



Senate

General Assembly

File No. 419

January Session, 2021

Senate Bill No. 127

Senate, April 13, 2021

The Committee on Transportation reported through SEN. HASKELL of the 26th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE SALE OF ELECTRIC VEHICLES IN THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-52b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) In the event a manufacturer licensed in accordance with the
4 provisions of section 14-67a, as amended by this act, cancels, terminates
5 or fails to renew any franchise, as defined in section 42-133r, as amended
6 by this act, with a new car dealer, as defined in section 14-51, as
7 amended by this act, the Commissioner of Motor Vehicles, upon receipt
8 of written notice of such action by the manufacturer, shall, unless the
9 dealer holds one or more additional franchises, demand that such new
10 car dealer surrender such license to the commissioner. If such action is
11 contested by such dealer in accordance with the provisions of sections
12 42-133r to 42-133ee, inclusive, as amended by this act, the commissioner
13 shall not demand surrender of such license, and no replacement motor
14 vehicle dealer shall be named for the dealer's point or location, except in

15 accordance with subdivision (10) of section 42-133cc, until the
16 proceedings to contest such action by the manufacturer are finally
17 determined after all means of administrative, judicial and appellate
18 review have been exhausted and the decision is adverse to the dealer.

19 (b) Except as provided in subsections (c) [and (d)] to (e), inclusive, of
20 this section, no person, firm or corporation licensed as a manufacturer
21 in accordance with the provisions of section 14-67a, as amended by this
22 act, may be the holder of a new or used car dealer's license issued in
23 accordance with the provisions of section 14-52, except a manufacturer
24 may operate as a dealer on a temporary basis in accordance with the
25 provisions of subdivision (8) of section 42-133cc. The provisions of this
26 subsection shall apply to any firm or corporation that is owned or
27 controlled by a manufacturer, as determined by the commissioner. Any
28 applicant for a new or used car dealer license that is denied a license
29 under the provisions of this subsection shall be entitled to a hearing in
30 accordance with the provisions of chapter 54.

31 (c) [Notwithstanding the provisions of subsection (b) of this section,
32 the] The commissioner may issue a used car dealer's license to a person,
33 firm or corporation, owned or controlled by a manufacturer, engaged
34 primarily in the business of rental of motor vehicles and industrial and
35 construction equipment, provided: (1) Motor vehicles offered for sale by
36 any such person, firm or corporation are limited to motor vehicles that
37 have been previously used exclusively and regularly in the conduct of
38 the business or motor vehicles traded in by purchasers of such
39 previously used motor vehicles, (2) any warranty repairs performed by
40 such person, firm or corporation are limited to motor vehicles that such
41 person, firm or corporation owns, has previously owned, or has taken
42 in trade, and (3) any retail financing provided or arranged by such
43 person, firm or corporation is limited to vehicles sold by such person,
44 firm or corporation.

45 (d) The commissioner may extend the period of a license issued to a
46 manufacturer to operate a dealership on a temporary basis, in
47 accordance with the provisions of subsection (b) of this section and

48 subdivision (8) of section 42-133cc, for not more than one additional
49 year, up to a maximum period of two years, if the commissioner is
50 satisfied that such manufacturer has made and is continuing to make
51 bona fide efforts to sell and transfer the dealership to a person, firm or
52 corporation that is qualified to hold a new or used dealer's license.

53 (e) (1) For the purposes of this subsection, "manufacturer" means a
54 person, firm or corporation licensed as a manufacturer in accordance
55 with the provisions of section 14-67a, as amended by this act, and any
56 subsidiary, affiliate or entity owned or controlled by such manufacturer.

57 (2) The commissioner may issue a new or used car dealer's license to
58 a manufacturer, provided such manufacturer: (A) Does not have a
59 franchise agreement with any new car dealer in the state; (B)
60 manufactures only electric vehicles; (C) sells at retail only motor vehicles
61 manufactured by such manufacturer; (D) does not hold a controlling
62 interest in another manufacturer, or a subsidiary, affiliate or entity
63 owned or controlled by such other manufacturer, that is licensed as a
64 dealer under this subsection; and (E) is not owned or controlled by
65 another manufacturer, or a subsidiary, affiliate or entity owned or
66 controlled by such other manufacturer, that is licensed as a dealer under
67 this subsection.

