

B-Engrossed
House Bill 3459

Ordered by the Senate May 23
Including House Amendments dated April 27 and Senate Amendments
dated May 23

Sponsored by COMMITTEE ON ELECTIONS AND RULES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Expands definition of motor vehicle in statutes regulating motor vehicle franchises to include self-propelled devices used in construction, other than motor homes.

A BILL FOR AN ACT

1
2 Relating to motor vehicle franchises; creating new provisions; and amending ORS 650.120.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 650.120 is amended to read:

5 650.120. For the purposes of ORS 650.120 to 650.170:

6 (1) "Dealer" means any person who has been issued a vehicle dealer certificate under ORS
7 822.020 and pursuant to a franchise from a manufacturer, distributor or importer engages in buying,
8 selling, leasing or exchanging new motor vehicles.

9 (2) "Dealership" means the location from which a dealer buys, sells, leases, trades, stores, takes
10 on consignment or in any other manner deals in new motor vehicles.

11 (3) "Distributor" means a person who sells or distributes motor vehicles other than motor homes
12 to motor vehicle dealers.

13 (4) "Fleet owner" means a person in this state who at one time buys or leases for use in a
14 business:

15 (a) 15 or more motor vehicles with a gross vehicle weight rating of less than 8,500 pounds; or

16 (b) 50 or more vehicles with a gross vehicle weight rating of 8,500 pounds or more.

17 (5) "Franchise" means a contract or agreement under which:

18 (a) The franchisee is granted the right to sell, lease and exchange new motor vehicles manu-
19 factured, distributed or imported by the franchisor;

20 (b) The franchise is an independent business operating as a component of a distribution or
21 marketing system prescribed in substantial part by the franchisor;

22 (c) The franchisee's business is substantially associated with the trademark, trade name, com-
23 mercial symbol or advertisements designating the franchisor or the products distributed by the
24 franchisor;

25 (d) The franchisee's business is substantially reliant on the franchisor for a continued supply of
26 motor vehicles, parts and accessories;

27 (e) The franchisee is granted the right to perform warranty repairs authorized by the franchisor;
28 and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (f) The franchisee is granted the right to sell, install and exchange parts, equipment and acces-
2 sories manufactured, distributed or imported by the franchisor for use in or on motor vehicles.

3 (6) "Franchisee" means a dealer to whom a franchise is granted.

4 (7) "Franchisor" means a manufacturer, distributor or importer who grants a franchise to a
5 dealer.

6 (8) "Importer" means a person who transports or arranges for the transportation of any foreign
7 manufactured new motor vehicle into the United States for sale in this state.

8 (9) "Manufacturer" means a person who manufactures or assembles motor vehicles or who
9 manufactures or installs on previously assembled truck chassis special bodies or equipment, other
10 than motor homes, that when installed forms an integral part of the motor vehicle and constitutes
11 a major manufacturing alteration and which completed unit is owned by the manufacturer.

12 (10) "Manufacturer's suggested retail price" means the retail price of the new motor vehicle
13 suggested by the manufacturer, including the retail delivered price suggested by the manufacturer
14 for each accessory or item of optional equipment physically attached to the new motor vehicle at
15 the time of delivery to the dealer that is not included within the retail price suggested by the
16 manufacturer for the new motor vehicle without the accessory or optional equipment.

17 (11) "Motor home" means a motor vehicle that is designed to provide temporary living quarters
18 and is built into an integral part of, or is permanently attached to, a self-propelled motor vehicle
19 chassis or van. The vehicle must contain permanently installed independent life support systems and
20 provide at least four of the following facilities:

21 (a) Cooking;

22 (b) Refrigeration or ice box;

23 (c) Self-contained toilet;

24 (d) Heating or air conditioning;

25 (e) A potable water supply system including a faucet and sink; or

26 (f) A separate 110-120 volt electrical power supply or liquid petroleum gas supply.

27 (12) "Motor vehicle" means:

28 (a) A self-propelled device, other than a motor home, used:

29 **(A)** For transportation of persons or property upon a public highway; or

30 **(B) In construction; or**

31 (b) A trailer with a gross vehicle weight rating of 20,000 pounds or more that is used for com-
32 mercial transportation on a public highway.

33 (13) "Qualified vendor" means a person with a contract or agreement to sell goods or services
34 to a manufacturer, distributor or importer.

35 (14) "Relevant market area" means:

36 (a) For a dealer primarily of motor vehicles with a gross vehicle weight rating of less than 8,500
37 pounds, a circular area around an existing dealership of:

38 (A) Not less than a 10-mile radius from the dealership site;

39 (B) Not less than a 15-mile radius from the dealership site if the population is less than 250,000
40 within a 10-mile radius from the existing dealership and 150,000 or more within a 15-mile radius from
41 the existing dealership;

42 (C) Not less than a 20-mile radius from the dealership site if the population is less than 150,000
43 within a 15-mile radius from the existing dealership; or

44 (D) The area of sales and service responsibility determined under the franchise agreement if the
45 area is larger than the areas provided for in this paragraph.

1 (b) For a dealer primarily of motor vehicles with a gross vehicle weight rating of 8,500 pounds
2 or more, a circular area around an existing dealership of:

3 (A) Not less than a 25-mile radius from the dealership site; or

4 (B) The area of sales and service responsibility determined under the franchise agreement if the
5 area is larger than the area provided for in subparagraph (A) of this paragraph.

6 (15) "Replacement dealer" means any person who, at a dealership where the former dealer was
7 franchised by the same manufacturer, distributor or importer, has been issued a vehicle dealer cer-
8 tificate under ORS 822.020 and pursuant to a franchise from a manufacturer, distributor or importer
9 engages in buying, selling, leasing or exchanging new motor vehicles.

10 **SECTION 2. The amendments to ORS 650.120 by section 1 of this 2005 Act apply to motor**
11 **vehicles ordered, purchased or delivered on or after the effective date of this 2005 Act.**

12