

Legislative History for Connecticut Act

SB 497	PA 82-445	1982
House - 548, 650, 7960-7975		(18)
Senate - 424, 557-558, 2953-2958, 2983		(10)
General Law - 339, 348-353, 359-364, 386		(14)
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1982

VOL. 25
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House of Representatives

Thursday, March 25, 1982

ORGANIZATIONS ACT WHICH INCLUDES TRAFFICKING IN STOLEN MOTOR VEHICLES OR THEIR PARTS. The Committee feels the bill should be referred to the Committee on Judiciary.

ACTING SPEAKER JOHNSTON:

So ordered.

CLERK:

Change of Reference. Favorable Report of the Joint Standing Committee on Transportation on Senate Bill 636, AN ACT CONCERNING THE PENALTY FOR MUTILATING, ALTERING OR REMOVING A VEHICLE IDENTIFICATION NUMBER. The Committee feels that the bill should pass but first be referred to the Committee on Judiciary.

ACTING SPEAKER JOHNSTON:

So ordered.

CLERK:

Change of Reference. Favorable Report of the Joint Standing Committee on Transportation on Senate Bill 497, AN ACT CONCERNING AUTOMOBILE DEALERSHIPS. The Committee feels that the bill should pass but first be referred to the Committee on Judiciary.

ACTING SPEAKER JOHNSTON:

So ordered.

CLERK:

Business from the Senate. Favorable Reports.

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GEN. ASSEMBLY
SENATE

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326-586

1982 GENERAL ASSEMBLY

SENATE

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Thursday, March 18, 1982

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Environment. Substitute Senate Bill 100. AN ACT CONCERNING AUTHORIZATION OF BONDS OF THE STATE FOR THE FLOOD CONTROL PROJECT IN THE FAIRVIEW AVENUE AREA OF HAMDEN. Referred to Committee on Finance, Revenue and Bonding.

Environment. Senate Bill 145. AN ACT CONCERNING SUNKEN VESSELS IN TIDAL, COASTAL OR NAVIGABLE WATERS. Referred to Committee on Transportation.

Environment. Senate Bill 421. AN ACT CONCERNING THE CONVEYANCE OF A PARCEL OF LAND FROM THE STATE TO MARSHALL ASSOCIATES, INC. Referred to Committee on Government Administration and Elections.

General Law. Substitute Senate Bill 497. AN ACT CONCERNING AUTOMOBILE DEALERSHIPS. Referred to Committee on Transportation.

General Law. Substitute Senate Bill 250. AN ACT CONCERNING ASSESSMENT OF A MANAGEMENT FEE. Referred to Committee on Judiciary.

BUSINESS FROM THE HOUSE

FAVORABLE REPORTS, HOUSE BILLS - Tabled for the Calendar

1982 GENERAL ASSEMBLY

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Agenda dated March 25, 1982, be acted upon as indicated and that the Agenda be incorporated by reference into the Senate Journal and the Senate Transcript.

THE CHAIR:

Without objection, so ordered.

The following is the Senate Agenda dated March 25, 1982:

PETITION RECEIVED UNDER RULE 19

Environment, Petition #6) Senate Bill 525, AN ACT CONCERNING

WRITTEN CONSENT FOR THE SPRAYING OF TREES OR SHRUBS.

INTRODUCTION OF SENATE BILL - to be referred to Committee indicated.

Finance, Revenue and Bonding, Senate Bill 656, AN ACT CON-

CERNING THE AUTHORIZATION OF STATE BONDS FOR THE

DEPARTMENT OF CHILDREN AND YOUTH SERVICES FOR GRANTS

TO RESIDENTIAL FACILITIES, PERMANENT FAMILY RESIDENCES

AND GROUP HOMES

SENATE BILLS FAVORABLY REPORTED WITH A CHANGE OF REFERENCE,

to be referred to committees indicated.

Transportation, Substitute Senate Bill 497, AN ACT CONCERNING

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AUTOMOBILE DEALERSHIPS. To Judiciary.

