

112TH CONGRESS  
1ST SESSION

# H. R. 75

To prohibit certain restraints of competition adversely affecting automobile dealers.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2011

Ms. JACKSON LEE of Texas introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To prohibit certain restraints of competition adversely affecting automobile dealers.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Automobile Dealers  
5 Fair Competition Act of 2011”.

6 **SEC. 2. PROHIBITION AGAINST CERTAIN RESTRAINTS OF**  
7 **TRADE.**

8 (a) PROHIBITION.—It shall be unlawful for any new  
9 automobile manufacturer (as defined in subsection (c)) en-  
10 gaged in commerce, in the course of such commerce, di-

1 rectly or indirectly, to unreasonably discriminate against,  
2 or unreasonably deny a franchise to, an automobile dealer  
3 (as defined in subsection (d)) in any case in which the  
4 automobile dealer applies to such manufacturer, within 60  
5 days after the date of the enactment of this Act, for the  
6 retention of its franchise and presents adequate evidence  
7 that it is a going concern.

8 (b) EXPEDITED ACTIONS TO PROTECT FRANCHISE  
9 AGREEMENTS.—In order to protect the economic rights  
10 of automobile dealers, if at the end of 90 days following  
11 the date of the enactment of this Act, if a new automobile  
12 manufacturer has not entered into an agreement with an  
13 automobile dealer to restore its franchise, the automobile  
14 dealer, at the dealer’s option, shall be able to seek enforce-  
15 ment of its rights under subsection (a) by filing an action  
16 therefor in a United States district court under a proce-  
17 dure in which a master appointed by the court shall hear  
18 the matter and make a recommendation to the court with-  
19 in 90 days after the filing of the action. The court shall  
20 adopt the master’s recommendation if in accord with the  
21 law and facts. The provisions of this subsection shall not  
22 be in derogation of any rights an automobile dealer other-  
23 wise has under this section.

24 (c) DEFINITION OF “NEW AUTOMOBILE MANUFAC-  
25 Turer”.—As used in subsection (a), the term “new auto-

1 mobile manufacturer” means an automobile manufac-  
2 turing company established in 2009 that is the successor  
3 to another automobile manufacturing company and ac-  
4 quires in such year the assets of the predecessor auto-  
5 mobile manufacturing company in a transaction governed  
6 by section 363 of title 11 of the United States Code.

7 (d) DEFINITION OF “AUTOMOBILE DEALER”.—As  
8 used in subsection (a), the term “automobile dealer”  
9 means any automobile dealer in the United States that,  
10 on January 1, 2009, held a franchise granted by an auto-  
11 mobile manufacturing company that was the predecessor  
12 company to a new automobile manufacturer to sell that  
13 company’s automobiles, but that, on the date of the enact-  
14 ment of this Act, has not entered an agreement with the  
15 new automobile manufacturer that is a successor to that  
16 company to continue serving as a franchisee.

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