

House Bill 460

By: Representatives Martin of the 49th, Hawkins of the 27th, Jones of the 25th, Kennard of the 102nd, Carpenter of the 4th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 10-1-664.1 of the Official Code of Georgia Annotated, relating to
2 restrictions on the ownership, operation, or control of dealerships by manufacturers and
3 franchisors and competing unfairly with new dealers, so as to amend a prohibition on the
4 ownership, operation, and control of motor vehicle dealerships by certain manufacturers and
5 franchisors; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 10-1-664.1 of the Official Code of Georgia Annotated, relating to restrictions
9 on the ownership, operation, or control of dealerships by manufacturers and franchisors and
10 competing unfairly with new dealers, is amended by revising subsection (a) as follows:

11 "(a) It shall be unlawful for any manufacturer or franchisor or any parent, affiliate, wholly
12 or partially owned subsidiary, officer, or representative of a manufacturer or franchisor to
13 own, operate, or control or to participate in the ownership, operation, or control of any new
14 motor vehicle dealer in this state within a 15 mile radius of an existing dealer of such
15 manufacturer or franchisor; to own, operate, or control, directly or indirectly, more than a
16 45 percent interest in a dealer or dealership in this state; to establish in this state an

17 additional dealer or dealership in which such person or entity has any interest; or to own,
18 operate, or control, directly or indirectly, any interest in a dealer or dealership in this state
19 unless such person or entity has acquired such interest from a dealer or dealership which
20 has been in operation for at least five years prior to such acquisition; provided, however,
21 that this subsection shall not be construed to prohibit:

22 (1) The ownership, operation, or control by a manufacturer or franchisor of a new motor
23 vehicle dealer for a temporary period, not to exceed one year, during the transition from
24 one owner or operator to another;

25 (2) The ownership, operation, or control of a new motor vehicle dealer by a manufacturer
26 or franchisor during a period in which such new motor vehicle dealer is being sold under
27 a bona fide contract, shareholder agreement, or purchase option to the operator of the
28 dealership;

29 (3) The ownership, operation, or control of a new motor vehicle dealer by a manufacturer
30 or franchisor at the same location at which such manufacturer or franchisor has been
31 engaged in the retail sale of new motor vehicles as the owner, operator, or controller of
32 such dealership for a continuous two-year period of time immediately prior to April 1,
33 1999, where there is no prospective new motor vehicle dealer available to own or operate
34 the dealership in a manner consistent with the public interest;

35 (4) The ownership, operation, or control by a manufacturer which manufactures only
36 motorcycles or motor homes of a retail sales operation engaged in the retail sale of
37 motorcycles or motor homes;

38 (5) The ownership, operation, or control by a manufacturer which is selling motor
39 vehicles directly to the public at an established place of business on January 1, 1999, and
40 which has never sold its line make of new motor vehicles in this state through a
41 franchised new motor vehicle dealer unless and until such manufacturer is wholly or
42 partially acquired by another manufacturer or franchisor;

(6) The ownership, operation, or control by a manufacturer which manufactures trucks with a gross vehicle weight rating of 12,500 pounds or more of a new motor vehicle dealer which only sells trucks with a gross vehicle weight rating of 12,500 pounds or more at the same location at which such manufacturer has been engaged in the retail sale of such trucks as the owner, operator, or controller of such dealership for a continuous two-year period of time immediately prior to April 1, 1999, or at one additional location which is not located within the relevant market area of an existing dealer of the same line make of trucks; provided, however, this exemption shall apply to a manufacturer described in this paragraph only until such manufacturer is wholly or partially acquired by another manufacturer or distributor;

(7) A manufacturer from selling new motor vehicles to customers if such vehicles are manufactured or assembled in accordance with custom design specifications of the customer and such sales are limited to no more than 150 vehicles per year; or

(8) The ownership, operation, or control by a manufacturer of ~~not more than five locations licensed as new motor vehicle dealerships for the sale of new motor vehicles and any number of locations that engage exclusively in the repair of such manufacturer's line make of motor vehicles, provided that such manufacturer was selling or otherwise distributing its motor vehicles at an established place of business in this state as of January 1, 2015, and:~~

(A) The manufacturer manufactures or assembles zero emissions motor vehicles exclusively and has never sold its line make of motor vehicles in this state through a franchised new motor vehicle dealer; and

(B) The manufacturer has not acquired a controlling interest in a franchisor or a subsidiary or other entity controlled by such franchisor, or sold or transferred a controlling interest in such manufacturer to a franchisor or subsidiary or other entity controlled by such franchisor."

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SECTION 2.

70 All laws and parts of laws in conflict with this Act are repealed.