Environment, Substitute Senate Bill 27, AN ACT PROVIDING
FUNDS FOR STUDIES OF MUNICIPALLY USED ENERGY RECOVERY
SYSTEMS. To Finance, Revenue and Bonding
Transportation, Senate Bill 459, AN ACT EXEMPTING CERTAIN
VANPOOL VEHICLES FROM PROPERTY TAXES. To Finance,
Revenue and Bonding.

THE CHAIR:

Thank you Senator, any further remarks. Those in
favor aye. Opposed? Unanimous. We will recess now to
the Call of the Chair.

The Senate adjourned at 10:32 A.M., subject to the
call of the Chair.

LUCILLE F. URBAN
SENATE TRANSCRIPTIONIST

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done in the past and vote against the bill.

THE PRESIDENT:

Will you remark further? The Clerk please
make an announcement for an immediate roll call.

THE CLERK:

An immediate roll call has been called for
in the Senate. Will all senators please take their seats.
An immediate roll call has been called for in the Senate.
Will all senators please be seated.

THE PRESIDENT:

The motion is for the adoption of Cal. 466,
Senate Bill 260, File 672. The machine is open. Please
record your vote. Has everyone voted? The machine is
closed. The Clerk will please tally the vote.

Result of the Vote: 24 Yea, 10 Nay. THE BILL
IS ADOPTED,

THE CLERK:

Bottom of Page twenty-eight, Cal. 491 on an
item that was previously passed temporarily. Petition #7.
File 690. Substitute for Senate Bill 497.

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AN ACT CONCERNING AUTOMOBILE DEALERSHIPS. Unfavorable report of the Committee on Judiciary. The Clerk has an amendment.

THE PRESIDENT:

Senator Skowronski.

SENATOR SKOWRONSKI: (17th)

Thank you, Mr. President. I move that the Unfavorable Report of the Judiciary Committee be overturned.

THE PRESIDENT:

Well, in effect you are saying rejection of the Unfavorable Report.

SENATOR SKOWRONSKI:

Yes, rejection of the Unfavorable Report.

THE PRESIDENT:

Do you wish to remark?

SENATOR SKOWRONSKI:

Yes, Mr. President. Very briefly, I think that the unfavorable report from the Judiciary Committee really came out of a misunderstanding by that committee on the provisions of the bill. The bill had been approved

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previously by a substantial margin both by the General Law Committee and the Transportation Committee. Judiciary, which had only a minor cognizance misunderstood the bill. The concerns that they had on the bill will be addressed by an amendment that I have. It is a major piece of legislation that's got, I think substantial support within the Senate and the House. I would move the motion to overturn.

THE PRESIDENT:

Do you wish to remark further? This is on the motion to reject the unfavorable report. All those in favor of rejection signify by saying Aye. Those opposed Nay. The Ayes have it. THE MOTION TO REJECT IS PASSED. The Clerk has an amendment.

THE CLERK:

Senate Amendment Schedule A. LCO 3806, offered by Senator Skowronski.

THE PRESIDENT:

Senator Skowronski, do you move the bill?

SENATOR SKOWRONSKI:

I move acceptance and passage of the bill. Yes.

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THE PRESIDENT:

The amendment has been called.

SENATOR SKOWRONSKI:

I also move the amendment, request the reading be waived and permission to summarize.

THE PRESIDENT:

You may proceed.

SENATOR SKOWRONSKI:

This amendment, Mr. President, resolves the concerns of the Judiciary Committee. It has the agreement of all parties concerned and what it does it reduces the radius within which a new dealership cannot be established without the consent of an existing dealer and without the procedural safeguards in the bill from twenty miles to fourteen miles. It reduces the radius within which an existing dealer can move within the business area of another existing dealer from seven miles to six miles.

Again, this is a compromise reached by all interested parties. I would move the amendment.

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THE PRESIDENT:

Will you remark further on the amendment?

If not all those in favor of the amendment signify by saying Aye. Those opposed Nay. The Ayes have it.

Senate Amendment Schedule A IS ADOPTED.

Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you, Mr. President. On the bill, as amended, this is a major piece of legislation that will give automobile dealers substantial and much needed rights with respect to manufacturers. Similar legislation was adopted in thirty states including most of our surrounding states here in the Northeast.'

Just the highlights. It would restrict the manner in which the manufacturer would establish new dealerships, would give the dealers certain recourses against the manufacturers to perform warranty obligations, protect the dealer's right to his franchise by prohibiting arbitrary termination of franchises, makes it a little bit easier for dealers to transfer their franchises.

If there are no objections, Mr. President, I
move this to the Consent Calendar.

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THE PRESIDENT:

Hearing no objection, so ordered.

SENATOR SKOWRONSKI:

Mr. President, with respect to that item,
I intend to ask for suspension of the rules on that.
Would we take that up after the Consent Calendar?

THE PRESIDENT:

We will do it after the Consent Calendar
has been approved.

SENATOR SKOWRONSKI:

Thank you, Mr. President.

THE PRESIDENT:

Senator Skowronski.

SENATOR SKOWRONSKI:

Mr. President, I would like to make a motion
to Reconsider the action of the Senate on a bill which we,
a petition which we rejected yesterday. It is Cal. 410,
File 615. This is on yesterday's Calendar, Mr. President.
Senate Bill 453, that was an Unfavorable Report that was
sustained by the Senate. I was on the prevailing side and
I would like the rejection of that.

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THE PRESIDENT:

Now were there any corrections to the call made by the Clerk of the matters that were moved to the Consent Calendar? We are now ready to vote for the matters on the Consent Calendar. The machine is open. Please record your vote. The machine is closed. The Clerk please tally the vote.

Result of the Vote: 35 Yea.. 0 Nay. THE

CONSENT CALENDAR IS ADOPTED. SB 658, SB 660, SB 459, HB 5567, SB 308,
SB 614, SB 661, SB 497, SB 509, SB 219

Senator Schneller.

SENATOR SCHNELLER:

Mr. President, at this time I would move for suspension of the rules for immediate transmittal to the House three items: Cal.74, 491 and 466.

THE PRESIDENT:

Without objections, so ordered.

SENATOR SCHNELLER:

I am sorry, Mr. President.

THE PRESIDENT:

Do you wish to reframe that?

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MR. LA JOIE: (continued)

ride an elevator. Control of so few in this industry by the State of Connecticut is essential to guarantee the safety of so many. Thank you.

REP. CARRAGHER: Thank you very much, sir. Ladies and gentlemen, that concludes the list of all those who signed up to testify on occupational licensing. The Chair would like to express its gratitude to all of you for being here today for making the trip from Millstone. I know you lost some wages. I know how important this issue is to you. And I want to thank you for your extreme courtesy during the proceeding here and thank you all for coming. We will now take a five minute recess after which we will return to the remainder of the public hearing. Thank you.

(background noise)

REP. CARRAGHER: -- With the second portion of the public hearing. First speaker is Senator Gene Skowronski.

MARY FINNEGAN: Thank you, Mr. Chairman. Thank you Mr. Chairman and members of the Committee. I'm here today to represent Senator Skowronski who is ill. My name is Mary Finnegan and I'm the clerk of the Environment Committee. To the General Law Committee, Senator Mustone and Representative Carragher regarding Senate Bill 497. I am unable to appear in person at your public hearing today. I would very much appreciate this letter being read into the record. I am in support of Senate Bill 497. Under the present system, local dealers do not have many rights with respect to suppliers. This will give local dealers some protection under the law. Many surrounding states have already passed similar legislation and I would appreciate the General Law Committee giving this bill a favorable consideration. Thank you.

REP. CARRAGHER: Thank you, Mary. Is Representative Migliaro here? Ruth Price.

RUTH PRICE: Members of the General Law Committee, my name is Ruth Price from the Department of Housing. I am here to testify in favor of Raised Committee Bill number 5590. The Department of Housing has gone on record as often as possible in support of the promotion of mobile homes as an alternative method of creating affordable housing.

MR. FORD SIMS: Mr. Chairman, and other members of the committee, my name is Ford Sims. I'm with the marketing staff of General Motors Corporation in Detroit, Michigan.

