

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairperson Rep. Gary Hayzlett at 1:40 p.m. on March 7, 2000 in Room 519-S of the Capitol.

All members were present except:

Representative Andrew Howell, excused

Committee Staff present:

Bruce Kinzie, Revisor of Statutes

Hank Avila, Research Department

Ellie Luthye, Committee Secretary

Conferees appearing before the committee:

Don McNeely, President, Kansas Automobile Dealers Association

Pat Barnes, Attorney, Kansas Automobile Dealers Association

John Schmid, Chairman, KADA Legislative Committee

Sandy Braden, Alliance of Automobile Manufacturers

Others attending:

See attached list

The minutes of the House Transportation Committee for February 21st and February 22nd were presented for corrections or approval. Representative Aday made a motion to accept the minutes as written, seconded by Representative Long and the motion carried.

SB 489 -new vehicle dealers and dealerships

Chairman Hayzlett opened hearings on **SB 489** and called on Don McNeely, Kansas Automobile Dealers Association, to present testimony in favor of this bill. He told the committee that the proposed legislation is modeled after legislation already enacted by 16 other states and essentially seeks to prohibit motor vehicle manufacturers from obtaining a license to sell motor vehicles at retail within the state and competing with independently owned Kansas franchised dealers. In addition, the legislation ensures that all new vehicles, whether sold directly from the manufacturer on-line or through a catalog, are delivered by a licensed franchised dealer. (Attachment 1)

Mr. McNeely introduced Pat Barnes, Attorney for the Kansas Automobile Dealers Association. Mr. Barnes walked the committee through the statutory changes to the Dealers and Manufacturers Licensing Act and also outlined amendments which were requested by others and to which they have agreed. He also addressed the two amendments which had been offered by the Alliance of Automobile Manufacturers which they had rejected.

John W. Schmid, KADA Legislative Committee, and also a Chevrolet and Buick dealer in Coffeyville, spoke in support of **SB 489**. He testified over the past decade the automakers have pushed consolidation, elimination of small, low volume and "off channel" dealer locations of all sizes, which has left many cities and counties across the state with no local franchised new automobile dealer to serve the needs of the rural markets. He asked support of **SB 489** and concluded that KADA has historically worked diligently with the manufacturers in matters of this nature and **SB 489** in its current format is no exception.

(Attachment 2)

Following questions and discussion by the committee, and there being no other proponents scheduled, the Chair called on Sandy Braden, on behalf of the Alliance of Automobile Manufacturers, who spoke as an opponent to **SB 489**. She stated this bill would create a broad prohibition against automobile manufacturers owning automobile dealerships in the state of Kansas. She then offered two amendments which would then allow the Alliance to support passage of **SB 489**. The first would add "other than an interest solely for investment purposes" to page one, line 22. The second would strike the language on page two, line 9, that reads "but for no other purpose" and adding "or in markets in which it is necessary for economic reasons for the manufacturer to temporarily hold an ownership interest for the purpose of attracting dealer investment". She concluded these proposals are relatively modest, compared to the overall impact of the bill, but important to striking a good balance between the concerns of both dealers and manufacturers. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE, Room 519-S Statehouse, at 1:40 p.m. on March 7, 2000.

Chairman Hayzlett opened the floor for questions and discussion. Representative Thimesch said that the concern seemed to be that dealerships would be developed that would squeeze out small car dealerships in Kansas and asked, that in essence, wasn't it happening now in that there are some dealerships in Kansas that have exclusive rights of selling cars, or parts, that small dealerships can't get now,. Ms. Braden said she could not answer that question but would make that information available to him.

Chairman Hayzlett closed hearings on **SB 489**.

With approval from the Vice-Chair and the Ranking Minority member Chairman Hayzlett called for discussion and final action on **SB 489**.

Representative Johnston made a motion to pass SB 489 favorably, seconded by Representative Ballou and the motion carried.

Chairman Hayzlett adjourned the meeting at 2:30 p.m.

The next meeting of the House Transportation Committee is scheduled for Wednesday, March 8, 2000 in Room 519-S.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 3-7-00

NAME	REPRESENTING
Rick Scheibe	KDOR Vehicles
David Chisler	KDOR Vehicles
Sheila J. Walker	KDOR - DMV
Tom Whitaker	Ks Motor Carriers Assn
Pat Hubbell	KADA
Whitney Damron	KS Auto Dealers Assn.
Bill Brady	KS Audit Consulting
Scott Brunner	DOB
John Federico	General Motors



KANSAS AUTOMOBILE DEALERS ASSOCIATION

March 7, 2000

To: Chairman Gary Hayzlett
and the Members of the House Transportation Committee

From: Don L. McNeely, KADA President

RE: Senate Bill 489 – Amendments to the Kansas Dealers and Manufacturers
Licensing Act.

