



# Ohio Legislative Service Commission

## Final Analysis

Nicholas A. Keller

### **Am. Sub. H.B. 318** 130th General Assembly (As Passed by the General Assembly)

**Reps.** Roegner and O'Brien, Lynch, Becker, Thompson, Wachtmann, Hood, Ruhl, Young, Duffey, DeVitis, Landis, R. Adams, Amstutz, Anielski, Antonio, Barborak, Barnes, Beck, Blessing, Brenner, Brown, Buchy, Burkley, Celebrezze, Derickson, Green, Grossman, Hall, Heard, Huffman, Letson, Lundy, McClain, Milkovich, Romanchuk, Schuring, Sears, Sheehy, Slesnick, Smith, Sprague, Stebelton, Sykes, Winburn, Batchelder

**Sens.** Kearney, Eklund, Brown, Bacon, Balderson, Burke, Coley, Faber, Gardner, Hite, Hughes, Lehner, Obhof, Patton, Peterson, Sawyer, Seitz, Uecker, Widener

**Effective date:** March 23, 2015

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## ACT SUMMARY

- Allows a licensed new motor vehicle dealer that satisfies prescribed requirements to display new motor vehicles at a location other than the dealer's established place of business to promote or benefit a charitable or civic purpose.
- Changes the penalty for the a violation of the Motor Vehicle Show Law from a fourth degree misdemeanor to a monetary penalty of no more than \$1,000, as specified in rules adopted by the Motor Vehicle Dealers' Board.
- Allows a new motor vehicle dealer to display motor vehicles at the annual fair of a county or independent agricultural society even if no other new motor vehicle dealer displays competitive models, as long as the sponsoring society has permission to conduct the show and has obtained a waiver from the Registrar of Motor Vehicles.
- Allows a new motor vehicle dealer to execute purchase or lease documentation at a location other than the dealer's established place of business.
- Allows a new motor vehicle dealer, in a commercial transaction involving the sale or lease of a new heavy duty vehicle, to transact business at a customer's business location.

- Allows a retail seller of certain trailers to apply to the Registrar for registration for each place in Ohio where the retail seller carries on the business of selling those trailers, thus allowing those trailers to be operated on a public highway.

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## **CONTENT AND OPERATION**

### **Motor vehicle display for charitable or civic purpose**

The act allows a new motor vehicle dealer to display new motor vehicles at a location outside the dealer's established place of business if the dealer satisfies the act's requirements.<sup>1</sup> Continuing law already permits a licensed new motor vehicle dealer to display a motor vehicle at a place other than the dealer's licensed location, if the dealer first obtains permission from the Registrar of Motor Vehicles and complies with the rules of the Motor Vehicle Dealers' Board.<sup>2</sup>

The act permits a licensed new motor vehicle dealer to display up to six vehicles at an outside location for a charitable or civic purpose. A charitable or civic purpose under the act means either a purpose described in section 501(c)(3) of the Internal Revenue Code or a benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, or civic objective, or any objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.<sup>3</sup>

If the motor vehicle display is within the dealer's area of responsibility, as assigned by a manufacturer, the dealer may display new motor vehicles under the act's new permission if the dealer, within three business days prior to the display, files evidence of the dealer's area of responsibility with the Registrar and files an affidavit affirming the following:

- (1) That the location of the display is within the dealer's area of responsibility;
- (2) The beginning and end date of the display;
- (3) That no more than six vehicles will be displayed;
- (4) That to the best of the dealer's knowledge, no other dealer will display at that location during the display;

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<sup>1</sup> R.C. 4517.22(B).

<sup>2</sup> R.C. 4517.22(G), renumbered R.C. 4517.22(H) by the act.

<sup>3</sup> R.C. 4517.221(A).

(5) That no contracts will be signed, deposits taken, or sales consummated at the location;

(6) The charitable or civic purpose promoted or benefited by the display.<sup>4</sup>

If the motor vehicle display is not within the dealer's area of responsibility, as assigned by a manufacturer, the dealer may display new motor vehicles under the act's new permission if the dealer files an affidavit with the Registrar, within three business days prior to the display that affirms the information described in (2) to (5) immediately above and all of the following:

(1) That the display is outside the dealer's areas of responsibility;

(2) That the dealer has provided every dealer selling the same line-make within the area of responsibility where the display will occur with notice of the dealer's intent to display and each of those dealers has agreed to allow the display to occur;

(3) That no test drives will occur and the vehicles will remain stationary;

(4) That the dealer has not displayed a vehicle pursuant to this outside area exception for more than six days during the calendar year and that the current display will not result in the dealer exceeding the six-day maximum.