I appear before you to explain the reasons for our opposition to Senate Bill 497, which concerns the relationship between automobile manufacturers and their dealers.

Prior to the hearing, we met with your Connecticut Automobile Dealers Association, and were able to work out our differences on the bill, except in 2 important aspects.

One is limited flexibility on the relocation of existing dealers, and the other is an extreme protected area, in which we would be unable to either relocate or add a dealer.

Our concern is based on the bills , competitive and monopolistic nature. Its anti-consumer aspects, and its potential for increased cost to the state. The bill is designed to maintain the status quo in the marketplace, and no marketing system, franchise or otherwise can possibly survive and grow if it remains static over a substantial period of time. Every system must have sufficient flexibility to take into account, and to adjust to changing conditions, population shifts, demographic changes, changes in patterns of traffic, and buying habits of the public are ignored in this bill.

But there are just a few of the changes that could affect the profitable operation of a given dealership.

Under the bill, however, an existing dealer could, either acting alone or in concert with other dealers, file a protest with the commission, and effectively protect for an indefinite time an area within which he does business from new competition. If a manufacturer or a dealer or a group of dealers would collectively agree to restrain the competition in this manner, it would certainly be in violation of the federal anti-trust laws.

Former Governor Clinton of Arkansas vetoed a similar bill because of its anti-competitive nature. Also the Louisiana legislature rejected a proposal on the same grounds. Arizona Governor, Bruce Babbitt, urged repeal

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MR. SIMS: (continued)

of similar legislation and wrote "economic regulation tends mostly to benefit those being regulated, and that it passes the cost, both needless and substantial along to the public."

In essence, this bill means that in the State of Connecticut, you're guaranteeing a dealer a competitive free zone for an indefinite period in which the dealer can demand the highest dollar from the consumer.

The protective area in this bill is a 20 mile radius. A 20 mile radius is equivalent to 1,256 square miles of protected area. I have a map that I would like to leave with the committee with circles drawn on it so that you can see the extent of this protected area.

Another problem with the bill is that existing dealers are giving out, go out of business for one reason or another, for example, losing a lease, they do not have the flexibility to reopen in another location, not even next door.

In General Motors case, in the last 4 years, we've had a reduction of 14 active dealerships in the State of Connecticut. Now, normally, we would expect to see some demonstrated need before enactment of further regulatory legislation.

Without the flexibility, and we feel the right to establish an optimum, and maintain an optimum distribution center system, General Motors will be selling fewer cars in Connecticut, and as a result will be employing fewer people.

When we consider the administrative costs alone in this type of legislation, based on California's experience where this type of legislation was first enacted, the costs for a hearing are between \$725.00 and \$925.00 per day, for each hearing day. The hearings run an average of 3 to 5 days. This makes a cost of \$2,175 to \$4,625 for each hearing on this subject. The cost is only for -- and we can substantiate this cost from a letter from the new Motor Vehicle Board in California to an Assistant Attorney General in our staff.

In addition, the costs escalate, and California has budgeted

MR. SIMS: (continued)
an additional \$100,000 this year to cover these hearings.

Summing up, we oppose the enactment. It is special interest legislation which restricts competition at the retail level in the automotive industry, and it's always the consumer who ends up financing this kind of protectionism. I thank you.

REP. CARRAGHER: Mr. Sims, I'd like to ask you a couple of questions. How many General Motors Dealerships are in the State of Connecticut right now?

MR. SIMS: We have 142.

REP. CARRAGHER: And I believe you testified that over the past year 14 of those have closed.

MR. SIMS: The past 4 years. In 1976, '77, I'm sorry, we had 156. In 1977 we had 156. Today we have 142, and that's the 14 reduction.

REP. CARRAGHER: And you don't think that's a problem? That these people have all had to go out of business?

MR. SIMS: We do think that that is a problem, but this bill does not address that problem. This bill prohibits the relocation of existing dealers to a reasonable area, and it also restricts the addition if we desire to move one of these dealers into a more optimum location that's outside of a protected area.