Good afternoon, Chairman Hayzlett and Members of the House Transportation Committee. My name is Don McNeely and I serve as the President of the Kansas Automobile Dealers Association (KADA), which represents the franchised new car and truck dealers in Kansas. Joining me this morning is Mr. Pat Barnes, KADA's General Counsel and Mr. Whitney Damron, our Legislative Counsel. Also present with us today is KADA's Chairman, Mr. Lonnie Sassaman of Garden City, our Chairman-Elect, Mr. Miles Schnaer of Lawrence and KADA's Legislative Committee Chairman, Mr. John Schmid of Coffeyville.

I appear before you this morning in support of SB 489 which proposes amendments to the Kansas Dealers and Manufacturers Licensing Act. As the members of the Committee may remember, the Kansas new vehicle dealers operate under sales and service agreements, which are defined to be franchise agreements under Kansas law. These agreements and the policies instituted under them are offered on a take it or leave it basis and often times result in onerous obligations, increased costs, and in some instances, the loss of local business altogether. It is the Kansas Dealers and Manufacturers Licensing Act which provides some protection to new car and truck dealers against overreaching by the manufacturers. In fact, over two decades ago, the U.S. Supreme court spoke to the purpose and intent behind these laws in stating, "the disparity in bargaining power between automobile manufacturers and their dealers prompted Congress and some States to enact legislation to protect retail car and truck dealers from perceived abusive and oppressive acts by the manufacturers."

The proposed legislation before you, which is modeled after legislation already enacted by 16 other states, essentially seeks to prohibit motor vehicle manufacturers from obtaining a license to sell motor vehicles at retail within the state and competing with

independently owned Kansas franchised dealers. In addition, the legislation ensures that all new vehicles, whether sold directly from the manufacturer on-line or through a catalog, are delivered by a licensed franchised dealer.

The proposed amendments are designed to keep the automobile manufacturers, which are some of the world's largest corporations, from cornering the market by targeting the best locations for their factory-owned stores, consolidating those dealerships and building a centrally controlled monopoly. This type of monopolistic centralization destroys competition, limits consumer choice, and ultimately drives up the price of a vehicle. If this happens, Kansas consumers in a lot of cases will be forced to drive further and pay more for future new car purchases and repairs. The proposed legislation will help ensure the survival of the most fiercely competitive retailers in the marketplace – your local independent franchised new car and truck dealership.

Ford Motor Company has already acquired all of the Ford-Lincoln-Mercury dealerships in several major markets including Oklahoma City, Tulsa and Salt Lake City, and they also own stores in San Diego and Rochester NY. Early last fall, General Motors also announced its intention to open factory-owned stores in 130 of its largest markets. Even though GM and Ford have recently backed off from this stance, the previous actions and announcements by the manufacturers have triggered alarm bells in state capitals nationwide, as an additional 16 states consider legislation to prohibit factory-owned dealerships.

Why have so many legislatures taken up the cause of local auto dealerships? It comes down to basic economics, fair play, maintaining healthy competition among dealerships, and protecting the rights of consumers.

Although Ford and GM would like dealers to believe that they have backed off these plans, dealers are skeptical because manufacturer-owned stores have dramatically unfair advantages over dealer-owned stores, as the cards are stacked against local dealerships. The manufacturers dictate location, building size, what vehicles can be sold at a given location, and how much working capital must be invested. They approve rent, mandate hours of operation, set training standards, control pricing and distribution of product, and floorplan financing. They have proprietary information on even the smallest detail of the dealership's operations, including monthly financial statements, customer data and payroll records. Manufacturers can undercut pricing, limit supply and ultimately drive independently owned dealers out of business using this unfair advantage. When Goliath-sized factory dealerships are allowed to replace a competitive system of family-owned and operated small businesses, consumers and taxpayers ultimately lose.

A healthy competitive environment currently exists among Kansas dealerships, which produces competitive pricing and options for consumers. A customer's relationship with their local dealer continues long after the sale, as it is more convenient to have warranty and maintenance issues resolved close to home, instead of an inconveniently-located factory owned store located miles away. The current geographical distribution of dealerships, for the most part, is well established throughout

Kansas to serve the needs of the motoring public. This will change dramatically if manufacturers are allowed to operate factory dealerships.