A dealer must maintain a copy of an affidavit filed under the act for one year after the last date of the display.

The act prohibits a dealer from using the out-of-area display exception for more than six days per calendar year and prohibits a dealer from displaying outside the dealer's area of responsibility if a dealer handling the same line-make in the area objects to the display. A dealer who displays outside the dealer's area of responsibility has the burden of proving that no dealer in the area of responsibility objected to the display and the displaying dealer must maintain documentation for one year after the last day of the display.

The act also specifies that delivery of a previously ordered vehicle does not constitute a display under the act's charitable or civic show provisions.<sup>5</sup>

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<sup>4</sup> R.C. 4517.221(C).

<sup>5</sup> R.C. 4517.221(D), (E), (F), (G), and (H).



## Motor vehicle shows

### Licensed motor vehicle dealers

The act also modifies the procedures and requirements that a group of licensed new motor vehicle dealers must satisfy to display motor vehicles at a motor vehicle show. Continuing law allows for a group of these dealers to display motor vehicles at a motor vehicle show in a "general market area," which, under the act, is the contiguous geographical area established by a motor vehicle show sponsor that is based on the size of the show and that does not unreasonably exclude any licensed new motor vehicle ("general market area" was not previously defined).<sup>6</sup>

Under the act, a dealer may display at a motor vehicle show if at least 30 days before the planned opening date the show sponsor executes and files an affidavit with the Registrar, in a form prescribed by the Registrar, that certifies that all applicable requirements of the act and continuing new motor vehicle show law have been or will be met.

Under former law the group could hold a show only if the group requested and received permission from the Registrar to hold the show. But the group was not required to execute or file an affidavit with the Registrar.

Under the act, if the Registrar approves the affidavit, the Registrar must grant the sponsor permission to conduct the show. If the Registrar determines that there is a deficiency in the affidavit, the Registrar must inform the sponsor of the deficiency as soon possible after the Registrar receives the affidavit so that the sponsor may remedy the deficiency. The Registrar also must specifically describe the measures the sponsor must take to cure the deficiency. For the sponsor to be eligible to hold the show, the sponsor must return the corrected affidavit to the Registrar before the planned opening date of the show. If the Registrar finds that the deficiency has been cured, the Registrar must permit the sponsor to conduct the show. If the Registrar finds that the deficiency has not been cured, the Registrar must deny the sponsor permission to conduct the show.<sup>7</sup>

Under the act, the sponsor or sponsor's representative may, on the sponsor's behalf, invite by mail all new motor vehicle dealers dealing in competitive types of motor vehicles in the general market area to participate and display motor vehicles in the show. The sponsor or representative may offer a similar invitation to manufacturers

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<sup>6</sup> R.C. 4517.22(A)(1).

<sup>7</sup> R.C. 4517.22(A)(5) and (B).



or distributors. Under former law, only a motor vehicle show sponsor could perform these required actions.<sup>8</sup>

Under the act a show generally may not last longer than ten days.<sup>9</sup> If a motor vehicle show is held at a major livestock show, the act limits to 30 days a continuing law exception that permits new motor vehicle dealers to sign contracts, take deposits, and consummate sales at the show.<sup>10</sup>

### **Manufacturers and distributors**

The act also modifies the requirements for a manufacturer or distributor to hold a single-vehicle motor vehicle show in a public place. Similar to former law, the act allows a manufacturer or distributor to hold such a show only if certain criteria are met. The manufacturer or distributor must execute and file with the Registrar an affidavit at least 30 days before the show. The affidavit must be in a form prescribed by the Registrar and must certify that all applicable requirements of continuing law and the act have been or will be met. The manufacturer or distributor must receive approval of that affidavit from the Registrar. Under former law, a manufacturer or distributor could hold a single-vehicle show only if the manufacturer or distributor requested and received permission from the Registrar at least 30 days prior to the show.

The act appears to also allow a licensed motor vehicle dealer, motor vehicle leasing dealer, motor vehicle auction owner, or distributor to hold a single-vehicle show if the dealer, owner, or distributor first obtains permission from the Registrar and complies with the applicable rules of the Motor Vehicle Dealers' Board. Former law expressly prohibited any person other than a manufacturer or distributor from holding a single-vehicle show.<sup>11</sup>

The act also allows a new motor vehicle dealer to display motor vehicles at the annual fair of a county or independent agricultural society even if no other new motor vehicle dealer displays competitive models, as long as the sponsoring society has permission from the Registrar to conduct the show in accordance with the procedures above, and the society has obtained a waiver from the Registrar. To obtain a waiver, a society must certify all of the following:

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<sup>8</sup> R.C. 4517.22(C), renumbered R.C. 4517.22(D) by the act.

