

SB

273

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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MEMORANDUM

February 27, 2006

SUBJECT: CSSB 273(TRA) relating to motor vehicle sales
(Work Order No. 24-LS1607F)

TO: Senator Charlie Huggins
Chair of the Senate Transportation Committee
Attn: Deb

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above.

1. Requirement that sales territory be located in this state. This requirement may raise an issue under the interstate commerce provision because it discriminates against dealers whose sales territories are located outside this state. I have not researched this issue to determine whether it is much of a problem in this situation, but I wanted you to be aware that the issue is present.
2. Terminology. "Sales territory" has been substituted for "area of responsibility" because the requested phrase was not very precise.

If I may be of further assistance, please advise.

TBC:med
06-165.med

Enclosure

Amend section 1(a)(2)

Page 1, line 11

delete "for sales in this state"

Page 1, line 11

After "vehicle" add "pursuant to which the dealer's area of responsibility is located within the State of Alaska"

24-LS1607F
Bannister
2/27/06

CS FOR SENATE BILL NO. 273(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR COWLERY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a motor vehicle dealer's selling or offering to sell motor vehicles as
2 new or current models or as new or current model motor vehicles having
3 manufacturer's warranties."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 08.66.015(a) is amended to read:

6 (a) A person who does business as a dealer in the state may not offer to sell or
7 sell a motor vehicle as a new [OR CURRENT MODEL] motor vehicle unless

8 (1) the motor vehicle retains the manufacturer's certificate of origin;
9 **and**

10 (2) the dealer has a current sales and service agreement with the
11 manufacturer of the motor vehicle under which the dealer's sales territory is
12 located in this state.

13 * **Sec. 2.** AS 08.66.015(b) is repealed.

SENATOR
JOHN J. COWDERY

Anchorage

Committees

Chair: Rules

Chair: World Trade &

State/Federal Relations

Vice-Chair: Transportation

Legislative Council



Senate

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Sponsor Statement

Senate Bill 273

"An Act relating to a motor vehicle dealer's selling or offering to sell motor vehicles as new or current models or as new or current model motor vehicles having manufacturer's warranties."

In 2004, HB 272, an Act relating to certain amendments to Alaska's Auto Dealer Act was enacted and became law. Part of this Act directed the Department of Law to submit a report to the Legislature in January 2005 outlining any consumer or enforcement problems associated with AS 08.66.015.

This bill adopts language that addresses the recognized consumer protection and enforcement problems and is consistent with the changes proposed by the Department of Law.

This bill amends current law by deleting the phrase "current model" from AS 08.66.015(a) and adds a section (b) which requires the auto dealers to have a current sales and service agreement with a manufacturer to sell or attempt to sell a car as new. The removal of "current model" is important because with the language left as is, legitimate dealers are unable to sell used vehicles that are still current year vehicles. For example, a 2006 Ford F-150 that is used cannot be sold by a used car dealer or manufacturer's franchise until the new model vehicles are released later this year. This act also repeals AS 08.66.015(b), which created a situation in which a used, current model vehicle with a warranty, could only be sold by Manufacturer's franchise dealers, effectively barring used car dealers from selling used automobiles that are less than a year old.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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February 21, 2006

The Honorable John Cowdery
Chair
Senate Transportation Committee
State Capitol, Room 101
MS 3100
Juneau, AK 99801-1182

Re: SB 273; Sale of Current Model Motor Vehicles

Dear Senator Cowdery;

The Department of Law ("department") has reviewed SB 273. This bill resolves the current enforcement dilemma of AS 08.66.015(a). This statute makes it illegal for any car dealer to sell a current model used vehicle. By removing the restrictive language "current model" from the statute, any motor vehicle dealer will be allowed to sell a used current model vehicle so long as the vehicle is not represented to be "new."

In its current form, AS 08.66.015 is impractical to enforce because it prohibits the sale of used current model vehicles. Thus, a dealer would either refuse to purchase (or take on trade) any current model vehicle, or be forced to "warehouse" the vehicle until it was no longer the current model year. SB 273 will fix this problem.

Please let me know if you have any questions.

Sincerely,

DAVID W. MARQUEZ
ATTORNEY GENERAL

By:


Clyde E. Sniffen, Jr.
Assistant Attorney General

CES/sjm