This is an issue of simple economics as well. Currently, there are 305 new car dealers in Kansas, with an average annual payroll of \$1.26 million. Dollars generated locally tend to circulate locally. Hometown dealers are local business people, and naturally, they do business locally. They have longstanding relationships with local banks, insurers, suppliers, and many local merchants. Local economies, both small and large, depend on the millions of dollars of sales, property and payroll taxes generated locally by these dealerships. Their commitment is to the communities where they live and work, not to a monopolistic headquarters in a faraway place.

In 1998, Kansas new vehicle dealerships generated \$5.283 billion in total sales, which amounts to 23.8 percent of the total retail sales in the state. In addition, Kansas dealerships employ 11,399 people statewide, whose annual income accounts for 10.9% of the state's retail payroll. What if even a portion of this was lost? Who will make up the difference? This issue has a profound impact on public schools, local governments, and civic and charitable organizations.

Automobile manufacturers like to stress the fact that car shopping has changed dramatically in the age of the Internet, and the possibility of buying a car online and taking delivery at your home or office would offer the ultimate in customer convenience. The same can be said of predatory pricing and fraudulent practices, too. The Internet presents a viable opportunity for that as well.

Online car shopping does sound attractive for people with busy lives. However, the sad truth is one in four online car customers later discovered that—although they were led to believe that the “online price” was the lowest price possible—they could have obtained a better deal on the same vehicle if they had just shopped at a local dealership (Source: CNW Marketing Research, Computers, Cars and the Internet e-Facts, v. 1.999). This is not to say the concept of Internet commerce is bad, but viewing a low-resolution image of a vehicle on a computer screen is a poor substitute for test driving the real thing, especially considering the purchase of a new motor vehicle is the second largest purchase an individual will make in their lifetime, not a \$5 Amazon.com book.

Local dealers have realized the power of the Internet as a tool to educate the consumer in order for them to make an informed buying decision. In fact, 80.3 percent of all local dealers have made an investment in technology and are online, up 8.4 percent in the past six months. Their web sites provide the most up-to-date information on the latest models, as well as upcoming sales, rebates, incentives and promotional interest rates.

Yet, a modem connection can't take the place of a consumer's “car buying” and “car owning” experience and it cannot and does not provide expert repair and customer service facilities. The proposed legislation stipulates that all cars, whether bought through a dealer or direct from the factory online or through a catalog, will need to be delivered by a licensed dealer. Specifically, it helps preserve customer satisfaction and choice, and

by its operation, keeps intact such consumer protections as the Kansas Implied Warranty Laws, the Kansas "Lemon Law" and the Ten-Year Seatbelt Warranty Law.

By prohibiting large manufacturers from cornering the market on their brands, controlling product distribution and driving existing dealerships out of business, states like Kansas maintain a competitive system of mostly family-owned and operated dealerships. Specifically, this new legislation:

- Assures consumers the ability to find a selection of competitively priced vehicles within a short drive of their hometown.
- Preserves the convenience and accountability of local service after the sale.
- Allows consumers the opportunity to comparison shop between brands, without being limited to one particular manufacturer's models and monopolistic pricing.
- Provides a level playing field for the state's existing businesses.
- Protects local jobs, local investments, and local business relationships of dealerships in communities large and small.
- Continues the level of corporate, payroll, property and local sales taxes generated by local dealerships.
- Preserves enacted Kansas Consumer Protections.
- Assures local availability of trained technicians, warranty and repair service.
- Provides delivery requirements, which help avoid fraud and circumvention of Kansas dealer laws and requirements, thus providing greater accountability.

On behalf of KADA, I would like to thank the Committee for their time and consideration of this legislation, which we believe to be critical to the long-term viability of the independent franchised new vehicle dealers in Kansas. As always, the members of KADA are willing to work as much as possible with all parties affected by industry legislation within the confines of the goals to be achieved. With respect to SB 489, we have made every effort that we can to be responsible and responsive to the concerns of others to the extent we can do so given the reasons for which this legislation has been brought. SB 489 was approved by the Senate in its current form on a vote of 39-0.

