

HOUSE BILL NO. 624

INTRODUCED BY LORY

IN THE HOUSE

February 9, 1981	Introduced and referred to Committee on State Administration.
February 11, 1981	Fiscal note requested.
February 16, 1981	Fiscal note returned.
	Committee recommend bill do pass. Report adopted.
February 17, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading, do pass.
February 23, 1981	Considered correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 98; Noes, 1. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on State Administration.
March 17, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1981	Motion pass consideration.
March 24, 1981	Second reading, concurred in.
March 26, 1981	Third reading, concurred in as amended. Ayes, 46; Noes, 0.

IN THE HOUSE

March 27, 1981

Returned from Senate with amendments.

April 8, 1981

Second reading, amendments concurred in.

April 9, 1981

Third reading, amendments concurred in. Ayes, 95; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 offers, sells, and services such new motor vehicles to and
2 for the general public.

3 (8) "Franchisor" means a person who manufactures,
4 imports, or distributes new motor vehicles and who may
5 enter into a franchise.

6 (9) "Importer" means a person who transports or
7 arranges for the transportation of a foreign manufactured
8 new motor vehicle into the United States for sale in this
9 state.

10 (10) "Manufacturer" means a person who manufactures or
11 assembles new motor vehicles or who manufactures or installs
12 on previously assembled truck chassis special bodies or
13 equipment, which when installed form an integral part of the
14 new motor vehicle and which constitutes a major
15 manufacturing alteration, but does not include a person who
16 installs a camper on a pickup truck.

17 (11) "New motor vehicle dealer" means a person who
18 buys, sells, exchanges, or offers or attempts to negotiate a
19 sale or exchange or any interest in or who is engaged in the
20 business of selling new motor vehicles or used motor
21 vehicles taken in trade on new motor vehicles."

22 NEW SECTION. Section 2. Functions transferred -- name
23 change. The functions of the department of business
24 regulation contained in Title 61, chapter 4, part 2, are
25 transferred to the division of motor vehicles. Unless

1 inconsistent with this act, wherever the term "department",
2 meaning department of business regulation, appears in Title
3 61, chapter 4, part 2, it is changed to "division", meaning
4 division of motor vehicles. The code commissioner is
5 authorized and instructed to change the word "department" to
6 "division" in Title 61, chapter 4, part 2, in accordance
7 with this act.

-End-

STATE OF MONTANA

REQUEST NO. 354-81

FISCAL NOTE

Form BD-15

In compliance with a written request received 2-11, 19 81, there is hereby submitted a Fiscal Note for House Bill 684 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

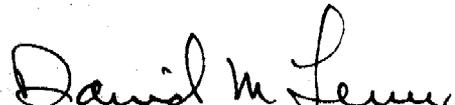
House Bill 684 is an act to transfer the licensing authority over new motor vehicle manufactures, distributors, and importers from the Department of Business Regulations to the Division of Motor Vehicles; amending title 61, chapter 4, part 2, MCA.

ASSUMPTIONS

1. The provisions of this bill will be carried out as recommended by the Legislative Fiscal Analyst.
2. A hearings officer will be used for objections to discontinuance of a franchise.
3. Any increase in expenditures to the Department of Justice will be off set by a corresponding decrease in expenditures to the Department of Business Regulations.

FISCAL IMPACT

	<u>FY 82</u>	<u>FY 83</u>
Operating Expense Hearing Officer and related expenses	\$5,000	\$5,000


David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/17/81

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8 new motor vehicle into the United States for sale in this
9 state.

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2 meaning department of business regulation, appears in Title
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4 division of motor vehicles. The code commissioner is
5 authorized and instructed to change the word "department" to
6 "division" in Title 61, chapter 4, part 2, in accordance
7 with this act.

-End-

1 HOUSE BILL NO. 684
2 INTRODUCED BY Lay
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE
5 LICENSING AUTHORITY OVER NEW MOTOR VEHICLE MANUFACTURERS,
6 DISTRIBUTORS, AND IMPORTERS FROM THE DEPARTMENT OF BUSINESS
7 REGULATION TO THE DIVISION OF MOTOR VEHICLES; AMENDING TITLE
8 61, CHAPTER 4, PART 2, MCA."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 61-4-201, MCA, is amended to read:
12 "61-4-201. Definitions. As used in this part, the
13 following definitions apply:

14 (1) "Community" means the relevant market area of a
15 franchise. For the purposes of this part, the relevant
16 market area of a franchise is the county or counties in
17 which the franchisee is located.

18 ~~(2) "Department" means the department of business~~
19 ~~regulation.~~

20 ~~(3)(1)~~ (2) "Distributor" or "wholesaler" means a person
21 who sells or distributes new motor vehicles to new motor
22 vehicle dealers in this state or who maintains distributor
23 representatives in this state.

24 ~~(4)(3)~~ (3) "Distributor branch" means a branch office
25 maintained or availed of by a distributor or wholesaler for

1 the sale of new motor vehicles to new motor vehicle dealers
2 in this state for directing or supervising its
3 representatives in this state.