68 Sec. 2. Subdivisions (1) and (2) of subsection (a) of section 14-51 of the
69 general statutes are repealed and the following is substituted in lieu
70 thereof (*Effective October 1, 2021*):

71 (1) "New car dealer" includes (A) any person, firm or corporation
72 engaged in the business of merchandising new motor vehicles under a
73 manufacturer's or importer's contract for each such make of vehicle,
74 [who] and (B) any person, firm or corporation licensed as a
75 manufacturer, as defined in subsection (e) of section 14-52b, as amended
76 by this act, that is engaged in the business of merchandising new motor
77 vehicles and licensed as a new car dealer as provided in said subsection.
78 Such person, firm or corporation may, incidental to such business, sell
79 used motor vehicles and repair motor vehicles, [. Such person] and shall
80 be qualified to conduct such business in accordance with the

81 requirements of section 14-52a.

82 (2) "Used car dealer" includes (A) any person, firm or corporation
83 engaged in the business of merchandising motor vehicles other than
84 new, [who] and (B) any person, firm or corporation licensed as a
85 manufacturer, as defined in subsection (e) of section 14-52b, as amended
86 by this act, that is engaged in the business of merchandising motor
87 vehicles other than new and licensed as a used car dealer as provided in
88 said subsection. Such person, firm or corporation may, incidental to
89 such business, repair motor vehicles. A used car dealer does not include
90 any person, firm or corporation engaged in the business of leasing or
91 renting motor vehicles that offers for sale or sells used motor vehicles
92 incidental to its primary business, if [(A)] such person, firm or
93 corporation is licensed in accordance with the provisions of section 14-
94 15, and [(B)] the motor vehicles that it offers for sale were formerly the
95 subject of one or more lease agreements to which it was a party and the
96 actual or prospective purchaser is the original lessee pursuant to a
97 purchase option specified in a lease agreement. Such person, firm or
98 corporation shall be qualified to conduct such business in accordance
99 with the requirements of section 14-52a.

100 Sec. 3. Section 14-67a of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective October 1, 2021*):

102 (a) No person, firm or corporation shall engage in the business of
103 manufacturing motor vehicles for sale in this state without having been
104 issued a manufacturer's license, which license shall expire biennially on
105 the last day of June. Application for such license or renewal thereof may
106 be made to the Commissioner of Motor Vehicles in such form as the
107 commissioner shall require. The commissioner may require with such
108 application all of the following, which [he] the commissioner may
109 consider in determining the fitness of such applicant to engage in
110 business as a manufacturer of motor vehicles for sale in this state:

111 (1) Information relating to the applicant's solvency and [his] financial
112 standing;

113 (2) A certified copy of any warranty made by the manufacturer or any
114 other party in whom title to such motor vehicle may have been vested
115 prior to possession of such motor vehicle being transferred to a person
116 licensed under the provisions of this section;

117 (3) A copy of the applicant's standard franchise agreement and all
118 supplements thereto, together with a list of the applicant's authorized
119 dealers or distributors in this state and their [address] addresses. Such
120 applicant shall notify the commissioner immediately of the
121 appointment of any additional dealers or distributors or any revisions
122 of or additions to the basic franchise agreement on file with [him] the
123 commissioner, or of any individual dealer or distributor supplements to
124 such agreement. The provisions of this subdivision shall not apply to
125 any manufacturer licensed as a new or used car dealer pursuant to
126 subsection (e) of section 14-52b, as amended by this act;

127 (4) A certified copy of the delivery and preparation obligations of the
128 applicant's new car dealers, which obligations shall constitute such new
129 car dealers' only responsibility for product liability between the dealer
130 and the manufacturer;

131 (5) An affidavit stating the rates such applicant pays or agrees to pay
132 any authorized new car dealer for parts and labor used and expended
133 by such authorized new car dealer for the manufacturer under delivery
134 and preparation obligations under the new car warranty;

135 (6) A biennial license fee of two thousand three hundred dollars,
136 which fee shall not be subject to refund or proration; and

137 (7) Any other pertinent matter commensurate with the safeguarding
138 of the public interest.

139 (b) An application for renewal of such license filed with the
140 commissioner after the expiration date of such license shall be
141 accompanied by a late fee of two hundred fifty dollars. The
142 commissioner shall not renew any license under this section which has
143 expired for more than forty-five days.

144 Sec. 4. Section 42-133r of the general statutes is repealed and the
145 following is substituted in lieu thereof (*Effective October 1, 2021*):

146 As used in [sections 42-133r] this section and sections 42-133s to 42-
147 133ee, inclusive, unless the context indicates a different meaning:

148 (1) "Manufacturer" means any person who manufactures or
149 assembles new motor vehicles, or imports motor vehicles for
150 distribution to dealers or through distributors, or factory branches, but
151 does not include any manufacturer licensed as a new or used car dealer
152 pursuant to subsection (e) of section 14-52b, as amended by this act.

