

- SUBJECT:** Authority to conduct motor vehicle sales on-line outside of a dealership
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 8 ayes — Krusee, Harper-Brown, Deshotel, Haggerty, Harless, Hill, Macias, Murphy
- 1 nay — Phillips
- WITNESSES:** For — Pedro “Speedy” Gonzales, Red McCombs Automotive Group; Robert McBryde, eBay Inc.; Karen Philips, Texas Automobile Dealers Association; (*Registered, but did not testify:* Beau Rothschild, New Car Dealers of Dallas; Jerry Thompson, FinServ Group, LTD; Geoff Wurzel, TechNet)
- Against — None
- On — (*Registered, but did not testify:* Brett Bray, Texas Dept. of Transportation)
- BACKGROUND:** Occupations Code, ch. 2301 governs the sale and lease of motor vehicles.
- Transportation Code, ch. 503 defines “dealer” as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location. A dealer applying for a general distinguishing number or a wholesale motor vehicle auction general distinguishing number must demonstrate that the location for which the applicant requests the number is an established and permanent place of business.
- Texas Administrative Code, Title 43, part 1, ch. 8, subch. E, sec. 8.136 governs off-site sales by an automobile dealer. Under this rule, a dealer is not permitted under Transportation Code, ch. 503 to sell or offer for sale vehicles from a location other than an established and permanent place of business that has been approved by the Motor Vehicle Division of the Texas Department of Transportation (TxDOT) and for which a general distinguishing number has been issued.
- DIGEST:** HB 2559 would amend Occupations Code, ch. 2301 to allow a dealer to sell or offer a motor vehicle for sale through an advertisement on the

Internet to a buyer who never personally appeared at the dealer's established and permanent place of business.

A dealer would be allowed to sell or offer to sell a motor vehicle only from an established and permanent place of business that was approved by TxDOT's Motor Vehicle Division and for which a general distinguishing number had been issued.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 2559 would help Texas automobile dealers compete with out-of-state dealers by specifically allowing the online sale of vehicles. Current law has been interpreted to prohibit Texas dealers from selling vehicles over the Internet to buyers who never appear personally at the dealership. Many dealers could increase their business by using the Internet to sell and ship vehicles to customers who live in distant parts of Texas or out of state. In fact, the requirement to personally visit a dealership in Texas can be a deal-breaker for some customers.

Many industries in recent years have used the Internet to reach new customers seeking a quick and convenient way to shop. The Internet would be an excellent way for established, licensed dealerships and their customers to conduct negotiations, complete financial transactions, and arrange for delivery. The bill would apply to both domestic and out-of-state purchasers, and online sales from Texas dealerships would generate sales tax revenue for the state.

CSHB 2559 would not legalize "curbstoning," tent shows, or other sorts of illegal off-site sales. It is narrowly tailored to allow for Internet exchange by franchised dealers who complied with existing standards. In addition, like merchants in any line of business, automobile dealers already have adopted practices to prevent identity theft. The same protections dealers use to prevent fraud and identity theft in face-to-face transactions could be applied to online sales.

**OPPONENTS  
SAY:**

Texas long has required purchasers of motor vehicles to visit the dealer's established and permanent place of business. This helps prevent fly-by-night dealers and other unscrupulous operators from taking advantage of customers. By allowing dealers to operate online, CSHB 2559 could

weaken consumer protections that are supported by the current requirement for face-to-face interactions between customers and established dealers.

In addition, dealers historically have been able to offer customers additional and superior merchandise and services when they visit the dealership. Customers who did not visit the dealership in person under this bill would lose that valuable opportunity.

CShB 2559 could increase the vulnerability of car dealerships to identity theft by removing traditional safeguards that spring from face-to-face contact. Online transactions already are hotbeds for identity theft as criminals use assumed identities and credit records to make purchases. This bill would make it harder for dealers to verify that their online customers were who they claimed to be.

OTHER  
OPPONENTS  
SAY:

The bill could have some unforeseen consequences. Current law allows off-site sales of travel and boat trailers, motor homes, ambulances, and fire trucks at certain sanctioned events. It is not clear that such activities still would be permitted under CShB 2559.

Rather than amending the section of the Occupations Code that regulates new car dealers, the bill should amend Transportation Code, ch. 503, which deals with general distinguishing numbers. This would bring the provisions of the bill to the attention of all car dealers, new and used.

NOTES:

The committee substitute would modify the bill as introduced to allow a dealer to sell a vehicle online specifically through an "advertisement" on the Internet.

The companion bill, SB 1632 by Wentworth, was considered and left pending by the Senate Transportation and Homeland Security Committee on April 18.