4 ~~(4) "Division" means the division of motor vehicles.~~

5 (5) "Factory branch" means a branch office maintained
6 or availed of by a manufacturer for the sale of new motor
7 vehicles to distributors or for the sale of new motor
8 vehicles to new motor vehicle dealers in this state or for
9 directing or supervising its representatives in this state.

10 (6) "Franchise" means a contract between or among two
11 or more persons when all of the following conditions are
12 included:

13 (a) a commercial relationship of definite duration or
14 continuing indefinite duration is involved;

15 (b) the franchisee is granted the right to offer,
16 sell, and service in this state new motor vehicles
17 manufactured or distributed by the franchisor;

18 (c) the franchisee, as a separate business,
19 constitutes a component of franchisor's distribution system;
20 and

21 (d) the operation of the franchisee's business is
22 substantially reliant on the franchisor for the continued
23 supply of new motor vehicles, parts, and accessories.

24 (7) "Franchisee" means a person who receives new motor
25 vehicles from the franchisor under a franchise and who

1 offers, sells, and services such new motor vehicles to and
2 for the general public.

3 (8) "Franchisor" means a person who manufactures,
4 imports, or distributes new motor vehicles and who may
5 enter into a franchise.

6 (9) "Importer" means a person who transports or
7 arranges for the transportation of a foreign manufactured
8 new motor vehicle into the United States for sale in this
9 state.

10 (10) "Manufacturer" means a person who manufactures or
11 assembles new motor vehicles or who manufactures or installs
12 on previously assembled truck chassis special bodies or
13 equipment, which when installed form an integral part of the
14 new motor vehicle and which constitutes a major
15 manufacturing alteration, but does not include a person who
16 installs a camper on a pickup truck.

17 (11) "New motor vehicle dealer" means a person who
18 buys, sells, exchanges, or offers or attempts to negotiate a
19 sale or exchange or any interest in or who is engaged in the
20 business of selling new motor vehicles or used motor
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23 change. The functions of the department of business
24 regulation contained in Title 61, chapter 4, part 2, are
25 transferred to the division of motor vehicles. Unless

1 inconsistent with this act, wherever the term "department",
2 meaning department of business regulation, appears in Title
3 61, chapter 4, part 2, it is changed to "division", meaning
4 division of motor vehicles. The code commissioner is
5 authorized and instructed to change the word "department" to
6 "division" in Title 61, chapter 4, part 2, in accordance
7 with this act.

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5 LICENSING AUTHORITY OVER NEW MOTOR VEHICLE MANUFACTURERS,
6 DISTRIBUTORS, AND IMPORTERS FROM THE DEPARTMENT OF BUSINESS
7 REGULATION TO THE DIVISION OF MOTOR VEHICLES; AND TO REMOVE
8 DUPLICATE LICENSING OF NEW MOTOR VEHICLE DEALERS; AMENDING
9 TITLE 61, CHAPTER 4, PART 2, MCA; REPEALING SECTION
10 61-4-211, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 61-4-201, MCA, is amended to read:

14 "61-4-201. Definitions. As used in this part, the
15 following definitions apply:

16 (1) "Community" means the relevant market area of a
17 franchise. For the purposes of this part, the relevant
18 market area of a franchise is the county or counties in
19 which the franchisee is located.

20 ~~+(2)--"Department"--means--the--department--of--business~~
21 ~~regulation.~~

22 ~~+(3)~~(2) "Distributor" or "wholesaler" means a person
23 who sells or distributes new motor vehicles to new motor
24 vehicle dealers in this state or who maintains distributor
25 representatives in this state.

1 ~~+(4)~~(3) "Distributor branch" means a branch office
2 maintained or availed of by a distributor or wholesaler for
3 the sale of new motor vehicles to new motor vehicle dealers
4 in this state for directing or supervising its
5 representatives in this state.

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8 or availed of by a manufacturer for the sale of new motor
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10 vehicles to new motor vehicle dealers in this state or for
11 directing or supervising its representatives in this state.

12 (6) "Franchise" means a contract between or among two
13 or more persons when all of the following conditions are
14 included:

15 (a) a commercial relationship of definite duration or
16 continuing indefinite duration is involved;

17 (b) the franchisee is granted the right to offer,
18 sell, and service in this state new motor vehicles
19 manufactured or distributed by the franchisor;

20 (c) the franchisee, as a separate business,
21 constitutes a component of franchisor's distribution system;
22 and

23 (d) the operation of the franchisee's business is
24 substantially reliant on the franchisor for the continued
25 supply of new motor vehicles, parts, and accessories.

1 (7) "Franchisee" means a person who receives new motor
2 vehicles from the franchisor under a franchise and who
3 offers, sells, and services such new motor vehicles to and
4 for the general public.

5 (8) "Franchisor" means a person who manufactures,
6 imports, or distributes new motor vehicles and who may
7 enter into a franchise.

8 (9) "Importer" means a person who transports or
9 arranges for the transportation of a foreign manufactured
10 new motor vehicle into the United States for sale in this
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6 division of motor vehicles. The code commissioner is
7 authorized and instructed to change the word "department" to
8 "division" in Title 61, chapter 4, part 2, in accordance
9 with this act.

