

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

176D0420

SENATE BILL NO. 118

Introduced by: Senators Kloucek, Dennert, Duxbury, Flowers, Hutmacher, Kleven, Moore, Reedy, Shoener, Symens, and Valandra and Representatives Koehn, Burg, Cerny, Chicoine, Hanson, Lockner, Lucas, McIntyre, Nachtigal, Patterson, Sutton (Daniel), Volesky, Waltman, and Weber

1 FOR AN ACT ENTITLED, An Act to prohibit certain vehicle manufacturers from having an
2 interest in a vehicle dealership.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this Act, the term, manufacturer, includes a representative or a person
7 or entity who is affiliated with a manufacturer or representative or who, directly or indirectly
8 through an intermediary, is controlled by, or is under common control with, the manufacturer.

9 Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
10 follows:

11 For the purposes of this Act, a person or entity is controlled by a manufacturer if the
12 manufacturer has the authority directly or indirectly, by law or by agreement of the parties, to
13 direct or influence the management and policies of the person or entity.

14 Section 3. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
15 follows:

1 Except as provided by this Act, no manufacturer may directly or indirectly:

- 2 (1) Own an interest in a vehicle dealer or dealership;
- 3 (2) Operate or control a vehicle dealer or dealership; or
- 4 (3) Act in the capacity of a dealer.

5 Section 4. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
6 follows:

7 A manufacturer may own an interest in a franchised vehicle dealer, or otherwise control a
8 dealership, for a period not to exceed twelve months from the date the manufacturer acquires
9 the dealership if:

- 10 (1) The person from whom the manufacturer acquired the dealership was a
11 franchised dealer; and
- 12 (2) The dealership is for sale by the manufacturer at a reasonable price and on
13 reasonable terms and conditions.

14 Section 5. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
15 follows:

16 On a showing by a manufacturer of good cause, the department may extend the time limit
17 set forth in section 4 of this Act. No extension under this section may exceed twelve months. An
18 application for an extension after the first extension is granted is subject to protest by a vehicle
19 dealer of the same line-make whose dealership is located in the same county as, or within fifteen
20 miles of, the dealership owned or controlled by the manufacturer.

21 Section 6. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
22 follows:

23 For the purpose of broadening the diversity of its dealer body and enhancing opportunities
24 for qualified persons who are part of a group who have historically been under represented in its
25 dealer body, or other qualified persons who lack the resources to purchase a dealership outright,

1 but for no other purpose, a manufacturer may temporarily own an interest in a dealership if the
2 manufacturer's participation in the dealership is in a bona fide relationship with a franchised
3 vehicle dealer who:

- 4 (1) Has made a significant investment in the dealership, subject to loss;
- 5 (2) Has an ownership interest in the dealership; and
- 6 (3) Operates the dealership under a plan to acquire full ownership of the dealership within
7 a reasonable time and under reasonable terms and conditions.