

HB

182

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 182 (L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to certain vehicles, . . . to BRU Civil Division
registration and bonding of motor vehicle dealers; . . ." Component Fair Business Practices
 Sponsor Rep. Murkowski
 Requester House Labor and Commerce Committee Component No. 2206

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 182 (L&C) establishes a framework that will govern the relationship between automobile manufacturers and their franchised dealers. The bill deals with issues surrounding the issuance and termination of new motor vehicle franchise agreements, such as procedures for selling assets and equipment in the event a franchise is sold or transferred, the processing and payment of warranty claims, and establishing boundaries for the establishment of new franchises, among other things. In addition, CSHB 182 (L&C) contains provisions that regulate automobile dealer trade practices in the sale and advertisement of new and used motor vehicles.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson
 Division: Attorney General's Office
 Approved by: Kathryn Daughettee for Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone (907) 465-5370
 Date/Time 3/26/02 4:44 PM
 Date 3/26/2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 182(FIN)
(H) Publish Date: 4/11/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to motor vehicles BRU Motor Vehicles
and providing for an effective date Component _____
Sponsor Representative Murkowski, Represent
Requester H (FIN) Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will delete from dealer registration businesses that sell only trailers or semi-trailers and do not also sell motor vehicles. There are 3 of these businesses that currently must register as dealers. The loss of revenue from these businesses will be \$150 annually.

Prepared by: Mary Marshburn, Director
Division: Motor Vehicles
Approved by: Jim Duncan, Commissioner
Agency: Department of Administration

Phone 269-5559
Date/Time 4/1/02 9:55 AM
Date 4/1/2002

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halcro Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



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HOUSE LABOR AND COMMERCE COMMITTEE

Memorandum

Date: April 29, 2002
To: Senator Robin Taylor
Judiciary Chair
From: Representative Lisa Murkowski
Subject: Hearing Request

House Bill 182, Motor Vehicle Sales and Dealers, is a comprehensive motor vehicle franchise protection act that addresses the relationship between motor vehicle dealers and manufacturers, and prospective auto buyers, and provides guidelines to protect dealers and consumers from abuses within the automobile industry.

Attached you will find the most current version of House Bill 182, sponsor statement, sectional analysis, and two zero fiscal notes. Incidentally, the Department of Law's new zero fiscal note, which replaces the previous \$77,000 note, has not been transmitted to the chief clerk's office nor to the Senate secretary's office. Although both the House Finance and Senate Labor and Commerce Committees adopted the zero fiscal note from Department of Law, neither committee actually transmitted the note, nor did they list it in the committee report as a *new* fiscal note. Please help us resolve this oversight by adopting and transmitting the zero fiscal note from the Department of Law.

There is no known controversy surrounding House Bill 182. Please schedule the measure the earliest your schedule will allow. Thank you for your accommodation.

**REQUEST FOR
HEARING**

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halcro Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



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HOUSE LABOR AND COMMERCE COMMITTEE

Sponsor Statement House Bill 182 Motor Vehicle Sales and Dealers

Alaska is the only state in the nation without comprehensive motor vehicle franchise protection. House Bill 182, as requested by the Alaska Automobile Dealers Association (AADA), addresses the relationship between motor vehicle dealers and manufacturers, and prospective auto buyers, and provides guidelines to protect dealers and consumers from abuses within the automobile industry.

Dealers are generally dependent on manufacturers as their sole-source supplier. Such dependence gives rise to policies that are otherwise of no value to the dealer, or that may place onerous burdens upon a local dealer. House Bill 182 creates a platform for dispute resolution between manufacturers and motor vehicle dealers with regard to franchise disagreements. Presently, legal disputes between manufacturers and dealers are governed by, interpreted, and adjudicated by out-of-state courts. This can often be an uncertain and expensive proposition for Alaska dealers. House Bill 182 brings agreements made between manufacturers and dealers under jurisdiction of Alaska courts.

Some franchise agreements are only offered for short durations and require periodic renewal, even though dealers may be required to invest millions of dollars to obtain or expand their franchises. Many auto dealers are reluctant to make such substantial investments without some assurance of protection from manufacturer abuses. House Bill 182 sets forth uniform processes to transfer, terminate, or convey franchise agreements. Included are protections requiring compensation for dealer facilities and reimbursement for purchased parts and equipment due to an unelected termination. Protections are also provided against the placement by manufacturers of new competing dealerships within too close a proximity to a current dealer's market area. Additionally, House Bill 182 provides uniform guidelines and protections when designating successors in case of death or incapacity of franchisees.

