

Senate Bill 463

By: Senators Dugan of the 30th, Miller of the 49th and Gooch of the 51st

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 10 and 40 of the Official Code of Georgia Annotated, relating to commerce
 2 and trade and motor vehicles and traffic, respectively, so as to provide an exception for
 3 certain low volume manufacturers of low volume electric motor vehicles to restrictions on
 4 the ownership, operation, and control of motor vehicle dealerships; to provide an exception
 5 for electric motor vehicles to the inspection requirements for certificates of title if certain
 6 conditions are met; to provide for automatic repeal; to provide for related matters; to repeal
 7 conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
 11 amended by revising Code Section 10-1-664.1, relating to restrictions on the ownership,
 12 operation, or control of dealerships by manufacturers and franchisors, as 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, 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;
- 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; or

71 (9) A manufacturer whose principal place of business and sole manufacturing facility
 72 was within this state prior to June 1, 2018, from manufacturing, assembling, selling, or
 73 leasing, or a combination thereof, in this state from July 1, 2018, through and including
 74 June 30, 2020, 2,500 motor vehicles fueled solely by electricity. This division shall stand
 75 repealed and reserved on July 1, 2020.

76 (b) It shall be unlawful for a manufacturer or franchisor or any parent, affiliate, wholly or
 77 partially owned subsidiary, officer, or representative of a manufacturer or franchisor to
 78 compete unfairly with a new motor vehicle dealer of the same line make, operating under
 79 a franchise, in the State of Georgia, and, except as otherwise provided in this subsection,
 80 the mere ownership, operation, or control of a new motor vehicle dealer by a manufacturer
 81 or franchisor under the conditions set forth in paragraphs (1) through ~~(8)~~(9) of
 82 subsection (a) of this Code section shall not constitute a violation of this subsection. For
 83 purposes of this Code section, a manufacturer or franchisor or any parent, affiliate, wholly
 84 or partially owned subsidiary, officer, or representative of a manufacturer or franchisor
 85 shall be conclusively presumed to be competing unfairly if it gives any preferential
 86 treatment to a dealer or dealership of which any interest is directly or indirectly owned,
 87 operated, or controlled by such manufacturer or franchisor or any partner, affiliate, wholly
 88 or partially owned subsidiary, officer, or representative of such manufacturer or franchisor,
 89 expressly including, but not limited to, preferential treatment regarding the direct or
 90 indirect cost of vehicles or parts, the availability or allocation of vehicles or parts, the
 91 availability or allocation of special or program vehicles, the provision of service and
 92 service support, the availability of or participation in special programs, the administration
 93 of warranty policy, the availability and use of after warranty adjustments, advertising, floor
 94 planning, financing or financing programs, or factory rebates.

95 (c) Except as may otherwise be provided in subsection (a) and subsection (b) of this Code
 96 section, no manufacturer or franchisor shall offer to sell or sell, directly or indirectly, any
 97 new motor vehicle to a consumer in this state, except through a new motor vehicle dealer
 98 holding a franchise for the line make covering such new motor vehicle. This subsection
 99 shall not apply to manufacturer or franchisor sales of new motor vehicles to the federal
 100 government, charitable organizations, or employees of the manufacturer or franchisor."

101 **SECTION 2.**

102 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 103 amended in Code Section 40-3-30.1, relating to definitions and inspections, as follows:

104 "40-3-30.1.

105 (a) As used in this Code section and in Code Section 40-2-27, the term:

106 (1) 'Assembled motor vehicle or motorcycle' or 'kit motor vehicle or motorcycle' means
 107 any motor vehicle or motorcycle that is:

108 (A) Manufactured from a manufacturer's kit or manufacturer's fabricated parts,
 109 including replicas and original designs:

110 (i) By an owner;

111 (ii) At the request of the owner by a third-party manufacturer of motor vehicles or
 112 motorcycles; and

113 (iii) Such manufacturer is not manufacturing and testing in accordance with federal
 114 safety standards issued pursuant to 49 U.S.C.A. Section 30101, et seq., unless and
 115 until the United States Customs ~~Service~~ and Border Protection Agency or the United
 116 States Department of Transportation has certified that the motor vehicle complies
 117 with such applicable federal standards;

118 (B) A new vehicle and consists of a prefabricated body, chassis, and drive train;

119 (C) Handmade and not mass produced by any manufacturer for retail sale; or

120 (D) Not otherwise excluded from emission requirements and is in compliance with
 121 Chapter 8 of Title 40, relating to equipment and inspection of motor vehicles.

122 (2)(A) 'Unconventional motor vehicle or motorcycle' means any motor vehicle or
 123 motorcycle that is manufactured, including, but not limited to, all-terrain vehicles,
 124 off-road vehicles, motor driven cycles, mopeds, and personal transportation vehicles,
 125 and that is not in compliance with the following:

126 (i) Chapter 8 of Title 40, relating to equipment and inspection of motor vehicles;

127 (ii) Applicable federal motor vehicle safety standards issued pursuant to 49 U.S.C.A.
 128 Section 30101, et seq., unless and until the United States Customs and Border
 129 Protection Agency or the United States Department of Transportation has certified
 130 that the motor vehicle complies with such applicable federal standards; or

131 (iii) Applicable federal emission standards issued pursuant to 42 U.S.C.A. Section
 132 7401 through Section 7642, the 'Clean Air Act,' as amended.

133 (B) Such term shall not include former military motor vehicles.

134 (b) In addition to the requirements contained in Code Section 40-3-30 and except as
 135 provided in subsection (e) of this Code section, prior to the issuance of a certificate of title
 136 to the owner of an assembled motor vehicle or motorcycle, the owner shall cause such
 137 assembled motor vehicle or motorcycle to be inspected in order to establish:

- 138 (1) The existence of a verifiable Manufacturer's Certificate of Origin (MCO) or other
 139 verifiable documentation of purchase of all major components; and
 140 (2) That such assembled motor vehicle or motorcycle complies with:
 141 (A) Chapter 8 of Title 40, relating to equipment and inspection of motor vehicles; and
 142 (B) If applicable, federal emission standards issued pursuant to 42 U.S.C.A. Section
 143 7401 through Section 7642, the 'Clean Air Act,' as amended.
 144 (c) The inspection conducted under subsection (b) of this Code section shall only be for
 145 the purpose of establishing that such assembled motor vehicle or motorcycle is eligible to
 146 receive a certificate of title.
 147 (d) The department shall be authorized to charge an inspection fee.
 148 (e) No inspection shall be required under this Code section for an assembled motor vehicle
 149 that is fueled solely by electricity, provided that the owner of such vehicle submits to the
 150 department:
 151 (1) A certification that the vehicle complies with:
 152 (A) Chapter 8 of this title, relating to equipment and inspection of motor vehicles; and
 153 (B) Applicable federal emission standards issued pursuant to 42 U.S.C.A. Section 7401
 154 through Section 7642, the 'Clean Air Act,' as amended; and
 155 (2) A Manufacturer's Certificate of Origin (MCO).
 156 ~~(e)~~(f) Unconventional motor vehicles or motorcycles shall not be titled or registered."

157 **SECTION 3.**

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