REP. CARRAGHER: Sir, how would you categorize the financial stability of those dealerships that are still enforce, generally?

MR. SIMS: Just as the manufacturer, sir, we are all struggling right now.

REP. CARRAGHER: Would you hold the mike a little closer, sir, I find it hard --

MR. SIMS: As all of the domestic automobile manufacturers, our dealers are struggling along, also. We have some that are doing very well, but the norm are struggling just like the manufacturers are struggling.

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REP. CARRAGHER: Okay, sir, and let's say that 2 years from now, the economy is on the upswing again, and people are again buying new cars. Would I be correct in assuming, that without this kind of legislation, that General Motors would most probably replace most of those 14 dealers that have gone out of business?

MR. SIMS: No sir. With or without this type of legislation, we would do a very detailed marketing study based upon registrations. Now, if you go back in the history, and I'll only take 30 second on this, there was a time when automotive dealers could be relatively small, and some perhaps with the inept mechanical ability that I have to repair a car, today it's becoming more and more sophisticated, requiring more and more intense, capital intense in the dealership in order to properly prepare and repair the types of vehicles we're putting on the road today.

So we do see a need for larger, better established, and in the case of a long established network of dealers, fewer. But we also require the flexibility to move where the demand is.

REP. CARRAGHER: But let's say that this law, that this bill doesn't become law, and let's say hypothetically that, as I said before 2 years from now the economy is on the upswing, and then as you tell me, you do your detailed marketing survey, etc. etc. Is there anything to prevent General Motors, buy the dealership on one corner, after you do your survey, of determining you ought to have one 2 blocks away.

MR. SIMS: Yes, there is, sir. And that is it's the worst thing in the world for General Motors to have one of our dealers go under. It not only disparages the reputation of existing dealers in the community, but it is also a very very bad reflection on our trade market and our good name.

REP. CARRAGHER: But there is nothing to stop you from making that judgment, sir. Is that correct? If you so made it?

MR. SIMS: It would be a very erroneous judgment.

REP. CARRAGHER: Thank you. Are there any further questions? Thank you very much, sir.

REP. CARRAGHER: (continued)

Nancy Schott, to be followed by Carroll Hughes.

MISS NANCY SCHOTT: Good afternoon, Mr. Chairman, and members of the General Law Committee. My name is Nancy Schott, I'm staff attorney with Ford Motor Company, here in opposition to Senate 497.

Rather than repeating the substance of Mr. Sims testimony, regarding this bill, I'd like to focus on the 2 areas of disagreement that we still have with the substitute bill, which you will be receiving shortly.

One of those areas of disagreement is the definition of relevant market area, which determines when a new dealer can be established in a new area, and when a dealer can be relocated.

The proposed bill defines a relevant market area as including an area with a 20 miles radius around a present dealer location.

The second area deals with relocation of existing dealers. The proposed bill would not allow any dealer to move within 7 miles of another existing dealer, and given the proximity of dealers in Connecticut, this would, in effect, prohibit any movement of dealers.

The revised language that we have worked up on these 2 provisions will be given to you, hopefully by the end of today.

What we are asking for in that revised language is reduction of the relevant market area definition. Number 2, for a free relocation in the franchise area of a dealer, but not within 5 miles of any other dealer. And number 3, for the ability to replace a closed dealer if we do so within 2 years of the time that dealer closed, and at a place within 2 miles of where that dealer was.

We feel that these requests are very reasonable, because the provisions as presently drafted, give the right to stop these actions to dealers that are not in genuine competition with other proposed dealers. It would force

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MS. SCHOTT: (continued)

manufacturers to immediately replace any dealer before that dealership officially closes, and would prevent -- in order to prevent a long delay in filling the location.

For example, if we have a dealer that goes out of business in Hartford, there may be -- I don't know the exact number, but there may be 20 other dealers within the 20 mile radius. If we decide to replace that dealer, 19 out of the 20 remaining dealers may agree, that that dealer needs to be replaced, but the 1 dealer could prevent that replacement, tie up the replacement for several years, at an extreme cost to both the prospective dealer, the manufacturer and of course, ultimately to the consumers.

