

SENATE FILE NO. SF0057

Motor vehicle franchises-exception.

Sponsored by: Senator(s) Case and Representative(s)
Lindholm and Pelkey

A BILL

for

1 AN ACT relating to motor vehicles; authorizing a motor
2 vehicle manufacturer without dealerships within the state
3 to sell motor vehicles directly to consumers; authorizing a
4 wholly owned subsidiary of a motor vehicle manufacturer to
5 operate a dealership as specified; conforming provisions;
6 and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 31-16-101(a)(xiii) and by creating a
11 new paragraph (xxxi), 31-16-102, 31-16-103(a)(ii), by
12 creating a new paragraph (viii), (b)(intro), (c)(intro) and
13 (f), 31-16-104(a)(i) and by creating a new paragraph (ix),
14 31-16-106, 31-16-108(a)(v), (xi), (c)(ix) and (j),

1 31-16-112(a), 31-16-125 by creating a new subsection (k)
2 and 31-16-126(c)(intro) are amended to read:

3

4 **31-16-101. Definitions.**

5

6 (a) As used in this act:

7

8 (xiii) "Manufacturer" means a person engaged in
9 the business of constructing or assembling vehicles which
10 are subject to registration in this state and, except where
11 otherwise provided, "manufacturer" means a distributor, a
12 factory branch, distributor branch or other representative
13 thereof, but excludes any person whose principal business
14 is wholesale and retail financing. The term includes direct
15 sale manufacturers;

16

17 (xxxi) A "direct sale manufacturer" means a
18 person licensed under W.S. 31-16-104(a)(ix) who is engaged
19 in the business of manufacturing, constructing or
20 assembling new and unused vehicles and who sells new and
21 unused vehicles to the general public.

22

1 **31-16-102. Unlicensed vehicle dealers and**
2 **manufacturers prohibited.**

3
4 No person shall hold himself out as being in the business
5 of a retail seller of vehicles, or act as a retail vehicle
6 dealer, direct sale manufacturer or Wyoming based
7 manufacturer without a valid license issued by the
8 department under this act. No person shall act as a
9 vehicle dealer of a new vehicle without a valid license as
10 a new vehicle dealer for new vehicles of the same line make
11 issued by the department under this act. No person other
12 than a licensed vehicle dealer shall display a vehicle for
13 sale unless the title is in the name of the displayer. No
14 person shall solicit sales of vehicles without a vehicle
15 dealer's license, unless the title is in the name of the
16 person soliciting sales.

17

18 **31-16-103. Licenses; applications; issuance,**
19 **suspension and revocation; change in ownership; rulemaking.**

20

21 (a) An applicant for a license required under this
22 act shall, before commencing business and annually

1 thereafter submit an application to the department in a
2 form prescribed by the department containing the following:

3
4 (ii) Except as provided for licenses under W.S.
5 31-16-104(a)(i)(B) or (a)(ix), a complete description,
6 including the address, of the principal place of business
7 and any other place of business for activities requiring a
8 license under this act operated and maintained by the
9 applicant in conjunction with the principal place of
10 business in each county in this state;

11
12 (viii) For a direct sale manufacturer's license,
13 the number of manufacturer license plates requested, a
14 statement of the need for the plates including, but not
15 limited to, the number of employees, annual sales, and such
16 other information as required by the department.

17
18 (b) Pending determination by the department that the
19 applicant has met the requirements under this act, it may
20 issue a temporary license to any applicant. A temporary
21 license shall not exceed a period of ninety (90) days while
22 the department is completing its investigation and
23 determination of all facts relative to the qualifications

1 of the applicant for the license. The temporary license
2 terminates when the applicant's license has been issued or
3 refused. When the department determines the applicant has
4 complied with all licensing requirements, the department
5 shall issue a license or renewal to an applicant upon
6 submission of a complete application to the department
7 indicating the applicant is qualified and will operate from
8 a principal place of business if a dealer, unless seeking a
9 license under W.S. 31-16-104(a)(i)(B) or (a)(ix), or from
10 an established place of business if a Wyoming based
11 manufacturer, and upon filing of a bond and payment of a
12 license fee of twenty-five dollars (\$25.00) for dealers
13 selling fewer than twelve (12) vehicles in any twelve (12)
14 consecutive month period and one hundred dollars (\$100.00)
15 for dealers selling twelve (12) or more vehicles in any
16 twelve (12) consecutive month period as follows:

17

18 (c) The department may deny, suspend, revoke or
19 refuse to renew a license or temporary permit issued under
20 this act if it finds the person, applicant, vehicle dealer,
21 salesperson, agent, direct sale manufacturer or Wyoming
22 based manufacturer:

23

1 (f) Sixty (60) days after transfer of ownership of a
2 dealership or the business of a Wyoming based manufacturer
3 or direct sale manufacturer, except as a result of transfer
4 of shares of stock in a corporate dealership or Wyoming
5 based manufacturer duly incorporated in Wyoming, the dealer
6 license, Wyoming based manufacturer license, demo plates,
7 full use plates, manufacturer plates and temporary permits
8 are void and shall immediately be delivered to the
9 department. The new owner shall apply for a new dealer
10 license, demo plates, full use plates, manufacturer plates
11 and temporary permits immediately upon transfer of
12 ownership. Upon transfer of ownership or termination of
13 business the former dealer, direct sale manufacturer or
14 Wyoming based manufacturer shall notify the department and,
15 if not a transfer of ownership, immediately deliver the
16 dealer license, direct sale manufacturer license, Wyoming
17 based manufacturer license, demo plates, full use plates,
18 manufacturer plates and temporary permits to the
19 department.

