



# Ohio Legislative Service Commission

## Final Analysis

Daniel M. DeSantis

### Sub. S.B. 260

130th General Assembly  
(As Passed by the General Assembly)

**Sens.** Patton, Balderson, Hite, Coley, Hughes, Jones

**Reps.** Buchy, Gerberry, J. Adams, R. Adams, Anielski, Antonio, Beck, Blessing, Brenner, Burkley, DeVitis, Green, Grossman, Hackett, McGregor, Perales, Roegner, Rosenberger, Ruhl, Sears, Terhar, Batchelder

**Effective date:** September 4, 2014

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## ACT SUMMARY

- Prohibits the Registrar of Motor Vehicles from issuing a dealer's license or leasing dealer's license to a manufacturer for the retail sale or lease of new or used motor vehicles.
- Does not prohibit a motor vehicle manufacturer from owning, operating, or controlling not more than three licensed motor vehicle dealerships in Ohio if, as of January 1, 2014, the manufacturer was selling or otherwise distributing all-electric motor vehicles at an established place of business in Ohio.
- Terminates the foregoing exception if the manufacturer's motor vehicle operations are sold or acquired or if the manufacturer produces any motor vehicles other than all-electric motor vehicles.

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## BACKGROUND AND SUMMARY

It is unlawful to engage in the business of selling at retail new or used motor vehicles, or leasing such vehicles, without being licensed by the Registrar of Motor Vehicles as a motor vehicle dealer, or motor vehicle leasing dealer.

Tesla Motors, a manufacturer of electric powered motor vehicles based in Palo Alto, California, sells its vehicles from company-owned stores rather than through a network of automotive dealerships. The company operates sales locations within Ohio and has been issued new motor vehicle dealer licenses by the Ohio Registrar of Motor Vehicles.

While the act was under consideration in the General Assembly, two cases brought by the Ohio Dealers Association were active in court. In one case, the Dealers Association had asked the Tenth District Court of Appeals for a writ of mandamus to require the Bureau of Motor Vehicles to revoke or cancel Tesla's licenses to sell motor vehicles in Ohio.<sup>1</sup> The court had not ruled in the case when the General Assembly concurred on the act. The Dealers Association also had brought a case in the Franklin County Court of Common Pleas, asserting that the Bureau had failed correctly to apply the motor vehicle dealers licensing law.<sup>2</sup> In that case, the court sustained a motion by Tesla to dismiss the case. In its opinion, the court determined that third parties, such as the Ohio Automobile Dealers Association, have no standing to appeal motor vehicle dealer licenses that are either approved or denied by the Registrar because "No rights or legally protected interests for third party dealers are identified in the statutory scheme concerning motor vehicle dealer licensing."

The act prohibits the Registrar from issuing additional motor vehicle dealers licenses to manufacturers who sell their vehicles directly to consumers. But the act creates a narrow exception to this prohibition for currently licensed manufacturers of all-electric motor vehicles. The exception allows such a manufacturer to operate not more than three motor vehicle dealerships in Ohio.

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## CONTENT AND OPERATION

Under the act, if a manufacturer, or a parent company, subsidiary, or affiliated entity of a manufacturer, applies to the Registrar of Motor Vehicles for a license to sell or lease new or used motor vehicles at retail, the Registrar must deny the application and refuse to issue the license. This provision is not, however, to serve as the basis for the termination, revocation, or nonrenewal of a license granted *prior* to the act's effective date.

The act does not prohibit a manufacturer from owning, operating, or controlling not more than three licensed motor vehicle dealerships if, as of January 1, 2014, the manufacturer was selling or otherwise distributing its motor vehicles at an established place of business in Ohio, or from disposing of motor vehicles at wholesale at the termination of a consumer lease through a motor vehicle auction. A manufacturer's ownership, operation, or control of the dealerships may continue unless the

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<sup>1</sup> Case number 13AP-1055.

<sup>2</sup> Case number 13CV-13334.

manufacturer's motor vehicle operations are sold or acquired or the manufacturer produces any motor vehicles other than all-electric motor vehicles.<sup>3</sup>

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## HISTORY

ACTION	DATE
Introduced	12-23-13
Reported, S. Finance	03-26-14
Passed Senate (32-0)	04-01-14
Reported, H. Policy and Legislative Oversight	05-13-14
Passed House (88-0)	05-14-14

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<sup>3</sup> R.C. 4517.12(A)(11).

