



# Ohio Legislative Service Commission

## Bill Analysis

Nicholas A. Keller

### Sub. H.B. 318\*

130th General Assembly

(As Reported by S. Commerce and Labor)

**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

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## BILL SUMMARY

- Allows for 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 specified in rules 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.
- 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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\* This analysis was prepared before the report of the Senate Commerce and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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## CONTENT AND OPERATION

### Motor vehicle display for charitable or civic purpose

The bill 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 bill's requirements.<sup>1</sup> Continuing law prohibits any licensed motor vehicle dealer, motor vehicle leasing dealer, motor vehicle auction owner, or distributor from displaying a motor vehicle at any place except the dealer's, owner's, or distributor's licensed location, without first obtaining permission from the Registrar of Motor Vehicles (Registrar). The business also must comply with the applicable rules of the Motor Vehicle Dealers Board.<sup>2</sup>

A display under the bill's exception must be for a charitable or civic purpose and the dealer may not display more than six vehicles. A charitable or civic purpose under the bill 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 motor vehicle dealer's area of responsibility, as assigned by a manufacturer, the dealer may display new motor vehicles under the bill's exception 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:

- That the location of the display is within the dealer's area of responsibility;
- The beginning and end date of the display;
- That no more than six vehicles will be displayed;
- That to the best of the dealer's knowledge, no other dealer will display at that location during the time of the display;
- That no contracts will be signed, deposits taken, or sales consummated at the location;

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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 bill, and R.C. 2929.24 to 2929.28 and 2929.31, not in the bill.

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

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

The bill requires the dealer to maintain a copy of this affidavit for one year following the last date of the display.<sup>5</sup>

If the motor vehicle display is not within the motor vehicle dealer's area of responsibility, as assigned by a manufacturer, the dealer may display new motor vehicles under the bill's exception if the purpose of the display is to promote or benefit a charitable or civic purpose and the dealer files an affidavit with the Registrar, within three business days prior to the display that affirms all of the following:

- That the display is outside the dealer's areas of responsibility;
- 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;
- The beginning and end date of the display;
- That not more than six vehicles will be on display;
- That no test drives will occur and the vehicles will remain stationary;
- That to the best of the dealer's knowledge, no other dealer will display at the location during the dates of the dealer's display;
- That the dealer has not displayed a vehicle pursuant to the 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;
- That no contracts will be signed, deposits taken, or sales consummated at the location of the display.

The bill requires the dealer to maintain a copy of this affidavit for one year following the last date of the display. The bill also 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

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

<sup>5</sup> R.C. 4517.221(G).



dealer's area of responsibility has the burden of proving that no dealer in the area of responsibility objected to the display and must maintain documentation for one year following the last day of the display. However, delivery of a previously ordered vehicle does not constitute a display under the bill.<sup>6</sup>

## **Motor vehicle shows**

### **Licensed motor vehicle dealers**

The bill modifies the procedures and requirements for a group of licensed new motor vehicle dealers to display motor vehicles at a motor vehicle show. Continuing law allows for a group of new motor vehicle dealers to display motor vehicles at a motor vehicle show in a "general market area," which is defined under the bill, as the contiguous geographical area established by a motor vehicle show sponsor that is based upon the size of the show and that does not unreasonably exclude any licensed new motor vehicle ("general market area" is not defined in current law).<sup>7</sup>

Under the bill, a display at a motor vehicle show may occur if not less than 30 days before the planned opening date of the motor vehicle show, the show sponsor executes and files with the Registrar an affidavit, in a form prescribed by the Registrar, that certifies that all applicable requirements of the bill and continuing law have been or will be met.

Under current law the group only must request and receive permission to hold the show and is not required to execute or file an affidavit with the Registrar.

Under the bill, if the Registrar approves the affidavit, the Registrar must grant the sponsor permission to conduct the motor vehicle 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 has the opportunity to remedy the deficiency. The Registrar also must describe with specificity the measures the sponsor is required to take in order to cure the deficiency. In order for the sponsor to be eligible to hold the show, the sponsor must return the corrected affidavit to the Registrar not later than before the planned opening date of the show. If the sponsor finds that the deficiency has been cured, the Registrar must grant the sponsor permission to conduct the show. If the Registrar finds that the deficiency

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<sup>6</sup> R.C. 4517.221(D), (E), (F), (G), and (H).

<sup>7</sup> R.C. 4517.22(A)(1).



has not been cured, the Registrar must deny the sponsor permission to conduct the show.<sup>8</sup>

Under the bill, 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 or distributors. Under current law, a motor vehicle show sponsor performs these actions.<sup>9</sup>

The bill limits show length to ten days.<sup>10</sup> With respect to a motor vehicle show at a major livestock show, the bill limits to 30 days the amount of time to sign contracts, take deposits, and consummate sales.<sup>11</sup>

### **Manufacturers and distributors**

The bill expressly permits a manufacturer or distributor to hold in any public place a motor vehicle show at which only one motor vehicle is displayed. Current law prohibits anyone other than a manufacturer or distributor from holding such a show. Similar to current law, the bill 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 bill have been or will be met. The manufacturer or distributor must receive approval of that affidavit from the Registrar. Current law only requires the manufacturer to request and receive permission from the Registrar not less than 30 days before the show.<sup>12</sup>

### **Utility and other trailers**

The bill 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

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<sup>8</sup> R.C. 4517.22(A)(5) and (B).

<sup>9</sup> R.C. 4517.22(C), renumbered R.C. 4517.22(D) by the bill.

<sup>10</sup> R.C. 4517.22 and 4517.01.

<sup>11</sup> R.C. 4517.22(J).

<sup>12</sup> R.C. 4517.22(D), renumbered R.C. 4517.22(E) by the bill.



trailer for transporting watercraft, having a gross weight of less than 4,000 pounds) and trailers for transporting motorcycles, snowmobiles, or all-purpose vehicles. Currently, only manufacturers and distributors of these trailers may 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 (license plate) 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 bill into the State Bureau of Motor Vehicles Fund, to be used for the purposes described in continuing law.<sup>13</sup>

The bill 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>13</sup> R.C. 1345.52 and 4503.312.



- That an invitation was sent to all new motor vehicle dealers in the county where the fair is held;
- That the terms of the invitation were reasonable and nondiscriminatory;
- That only one new motor vehicle dealer accepted the invitation.<sup>14</sup>

## Permitted transactions

The bill also specifies that 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 bill, 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>15</sup>

## Penalties

For the first sixth months after the bill's effective date, a person who violates the bill's show or display provisions is guilty of a fourth degree misdemeanor. Current law similarly imposes a fourth degree misdemeanor on a person who violates the motor vehicle show prohibitions. Beginning six months after the bill's effective date, 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 the show or display provisions of the bill and each day that a violation occurs or continues to occur constitutes a separate violation.<sup>16</sup>

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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	---

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<sup>14</sup> R.C. 4517.22(K).

<sup>15</sup> R.C. 4517.03(B).

<sup>16</sup> R.C. 4517.22(L).