This bill would also have the effect of prohibiting dealer relocation. For example, if a dealer is in an area whose character has changed, he's prevented from moving to a viable area where the public will have access to the sales and service that it needs. If an expressway moves, or a new shopping center is built, that dealer, even though it may be only 3 or 4 miles away, is effectively out of the traffic pattern, but this bill would prohibit that dealer from moving.

What we see the bill as doing is giving virtual control to existing dealers over the business decisions of other dealers, or people seeking to be dealers, and over the business decisions of manufacturers. It's clearly an anti-competitive bill, and it's not in the public interest. We feel basically that the entire bill is unnecessary, but we've tried to work with those who feel it is necessary.

Unfortunately we reached a total impasse on these 2 aspects, and we urge you to reject the proposed language and approve the revised language that we will be giving you. Thank you.

REP. CARRAGHER: Thank you very much, and you will submit that language to the staff. Thank you. Are there questions? Thank you very much. Mr. Carroll Hughes.

MR. CARROLL HUGHES: Mr. Chairman, in the interest of time, taking somebody else off the list and very much abbreviating both of our testimonies, may I ask your permission that

MR. PUDLIN: (continued)
face a challenge to the intent of the legislation or have to come back next year.

We have been working with the Real Estate Commission and I know the committee has a meeting Monday, and I would hope that appropriate language could be submitted for your consideration by the Monday meeting. Thank you very much.

SEN. MUSTONE: Thank you Mr. Pudlin. Richard Meek has signed up with Mr. Fred Blasius. Are you going to testify together, gentlemen?

MR. RICHARD MEEK: Good afternoon, members of the committee. My name is Richard Meek. I'm Executive Vice President of the Connecticut Automotive Trades Association. Our office is at 18 North Main Street, West Hartford.

Our new car dealer membership includes 425 new car dealers, which is the majority of the dealers in Connecticut. I would like to say that 2 or 3 years ago we had a number more members. We have lost in the last 2½ years approximately 42 dealers. Some of them went bankrupt, some of them sold out, but I assure that none of them that did go out, sold out simply because they wished to retire. They went out because they weren't making any money. We just passed a record this week in which one of the Ford product dealers, they went out 2½ years ago, his replacement has just gone out recently, so this is becoming the pattern in our industry.

We support the passage of Bill No. 497, in order to bring some equality into the factory dealer relationship. It is, if you will a dealer's Bill of Rights.

Dealers operate under a franchise from their manufacturer. Franchise document is drawn up by factory lawyers to protect the rights of the factory. The terms of the franchise are not negotiable. Some franchises have been greatly improved in recent years, and contain some of the rights itemized in the proposed legislation. The improvements, by in large have been in the franchise of the domestic manufacturers, and they have recognized some of the problems. However, many of the imports have not adopted these necessary changes.

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MR. MEEK: (continued)

Franchises are normally rewritten every 5 years, and new franchises tend to protect the manufacturers from the effect of adverse court decisions handed down during the term of the old franchise.

We are particularly concerned with franchises that do not offer price protection on sold orders to the dealer and his customer, and those who do not reimburse their dealers for judgments against them for faulty manufacturing or design columns.

Of primary importance to dealers is the fact that all manufacturers can, and do appoint additional dealer points any time they want to with little or not consultation with the existing dealers.

This legislation is similar to that passed in 1977 to help the gasoline station operators to equalize their dealings with the oil companies. These laws are contained in Section 42-133 and following.

Many states have already passed car dealer franchises practices act. I will leave with the committee a list of these states along with a statute citation. You will note that all of the other New England states have passed an act similar to the one which we are proposing today. If you're interested, I have copies of the Massachusetts, Maine, New Hampshire, Rhode Island, and even the Michigan Act which was just passed last year, which I can leave with you. They're not all exactly the same, but they're all very similar.

There is concern among the surviving dealers, that if and when business conditions improve the manufacturers will wish to appoint new dealer locations, with little or no thought being given to the effect on existing dealers. Most people in the industry believe that the industry will sell fewer cars each year in the future, due principally to high prices and the high cost of financing sales.