At this time, I would like to introduce KADA's General Counsel, Mr. Pat Barnes, who will walk through the statutory changes to our Dealers and Manufacturers Licensing Act which I have just highlighted. Pat will also outline those amendments, which were requested by others to which we have consented. Additional amendments requested by the opposition have been declined as being inconsistent with the intent and purpose of the proposed legislation, or because such amendments would take too much away from the language needed to address the problem. At the conclusion of Pat's remarks, both he and I, and our dealers present today will be pleased to respond to any questions you might have.



KANSAS AUTOMOBILE DEALERS ASSOCIATION

Annual Contributions of Kansas's New-Vehicle Dealers*

Kansas's dealers maintain a multi-BILLION dollar retail industry.

Average sales per dealership	\$17.323 million
Total sales of all new-vehicle dealerships in Kansas	\$5.283 billion
Dealership sales as % of total retail sales in the state	23.8%
Estimated number of new-vehicle dealerships	305

Dealers provide thousands of well-paying jobs in Kansas.

Total number of new-vehicle dealership employees in Kansas	11,399
Average number of employees per dealership	37
Average annual earnings of new-vehicle dealership employees	\$34,216
Dealership payroll as % of total state retail payroll	10.9%
Annual payroll of new-vehicle dealerships	\$380 million
Average annual payroll per new-vehicle dealership	\$1.26 million

Dealers generate hundreds of millions of dollars of tax revenue for state and local government through:

- ✓ Sales tax revenue
- ✓ Corporate tax revenue
- ✓ Payroll tax revenue

**Numbers reflect annual economic activity during 1998.*

800 S.W. Jackson, Suite 1110 • Topeka, KS 66612

Telephone (785) 233-6456 • Fax (785) 233-1462

**STATES WITH FACTORY STORE PROVISIONS
2000**

Prevent manufacturer from competing with dealer in RMA with exceptions - reasonable time, while for sale, during a buyout: Alabama, California, Indiana, Louisiana, Maine, Minnesota, Nevada, New Jersey, New Hampshire, Rhode Island, Tennessee

Prevent manufacturer from unfairly competing with dealer in RMA with exceptions - reasonable time, while for sale, during a buyout: Connecticut, Delaware, Idaho, Kentucky, Michigan, Ohio, Vermont, West Virginia, Wyoming

Illegal for manufacturer to own or operate, directly or indirectly a dealership: Florida, Massachusetts

Unlawful for manufacturer to directly or indirectly own or operate a dealership or act in the capacity of a dealer: Texas

Illegal for manufacturer to own, operate or control a dealership: Virginia, Wisconsin

Manufacturer prohibited from selling to a consumer, except through a franchisee: New Jersey, Utah

Manufacturer, or entity owned or controlled by a manufacturer, may not sell to a retail buyer: Maryland

Addresses manufacturer/dealer entities: Texas, Georgia, North Carolina.

States enacting or amending existing laws during 1998 - 99 are marked with an *. They are:

1. Arkansas
2. Georgia
3. Illinois
4. Indiana
5. Montana
6. North Carolina
7. Texas
8. Connecticut
9. Wisconsin

Page Two

States that have or will introduce bills containing factory store prohibition language:

Alaska

Arizona – HB 2101

Colorado

Iowa

Kansas – SB 489

Kentucky – HB 250

Minnesota

Missouri – SB 826

Nebraska – LB 1018

New Hampshire – SB 375

Oklahoma

South Carolina – HB 4450, SB 1044

Utah

Washington State – HB 2529, SB 6220

West Virginia



NATIONAL ASSOCIATION OF MINORITY AUTOMOBILE DEALERS

**"Working Hard Every Day To Create Viable Opportunities
For Ethnic Minorities In The Automotive Industry"**

February 15, 2000

Don L. McNeely
800 S. W. Jackson, Suite 1110
Topeka, KS 66612

Re: Senate Bill No. 489

Dear Mr. McNeely:

The National Association of Minority Automobile Dealers (NAMAD) is a non-profit trade association representing more than 500 ethnic minority franchised motor vehicle dealers, including dealers in Kansas. We have reviewed Senate Bill 489 and our association is in support of this legislation.

The bill as introduced fairly addresses the disparity that exists between the dealers and manufacturers. Additionally, the bill preserves the ability of non-traditional dealers to become dealers through the exception provided at Section 1(a). We urge the passage of Senate Bill 489 to preserve competition and serve the public.

For years, the traditional franchise dealer has served the interests of the general public in a number of ways, including ensuring fair and aggressive competition. The traditional dealer system has contributed greatly to our booming economy. They are leaders in their community and support numerous community and philanthropic activities.