153 (2) "Distributor" means any person who offers for sale, sells or
154 distributes any new motor vehicle to dealers or who maintains factory
155 representatives or who controls any person, firm, association, joint
156 venture corporation or trust, who offers for sale, sells or distributes any
157 new motor vehicle to dealers.

158 (3) "Factory branch" means a branch office maintained by a
159 manufacturer for the purpose of selling, or offering for sale, motor
160 vehicles to a distributor or dealer, or for directing or supervising factory
161 or distributor representatives.

162 (4) "Owner" means any person holding an ownership interest in a
163 business entity operating as a dealer or under a franchise as defined in
164 this section either as a corporation, partnership or sole proprietorship.
165 To the extent that the rights of any owner under [sections 42-133r] this
166 section and sections 42-133s to 42-133ee, inclusive, conflict with the
167 rights of any other owner, such rights shall accrue in priority order
168 based on the percentage of ownership interest held by each owner with
169 the owner having the greatest ownership interest having first priority
170 and succeeding priority accruing to other owners in the descending
171 order of their percentage of ownership interest.

172 (5) "Dealership facilities" means real estate, buildings, fixtures and
173 improvements which are used in the course of business under a
174 franchise by a new motor vehicle dealer.

175 (6) "Dealer" means any person engaged in the business of selling,
176 offering to sell, soliciting or advertising the sale of new motor vehicles
177 and who holds a valid sales and service agreement, franchise or
178 contract, granted by a manufacturer or distributor for the retail sale of
179 the manufacturer's or distributor's new motor vehicles.

180 (7) "Motor vehicle" means a self-propelled vehicle intended primarily
181 for use and operation on the public highways, other than a farm tractor
182 or other machinery or tools used in the production, harvesting and care
183 of farm products.

184 (8) "New motor vehicle" means a motor vehicle which has been sold
185 to a new motor vehicle dealer and which has not been used for other
186 than demonstration purposes and on which the original title has not
187 been issued from the new motor vehicle dealer.

188 (9) "Established place of business" means a permanent, commercial
189 building easily accessible and open to the public at reasonable times and
190 at which the business of a new motor vehicle dealer, including the
191 display and repair of vehicles, may be lawfully carried on.

192 (10) "Franchise" means a written agreement or contract between a
193 manufacturer or distributor and a dealer which purports to fix the legal
194 rights and liabilities of the parties to such agreement or contract, and
195 pursuant to which the dealer purchases and resells the franchise
196 product or leases or rents the dealership premises.

197 (11) "Good faith" means honesty in fact and the observance of
198 reasonable commercial standards of fair dealing in the trade.

199 (12) "Designated family member" means the spouse, child,
200 grandchild, parent, brother or sister of an owner who, in the case of the
201 owner's death, is entitled to inherit the ownership interest in the dealer
202 under the terms of the owner's will, or who has been nominated in any
203 other written instrument, or who, in the case of an incapacitated owner
204 of a dealer, has been appointed by a court as the legal representative of
205 the dealer's property.

206 (13) "Person" means a natural person, partnership, corporation,
207 limited liability company, association, trust, estate or any other legal
208 entity.

209 (14) "Relevant market area" means the area within a radius of
210 fourteen miles around an existing dealer or the area of responsibility
211 defined in a franchise, whichever is greater.

212 (15) "Commissioner" means the Commissioner of Motor Vehicles.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	14-52b
Sec. 2	<i>October 1, 2021</i>	14-51(a)(1) and (2)
Sec. 3	<i>October 1, 2021</i>	14-67a
Sec. 4	<i>October 1, 2021</i>	42-133r

TRA *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Department of Motor Vehicles	TF - Revenue Gain	Up to 20,000	Up to 20,000
Resources of the General Fund	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact: None

Explanation

The bill results in a potential revenue gain of up to \$20,000 to the Special Transportation Fund by expanding car dealer license eligibility to additional manufacturers, which is dependent on the number of licenses issued by the Department of Motor vehicles.

The bill also increases the potential sales tax revenue to the General Fund. The actual revenue gain in sales tax would be dependent upon any potential shift in consumer purchases from out-of-state to in-state.

Connecticut requires sales tax to be paid on vehicles registered for less than thirty days in another state upon registration of the vehicle in this state. However, Connecticut does provide a credit for out-of-state sales taxes paid if the registrant provides supporting documentation.

