

Senate Bill 184

By: Senators Robertson of the 29th, Williams of the 25th, Summers of the 13th, Walker III of the 20th, Goodman of the 8th 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 repeal an exception to the  
4 prohibition on the ownership, operation, and control of motor vehicle dealerships by certain  
5 manufacturers, franchisors, and affiliates; to provide for related matters; to repeal conflicting  
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

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

18 45 percent interest in a dealer or dealership in this state; to establish in this state an  
19 additional dealer or dealership in which such person or entity has any interest; or to own,  
20 operate, or control, directly or indirectly, any interest in a dealer or dealership in this state  
21 unless such person or entity has acquired such interest from a dealer or dealership which  
22 has been in operation for at least five years prior to such acquisition; provided, however,  
23 that this subsection shall not be construed to prohibit:

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

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

31 (3) The ownership, operation, or control of a new motor vehicle dealer by a manufacturer  
32 or franchisor at the same location at which such manufacturer or franchisor has been  
33 engaged in the retail sale of new motor vehicles as the owner, operator, or controller of  
34 such dealership for a continuous two-year period of time immediately prior to April 1,  
35 1999, where there is no prospective new motor vehicle dealer available to own or operate  
36 the dealership in a manner consistent with the public interest;

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

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

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

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

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

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

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

71 (b) It shall be unlawful for a manufacturer or franchisor or any parent, affiliate, wholly or  
72 partially owned subsidiary, officer, or representative of a manufacturer or franchisor to  
73 compete unfairly with a new motor vehicle dealer of the same line make, operating under  
74 a franchise, in the State of Georgia, and, except as otherwise provided in this subsection,  
75 the mere ownership, operation, or control of a new motor vehicle dealer by a manufacturer  
76 or franchisor under the conditions set forth in paragraphs (1) through ~~(8)~~ (7) of  
77 subsection (a) of this Code section shall not constitute a violation of this subsection. For  
78 purposes of this Code section, a manufacturer or franchisor or any parent, affiliate, wholly  
79 or partially owned subsidiary, officer, or representative of a manufacturer or franchisor  
80 shall be conclusively presumed to be competing unfairly if it gives any preferential  
81 treatment to a dealer or dealership of which any interest is directly or indirectly owned,  
82 operated, or controlled by such manufacturer or franchisor or any partner, affiliate, wholly  
83 or partially owned subsidiary, officer, or representative of such manufacturer or franchisor,  
84 expressly including, but not limited to, preferential treatment regarding the direct or  
85 indirect cost of vehicles or parts, the availability or allocation of vehicles or parts, the  
86 availability or allocation of special or program vehicles, the provision of service and  
87 service support, the availability of or participation in special programs, the administration  
88 of warranty policy, the availability and use of after warranty adjustments, advertising, floor  
89 planning, financing or financing programs, or factory rebates."

90

**SECTION 2.**

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