

MAR 4 2005

COMMERCE, REGULATION & LABOR HOUSE FILE 575
BY RAECKER

Passed House, Date _____ Passed Senate, 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:

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HF 575

1 Section 1. Section 322.2, Code 2005, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. "Community" means the same as defined
4 in section 322A.1.

5 NEW SUBSECTION. 9A. "Franchise" means the same as defined
6 in section 322A.1.

7 Sec. 2. Section 322.4, Code 2005, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 4A. a. If the application is for a motor
10 vehicle dealer's license for new vehicles, a statement of the
11 geographic boundaries of the applicant's community for each
12 make of motor vehicle which the applicant will offer for sale
13 at retail at each place of business specified in the
14 application.

15 b. A place of business of an applicant for a motor vehicle
16 dealer's license for new vehicles shall not be located less
17 than five miles from the geographic boundary of the
18 applicant's community unless any of the following apply:

19 (1) The application contains the written consent of all
20 dealers of new motor vehicles of the same make or makes as
21 those which the applicant proposes to sell at retail whose
22 principal place of business is located within ten miles of the
23 applicant's proposed place of business.

24 (2) The application includes a request to locate the place
25 of business closer to the geographic boundary of the
26 applicant's community than permitted by this subsection and an
27 administrative law judge of the department of inspections and
28 appeals determines at a hearing held pursuant to chapter 17A
29 that the applicant has good cause to so locate the place of
30 business and that one of the primary purposes of the proposed
31 location is a purpose other than to serve an area outside of
32 the applicant's community. The application shall also include
33 a list of all dealers of new motor vehicles of the same make
34 or makes as proposed in the application who have a principal
35 place of business located within fifteen miles of the

1 applicant's proposed place of business. Failure to list all
2 such dealers shall result in a dismissal of the application
3 without prejudice. The administrative law judge assigned to
4 make the determination of good cause pursuant to this
5 subparagraph shall provide notice of the hearing to all
6 dealers of new motor vehicles listed by the applicant and to
7 any other persons deemed to be interested persons by the
8 department of inspections and appeals. The applicant shall
9 pay all costs of the hearing and the department may require
10 prepayment of the costs prior to hearing.

11 (3) If the applicant's community is located on the state's
12 boundary with an adjoining state, the geographic boundary of
13 the applicant's community shall include the contiguous state
14 boundary, but the location restrictions of this subsection
15 shall not apply to the community's contiguous state boundary.

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

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

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

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

33 (3) The licensee files a request with the department to
34 move the licensee's principal place of business to a location
35 ten or fewer miles from the principal place of business of

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

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

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

34 2. a. A licensed dealer of new motor vehicles shall not
35 move its principal place of business to a location more than

1 ten miles from its existing location unless any of the
2 following apply:

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

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

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

14 (4) The licensee files a request with the department to
15 move the licensee's principal place of business to a location
16 which is more than ten miles from its existing location, and
17 an administrative law judge of the department of inspections
18 and appeals determines at a hearing held pursuant to chapter
19 17A that the proposed location will not substantially diminish
20 the motor vehicle retail service provided by the licensee in
21 its community for the make or makes sold by the licensee and
22 that one of the primary purposes of the proposed location is a
23 purpose other than to serve an area outside of the applicant's
24 community. The licensee shall file with the request a list of
25 all dealers of new motor vehicles of the same make or makes
26 who have a principal place of business located within fifteen
27 miles of the licensee's proposed location. Failure to list
28 all such dealers shall result in a dismissal of the request
29 without prejudice. The administrative law judge assigned to
30 make the determination of good cause pursuant to this
31 subparagraph shall provide notice of the hearing to all
32 dealers of new motor vehicles listed by the licensee and to
33 any other persons deemed to be interested persons by the
34 department of inspections and appeals. The licensee shall pay
35 all costs of the hearing and the department may require

1 community is the state's border, or if an administrative law
2 judge determines in a hearing that the applicant has good
3 cause and that one of the primary purposes for establishing
4 the proposed location is not to serve areas outside of the
5 applicant's community. Notice of the hearing shall be
6 provided to all dealers of new motor vehicles within 15 miles
7 of the proposed place of business.

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

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

1 in the licensee's community and that one of the primary
2 purposes of the relocation is a purpose other than to serve
3 areas outside of the licensee's community.

4 The provisions of the bill do not apply to licensees who
5 acquired or leased the real estate for a new location within
6 the licensee's community on or before August 14, 2004, where
7 construction of the new location commenced on or before
8 October 1, 2004, and if the department of transportation
9 issues a new license to the licensee for the new location on
10 or before October 1, 2005.

11 The bill provides definitions for the terms "community",
12 and "franchise".

13 The bill takes effect upon enactment.

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