



January 25, 2012

SENATE BILL No. 388

DIGEST OF SB 388 (Updated January 24, 2012 11:39 am - DI 103)

Citations Affected: IC 9-23.

Synopsis: Relocation of new motor vehicle dealers. Provides that certain restrictions pertaining to the relocation of new motor vehicle dealers do not apply to a new motor vehicle dealer located in a county of over 100,000 inhabitants under certain circumstances.

Effective: Upon passage.

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January 9, 2012, read first time and referred to Committee on Homeland Security,
Transportation and Veterans Affairs.
January 24, 2012, reported favorably — Do Pass.

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SB 388—LS 6493/DI 96+



January 25, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 388

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-23-3-24 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) This section
3 does not apply to the:
4 (1) relocation of a new motor vehicle dealer to a location that is
5 not more than two (2) miles from its established place of business;
6 **or**
7 ~~(b) This section does not apply to the~~ (2) reopening or
8 replacement in a relevant market area of a closed dealership that
9 has been closed within the preceding year, if the established place
10 of business of the reopened or replacement dealer is within two
11 (2) miles of the established place of business of the closed
12 dealership.
13 **(b) This section does not apply to a new motor vehicle dealer**
14 **located in a county having a population of more than one hundred**
15 **thousand (100,000) if:**
16 (1) **the new motor vehicle dealer relocates to a site that is**
17 **located at a distance greater than the existing distance of**

SB 388—LS 6493/DI 96+



1 **another new motor vehicle dealer of the same line make**
 2 **before the relocation; and**

3 **(2) the site of the relocation is outside an area that is within a**
 4 **radius of four (4) miles from another new motor vehicle**
 5 **dealer of the same line make.**

6 (c) Before a franchisor enters into a franchise establishing or
 7 relocating a new motor vehicle dealer within a relevant market area
 8 where the same line make is represented, the franchisor shall give
 9 written notice to each new motor vehicle dealer of the same line make
 10 in the relevant market area of the franchisor's intention to establish an
 11 additional dealer or to relocate an existing dealer within that relevant
 12 market area.

13 (d) Not later than thirty (30) days after:

14 (1) receiving the notice provided for in subsection (c); or

15 (2) the end of any appeal procedure provided by the franchisor;
 16 a new motor vehicle dealer may bring a declaratory judgment action in
 17 the circuit court for the county in which the new motor vehicle dealer
 18 is located to determine whether good cause exists for the establishing
 19 or relocating of a proposed new motor vehicle dealer. If an action is
 20 filed, the franchisor may not establish or relocate the proposed new
 21 motor vehicle dealer until the circuit court has rendered a decision on
 22 the matter. An action brought under this section shall be given
 23 precedence over all other civil matters on the court's docket.

24 (e) In determining whether good cause exists for establishing or
 25 relocating an additional new motor vehicle dealer for the same line
 26 make, the court shall take into consideration the existing
 27 circumstances, including the following:

28 (1) Permanency of the investment.

29 (2) Effect on the retail new motor vehicle business and the
 30 consuming public in the relevant market area.

31 (3) Whether it is injurious or beneficial to the public welfare.

32 (4) Whether the new motor vehicle dealers of the same line make
 33 in that relevant market area are providing adequate competition
 34 and convenient consumer care for the motor vehicles of that line
 35 make in the market area, including the adequacy of motor vehicle
 36 sales and qualified service personnel.

37 (5) Whether the establishment or relocation of the new motor
 38 vehicle dealer would promote competition.

39 (6) Growth or decline of the population and the number of new
 40 motor vehicle registrations in the relevant market area.

41 (7) The effect on the relocating dealer of a denial of its relocation
 42 into the relevant market area.

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1 **(f) This subsection expires December 31, 2014. Subsection (b)**
2 **applies to:**
3 **(1) a new motor vehicle dealer that before the effective date of**
4 **subsection (b) has been engaged in the process of relocating**
5 **but has not physically relocated to the new intended site by**
6 **the effective date of subsection (b); and**
7 **(2) a new motor vehicle dealer that begins engaging in the**
8 **process of relocating on or after the effective date of**
9 **subsection (b).**
10 **SECTION 2. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 388, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 388 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 6, Nays 3.

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