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Agriculture and Conservation;  
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Education; State and Local  
Government

**Sarah Fowler Arthur**  
State Representative

Chairman Baldrige, Vice-Chairman McClain, Ranking Member Sheehy, and members of the Ohio House Transportation and Public Safety Committee, thank you for the opportunity to offer testimony on HB 231, to revise Used Vehicle Dealership Licensure Requirements.

Ronald Reagan once said, "Government's view of the economy could be summed up in a few short phrases: If it moves, tax it. If it keeps moving, regulate it. And if it stops moving, subsidize it." I regret to say that during this pandemic, the Ohio Bureau of Motor Vehicles took this mantra especially to heart by placing increased hours requirements on Used Vehicle Dealerships, stifling small businesses at the worst possible time.

Like many of you, I am a small business owner and we know all too well how excessive bureaucratic regulations can strangle our dreams and livelihoods. Imagine having a life-long passion for sporty muscle cars. You travel around the nation, attending auctions to purchase and sell collectible models, meeting fellow sports car enthusiasts at conventions and auto shows, and decide to turn your hobby into the business of your dreams: finding and connecting muscle cars and enthusiasts! Then you realize that to sell more than five used cars to your fellow enthusiasts in Ohio in a twelve month timeframe, you now have to become a licensed used vehicle dealer, purchase a clean lot of at least 3,500 square feet, install protective barriers, maintain an office with a desk, three chairs, and a filing cabinet, and due to additional bureaucratic rule changes: sit behind your desk for at least 25 hours per week waiting for your customers to come in.

This is the reality for Richard, a constituent in Geneva, who sells unique, museum quality, used, muscle cars. His dream business is being drowned in the new regulation requiring him to take 1,300 hours of time he may have previously spent out cultivating relationships, finding unique, niche vehicles, or transacting the banking, titling, repair and detailing aspects of his business to sit behind the mandated desk waiting for customers to arrive. If Richard sells only 10 of these unique cars each year, that is 130 hours of additional time invested per car. To cover his time at just \$16 per hour, he now has to upcharge each vehicle \$2,080; should his business be large enough to move 100 vehicles per year he is still facing an increase of \$208 per vehicle at a very minimal return on his time. Richard reached out to me because the increased costs caused by this bureaucratic rule change is wiping out the profitability of his enterprise. He fears that many similarly situated small used car dealerships will also be forced out of business due to the new regulation.

Prior to the pandemic, the hours required to remain licensed as a Used Vehicle Dealership were 2 hours per week. In January, Richard brought to my attention changes in Ohio Administrative Code 4501:1-3-08 (B) that now require Used Motor Vehicle Dealers to be open a minimum of 25 hours per week, with 10 of those hours being between 9am and 5pm, Monday through Friday<sup>1</sup>. These rule changes were made mid-pandemic (October 1, 2020), when maintaining ANY number of consistent hours was already

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challenging due to health and safety requirements, quarantines, and family and child care issues, the out-of-touch new rules went into effect on January 1, 2021.

The new 25 hours mandate has been included in the used vehicle dealership operation agreement, making it a criminal violation of a fourth degree misdemeanor if the dealership is not open during the required hours. Further, the Motor Vehicle Dealers Board may suspend or revoke any used motor vehicle dealer's license for a violation of the hours of operation requirement. HB 231 would make changes in the Ohio Revised Code by prohibiting a minimum hours of operation requirement to receive or maintain Used Vehicle Dealership Licensure.

During the Common Sense Initiative Review (CSI), the BMV argued that the additional hour's requirement would *"strengthen the requirements for consumer protection, to eliminate the licensing of those dealerships that may be harmful to consumers, and to curb illegal activities...The addition of the hours will assist consumers, BMV Investigations, and the Attorney General's Office in making contact with the owners or authorized personnel."*<sup>2</sup> Concerns were raised about illicit dealerships not providing customers with their certificate of title or using their dealership license as a front for sex trafficking operations. However, it appears that the agency overlooked currently established processes for eliminating bad actors.

When I purchased my first car from a used vehicle dealership, we ran into issues getting the title in the thirty day timeframe. After fruitless phone calls to the dealership, we called the sheriff department and the title was delivered to our doorstep by the dealer within twenty-four hours. The last time I checked, the Sherriff, Attorney General, and FBI are not limited to Monday through Friday, 9-5, in order to conduct raids or investigations based upon credible accusations of illegal activity either. Unfortunately in any business there are a few bad actors, thankfully, we have the means to seek them out and address the issues. The rule changes do not accomplish these goals, rather they add excessive burdens, time commitments, and expenses to sole proprietors who ARE trying to follow the law and sell used cars legally and they may indeed result in eliminating the licensing of small dealerships.