This proposed legislation would give effective dealers a chance for a hearing, and that's all we're asking. We're not establishing a monopoly. I talked with the manager of

MR. MEEK: (continued)

the Association who has had this bill for some time, just the other day, and he told me that sometimes the hearings go to the dealer, sometimes it goes to the manufacturer. And it's worked out quite well in the state.

This would not stop all such appointments, but it would require the manufacturer to show the need for the new dealership by producing meaningful marketing studies. The question will probably be raised whether the hearing procedure contained in the act violates the right of the manufacturer through loss of due process or restraint of trade.

This issue has been cited by the Supreme Court of the United States in the case of the new Motor Vehicle Board of California versus Oren W. Fox Company. I have a copy of that decision which I'd like to leave with the committee.

I don't intend to read the whole thing, but there are two points in there which we think are significant. They say, I quote, if the right to franchise constituted an interest protected by due process when the act was enacted, the California Legislature was still constitutionally empowered to enact a general scheme of business regulation that imposed reasonable regulations upon the exercise of that right.

In particular, the Legislature was empowered to subordinate manufacturers' franchise rights to the franchise conflicting rights, where necessary to prevent unfair or oppressive trade practices. And also to protect the franchisees' conflicting rights to customary and reasonable procedural safeguards, by providing vis a vis with notice and an opportunity to be heard by an impartial tribunal before their franchisor is permitted to inflict upon them grievous loss.

Such procedural safeguards cannot be said to provide the franchisor of due process. They also go on to say it doesn't conflict with the Sherman Act. A statutory scheme is a system of regulations to design, to displace unfettered business freedom in establishing and relocating automobile dealerships and hence is outside the reach of the anti-trust laws under the state action exemption.

MR. MEEK: (continued)

This exemption is not lost simply because the act accords existing dealers notice of and an opportunity to be heard before their franchisor is permitted to locate a dealership likely to subject them to injurious and possible illegal competition.

A footnote contained in this decision lists 17 other states which have prescribed conditions under which new or additional dealerships may be permitted in the territory of an existing dealer. The experience in other states is that this type does not breed a lot of law suits.

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Once the law is on the books, the factories normally will observe them. They are living with this type of law in many jurisdictions and can do so in Connecticut. The dealer needs the supporting law contained in this bill to make sure that its rights remain intact, regardless of changes in the franchise. The dealer believes that it is in the interest of the public to have financially sound dealer bodies to serve their needs.

The dealer is in direct relationship with its customers. Factory insulates itself from the customers through the dealer.

SEN. MUSTONE: Mr. Meek, I wonder if you'd be good enough to summarize.

MR. MEEK: I'm just about through.

SEN. MUSTONE: Thank you, sir.

MR. MEEK: Despite present poor risk conditions, the car factories are already appointing new dealers. The only deterrent is the inability of would be dealers to obtain their capital investment at reasonable interest rates. If as expected, business improves and capital becomes more available, there will be an increase in the number of dealers.

And I simply would ask the committee to look around them in their own home town and think about take your local Chevrolet dealer, and think about how many dealers there are within not 20 miles, but within 10 miles. Most of

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MR. MEEK: (continued)

them have at least six or seven direct competitors. There isn't any question of monopoly. And I really appreciate the opportunity to comment on this bill and I will say we have met with the manufacturers' representative and we have made considerable progress, and we would also like to submit to you some amendments to this present bill.

SEN. MUSTONE: Thank you, sir. The chair would like to remind you, we have over 30 people yet to speak. I've done a little bit of quick arithmetic. If you take five minutes each, we'll be here until 6:30. If you take three minutes we may get out by 5:30. Many people are testifying on the same bills, so I would urge you to try to keep your remarks down and particularly if you are duplicating another speaker's testimony, the testimony can be submitted to the clerk so that it will be on record.