Of the adjacent states, Massachusetts is the only one that charges sales tax on the purchase of motor vehicles by nonresidents.¹ Vehicle

¹ New York State does not currently tax purchases of motor vehicles by nonresidents. Rhode Island does not charge Connecticut residents on the purchase of motor vehicles.

purchases from Massachusetts are therefore likely to qualify for the sales tax credit for out-of-state purchases. Any potential shift in sales from Massachusetts to Connecticut under this bill would result in the full sales tax payment in Connecticut (rather than an out-of-state sales tax credit) which results in a potential revenue gain.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 127****AN ACT CONCERNING THE SALE OF ELECTRIC VEHICLES IN THE STATE.****SUMMARY**

This bill expands the ability of certain licensed motor vehicle manufacturers to sell their vehicles directly to consumers in Connecticut under specific conditions. It does this by authorizing the motor vehicles commissioner to issue a new or used car dealer's license to a manufacturer that meets certain requirements.

Current law bars motor vehicle manufacturers from holding a new or used car dealer's license except that:

1. the motor vehicles commissioner may issue a used car dealer's license to a person, firm, or corporation owned or controlled by a manufacturer, primarily in the business of renting motor vehicles and industrial and construction equipment under certain conditions, and
2. a manufacturer may operate a dealership for up to one year (or two years if the commissioner makes certain determinations).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2021

MOTOR VEHICLE MANUFACTURER DIRECT SALE CRITERIA

To qualify for a new or used car dealer's license under the bill, a licensed manufacturer:

1. cannot have a franchise agreement with a new car dealer in Connecticut;

2. must manufacture only “electric vehicles” (which the bill does not define);
3. must sell at retail only vehicles it makes; and
4. cannot hold a controlling interest in or be owned or controlled by (a) another manufacturer or (b) a subsidiary, affiliate, or entity owned or controlled by another manufacturer, licensed as a dealer under the bill.

The bill exempts a manufacturer who meets these qualifications from motor vehicle franchise laws (see BACKGROUND).

Under the bill, a “manufacturer” is any person, firm, or corporation licensed as a motor vehicle manufacturer under state law and any subsidiary, affiliate, or entity it owns or controls. The bill expands the statutory definitions of “new car dealer” and “used car dealer” to include such a manufacturer and generally subjects the manufacturer to the rules governing these dealers. Under the bill, if a manufacturer is licensed as a new car dealer, it may also repair vehicles and sell used vehicles; if licensed as a used car dealer, it may also repair vehicles.

BACKGROUND

Motor Vehicle Franchises and Dealerships

Under the laws governing motor vehicle franchises, a motor vehicle manufacturer makes or assembles new motor vehicles or imports them for distribution to dealers or through distributors or factory branches. A dealer sells motor vehicles and holds a valid sales and service agreement, franchise, or contract with a manufacturer or distributor for retail sale of the manufacturer’s or distributor’s new motor vehicles (CGS § 42-133r).

The motor vehicle franchise laws set out, among other things, the respective obligations of manufacturers and dealerships (CGS §§ 42-133r to 42-133ee). They generally prohibit a manufacturer from unfairly competing with a dealer who sells the manufacturer’s “line make” of vehicles (e.g., Toyota or Ford) and is operating under an agreement or

franchise with the manufacturer in the relevant market area (CGS § 42-133cc(8)).

Motor Vehicle Dealer Laws and Regulations

Motor vehicle dealers are subject to laws governing vehicle sales, registration, and recordkeeping, among other things.

The Department of Motor Vehicles (DMV) requires new and used car dealers to pay a biennial license fee of \$700 and \$560, respectively. New and used car dealers also must post a \$50,000 cash or surety bond and comply with applicable state and federal laws. The commissioner may refuse to grant or renew a license if the dealer, or an officer or major stockholder of the dealer, has been convicted of violating any laws pertaining to the business or certain other crimes, such as fraud (CGS §§ 14-52 & 14-52a).

Dealers must follow motor vehicle laws and regulations in such areas as use of dealer plates, record-keeping, sales agreements, vehicle registration, and customer complaints (Conn. Agencies Regs. § 14-63-1 et seq.).

Manufacturer

Under the motor vehicle statutes, a manufacturer generally is (1) a person, whether or not a Connecticut resident, engaged in the business of constructing or assembling new motor vehicles of a type required to be registered by the commissioner for operation upon any highway (except a utility trailer), which are offered for sale in Connecticut, or (2) a person who distributes new motor vehicles to new car dealers licensed in Connecticut (CGS § 14-1(53)).

The law prohibits any person, firm, or corporation from engaging in the business of manufacturing motor vehicles without receiving a manufacturer's license, which expires biennially on June 30. Applicants for a manufacturer's license must apply to DMV and pay a biennial license fee of \$2,300 (CGS § 14-67a(a)).

COMMITTEE ACTION

Transportation Committee

Joint Favorable

Yea 25 Nay 10 (03/24/2021)