<sup>9</sup> R.C. 4517.22 and 4517.01.

<sup>10</sup> R.C. 4517.22(J).

<sup>11</sup> R.C. 4517.22(D), renumbered R.C. 4517.22(E) by the act and R.C. 4517.22(G), renumbered 4517.22(H) by the act.



(1) That an invitation was sent to all new motor vehicle dealers in the county where the fair is held;

(2) That the terms of the invitation were reasonable and nondiscriminatory;

(3) That only one new motor vehicle dealer accepted the invitation.<sup>12</sup>

### **Permitted transactions**

Under the act, a new motor vehicle dealer does not violate the prohibitions on transactions outside the dealer's established place of business if a customer of the dealer executes purchase or lease documents at a location other than the dealer's established place of business.

Similarly, under the act, a commercial transaction involving the sale or lease by a new motor vehicle dealer of a new heavy duty vehicle, as defined in federal law, is deemed to have taken place at the dealer's established place of business if the sale or lease is negotiated and the documents are executed at the customer's business location.<sup>13</sup>

### **Penalties**

Until September 23, 2015, a person who violates the act's show or display provisions is guilty of a fourth degree misdemeanor. Former law similarly imposed a fourth degree misdemeanor on a person who violated the motor vehicle show prohibitions. Under continuing law, a fourth degree misdemeanor is punishable against an individual by a possible jail term of no more than 30 days, a possible fine of no more than \$250, and other possible sanctions.<sup>14</sup>

Beginning September 23, 2015, a violator is subject to an administrative fine to be determined by the Motor Vehicle Dealers' Board, not to exceed \$1,000. For purposes of imposing these administrative penalties, each sale that occurs in violation of a show or display provision of the act and each day that a violation occurs or continues to occur constitutes a separate violation. These fines are deposited into the Title Defect Recission Fund.<sup>15</sup>

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<sup>12</sup> R.C. 4517.22(K).

<sup>13</sup> R.C. 4517.03(B).

<sup>14</sup> R.C. 2929.24 to 2929.289 and 2929.31, not in the act.

<sup>15</sup> R.C. 4517.22(L) and 1345.22.



## Utility and other trailers

The act allows a retail seller of certain trailers to apply to the Registrar for registration with the Registrar for each place in Ohio where the retail seller carries on the business of selling at retail those types of trailers. (Registration allows the retail seller to obtain dealer license plates and permits the trailer to be operated on a public highway.) This provision applies to utility trailers (any trailer, except a travel trailer or trailer for transporting watercraft, having a gross weight of less than 4,000 pounds) and trailers for transporting motorcycles, snowmobiles, or all-purpose vehicles. Under former law, only manufacturers and distributors of these trailers could obtain this type of registration. A retail seller is subject to the same requirements for obtaining the registration as a manufacturer or distributor under continuing law. Registration lasts for one year and must be renewed at the time the motor vehicle manufacturer, dealer, or distributor tax is due.

Upon the filing of the application, materials, and payment of the application fee and postage for mailing a registration certificate placard (license plate), the Registrar must assign to the applicant a distinctive number that must be displayed on the rear of each trailer when it is operated on a public highway. When displaying the number, any trailer for transporting motorcycles, snowmobiles, or all-purpose vehicles that is not loaded may be operated on a public highway until it is sold or transferred; and any utility trailer that is not loaded, or that is being used to transport another utility trailer for purposes of demonstration or delivery, may be operated on a public highway until it is sold or transferred.

At the time the Registrar assigns the distinctive number, the Registrar must furnish one placard with the number on it. The retail seller, the same as a manufacturer or distributor under continuing law, may procure a reasonable number of certified copies of the registration certificate upon the payment of a \$5 fee and postage. With each of the certified copies, the Registrar must (1) furnish one placard with the same number provided in the original registration certificate and (2) add to the number a special designation as necessary to distinguish one set of placards from another. All placards the Registrar furnishes must be so marked as to be distinguishable from placards issued to dealers in or manufacturers of motor vehicles or trailers for transporting watercraft.

The Registrar must pay the fees the Registrar collects under the act into the State Bureau of Motor Vehicles Fund, to be used for the purposes described in continuing law.<sup>16</sup>

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<sup>16</sup> R.C. 4503.312.



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## HISTORY

ACTION	DATE
Introduced	10-29-13
Reported, H. Commerce, Labor & Technology	12-11-13
Passed House (91-0)	01-22-14
Reported, S. Commerce & Labor	12-09-14
Passed Senate (30-0)	12-09-14
House concurred in Senate amendments (93-0)	12-10-14

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