period, not to exceed two years.

1 (bb) Operating a ~~bona fide retail~~ previously licensed and franchised motor  
2 vehicle dealership which is for sale to any qualified independent person at a fair and  
3 reasonable price, not to exceed two years.

4 (cc) Operating in a bona fide relationship in which a person independent of  
5 a manufacturer has made a significant investment subject to loss in the dealership,  
6 and can reasonably expect to acquire full ownership of such dealership on reasonable  
7 terms and conditions.

8 (ii) After any of the conditions have been met under Subitems (aa) and (bb)  
9 of Item (i) of this Subparagraph, the commission ~~shall~~ may allow the manufacturer  
10 to ~~compete with licensees of the same-line makes, models, or classifications under~~  
11 ~~an agreement or franchise from said manufacturer~~ continue operating a previously  
12 licensed and franchised motor vehicle dealership for longer than two years when, in  
13 the discretion of the commission, the best interest of the manufacturer, consuming  
14 public, and licensees are best served.

15 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 167 Engrossed 2017 Regular Session Carmody

**Abstract:** Modifies certain exceptions allowing the sale or offer of sale of a new or unused motor vehicle directly to a consumer.

Present law enumerates a list of restrictions imposed on manufacturers, distributors, wholesalers, distributor branches, factory branches, converters, or the officers, agents, or other representatives thereof.

Present law provides that it shall be an unauthorized act to sell or offer to sell a new or unused motor vehicle directly to a consumer except when as provided in present law, or to compete with a licensee in the same-line makes, models, or classifications operating under an agreement or franchise from the aforementioned manufacturer. Present law further provides that a manufacturer shall not, however, be deemed to be competing when certain conditions are met.

Proposed law modifies present law to provide that it shall be an unauthorized act to sell or offer to sell a new or unused motor vehicle directly to a consumer except when the manufacturer, distributor, wholesaler, distributor branch, factory branch, converter, or the officers, agents, or other representatives thereof meet any one of the following conditions:

- (1) Operates a previously existing, licensed, and franchised motor vehicle dealership for a reasonable period, not to exceed two years.
- (2) Operates a previously licensed and franchised motor vehicle dealership which is for sale to any qualified independent person at a fair and reasonable price, not to exceed two years.
- (3) Operates in a bona fide relationship in which a person independent of a manufacturer has made a significant investment subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.

Present law requires the La. Motor Vehicle Commission (commission) to allow the manufacturer to compete with licensees of the same-line makes, models, or classifications under an agreement or franchise from said manufacturer for longer than two years when, in the discretion of the commission, the best interest of the manufacturer, consuming public, and licensees are best served after the conditions imposed by present law are satisfied.

Proposed law states that, once the conditions imposed by proposed law are met, the commission may allow the manufacturer to continue operating a previously licensed and franchised motor vehicle dealership for longer than two years when, in the discretion of the commission, the best interest of the manufacturer, consuming public, and licensees are best served.

(Amends R.S. 32:1261(A)(1)(k))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes for the purpose of clarity.
2. Clarify that the provisions of proposed law apply to previously existing, licensed, and franchised motor vehicle dealerships in certain circumstances.