So I would ask your cooperation. The next speaker is Mr. Blasius. Thank you, sir, very much for your cooperation. Are there any questions for Mr. Blasius. Would you say, sir, that the compromise that was described a little bit earlier meets the needs of both? The three that were listed. Would you, perhaps, would you step to the mike, just repeat those for us?

If you would identify yourself for the record.

FREDERICK BLASIUS: My name is Frederick Blasius. I'm President of Wall and Blasius Chevrolet in Waterbury, Connecticut and also president of the Connecticut Automobile Trades Association.

The three areas that are of concern is the relevant SB497 market area, that is the 20 mile limit for, we can show that there is also substantial representation. What concerns us is that we are in an over-dealered situation in the State of Connecticut and those people who, or those dealers who are forced out of business pretty much by economic conditions, that they not be replaced because the rest of the fellows are going to have, or the rest of the dealers are going to have to pick up the slack.

I won't, I'll just --

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SEN. MUSTONE: No, please don't elaborate on it. If you would just list the three for us.

MR. BLASIUS: Okay, relative market, that's a 20 mile situation. The seven miles in relocating dealers and the two year moritorium, so to speak, in permitting the factory to set up another dealer.

SEN. MUSTONE: Thank you very much, Mr. Blasius.

MR. BLASIUS: Thank you.

SEN. MUSTONE: Mr. Gene Wagner, followed by Leonard Conlin. If anyone is testifying on this side of the room, that microphone is available also.

GENE WAGNER: For the record, Gene Wagner, Motor Vehicle Manufacturers Association. We represent most of the domestic car and truck manufacturers. The first bill I would speak on very briefly is Senate Bill 256, the mold and dye bill. If that were amended to restrict it to the plastics industry only, the industry would support the bill.

Secondly, on the dealer franchise bill, Senate Bill 497, we have a number of member companies who objected overall to this franchise legislation. Should some agreement be reached ultimately on the two or three factors that now separate the dealers and manufacturers from agreeing, the industry would then not object to the bill.

However, in its current form, because of the inability to compromise the industry and its members are in opposition to Senate Bill 497.

SEN. MUSTONE: Thank you, Mr. Wagner. Are there any questions? Representative Zajac.

REP. ZAJAC: A question, sir. The only objection we've heard to the mold bill has been from the auto manufacturing industry. I received a letter this morning from International, which is from my area, in Wallingford and the flatwares, table ware and silverware and other manufacturers that use and have retained molds. What makes your business so different that you object to the

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MS. BROOKS: (continued)

written agreement exists between a molder and a customer and additionally the customer is protected by federal and state patent and copyright laws and laws pertaining to unfair competition.

Mold retention laws have been enacted in California, Oregon, Minnesota, Michigan, Illinois, Indiana and New York, and in addition, the three New England states of Vermont, Rhode Island and Massachusetts. Bills are close to enactment in New Jersey and Ohio.

Bill Number 256 will protect the strength and growth of the plastics molding industry in Connecticut, and on behalf of that industry I respectfully urge favorable action on Bill Number 256.

SEN. MUSTONE: Thank you, Miss Brooks. Are there any questions? I must apologize. I missed someone's name and I would like to go back and call on him. Neal W. Talley. I'm sorry, sir.

NEAL W. TALLEY: Thank you, very much. My name is Neal W. Talley, Chrysler Corporation. And I would like to go on record as being opposed to Proposed Bill 497. I'll be very, very brief. This 20 mile radius we think is very inappropriate and we think it's very anti-consumer. For example, you're not getting service from a particular dealer. Could that be causing you to go another 20 miles just to get service from another dealer?

In effect, you'd be asking your customers to go as far as 40 miles, maybe, round trip. They also talked in terms of a radius of 20 miles. Now a radius is as the crow flies, and this could very well be in excess of the 20 miles in the bill.

Another section deals with the relocation of a dealership. If for example, say your dealer could have a fire or something else could happen to cause your dealership to be put out of business, and there may be a dealership a couple of miles away. He would be prohibited under the provisions of this bill to move into that other location. And there are other aspects in the bill, in the event of the amount of time that we have today, why, we'll just go on record as opposing it. Thank you.