

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1173

(Delegate Stein)

Environment and Transportation

Judicial Proceedings

Motor Vehicles - Recreational Vehicle Dealer Agreements

This bill establishes a new regulatory framework that applies to recreational vehicle manufacturers, distributors, factory branches, and dealers. Among other things, the framework includes licensing requirements for recreational vehicle manufacturers, distributors, and factory branches. Existing laws that apply to vehicle manufacturers no longer apply to manufacturers of recreational vehicles. The bill establishes procedures, timelines, and requirements that govern written dealer agreements, warranties on recreational vehicles, and when damages or unreasonable miles are apparent on delivery of a recreational vehicle. The bill also establishes enforcement provisions.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances, as discussed below. The Motor Vehicle Administration (MVA) advises that it plans to establish license fees under the bill that are identical or substantially similar to the license fees that apply to recreational vehicle manufacturers, distributors, and factory branches under current law.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Applicability

Existing laws that govern vehicle manufacturers do not apply to manufacturers of recreational vehicles under the bill. The bill's new regulatory framework applies instead.

The bill also creates a new regulatory framework for recreational vehicle distributors and factory branches, including that such entities be licensed; however, the bill *does not exempt* recreational vehicle distributors and factory branches from existing provisions that govern the regulation of vehicle distributors and factory branches. Recreational vehicle dealers remain licensed under existing provisions.

Licensing Requirements

A manufacturer may not transfer any new recreational vehicle to any dealer or distributor in the State unless the manufacturer is licensed by MVA pursuant to the bill. A distributor may not transfer any new recreational vehicle to any dealer in the State unless the distributor is licensed by MVA pursuant to the bill. Further, a person may not conduct the business of a factory branch of a recreational vehicle manufacturer unless the person is licensed by MVA pursuant to the bill. (“Factory branch” means a branch office of a manufacturer from which the manufacturer (1) sells or promotes sales of a particular brand or make of new recreational vehicles to dealers in the State; (2) directs and supervises the manufacturer’s representatives in the State; or (3) supervises or contacts dealers or prospective dealers in the State.)

The bill specifies the information that must be included in a license application and requires each licensee to pay an annual fee to MVA for each license year or part of a license year for which the license is issued. For a manufacturer or a distributor, the annual license fee must be established by MVA based on the combined number of new recreational vehicles transferred by the manufacturer or distributor in the State during the preceding license year. MVA must also establish an annual license fee for a factory branch.

Surety Bonds and Good Faith Requirements

After MVA notifies a manufacturer or distributor of the approval of an application for a license and before MVA issues a license, the manufacturer or distributor must file with MVA a surety bond in the form and with the surety that MVA requires. The amount of the surety bond must be based on the number of new recreational vehicles transferred by the manufacturer or distributor to dealers in the State during the preceding license year, as specified in the bill. Each surety bond must continuously maintain the amount specified. A manufacturer or distributor is only required to file one bond, regardless of the number of makes of recreational vehicles manufactured or distributed.

A manufacturer, distributor, or factory branch, whether directly or through an agent, an employee, or a representative, may not fail to act in good faith in (1) acting or purporting to act under the term, provisions, or conditions of any franchise agreement or (2) in any transaction or conduct governed by the bill.

Written Dealer Agreements

A new recreational vehicle manufacturer or distributor may not sell a recreational vehicle in the State to or through a dealer without having first entered into a written dealer agreement that has been signed by both parties. A manufacturer must designate the duration of the dealer agreement and the area of sales exclusively assigned to a dealer in the agreement and may not make changes to the terms without the mutual written consent of both parties. A dealer may not sell a new recreational vehicle in the State unless (1) the dealer is licensed by MVA in accordance with existing provisions of Title 15, Subtitle 3 of the Transportation Article; (2) the dealer has entered into a dealer agreement; and (3) the dealer is selling within the area of sales designated in the agreement. A manufacturer or distributor must (1) distribute recreational vehicles to its dealers in a fair and equitable manner; (2) on request, provide information on its manner of distribution to dealers; and (3) provide adequate repair instructions to its licensed dealers, as specified.

The bill includes various procedures, requirements, and timelines that must be followed by a manufacturer, distributor, and dealer relating to the termination, cancellation, and renewal of any written dealer agreement. Generally, a manufacturer or distributor may only terminate, cancel, or fail to renew a model, line-make, or dealer agreement with a dealer for good cause.

The bill also establishes procedures and requirements applicable to the transfer of ownership of a dealer when that dealer is part of an agreement with a manufacturer or distributor. Generally, a manufacturer or distributor may only object to the transfer of ownership in limited specified circumstances.