Failure to pass this legislation could lead to the demise of the franchise system as we know it. The independent franchised dealer is in no position to compete with the factory, given the disparity in economic power and the factory's access to the dealer's financial and operational information. I ask you to consider this essential question as you consider passage of Senate Bill 489. "Do we really want to eliminate competition by eliminating those dealers providing sales and service in their local communities in favor of regional factory stores?" Since no dealer can compete with that dealer's sole supplier of product, the end result will be loss of choice and loss to the consumer.

Thank you for considering Senate Bill 489. Please feel free to contact me at (301) 306-1614 for any questions or further clarification.

Sincerely,



Sheila Vaden-Williams
President

\\Namad00\namad data\Factory Owned Stores\2-15-00 Letter to Don McNeely re Kansas bill.wpd

8401 Corporate Drive • Suite 405 • Lanham, MD 20785
(301) 306-1614 • Fax (301) 306-1493
website: www.namad.com • email address: namad-dc@msn.com

KANSAS AUTOMOBILE DEALERS ASSOCIATION

SB 489 - Issues & Answers

Why do we need legislation to prohibit auto manufacturers from operating dealerships in Kansas?

The world's largest auto manufacturers are determined to corner the market by targeting the best locations for factory-owned stores, and consolidating the many competitive dealerships in an area down to a centrally controlled monopoly. If this happens, consumers will be forced to drive farther and pay more for future new car purchases and repairs.

Factory-owned stores are ultimately anti-consumer. If the manufacturers get their way, customers may not be able to buy the most popular models and—because the auto makers could use predatory pricing to drive independent, same-brand dealers out of business in a given market area—they could raise prices because there would be no intra-brand competition.

Essentially, the proposed legislation seeks to amend Kansas' dealers license law to prohibit motor vehicle manufacturers (with some exceptions) from obtaining a license to sell motor vehicles at retail within the state.

Why do we need the legislation now?

Last fall, General Motors announced its intention to open factory-owned stores in 130 of its largest markets. Though GM has recently backed off from this stance, the announcement triggered alarm bells in state capitols nationwide. Ford Motor Co. recently purchased all of the Ford dealers in several major markets including Oklahoma City, Tulsa and Salt Lake City, and own stores in San Diego and Rochester NY. Both Ford and GM would like dealers to believe that they have backed off these plans. Dealers are skeptical because manufacturer-owned stores have unfair advantages over dealer-owned stores.

Like dealers, legislators in 14 states have understood that their states will lose corporate, payroll, local sales and property tax revenues they receive from local dealerships in small and large municipalities statewide. Last year's new vehicle taxes made up about one-fourth of the total retail sales taxes collected statewide. Add to that the fact that family-owned and operated dealerships benefit their local communities because they make local vendor purchases, support school education and athletic programs, and are very involved in charities and civic organizations.

The current geographical distribution of dealerships is well established throughout Kansas to serve the public needs. This will change dramatically if manufacturers are allowed to operate factory dealerships. The proposed legislation to ban factory-owned dealerships is the only effective way to prevent unfair competition.

Has this legislation been tried before and what was the result?

Fourteen states prohibit manufacturers from owning or operating dealerships: Arkansas, Florida, Georgia, Illinois, Louisiana, Maryland, Montana, Nevada, New Jersey, North Carolina, Texas, Utah, Virginia and Wisconsin.

Nineteen states have laws that ban "unfair competition" by manufacturers against dealers, though dealers in those states believe that the laws are unenforceable and are moving toward all-out prohibitions. The "unfair competition" states are Alabama, California, Connecticut, Delaware, Idaho, Indiana, Kentucky, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, Ohio, Oregon, Rhode Island, Tennessee, Vermont, West Virginia and Wyoming.

Currently, dealer associations in Colorado, Iowa, Nebraska, Missouri, North and South Dakota and Minnesota are working hand-in-hand with legislators to protect consumer rights and options.

The proposed legislation includes provisions that would allow manufacturers to co-own a dealership for a period of time, which would permit a person of limited financial resources (often a minority) to purchase the dealership. The manufacturer may own a dealership for up to a year to facilitate the sale of the dealership.

Manufacturers have portrayed this legislation as anti-competitive. Is it?

No. If anything, the manufacturer-owned stores are anti-competitive. For factory-owned stores to be a profitable venture, manufacturers must consolidate many dealerships into one. This type of monopolistic centralization destroys competition, limits consumer choice, and ultimately drives up the price of a vehicle.

