

Senate Study Bill 1237

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CO=CHAIRPERSONS McCOY
and PUTNEY)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the licensing requirements of dealers of new
2 motor vehicles including the license application, establishing
3 or changing the location of a dealer's place of business, and
4 providing for payment of costs and providing an effective
5 date.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 2187XC 81
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1 1 Section 1. Section 322.2, Code 2005, is amended by adding
1 2 the following new subsections:
1 3 NEW SUBSECTION. 1A. "Community" means the same as defined
1 4 in section 322A.1.
1 5 NEW SUBSECTION. 9A. "Franchise" means the same as defined
1 6 in section 322A.1.
1 7 Sec. 2. Section 322.4, Code 2005, is amended by adding the
1 8 following new subsection:
1 9 NEW SUBSECTION. 4A. a. If the application is for a motor
1 10 vehicle dealer's license for new vehicles, a statement of the
1 11 geographic boundaries of the applicant's community for each
1 12 make of motor vehicle which the applicant will offer for sale
1 13 at retail at each place of business specified in the
1 14 application.
1 15 b. A place of business of an applicant for a motor vehicle
1 16 dealer's license for new vehicles shall not be located less
1 17 than five miles from the geographic boundary of the
1 18 applicant's community unless any of the following apply:
1 19 (1) The application contains the written consent of all
1 20 dealers of new motor vehicles of the same make or makes as
1 21 those which the applicant proposes to sell at retail whose
1 22 principal place of business is located within ten miles of the
1 23 applicant's proposed place of business.
1 24 (2) The application includes a request to locate the place
1 25 of business closer to the geographic boundary of the
1 26 applicant's community than permitted by this subsection and an
1 27 administrative law judge of the department of inspections and
1 28 appeals determines at a hearing held pursuant to chapter 17A
1 29 that the applicant has good cause to so locate the place of
1 30 business and that one of the primary purposes of the proposed
1 31 location is a purpose other than to serve an area outside of
1 32 the applicant's community. The application shall also include
1 33 a list of all dealers of new motor vehicles of the same make
1 34 or makes as proposed in the application who have a principal
1 35 place of business located within fifteen miles of the
2 1 applicant's proposed place of business. Failure to list all
2 2 such dealers shall result in a dismissal of the application
2 3 without prejudice. The administrative law judge assigned to
2 4 make the determination of good cause pursuant to this
2 5 subparagraph shall provide notice of the hearing to all
2 6 dealers of new motor vehicles listed by the applicant and to
2 7 any other persons deemed to be interested persons by the
2 8 department of inspections and appeals. The applicant shall
2 9 pay all costs of the hearing and the department may require
2 10 prepayment of the costs prior to hearing.
2 11 (3) If the applicant's community is located on the state's
2 12 boundary with an adjoining state, the geographic boundary of

2 13 the applicant's community shall include the contiguous state
2 14 boundary, but the location restrictions of this subsection
2 15 shall not apply to the community's contiguous state boundary.

2 16 Sec. 3. NEW SECTION. 322.8A RELOCATION OF DEALER'S
2 17 PRINCIPAL PLACE OF BUSINESS.

2 18 1. a. The principal place of business of a licensed
2 19 dealer of new motor vehicles shall not be moved to a location
2 20 ten or fewer miles from the principal place of business of
2 21 another licensed dealer of new motor vehicles of the same make
2 22 or makes unless any of the following apply:

2 23 (1) The proposed location is within the licensee's
2 24 community and is within two miles of the existing location of
2 25 the licensee's principal place of business and the licensee
2 26 has not relocated its principal place of business within the
2 27 past five years.

2 28 (2) The licensee files with the department a written
2 29 consent of all dealers of new motor vehicles of the same make
2 30 or makes as those which the licensee sells at retail who have
2 31 a principal place of business within ten miles of the proposed
2 32 location.

