



ISSUE BRIEF

2023 ACT RELATING TO MOTOR VEHICLE MANUFACTURERS, IMPORTERS, DISTRIBUTORS & FRANCHISED MOTOR VEHICLE DEALERS

BACKGROUND

Florida consumers have enjoyed the benefits of an intensely competitive retail automotive marketplace for more than 50 years. This is the direct result of a two-tiered franchise system designed to promote competition among franchised dealers. Under Florida's franchise laws (S.320.60-320.70), dealers purchase vehicles from the manufacturer, then price, evaluate trade-ins, arrange financing, sell vehicle protection products and deliver the automobile to the customer. Dealers are present after the sale to assist with warranty repairs, maintenance and safety recalls.

Florida's franchised car dealers are locals. They invest heavily in their communities, spending millions in real estate and providing tens of thousands of local, high-paying jobs. They invest millions of dollars in local organizations and charities annually and generate the largest amount of sales tax revenue in the state – \$6.2 billion in 2021.

Over the last 5-6 years, new electric vehicle (EV) automakers have entered the market with a direct-to-consumer sales model. Companies such as Tesla, Lucid and Rivian are now functioning as both the manufacturer and dealer. This raises prices for the consumer because of costs that are largely non-negotiable and non-competitive.

Conversely, the franchise system has always driven prices down for the consumer. Franchised dealers offer every advantage of the direct sellers, such as at-home purchase and delivery, with all of the advantages of local representation to make sure that customer needs are addressed in person.

Florida's franchised dealers who represent *legacy manufacturers* have not opposed the entry of Tesla, Lucid and Rivian or their new direct-to-consumer model. However, legislation should make it clear that a *legacy manufacturer* (a manufacturer that has an independent dealer network) may not own, directly or through a commercial entity, a dealership nor sell direct-to-consumer.

WHY IS LEGISLATION NEEDED?

As new EV companies have entered the marketplace, some *legacy manufacturers* have begun to mirror their programs. Many of these factory changes appear to violate existing Florida law and franchise agreements, while others venture into territory where the law is outdated in respect to how business is now conducted. These modifications are harming a system that has maintained a competitive marketplace for decades while providing significant consumer and economic benefits.

Legislation is needed to enforce the prohibition of *legacy manufacturers*, their subsidiaries, and affiliates from owning a dealership and/or selling direct-to-consumer. This will protect the competitive nature of the franchise system, along with the Florida jobs and tax revenues it creates.



LEGISLATION WOULD NEED TO ADDRESS:

1

DEALER SALES FUNCTIONS

Some *legacy manufacturers* are attempting to manipulate vehicle allocation to franchisees by controlling dealer sales functions and bypassing their dealer networks. Florida's franchised dealers have modernized their platforms and today offer consumers the best of both digital and brick-and-mortar capabilities. To address this, legislation should prohibit **legacy manufacturers from competing directly with their franchised dealers.**

2

LEGAL DIFFERENTIATION

Dealer franchisees do not object to direct-to-consumer sales by EV automakers who do not have independent dealer networks. However, they do want to ensure that *legacy manufacturers*, who have depended on huge local investments by franchised dealers, are prohibited from going direct-to-consumer by owning a dealership directly or indirectly. To address this issue, legislation should recognize **the presence of direct-to-consumer manufacturers in Florida.**

3

ENFORCEMENT & ASSOCIATION STANDING

Presently, a dealership can approach the Florida Department of Highway Safety and Motor Vehicles (DHSMV) to request an enforcement action when a factory allegedly violates a franchise law. However, dealers are reluctant to go against their manufacturers in part because the DHSMV does not enforce these issues. Therefore, legislation should include a change in **the enforcement of franchise laws to permit the state association, the Florida Automobile Dealers Association (FADA), on behalf of its dealer members, to bring a request for regulatory action to the DHSMV.**

4

POST-SALE OPTIONS

With new car technology quickly evolving, manufacturers have the ability to load cars with a myriad of options and accessories that aren't activated until after the initial sale. FADA is in favor of full disclosure of all options and accessories at the point of sale. Some *legacy manufacturers* are proposing that they have the exclusive right to sell/activate these products post-sale. In order to keep all sales competitive, legislation should require **the manufacturer paying the dealership, at minimum, 10% of the upgrade, option or new accessory price when it occurs within three years of the new vehicle sale.**

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