House Bill 182 also provides proactive and meaningful protection for the auto buying public. Safeguards are created regarding deceptive advertising, price comparisons, availability of advertised items, and condition and accident history of vehicles for prospective used car buyers.

House Bill 182 restores some balance to the relationship between Alaska's automobile dealers and Outside manufacturers, and also provides much needed protections for consumers in the state. The bill establishes guidelines to protect dealers and consumers alike from abuses within the automobile industry and gives Alaska up-to-date motor vehicle franchise protections.

Last Updated: April 23, 2002
Staff Contact: Amy Erickson 465-4954

Sponsor Statement

Sectional Analysis
House Bill 182
Motor Vehicle Sales and Dealers

Section 1 makes changes to conform to the definition of certain terms provided by section 8 of the bill.

Section 2 makes changes to conform to the definitions provided by section 8 of the bill and the repealer in section 13 and makes some stylistic changes.

Section 3 makes a change to conform to the addition of a definition of "department" in Section 8.

Section 4 makes a change to conform to the repealer in Section 13 of the bill.

Section 5 rewrites AS 08.66.080 relating to the bond to be filed by a dealer, conditions on the bond, cancellation of the bond, liability on the bond, and application of the bond to dealer registration renewals.

Section 6 expands the types of violations that give a person a right of action against a dealer and the dealer's bond surety. Makes a change to conform the statutory reference to the repealer in Section 13 of the bill and makes some stylistic changes.

Section 7 makes changes to conform to the repealer in Section 13 of the bill.

Section 8 defines certain terms used in AS 08.66.

Section 9 adds a new chapter, AS 45.25, relating to motor vehicle transactions.

Section 45.25.010 indicates the applicability of sections 45.25.020 – 45.25.320 of the new chapter.

Section 45.25.020 states that the courts of this state have jurisdiction over, and the law of this state governs, a legal dispute between manufacturers, whether in this state or outside this state, and new motor vehicle dealers located in this state.

Section 45.25.030 prohibits a manufacturer from using other entities and persons to do what is prohibited to the manufacturer under this chapter. States that this section does not limit the rights of certain persons to engage in reasonable and appropriate business practices that are consistent with an existing trade practice not prohibited by this chapter.

Section 45.25.100 states that the terms in an agreement between a manufacturer and a new motor vehicle dealer in this state that are inconsistent with this state's law do not have any force or effect in this state.

Section 45.25.110 prohibits a manufacturer from terminating a franchise unless certain requirements are met. Prohibits a manufacturer from terminating a franchise agreement because of the death or incapacity of certain owner.

Section 45.25.120 requires a manufacturer terminating a franchise to provide a notice of termination meeting certain requirements to the new motor vehicle dealer.

Section 45.25.130 prohibits a manufacturer or a manufacturer's representative from coercing a new motor vehicle dealer to enter into an agreement or to do another act unfair to the dealer by threatening to terminate a franchise agreement.

Section 45.25.140 establishes the manufacturer's and distributor's repurchase obligations when a franchise agreement is terminated by the manufacturer or distributor.

Section 45.25.150 establishes the compensation to be paid to a new motor vehicle dealer for dealer facilities when a manufacturer or distributor terminates a franchise. Exempts certain terminations.

Section 45.25.160 prohibits a manufacturer from unreasonably preventing or refusing to honor a transfer of ownership of a new motor vehicle dealership.

Section 45.25.170 prohibits a manufacturer from unreasonably preventing or refusing to honor the succession to a franchise of certain persons. Establishes certain conditions and exceptions to this prohibition. Gives a proposed successor a right to superior court review on whether approval has been unreasonably withheld.

Section 45.25.180 requires a manufacturer or distributor to give notice before establishing new or relocated dealers within a relevant market area where the same line make is represented. Permits a dealer to bring a declaratory judgment action in the superior court to determine whether good cause exists for the establishment or relocation. Prohibits the establishment or relocation until the court decision is made. Lists certain activities that are not prohibited by the section. Lists certain factors that the court is to consider when determining whether good cause exists.

Section 45.25.190 states that neither the manufacturer nor the new motor vehicle dealer is required to submit a controversy to arbitration. If the parties do agree to arbitration, states that arbitration is to be conducted under the state's Uniform Arbitration Act and establishes how the arbitrators are to be selected.

Section 45.25.300 prohibits a manufacturer from requiring or coercing a new motor vehicle dealer to change the location of the dealership or to make substantial alteration to the dealership premises or facilities under certain circumstances.

Section 45.25.310 prohibits a manufacturer from unfairly discriminating among new motor vehicle dealers regarding warranty reimbursements and warranty adjustment authority.

