

Date of Hearing: April 27, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1178 (Achadjian) – As Amended March 26, 2015

**SUBJECT:** Vehicles: manufacturers and distributors

**SUMMARY:** Provides that a vehicle manufacturer, manufacturer branch, distributor, or distributor branch cannot take any adverse action against a dealer relative to an export or sale-for-resale prohibition if the dealer causes the vehicle to be registered in a state and collects or causes to be collected any applicable sale or use tax due to the state, as specified.

**EXISTING LAW:**

- 1) Charges the Department of Motor Vehicles (DMV) with licensing and regulating dealers, manufacturers, and distributors of motor vehicles who conduct business in California.
- 2) Makes it unlawful for a vehicle manufacturer or distributor to take specified actions against a vehicle dealer or franchisee.

**FISCAL EFFECT:** Unknown

**COMMENTS:** SB 155 (Padilla), Chapter 512, Statutes of 2013, made a number of changes to the statutory framework regulating the relationship between vehicle manufacturers and dealers including changes to their claims and appeals process, performance standards, and vehicle export policies. Specifically, SB 155 added provisions that prohibited a vehicle manufacturer or distributor from taking or threatening to take any adverse action against a dealer who sold a vehicle to a buyer who then either exported the vehicle to another country or resold the vehicle unless the manufacturer's export or sale-for-resale prohibition policy was provided to the dealer in writing prior to the sale or lease and the dealer knew or reasonably should have known of the customer's intent to export or resell the vehicle. SB 155 further specified that the dealer processing a vehicle's registration or collecting taxes on the sold vehicle creates a rebuttable presumption that the dealer did not have reason to know of the consumer's intent.

According to the sponsor, last year a specific manufacturer adopted several export-dealer policies and sent updated notifications to franchise dealers of those policy changes. Both policies established strict liability provisions for dealers who sold these particular types of vehicles that were ultimately exported. Additionally these policies excluded the rebuttable presumption provisions established under SB 155. Thus, these franchise dealers could be subject to penalties if a vehicle was exported even if the franchise dealer processed the vehicle's registration and collected relevant taxes.

AB 1178 is the latest attempt to address issues between vehicle manufacturers and franchise dealers related to vehicle export and resale policies by clarifying that a vehicle manufacturer is prohibited from taking any adverse action against a dealer once the vehicle's registration and relevant taxes are processed. The author notes that AB 1178 will "strengthen California's law by prohibiting manufacturers from taking negative actions against a dealer when a vehicle is exported or resold if the dealer collects sales tax and registers the vehicle in California." Thus,

AB 1178 appears to be a reasonable attempt to provide clarity to existing export and resale policies as they relate to vehicle manufacturers and franchise dealers.

*Previous legislation:* SB 155 (Padilla), Chapter 512, Statutes of 2013, modified the relationship between motor vehicle dealers and manufacturers by, among other things, making changes regarding the use of flat-rate time schedules for warranty reimbursement, warranty and incentive claims, audits, protest rights, export policies, performance standards, and facility improvements.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California New Car Dealers Association (Sponsor)

**Opposition**

The Association of Global Automakers

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