



# HOUSE BILL 800: Clarify Motor Vehicle Dealer Laws

2015-2016 General Assembly

**Committee:** Senate Commerce  
**Introduced by:** Reps. Brawley, Tine  
**Analysis of:** PCS to Second Edition  
H800-CSSU-32

**Date:** July 23, 2015  
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Committee Counsel

**SUMMARY:** *The Proposed Committee Substitute for House Bill 800 makes changes to North Carolina's Motor Vehicle Dealers and Manufacturers Licensing Law.*

[As introduced, this bill was identical to S673, as introduced by Sen. Apodaca, which is currently in House Commerce and Job Development, if favorable, Finance.]

### BILL ANALYSIS:

Sections 1 and 3 are technical changes.

Section 2 amends a provision requiring a manufacturer to pay a dealer fair market value for a franchise when the franchise is terminated as a result of change in ownership or control of the manufacturer, a change in business operations, or discontinuance of the sale of the product line or change in the distribution system. This section provides that any agreement entered into by the manufacturer and dealer whereby the dealer agrees to accept less than fair market value is voidable at the election of the dealer within 90 days of the agreement.

Section 4 amends a provision prohibiting a manufacturer from changing a dealer's area of responsibility arbitrarily or without regard for present or future patterns of vehicle sales and registrations and without written notification. If a manufacturer violates the provision, the dealer may file a petition before the Commissioner and have an evidentiary hearing. This section provides a list of factors the Commissioner may take into consideration at the evidentiary hearing. It also provides that any proposed changes in the petitioning dealer's area of responsibility are stayed until the Commissioner's determination is made.

Section 5 prohibits a manufacturer from charging a dealer more than a reasonable cost for tools the manufacturer sells to the dealer and designates as special or essential. The manufacturer may charge a nominal fee for handling in addition to the reasonable cost of the tool. For any tool over \$250, the manufacturer must disclose on an invoice the actual cost of the tool paid by the manufacturer.

Section 6 makes clarifying changes to the list of items not included in calculating the retail rate customarily charged by the dealer for parts and labor for purposes of determining compensation for warranty work.

Section 7 amends a provision prohibiting a manufacturer from taking adverse action against a dealer because the dealer sold a vehicle to a customer who exported it to a foreign country or resold the vehicle to a third party, unless the dealer knew or should have known the customer intended to export or resell the vehicle. This section reorganizes the provision and makes clarifying changes. It also makes changes to rebuttable presumptions applicable in a proceeding brought under the provision, including a rebuttable presumption that the dealer knew or should have known the customer intended to export or resell the vehicle if the customer was on a list of known or suspected exporters or resellers provided by the manufacturer.

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Section 8 makes a conforming change to include the export provisions in Section 7 to a provision allowing a party to petition the Commissioner for a hearing when there is a dispute between manufacturer and dealer and staying proposed withholding of compensation until the Commissioner's determination is made.

Section 9 increases the amount of reimbursement paid to heavy duty truck dealers by manufacturers when they sell trucks directly to converters and other nondealer retailers rather than going through a dealer. The amount is increased from \$600 to \$900 per vehicle. The reimbursement is intended to compensate dealers for expenses incurred in servicing the vehicles, which they are required to do under franchise agreements, even when they are excluded from the sale.

Section 10 is a severability clause that provides that if any part of the act is found to be invalid, the remaining provisions are still in effect.

**EFFECTIVE DATE:** The act is effective when it becomes law and would apply to all current and future agreements between new motor vehicle dealers and manufacturers or distributors.