2 33 (3) The licensee files a request with the department to
2 34 move the licensee's principal place of business to a location
2 35 ten or fewer miles from the principal place of business of
3 1 another licensed dealer of new motor vehicles of the same make
3 2 or makes, and an administrative law judge of the department of
3 3 inspections and appeals determines at a hearing held pursuant
3 4 to chapter 17A that the licensee has good cause to so locate
3 5 the place of business and that one of the primary purposes of
3 6 the proposed location is a purpose other than to serve an area
3 7 outside of the applicant's community. The licensee shall file
3 8 with the request a list of all dealers of new motor vehicles
3 9 of the same make or makes who have a principal place of
3 10 business located within fifteen miles of the licensee's
3 11 proposed location. Failure to list all such dealers shall
3 12 result in a dismissal of the request without prejudice. The
3 13 administrative law judge assigned to make the determination of
3 14 good cause pursuant to this subparagraph shall provide notice
3 15 of the hearing to all dealers of new motor vehicles listed by
3 16 the licensee and to any other persons deemed to be interested
3 17 persons by the department of inspections and appeals. The
3 18 licensee shall pay all costs of the hearing and the department
3 19 may require prepayment of the costs prior to hearing.

3 20 (4) If the licensee shares a geographic boundary in common
3 21 with another dealer of licensed new motor vehicles of the same
3 22 make or makes and the principal place of business of the other
3 23 licensed dealer of new motor vehicles of the same make or
3 24 makes is located less than five miles from the common
3 25 geographic boundary, the licensee may move its principal place
3 26 of business for that make or makes to a new location within
3 27 its community which is not closer than five miles to the
3 28 common geographic boundary.

3 29 b. Notwithstanding any provision of this subsection, the
3 30 principal place of business of a licensed dealer of new motor
3 31 vehicles shall not be moved to a location which is more than
3 32 ten miles from its existing location unless the requirements
3 33 of subsection 2 are also satisfied.

3 34 2. a. A licensed dealer of new motor vehicles shall not
3 35 move its principal place of business to a location more than
4 1 ten miles from its existing location unless any of the
4 2 following apply:

4 3 (1) The principal place of business being moved by the
4 4 licensee is moved to a location within the licensee's
4 5 community and is separately licensed to the same licensee as
4 6 another principal place of business of a dealer of new motor
4 7 vehicles.

4 8 (2) The area of the licensee's community has changed by
4 9 more than twenty percent.

4 10 (3) The licensee's franchise has been amended with the
4 11 express consent of the licensee to specify the proposed
4 12 location of the licensee's principal place of business within
4 13 the licensee's community.

4 14 (4) The licensee files a request with the department to
4 15 move the licensee's principal place of business to a location
4 16 which is more than ten miles from its existing location, and
4 17 an administrative law judge of the department of inspections
4 18 and appeals determines at a hearing held pursuant to chapter
4 19 17A that the proposed location will not substantially diminish
4 20 the motor vehicle retail service provided by the licensee in
4 21 its community for the make or makes sold by the licensee and
4 22 that one of the primary purposes of the proposed location is a
4 23 purpose other than to serve an area outside of the applicant's

4 24 community. The licensee shall file with the request a list of
4 25 all dealers of new motor vehicles of the same make or makes
4 26 who have a principal place of business located within fifteen
4 27 miles of the licensee's proposed location. Failure to list
4 28 all such dealers shall result in a dismissal of the request
4 29 without prejudice. The administrative law judge assigned to
4 30 make the determination of good cause pursuant to this
4 31 subparagraph shall provide notice of the hearing to all
4 32 dealers of new motor vehicles listed by the licensee and to
4 33 any other persons deemed to be interested persons by the
4 34 department of inspections and appeals. The licensee shall pay
4 35 all costs of the hearing and the department may require
5 1 prepayment of the costs prior to hearing.

5 2 b. Notwithstanding any provision within this subsection,
5 3 the principal place of business of a licensed dealer of new
5 4 motor vehicles shall not be moved to a location ten or fewer
5 5 miles from the principal place of business of another licensed
5 6 dealer of new motor vehicles of the same make or makes unless
5 7 the requirements of subsection 1 are also satisfied.

