



Senator Mia Costello
Chair, Senate Labor & Commerce Committee
State Capitol
Room 510
Juneau, AK 99801

March 7, 2016

Dear Senator Costello:

On behalf of the Alliance of Automobile Manufacturers, I am writing to you about SB 197, the automobile dealers franchise bill in your committee. The Alliance of Automobile Manufacturers is a trade association of 12 car and light truck manufacturers including BMW Group, FCA US LLC, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars North America, Toyota, Volkswagen Group of America, and Volvo Car USA. Our members produce approximately eighty percent of the vehicles sold in the United States.

The 30-page bill signals a dramatic shift in the automobile industry. We address legislation like this throughout the country, and after seeing more than 250 automobile franchise bills over the last decade, this one is very likely the single most egregious shift in policy that we've ever seen. This bill is not simply a cleanup bill, it is more like a complete overhaul of Alaska's automobile franchise law. Our legal staffs are furiously engaged in the process of pointing out just how bad this bill is, and we estimate that it will take two full afternoons to walk through all of the provisions and to contest each and every one as bad for the State of Alaska, and more importantly bad for the Alaskan consumer.

Furthermore, we think it's important that despite these being purely private party contracts between private companies—an area that legislators should relegate to the Board room for negotiation, instead of the State Capitol—no one from the auto dealers has ever contacted the manufacturers, shown them a draft bill, or tried to negotiate the terms contained in this outrageous profit grab. We urge you to delay hearing this bill until the parties get a chance to work out their differences, as all private companies do in business with one another.

We repeat that this legislation has nothing to do with public funds; nothing to do with the health and safety of Alaska citizens; nothing to do with the State government at all. It's a business contract between consenting, sophisticated companies. To bring their private enterprise problems before you at this time of crisis in Alaska is presumptuous at best, and would set a terrible precedent of government refereeing in private contract disputes.

SB 197 would also have several negative impacts on Alaska consumers. For example, this bill makes it harder to run incentive programs. It even allows dealers to charge a higher document service fee to customers who are eligible to receive a discount from the manufacturer under programs for members of military, employees, and recent graduates. This bill also encourages dealers to raise the

prices that they charge Alaska consumers for service repairs, because manufacturers would be required to pay dealers the same inflated rates for warranty work. This bill also makes it harder to open new stores to meet shifting demand.

SB 197 also contains a number of very troubling constitutional problems that we hope the committee will have time to study. For example, the bill violates the Alaska Constitution's Contracts Clause. Not only does this bill make itself retroactive to existing contracts, it seeks to take an entire set of existing laws and make those retroactive as well. That is extraordinary! The bill also raises problems under the U.S. Constitution's Commerce Clause. It would create a state law that raises a manufacturer's costs in Alaska, and then the bill would force the manufacturer to cover those increased costs by spreading them out over the other 49 states. These are only two examples of constitutional problems in SB 197. The bill has other constitutional problems as well which we will not address in this letter simply in the interest of brevity.

There is nothing special about car dealers that would require you to legislate in their arena. Nothing different from the hundreds of products sold throughout Alaska under similar franchise agreements. We urge you to place this bill aside and let the parties address these matters among themselves. We assure you that no public harm will occur in the process.

Sincerely,



Landon Fulmer
Vice President, State Affairs
Alliance of Automobile Manufacturers