A manufacturer or distributor, whether directly or through an agent, an employee, an affiliate, or a representative, may not coerce or attempt to coerce a dealer to (1) purchase a product the dealer did not order; (2) enter into an agreement with the manufacturer or distributor; (3) take action that is unfair or unreasonable to the dealer; or (4) forgo exercising a right authorized by a dealer agreement or any law governing the business relationship.

Warranties and Warrantors

The bill establishes provisions related to warranties on recreational vehicles (and associated warranted products) and requirements for warrantors. Among other things, the bill (1) requires each warrantor to specify in writing each dealer's obligations for preparation, delivery, and warranty service for the warrantor's products; (2) specifies rates of reimbursement and handling charges; (3) authorizes warranty audits of dealer records; and (4) establishes timelines for the submission and disapproval of warranty claims. The bill

enumerates several actions of warrantors and dealers that constitute violations of the warranty provisions.

Damages and Unreasonable Miles on Delivery

When a new recreational vehicle is damaged before transit to the dealer or is damaged in transit to the dealer and the manufacturer or distributor was responsible for transit, the dealer must (1) notify the manufacturer or distributor of the damage, as specified; (2) request authorization to replace the damaged components, parts, or accessories; and (3) reject the recreational vehicle within two days after delivery. If a dealer determines that a recreational vehicle, at the time of delivery, has an unreasonable amount of miles on the odometer, the recreational vehicle may be subject to rejection by the dealer and reversion to the manufacturer or distributor, with specified limitations.

Enforcement

MVA may suspend or revoke any dealer, manufacturer, or distributor's license on a finding that a party has violated the bill's provisions. MVA may also impose a fine of up to \$1,000 for each violation. A dealer, manufacturer, distributor, or warrantor is entitled to a hearing to contest an action or fine imposed by MVA under these provisions.

If a person suffers financial injury or other damage as a result of a violation of the bill by any other person, the injured person is authorized to bring a civil action to recover damages and reasonable attorney's fees in any court of competent jurisdiction. However, the party bringing the civil action must first serve a written demand for mediation on the offending party, as specified. A dealer, manufacturer, distributor, or warrantor is also authorized to apply for a grant of injunctive relief from a violation of the bill or a refusal to comply with a requirement of the bill.

Current Law: MVA is responsible for regulating businesses that manufacture, distribute, sell, lease, deliver, and title motor vehicles in the State. Generally, to operate one of these businesses, a person must first obtain a license from MVA and pay any applicable license fee. State law includes other requirements for persons and individuals working in the motor vehicle industry; for example, manufacturers, distributors, and factory branches must always act in good faith (*i.e.*, maintaining honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade) when doing business. Various enforcement provisions apply to violations of existing provisions that apply to vehicle manufacturers, distributors, dealers, and factory branches.

MVA's license fees are [set by regulation](#). Annual license fees for manufacturers and distributors range from \$90 to \$900, depending on how many vehicles a licensed entity

transferred to dealers during the previous license year. The annual license fee for a factory branch is \$900. The annual license fee for a new or used car dealer is \$225.

State Fiscal Effect: As noted above, although the bill establishes new provisions governing the regulation of recreational vehicle manufacturers, distributors, and factory branches, it only exempts recreational vehicle manufacturers from existing laws governing the regulation of vehicle manufacturers, distributors, and factory branches under Title 15, Subtitle 2 of the Transportation Article. As such, a strict reading of the bill appears to require recreational vehicle distributors and factory branches to be licensed under both those provisions *and* the provisions established by the bill. Nevertheless, for the purposes of this fiscal and policy note, it is assumed that the bill's provisions prevail and that the provisions of Subtitle 2 no longer apply to recreational vehicle distributors and factory branches.

Based on the assumption that recreational vehicle distributors and factory branches must only be licensed under the bill's provisions (as is the case for recreational vehicle manufacturers), the bill is not anticipated to materially affect State finances. Accordingly, MVA can handle the new regulatory activities with existing budgeted resources. Further, Transportation Trust Fund (TTF) revenues are maintained at their current level as MVA plans to establish license fees under the bill that are the same as the license fees that apply to vehicle manufacturers, distributors, and factory branches under current law. (Under a strict reading of the bill, TTF fee revenues increase for the distributors and factory branches that must hold two licenses, and TTF expenditures may increase minimally for additional regulatory activities associated with them.)

Any revenue from fines that MVA would otherwise collect for violations of the existing statutory provisions that are no longer applicable under the bill is foregone. However, the bill also establishes a new fine applicable to violations of the bill's provisions. Overall, it is assumed that fine revenue is not materially affected by the bill's changes.

Small Business Effect: The bill's changes may have a significant positive effect on small business recreational vehicle dealers and distributors in the State. For example, the dealer agreements required by the bill may positively affect dealer and distributor business operations. While the bill also affects recreational vehicle manufacturers and factory branches, those entities are unlikely to be small businesses.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Transportation; Department of Legislative Services

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