January 28, 2012

HOUSE BILL No. 1171

DIGEST OF HB 1171 (Updated January 26, 2012 11:35 am - DI 113)

Citations Affected: IC 9-23.

Synopsis: Relocation of new motor vehicle dealers. Provides that certain restrictions pertaining to the relocation of new motor vehicle dealers do not apply to a new motor vehicle dealer located in a county of over 100,000 inhabitants under certain circumstances.

Effective: Upon passage.

GiaQuinta, Morris, Kubacki

January 9, 2012, read first time and referred to Committee on Commerce, Small Business and Economic Development.
January 27, 2012, amended, reported — Do Pass.

C o p y

January 28, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1171

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-23-3-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) This section does not apply to the:

(1) relocation of a new motor vehicle dealer to a location that is not more than two (2) miles from its established place of business; **or**

~~(b) This section does not apply to the~~ **(2)** reopening or replacement in a relevant market area of a closed dealership that has been closed within the preceding year, if the established place of business of the reopened or replacement dealer is within two (2) miles of the established place of business of the closed dealership.

(b) This section does not apply to a new motor vehicle dealer located in a county having a population of more than one hundred thousand (100,000) if:

(1) the new motor vehicle dealer relocates to a site that is located at a distance greater than the existing distance of

another new motor vehicle dealer of the same line make before the relocation; and

(2) the site of the relocation is outside an area that is within a radius of four (4) miles from another new motor vehicle dealer of the same line make.

(c) Before a franchisor enters into a franchise establishing or relocating a new motor vehicle dealer within a relevant market area where the same line make is represented, the franchisor shall give written notice to each new motor vehicle dealer of the same line make in the relevant market area of the franchisor's intention to establish an additional dealer or to relocate an existing dealer within that relevant market area.

(d) Not later than thirty (30) days after:

(1) receiving the notice provided for in subsection (c); or

(2) the end of any appeal procedure provided by the franchisor;

a new motor vehicle dealer may bring a declaratory judgment action in the circuit court for the county in which the new motor vehicle dealer is located to determine whether good cause exists for the establishing or relocating of a proposed new motor vehicle dealer. If an action is filed, the franchisor may not establish or relocate the proposed new motor vehicle dealer until the circuit court has rendered a decision on the matter. An action brought under this section shall be given precedence over all other civil matters on the court's docket.

(e) In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line make, the court shall take into consideration the existing circumstances, including the following:

(1) Permanency of the investment.

(2) Effect on the retail new motor vehicle business and the consuming public in the relevant market area.

(3) Whether it is injurious or beneficial to the public welfare.

(4) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line make in the market area, including the adequacy of motor vehicle sales and qualified service personnel.

(5) Whether the establishment or relocation of the new motor vehicle dealer would promote competition.

(6) Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area.

(7) The effect on the relocating dealer of a denial of its relocation into the relevant market area.

C o p y

(f) Subsection (b) applies to:

(1) a new motor vehicle dealer that before the effective date of subsection (b) has been engaged in the process of relocating but has not physically relocated to the new intended site by the effective date of subsection (b); and

(2) a new motor vehicle dealer that begins engaging in the process of relocating on or after the effective date of subsection (b).

SECTION 2. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred House Bill 1171, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 1, delete "This subsection expires December 31, 2014.".

and when so amended that said bill do pass.

(Reference is to HB 1171 as introduced.)

STEMLER, Chair

Committee Vote: yeas 8, nays 3.

C o p y