The minimum hours of operation disproportionately impacts sole-proprietor Used Vehicle Dealerships, including another constituent, Derek, who sells used vehicles to locals through his Geneva based used auto dealership. Sole proprietors need time to conduct all aspects of the used vehicle business: attending auctions in and out of state to purchase vehicles, taking care of title and financial transfers, and marketing to their target consumer. Especially in light of the pandemic, when illness or health of family members might require a dealership to be closed more than under normal circumstances, this rule seems out of touch with reality for many of our small used vehicle dealerships.

In a recent phone conversation with Derek, his children were home from school due to the pandemic and I could hear their noisy play in the background. He shared that he had been forced to close or take his children to the office with him multiple times throughout the year and that the increased hours requirement makes juggling family responsibilities and small business ownership difficult. He said, "I am

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the owner of Ruby's Auto Sales and I am writing to voice my concerns about the new rule pertaining to the hours mandatory to be worked at the car lot. 25 hours per week during this pandemic would be almost impossible for me. This would be a hardship for me and cause threats to the survival of my business. I have 2 young children who are in school remotely so there are days that I need to be home with them.”

Due to push back from used vehicle dealers and conversations between the BMV Registrar, myself and Representative Bill Seitz, the BMV told me in March that the rule may once again be changed to require five hours per week rather than two or twenty five. However, as of Sunday afternoon (May 16, 2021) the guidance on the BMV website still advises Used Vehicle Dealers that, “those who do not comply with 4501:1-3-08 of the Ohio Administrative Code will be found in violation... The Board may suspend or revoke any license if the licensee has in any manner violated the rules...”<sup>3</sup> If a dealership does not show proof of being open for 25 hours per week, with 10 of those hours between 9am and 5pm Monday through Friday, they are subject to an administrative hearing, possible loss of their license to sell used vehicles, (and a possible fourth degree misdemeanor for selling more than five used vehicles without a valid license). It is time to change the law so that hours of operation cannot be arbitrarily changed by an out-of-touch bureaucracy in Columbus.

The regulatory pressure and uncertainty is impeding used vehicle dealers from upgrading their small businesses to twenty-first century practices. The mandatory hours of operation requirement effectively prohibits appointment-only sales and mandates used vehicle dealers to sit in an office waiting for a customer rather than upgrading their user experiences. This can make it difficult to compete with out-of-state entities (like Carvana, an Arizona based company). Our state should be seeking to embrace more modern, efficient, and competitive business models rather than suppressing them through bureaucracy. My constituents also experienced time management problems when they had to wait in line for hours to transfer titles at the BMV during “normal” business hours, rather than attending auctions to build their vehicle selection, transporting vehicles to or from detailing and repair, or being at the office to meet the new mandates.

This new minimum hours of operation requirement is already causing hardship on small businesses, particularly sole proprietor used vehicle dealerships. This legislation will address the problem by prohibiting an hours of operation requirement from being included as a condition of obtaining or maintaining licensure.

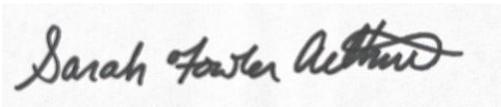
The reality is that most other business models do not have the plethora of strict regulations on where, how, and what your business must look like, let alone the added directive of when you must be open. This adds to the overhead expenses of the car dealership, which in turn increases the cost of used cars, which again burdens those most in need of less expensive transportation. In my area of the state, a car is the key to getting a job, reaching medical services, and purchasing daily household necessities. Regulatory changes that outprice basic transportation is a disservice to rural and low income communities that do not have other transportation services readily available. Used Car Dealers play a

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vital role in offering an affordable transportation option to many in my community and across Ohio, we need to remove the mandatory hours of operation requirement to enable them to continue upgrading their business models to the twenty-first century.

As one final comment, Mr. Chairman, I will note that Ohio differentiates its laws and regulations for Dealers of New Vehicles and those solely selling Used Vehicles. This results in different perspectives on the issue between stakeholders who represent solely used vehicle dealerships and those who represent new vehicle dealerships who also have the ability to sell used vehicles. The Ohio Independent Auto Dealers Association (OIADA) is in support of this bill and I expect you will hear from their members, who are the primary group of dealers affected, in upcoming hearings.

Thank you for your consideration and support of these vital small business owners through modernization of Ohio's Used Vehicle Dealership laws. I would be happy to answer any questions you may have.

A handwritten signature in cursive script that reads "Sarah Fowler Arthur". The signature is written in black ink on a light-colored background.

State Representative Sarah Fowler Arthur, District 99

- 1- <https://codes.ohio.gov/ohio-administrative-code/rule-4501:1-3-08>, see attached
- 2- Common Sense Initiative Review, see attached
- 3- Bureau of Motor Vehicles Web Guidance, see attached