

STAND. COM. REP. NO.

2646

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 2490  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 2490 entitled:

"A BILL FOR AN ACT RELATING TO THE MOTOR VEHICLE INDUSTRY  
LICENSING ACT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize a license holder to engage in business at motor vehicle dealer locations that are affiliated by common ownership under the same license;
- (2) Specify certain recall reimbursement or repair requirements for manufacturers where a stop-sale, or do-not-drive, order has been issued;
- (3) Clarify when certain manufacturer's or distributor's sales or performance standards shall be deemed unreasonable, arbitrary, or unfair; and
- (4) Prohibit a manufacturer or distributor from requiring a dealer to perform certain construction or renovations to the dealer's facilities; purchase items for a dealership facility in certain circumstances; or provide certain information related to customer information, unless certain conditions are met.



Your Committee received testimony in support of this measure from the Hawaii Automobile Dealers' Association. Your Committee received testimony in opposition to this measure from the Alliance of Automobile Manufacturers, Insurance Auto Auctions, and Global Automakers. Your Committee received comments on this measure from the Motor Vehicle Industry Licensing Board.

Your Committee finds that this measure is intended to modernize the State's motor vehicle industry licensing laws by: allowing a licensed motor vehicle dealer to engage in business at multiple locations affiliated by common ownership within the same county; specifies recall reimbursement or repair requirements for manufacturers where a stop-sale order has been issued; and clarifies the rights and obligations of dealers, manufacturers, and distributors with respect to improvements and upgrades on dealers' facilities, dealers' sales and performance standards, and access to dealers' business information.

Your Committee further finds that interested stakeholders, including the Hawaii Automobile Dealers' Association and Alliance of Automobile Manufacturers, have engaged in discussions regarding this measure. Your Committee therefore finds that amendments to this measure, to incorporate the preliminary consensus language reached by interested stakeholders, are necessary.

Accordingly, your Committee has amended this measure by:

- (1) Establishing requirements for used vehicle recalls pursuant to a stop-sale order as a new section in the Motor Vehicle Industry Licensing Act, rather than including these requirements under the existing section on prohibited acts, and further clarifying used vehicle recall requirements by:
  - (A) Amending and clarifying the method of calculating the amount that a dealer is to be compensated for the value of a recalled vehicle;
  - (B) Clarifying the determination of the value of a used vehicle;



- (C) Clarifying the applicability of the used vehicle recall requirements;
  - (D) Clarifying that a manufacturer is prohibited from taking certain actions against a dealer solely because the new motor vehicle dealer has submitted a recall reimbursement claim;
  - (E) Clarifying the limitations and requirements that recall reimbursement claims or compensation shall be subjected to;
  - (F) Specifying that a manufacturer is not required to provide total compensation to a dealer in excess of the total average trade-in value of an affected used motor vehicle;
  - (G) Specifying that any remedy provided to a dealer is exclusive; and
  - (H) Clarifying the definition of "stop-sale order";
- (2) Requiring each motor vehicle dealer location affiliated by common ownership to obtain prior approval from the Motor Vehicle Industry Licensing Board before transferring salespersons between dealer locations;
  - (3) Clarifying the definition of "common ownership";
  - (4) Clarifying certain prohibitions against a manufacturer or distributor requiring a dealer to perform certain substantial construction, renovation, or alterations to the dealer's facilities;
  - (5) Clarifying when manufacturer's or distributor's sales or service performance standards shall be deemed unreasonable, arbitrary, or unfair and clarifying the material and relevant local market factors to be used when determining a sales or service performance standard;
  - (6) Clarifying that the approval for substantially similar goods, building materials, or services for a dealership



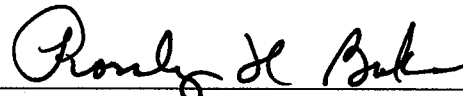
facility shall not be unreasonably withheld or unreasonably delayed by a manufacturer or distributor;

- (7) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee notes that this amended measure remains a work in progress. Your Committee also notes the interested stakeholders have indicated to your Committee that they remain engaged in discussions regarding certain aspects of this measure. Your Committee appreciates these efforts to reach a consensus and acknowledges that additional amendments to this amended measure may be needed as it moves through the legislative process.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2490, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2490, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,



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ROSALYN H. BAKER, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:* <b>SB 2490</b>	Committee Referral: <b>CPH</b>	Date: <b>2/20/18</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
BAKER, Rosalyn H. (C)	/			
TOKUDA, Jill N. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.	/			
<b>TOTAL</b>	<b>7</b>			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original             Yellow             Pink             Goldenrod File with Committee Report             Clerk's Office             Drafting Agency             Committee File Copy				

\*Only one measure per Record of Votes