5 8 Sec. 4. APPLICABILITY PROVISIONS. This Act shall not
5 9 apply to the establishment of a place of business of a
5 10 licensed dealer of new motor vehicles at a new location, or
5 11 the move of a principal place of business of a motor vehicle
5 12 licensee to a new location if all of the following apply:

5 13 1. The licensee acquired or leased the real estate for the
5 14 new location within the licensee's existing community on or
5 15 before August 14, 2004.

5 16 2. Construction of the place of business at the new
5 17 location commenced on or before October 1, 2004.

5 18 3. The department issues a new license to the motor
5 19 vehicle dealer licensee for the new location on or before
5 20 October 1, 2005.

5 21 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
5 22 immediate importance, takes effect upon enactment.

5 23 EXPLANATION

5 24 This bill relates to the licensing requirements of dealers
5 25 of new motor vehicles. The bill requires applications for a
5 26 motor vehicle license for dealers of new vehicles to include a
5 27 statement of the geographic boundaries of the community of the
5 28 dealer applying for the license. The bill requires new
5 29 license applicants to locate a new place of business not less
5 30 than five miles from the geographic boundary of the
5 31 applicant's community. However, an applicant may locate a
5 32 place of business less than five miles from its geographic
5 33 boundary if the applicant obtains the written consent of all
5 34 dealers of new motor vehicles within 10 miles of the proposed
5 35 location, or if the geographic boundary of the applicant's
6 1 community is the state's border, or if an administrative law
6 2 judge determines in a hearing that the applicant has good
6 3 cause and that one of the primary purposes for establishing
6 4 the proposed location is not to serve areas outside of the
6 5 applicant's community. Notice of the hearing shall be
6 6 provided to all dealers of new motor vehicles within 15 miles
6 7 of the proposed place of business.

6 8 The bill prohibits a motor vehicle dealer licensee from
6 9 relocating its principal place of business 10 or fewer miles
6 10 from the principal place of business of another motor vehicle
6 11 dealer licensee of the same make or makes. A principal place
6 12 of business of a licensee may be relocated 10 or fewer miles
6 13 closer if the new location is within the licensee's community
6 14 and within two miles of the existing location of the principal
6 15 place of business and the licensee has not previously
6 16 relocated its principal place of business within the previous
6 17 five years. A principal place of business of a licensee may
6 18 also be relocated 10 or fewer miles closer if the licensee
6 19 obtains written consent from all dealers of new motor vehicles
6 20 within 10 miles of the new location, or if an administrative
6 21 law judge determines that the licensee has good cause and that
6 22 one of the primary purposes for the move is not to serve areas
6 23 outside of the licensee's community.

6 24 The bill prohibits a motor vehicle dealer licensee from
6 25 relocating its principal place of business to a location more
6 26 than 10 miles from its existing location unless the principal
6 27 place of business being moved is within the licensee's
6 28 community and separately licensed to the same licensee, or if
6 29 the area of the licensee's community has changed by more than
6 30 20 percent. A licensee may relocate more than 10 miles from
6 31 its existing location if the licensee's franchise has been
6 32 amended to allow for the new location or if an administrative
6 33 law judge of the department of inspections and appeals
6 34 determines that the new location will not substantially

6 35 diminish the licensee's motor vehicle retail service provided
7 1 in the licensee's community and that one of the primary
7 2 purposes of the relocation is a purpose other than to serve
7 3 areas outside of the licensee's community.
7 4 The provisions of the bill do not apply to licensees who
7 5 acquired or leased the real estate for a new location within
7 6 the licensee's community on or before August 14, 2004, where
7 7 construction of the new location commenced on or before
7 8 October 1, 2004, and if the department of transportation
7 9 issues a new license to the licensee for the new location on
7 10 or before October 1, 2005.
7 11 The bill provides definitions for the terms "community",
7 12 and "franchise".
7 13 The bill takes effect upon enactment.
7 14 LSB 2187XC 81
7 15 kk:rj/gg/14