20

21 **31-16-104. Classes of licenses and permits;**
22 **expiration.**

23

1 (a) Licenses issued under this act shall be the
2 following classes:

3
4 (i) New vehicle dealer's license which permits
5 the licensee, at the licensee's election, to either:

6
7 (A) Engage in the business of selling or
8 exchanging new vehicles or both new and used vehicles; or

9
10 (B) Engage in the business of selling or
11 exchanging new vehicles or both new and used vehicles
12 without a principal place of business when the licensee:

13
14 (I) Is a wholly owned subsidiary of a
15 manufacturer licensed under paragraph (ii) of this
16 subsection; and

17
18 (II) Seeks to sell or exchange new
19 vehicles of a line make that no other new vehicle dealer in
20 the state sells or exchanges.

21
22 (ix) Direct sale manufacturer's license which
23 permits the licensee to sell new and unused vehicles to the

1 general public. A direct sale manufacturer's license shall
2 be granted only to a person who seeks to sell or exchange
3 new vehicles of a line make that no other new vehicle
4 dealer in the state sells or exchanges.

5

6 **31-16-106. Required principal place of business.**

7

8 The department shall not issue a dealer's license to any
9 applicant without a principal place of business. If the
10 dealer changes the site or location of his principal place
11 of business, he shall immediately notify the department. A
12 new license shall be granted if the new location meets all
13 the requirements of a principal place of business. If a
14 dealer ceases to have a principal place of business he
15 shall immediately surrender his license to the department
16 until the dealer obtains a principal place of business. The
17 dealer's license shall be reissued without charge if a
18 principal place of business is established. Nothing in
19 this act shall be construed to prevent a dealer from
20 conducting the business for which he is licensed at one (1)
21 or more licensed supplemental lots or locations not
22 contiguous but operated and maintained in conjunction with
23 the dealer's principal place of business. This section

1 shall not apply to an applicant seeking a new vehicle
2 dealer's license under W.S. 31-16-104(a)(i)(B) or a direct
3 sale manufacturer's license under W.S. 31-16-104(a)(ix).

4
5 **31-16-108. Unlawful acts.**

6
7 (a) No vehicle dealer or other person required to be
8 licensed under this act, or any salesperson or agent shall:

9
10 (v) Except for new vehicle dealers licensed
11 pursuant to W.S. 31-16-104(a)(i)(B), engage in the business
12 for which a dealer is licensed without maintaining a
13 principal place of business as required by this act;

14
15 (xi) Import, display for sale, exchange, or
16 sell, any new vehicle, or any used vehicle originally sold
17 by a manufacturer for distribution outside the United
18 States unless the vehicle is in compliance with all federal
19 regulations governing vehicles that were manufactured for
20 distribution outside the United States and subsequently
21 imported into the United States. Any dealer required to be
22 licensed under this act shall maintain records in his
23 principal place of business, or other location approved by

1 the department, necessary to verify compliance with this
2 provision if requested by the department or any law
3 enforcement officer;

4

5 (c) No manufacturer licensed under this act shall:

6

7 (ix) Unreasonably withhold consent to the sale,
8 transfer or exchange of the franchise to a qualified buyer
9 capable of being licensed as a new vehicle dealer in this
10 state. A manufacturer is not unreasonably withholding
11 consent when it refuses to sell, transfer or exchange a
12 franchise it operates pursuant to W.S. 31-16-104(a)(i)(B);

13

14 (j) No motor vehicle manufacturer or distributor
15 licensed under this act, directly or indirectly, shall
16 offer to sell or sell new motor vehicles to a consumer
17 except through a new vehicle dealer who holds a valid sales
18 and service agreement, franchise, or contract granted by
19 the manufacturer, distributor or wholesaler for the sale of
20 its motor vehicles. This subsection shall not apply to a
21 licensed direct sale manufacturer, sales to affiliates of
22 the manufacturer, distributor or wholesaler, sales to the

1 federal government, charitable organizations or sales to
2 employees of the manufacturer, distributor or wholesaler.

3

4 **31-16-112. Penalty.**

5

6 (a) Any person, Wyoming based manufacturer, direct
7 sale manufacturer, vehicle dealer, salesperson or agent who
8 violates this act or any rule or regulation promulgated
9 under this act is guilty of a misdemeanor punishable by a
10 fine of not more than seven hundred fifty dollars
11 (\$750.00), imprisonment for not more than six (6) months,
12 or both.

13

14 **31-16-125. Demo, full use, and manufacturer license**
15 **plates.**

16

17 (k) Licensed direct sale manufacturers may apply to
18 the department for one (1) or more manufacturer license
19 plates. After presentation of a current direct sale
20 manufacturer certificate and payment of fees, the
21 department shall assign to the direct sale manufacturer the
22 number of license plates approved by the department for use
23 in the usual and customary conduct of the manufacturer's

1 business including, demonstrating, testing, transporting or
2 selling a vehicle.

3

4 **31-16-126. Use of demo, full use plates; temporary**
5 **permits.**

6

7 (c) A vehicle dealer may not use a demo, full use or
8 manufacturer license plate on any vehicle type the dealer
9 is not licensed to sell, as indicated on the dealer's
10 application for a dealer license. No demo, full use,
11 direct sale manufacturer or Wyoming based manufacturer
12 license plate shall be used upon any vehicle rented, or
13 leased by a dealer, direct sale manufacturer or Wyoming
14 based manufacturer or upon a wrecker or delivery truck used
15 by a dealer or Wyoming based manufacturer, except that a
16 demo, full use or Wyoming based manufacturer license plate
17 may be used on a vehicle lawfully being repossessed by a
18 dealer or Wyoming based manufacturer. A demo, full use or
19 manufacturer license plate for trailers may be used on a
20 trailer being used by a dealer or Wyoming based
21 manufacturer to transport a boat if the boat:

22

1 **Section 2.** This act is effective July 1, 2017.

2

3

(END)