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OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 101
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sen. Rulli

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SUMMARY

- Allows Ohio-based manufacturers of all-electric motor vehicles to own, operate, or control licensed motor vehicle dealerships, despite a general requirement that manufacturers not own or operate dealerships.

DETAILED ANALYSIS

Manufacturer-owned motor vehicle dealerships

Ohio law requires a license to operate motor vehicle dealerships.¹ Under current law, the Registrar of Motor Vehicles is required to deny a motor vehicle dealer license application if, among other disqualifying criteria, the applicant is a motor-vehicle manufacturer, or the parent company, subsidiary, or affiliated entity of a manufacturer. The bill adds an exception to this disqualifying criteria for Ohio-based electric-vehicle manufacturers.

Under the bill, the Registrar is not required to deny a manufacturer's application for a dealer's license if, as of January 1, 2021, the manufacturer was a manufacturer of all-electric motor vehicles with both corporate headquarters and manufacturing facilities in Ohio (see **COMMENT**). The bill provides that a manufacturer's ownership, operation, or control of a motor vehicle dealership under the exception may continue unless the manufacturer's operations are sold or acquired or the manufacturer produces motor vehicles other than all-electric motor vehicles.²

¹ R.C. 4517.02, not in the bill.

² R.C. 4517.12(A)(11).

COMMENT

The bill’s allowance for certain in-state manufacturers to hold motor vehicle dealer licenses without extending the same right to out-of-state manufacturers may present constitutionality questions. The U.S. Constitution grants Congress the power to regulate Commerce among the several States. Although the Commerce Clause is written as an affirmative grant of authority to Congress, courts have held that in some instances it imposes limitations on the states. As a general rule, under the Commerce Clause, “[s]tate laws that discriminate against interstate commerce face ‘a virtually *per se* rule of invalidity.’” For instance, a Portland, Maine, medical marijuana licensing plan was recently invalidated insofar as it relied on state residency as an evaluation factor.³

HISTORY

Action	Date
Introduced	03-02-21

S0101-I-134/ks

³ *South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080, 2089 - 2091 (2018) (quoting *Granholm v. Heald*, 554 U.S. 460, 476 (2005)); *NPG, LLC v. City of Portland*, 2020 U.S. Dist. LEXIS 146958, 2020 WL 4741913.