Section 45.25.320 prohibits a manufacturer or distributor from taking certain actions relating to a claim after 18 months from submission of the claim by the new motor vehicle dealer.

Section 45.25.400 prohibits a dealer from using certain terms in advertisements. Allows a dealer to use certain terms in advertisements under certain conditions.

Section 45.25.410 prohibits dealers from advertising vehicles and related goods and services at specified dealer prices without intending to supply reasonably expected demand, unless the advertisement discloses the number of vehicles in stock at the advertised price.

Section 45.25.420 requires a dealer to display all advertised vehicles during the sale period in a conspicuous and clearly visible location on the dealer's premises. Requires that the advertised sale price be clearly marked on the vehicle.

Section 45.25.430 prohibits a dealer from refusing to sell a vehicle on the advertised terms and conditions, except in certain circumstances.

Section 45.25.440 prohibits a dealer selling a motor vehicle from charging certain fees and costs unless the fees and costs are included in the advertised price.

Section 45.25.450 prohibits a dealer from making price comparisons, price reductions, or price discounts in an advertisement unless they comply with this section.

Section 45.25.460 lists certain advertising and selling practices that a dealer may not engage in. Requires a dealer to disclose beginning and ending dates in all motor vehicle sale advertisements.

Section 45.25.465 requires dealers, when obtaining a used motor vehicle from an individual, to make reasonable inquiry into the condition of the vehicle. Also requires the information to be provided to prospective buyers.

Section 45.25.470 requires a dealer to disclose in writing before sale whether a vehicle was originally manufactured for sale in a foreign country.

Section 45.25.480 prohibits a dealer from knowingly buying or selling a vehicle with an altered or removed identification number plate or to alter or remove a vehicle identification number plate.

Section 45.25.490 prohibits a dealer from selling or offering to sell a vehicle unless the dealer holds a manufacturer's statement of origin, a title, or another properly executed document reasonably necessary to obtain the statement of origin or title for transfer of the vehicle to the buyer.

Section 45.25.500 prohibits a dealer from transferring the title of or performing repairs or reconditioning on a trade-in vehicle before the sales transaction is completed.

Section 45.25.510 requires a new motor vehicle dealer, before entering into a new motor vehicle sale contract, to make a written disclosure to the buyer of any known damage and repair to the vehicle that exceed a specific amount. Provides that if disclosure is not required under this section, a buyer may not revoke or rescind a sale due to damage or repair of the vehicle before completion of the sale.

Section 45.25.520 establishes the form for advertisement disclosures required by this chapter.

Section 45.25.590 defines certain terms for sections 45.25.400 – 45.25.590.

Section 45.25.600 prohibits a dealer from transferring a vehicle title to a buyer before all of the sale documents, including any finance contract arranged by the seller, are complete and signed.

Section 45.25610 establishes certain requirements that a motor vehicle sales contract must satisfy. Requires the contract to be completed as to all essential provisions before the buyer signs and before the vehicle is delivered to the buyer. Prohibits a dealer from obtaining a signed sales contract until any financing terms reflected in the installment contract are final and complete. Allows a dealer who arranges financing to deliver the vehicle before final approval by the financing entity if certain conditions are met. Requires the dealer to return the entire down payment and any trade-in if the sales transaction is not completed because the financing is not approved within seven business days of the separate agreement.

Section 45.25.620 establishes certain requirements for vehicle service contracts. Prohibits a dealer from disclaiming or limiting implied warranties for a vehicle for which the dealer is a maker of a service contract sold for that vehicle. Allows disclaimers or limiting implied warranties under certain conditions if the dealer is merely the seller of the service contract.

Section 45.25.900 states that if a provision of this chapter conflicts with another provision of AS 45, this chapter controls.

Section 45.25.910 states that this chapter is remedial.

Section 45.25.990 defines certain terms for the chapter.

Section 10 adds a violation of AS 08.66 to the list of prohibited practices under the state's unfair trade practices act.

Section 11 adds a violation of AS 45.25.400 – 45.25.590 to the list of prohibited practices unfair trade practices act.

Section 12 states that the state's monopoly and restraint of trade provisions do not apply to actions that a person takes or refrains from taking in order to comply with the new chapter.

Section 13 repeals certain statutes.

Section 14 states an indirect court rule change by establishing a different rule for legal dispute in Section 45.25.020.

Section 15 states that Sections 9, 11, and 12 of this Act apply to a franchise entered into on or after the effective date of this Act.

Section 16 states the conditional effect of two-thirds majority vote for court rule change.

Section 17 gives the Act an effective date of July 1, 2002.