10 SECTION 3. SECTION 61-4-202, MCA, IS AMENDED TO READ:

11 "61-4-202. License requirements. (1) No new motor
12 vehicle dealer, manufacturer, distributor, factory branch,
13 or distributor branch may engage in business in Montana
14 except in accordance with the requirements of this part. The
15 provisions of this part do not apply to a public officer
16 engaged in the discharge of his official duties or to a
17 trustee, receiver, or other officer acting under the
18 jurisdiction of a court; to financial institutions disposing
19 of repossessed vehicles; or to a person disposing of his
20 personal vehicle. The provisions of this part regulating
21 and licensing new motor vehicle dealers, manufacturers,
22 distributors, factory branches, distributor branches, and
23 franchisors apply only to those new motor vehicle dealers,
24 manufacturers, distributors, factory branches, distributor
25 branches, and franchisors of motor vehicles as defined by

1 this part.

2 (2) ~~A new motor vehicle dealer or a~~ manufacturer,
3 distributor, factory branch, distributor branch, importer,
4 or franchisor transacting business within Montana by
5 offering, selling, trading, consigning, or otherwise
6 transferring a new motor vehicle to a new motor vehicle
7 dealer must be licensed by the state of Montana. The
8 department shall issue licenses to qualified applicants upon
9 receipt of a license fee in the amount of \$15 accompanied by
10 the information required in this section.

11 (3) The following information, if applicable, shall be
12 submitted by an applicant upon forms supplied by the
13 department:

14 (a) the name and address of the applicant;

15 (b) the make and model of each new motor vehicle to be
16 franchised;

17 (c) the name and address of each of the applicant's
18 franchisees within the state; and

19 (d) the name and address of each factory branch,
20 distributor branch, agent, or representative within the
21 state.

22 (4) The license may be renewed each year if the
23 applicant is in compliance with the provisions of this part,
24 remits a renewal fee in the amount of \$15, and notifies the
25 department of any changes in the information previously

1 supplied.

2 (5) No new motor vehicle may be sold in this state
3 unless either the manufacturer on direct dealership of
4 domestic vehicles, the importer of foreign manufactured
5 vehicles on direct dealership, or the distributor on
6 indirect dealerships of either domestic or foreign vehicles
7 is licensed as provided in this part. Notwithstanding any
8 other licensing provision contained in Montana law, every
9 new motor vehicle dealer must also obtain a license under
10 this part 1 of this chapter. The obtaining of a license
11 under this part or part 1 conclusively establishes that a
12 new motor vehicle dealer, manufacturer, distributor, or
13 importer is subject to the laws of this state regulating new
14 motor vehicle dealers, manufacturers, importers, and
15 distributors."

16 SECTION 4. REPEALER. SECTION 61-4-211, MCA, IS
17 REPEALED.

-End-

March 17, 1981

SENATE STANDING COMMITTEE REPORT
(State Administration)

That House Bill No. 684 be amended as follows:

1. Title, line 7.

Following: "VEHICLES;"

Insert: "AND TO REMOVE DUPLICATE LICENSING OF NEW MOTOR VEHICLE DEALERS;"

2. Title, line 8.

Following: "MCA"

Insert: "; REPEALING SECTION 61-4-211, MCA"

3. Page 4.

Following: line 7

Insert: "Section 3. Section 61-4-202, MCA, is amended to read:

"61-4-202. License requirements. (1) No new motor vehicle dealer, manufacturer, distributor, factory branch, or distributor branch may engage in business in Montana except in accordance with the requirements of this part. The provisions of this part do not apply to a public officer engaged in the discharge of his official duties or to a trustee, receiver, or other officer acting under the jurisdiction of a court; to financial institutions disposing of repossessed vehicles; or to a person disposing of his personal vehicle. The provisions of this part regulating and licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, and franchisors of motor vehicles as defined by this part.

(2) ~~A new-motor-vehicle-dealer-or-a~~ manufacturer, distributor, factory branch, distributor branch, importer, or franchisor transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of \$15 accompanied by the information required in this section.

(3) The following information, if applicable, shall be submitted by an applicant upon forms supplied by the department:

(a) the name and address of the applicant;

(b) the make and model of each new motor vehicle to be franchised;

(c) the name and address of each of the applicant's franchisees within the state; and

(d) the name and address of each factory branch, distributor branch, agent, or representative within the state.

(4) The license may be renewed each year if the applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of \$15, and notifies the department of any changes in the information previously supplied.

(5) No new motor vehicle may be sold in this state unless either the manufacturer on direct dealership of domestic vehicles, the importer of foreign manufactured vehicles on direct dealership, or the distributor on indirect dealerships of either domestic or foreign vehicles is licensed as provided in this part. Notwithstanding any other licensing provision contained in Montana law, every new motor vehicle dealer must also obtain a license under ~~this--part~~ part 1 of this chapter. The obtaining of a license under this part or Part 1 conclusively establishes that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state regulating new motor vehicle dealers, manufacturers, importers, and distributors."

Section 4, Repealer. Section 61-4-211, MCA, is repealed."