

- SUBJECT:** Dealer education course and administration for independent dealerships
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 9 ayes — Pickett, Callegari, Y. Davis, Guillen, Harper-Brown, McClendon, Merritt, T. Smith, W. Smith
- 0 nays
- 2 absent — Phillips, Dunnam
- WITNESSES:** For — Luanne Caraway, Tax Assessor-Collector's Association; Don Dowden and Blake Ingram, Texas Independent Automobile Dealers Association (*Registered, but did not testify*: Mark Brown and Jeff Martin, Texas Independent Automobile Dealers Association; Cheryl Johnson and Sheryl Swift, Galveston County Tax Office)
- Against — None
- On — Bret Bray, Texas Department of Transportation (TxDOT) Motor Vehicle Division
- BACKGROUND:** Transportation Code, Sec. 503.029 governs applications for new and renewed license numbers for the operation of a vehicle dealership in Texas.
- DIGEST:** CSHB 2109 would require applicants for an for a independent motor vehicle dealer license number not currently holding a license to prove successful completion of a dealer education course taken no more than a year before submission. The course would have to be approved by the Texas Department of Transportation (TxDOT) and would have to be at least eight and no longer than 12 hours in length.
- Within 180 days of TxDOT approval of a dealer education course, all holders of a license number for independent motor vehicle dealership would be required to complete an approved education course. The requirement would not apply to anyone who had previously completed a similar course.

An approved dealer education course would have to be administered by a business with experience providing related education to independent motor vehicle dealers, and that provided:

- online and CD-ROM versions of the course with assessment and verification capabilities;
- ongoing educational support by telephone or online for one year after the course at no added cost; and
- provided at least one instructor-led dealer education course per month in or near Austin, Dallas and Fort Worth, El Paso, Houston, and San Antonio.

An education course provider would be required to have a curriculum review panel for the course made up of at least four licensed independent motor vehicle dealers.

The bill would affect applications for new license numbers for independent dealers on or after September 1, 2010. TxDOT would have to begin accepting applications from dealer education providers by January 1, 2010.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 2109 would update state law to reflect the increasing complexity of regulations and reporting requirements governing independent vehicle dealers. Current license application processes for an independent dealership are deceptively simple when compared to actually operating one. Auto dealers must report ongoing and various information to a number of regulatory bodies and adhere to the requirements set forth by those bodies. A new federal law to take effect in the next year, for example, requires changes in dealership management and storage of private financial information collected from customers through the course of a purchase. This disparity between the ease of the application process and the actual management of a dealership has led to a very high rate of turnover for dealerships in the first year of operation.

CSHB 2109 would introduce a simple, one-time training requirement for all persons seeking to establish a new independent dealership. The training could take place online or at a physical location in the state's five largest metropolitan areas. The training, which could be completed within a day in a class or online at leisure, would educate interested applicants of the

basic requirements of owning and operating an independent automobile dealership. The bill would also require all existing independent dealer license holders to take a one-time refresher course to review existing and pending requirements associated with dealership operations.

The education course, since it is a one-time expense, would not place a significant financial burden on dealership owners. The course would also be relatively simple for TxDOT to administer, since it would be conducted through a private business, and the administrative requirements could be folded into the department's existing application processes.

**OPPONENTS
SAY:**

CSSH 2109 would place an administrative burden on TxDOT to administer and certify the education requirement without additional resources, and would create an unnecessary requirement for established dealerships to take the education course. There are an estimated 13,000 independent vehicle dealerships in Texas. Administering an education requirement for this number of dealerships would require that TxDOT establish processes for collecting course certifications, reviewing those certifications, rejecting applications that did not contain the necessary certification, and taking measures to achieve compliance with the added requirement. This would strain a division of the department that already administers major regulatory duties with few resources.

The bill also would require established independent dealerships to take the education course. This would serve no clear purpose, since established dealerships are not subject to many of the problems the bill set out to address — first time dealers with high turnover rates — and would impose a financial burden of these dealerships. Established independent dealerships taking the course would have to pay an uncertain fee and might lose working time spent taking the course.

CSSH 2109 also contains vague language that should be clarified. The bill, for instance, does not define the term “applicant.” This leaves it unclear as to who is required to take the course in the event that a dealership is not a sole proprietorship. Further, the Senate version has a provision stating that applicants would not be required to comply with the education requirement in the event that a dealer education course was not available, which is left unresolved in the House bill.

OTHER
OPPONENTS
SAY:

CSHB 2109 is confined to independent dealerships and does not include franchise dealerships. This is problematic, since some franchise dealerships face the same issues with lack of compliance education that independent dealerships face. The bill should be revised to set education standards for franchise and independent dealerships that do not qualify as high-volume dealerships.

NOTES:

The committee substitute added a provision requiring that all current independent dealerships complete an approved dealer education course within 180 days of the time such a course is approved.

The companion bill, SB 520 by Harris, passed the Senate by 31-0 on the Local and Uncontested Calendar on April 2 and has been referred to the House Transportation Committee.