Consumers will be forced to drive farther and pay more for vehicles and service. The legislation will ensure the survival of the most fiercely competitive retailers in the marketplace— independent car and truck dealers.

Manufacturers also claim factory-owned stores will streamline the process of buying their brands in traditional and innovative ways (i.e. the Internet). Why not try it?

Automobile manufacturers like to stress the fact that car shopping has changed dramatically in the age of the Internet. Local dealers have also realized the power of the Internet as a tool to educate consumers, in order for them to make an informed buying decision. In fact, a whopping 74 percent of all local dealers have made an investment in technology, are online and provide the

most up-to-date information on the latest models, as well as upcoming sales, rebates, incentives and promotional interest rates—some of which are only available from dealerships. But a modem connection can not take the place of a consumer’s “car buying experience” and “car owning experience, and it can not and does not provide expert repair and customer service facilities.

A customer’s relationship with that dealer continues long after the sale, because it is more convenient to have warranty and maintenance issues resolved close to home instead of an inconveniently-located “mega” dealership. The proposed legislation stipulates that all cars, whether bought through a dealer or direct from the factory online, will need to be delivered by a licensed dealer. Additionally, it helps preserve customer satisfaction and choice, and by its operation keeps intact such consumer protections as the Kansas Implied Warranty Laws, the Kansas “Lemon Law” and the Ten-Year Seatbelt Warranty Law.

Why do local dealers consider it unfair to compete with their own manufacturers?

The system of local dealerships was established a century ago, when Henry Ford envisioned a distribution system for his Model T that would launch an industry. Mr. Ford’s system of local sales and service helped automakers survive the Great Depression, two World Wars, and an influx of foreign vehicles. Now, since new vehicle sales have reached record levels, some of the world’s largest corporations want to corner the market for local sales and service. The manufacturer has proprietary information on its dealers, including financial statements, customer lists, floor plans, and payroll records. This is simply not a level playing field.

This legislation protects local small businesses, while providing many benefits for consumers and taxpayers of our state:

- Assures future buyers the ability to find a selection of competitively-priced vehicles within a short drive of their hometown
- Preserves the convenience and accountability of local service after the sale
- Gives consumers the opportunity to comparison shop between brands, without being limited to one particular manufacturer’s models and monopolistic pricing
- Provides a level playing field for the state’s existing businesses
- Protects local jobs, local investments, and local business relationships of dealerships in communities large and small
- Preserves enacted Kansas Consumer Protections
- Continues the level of corporate, payroll and sales taxes generated by local dealerships
- Assures local availability of trained technicians, warranty and repair service
- Provides delivery requirements, which help avoid fraud and circumvention of Kansas dealers laws and requirements, thus providing greater accountability
- Models legislation previously passed and proven fair in 14 other states

Rural-Focus

White Paper Report

White Paper Report

Legislation protects consumer pocketbooks, Retains local control of car dealerships

“Only men financially reliable, of good standing in the community, and occupying presentable homes, are accepted as dealers by Ford Motor Company.”

--Early 1900's dealer recruitment ad

When the visionary entrepreneur, Henry Ford, designed a distribution system for the Model T, he created a franchise relationship with local dealers in each marketplace rather than maintain control as the manufacturer. He reasoned this was the best way to serve the needs of consumers, and thus make it possible for more people to buy and service their cars locally.

Today, there are 305 new car dealerships in Kansas. In 1998, they had \$5.283 billion in total sales. Healthy competition between dealerships locally and regionally helped Kansas consumers buy a record number of new vehicles last year.

Hometown dealers are local business people, and naturally, they do business locally. They have longstanding relationships with local banks, insurers, suppliers, and advertising companies. Dealers and their employees support local charities, churches, little league teams, driver' education programs, and civic organizations. Their commitment is to the communities where they live and work, not to a monopolistic headquarters in a far away state or country.

Dollars generated locally tend to circulate locally as well. Dealerships in Kansas employ 11,399 people statewide. Local schools and small town economies depend on the millions of dollars of sales, property and payroll taxes generated locally by these dealerships. What if even a portion of this was lost? Who will make up the difference if manufacturer-owned dealerships are allowed in Kansas?

But this issue goes well beyond local economics—consumers could ultimately feel the crunch because they will lose out on fair pricing, reliable service and the chance to comparison shop between brands. Automobile manufacturers like to stress the fact that car shopping has changed dramatically in the age of the Internet and the possibility of buying a car online and taking delivery at a factory-owned “mega” dealership offers the ultimate in customer convenience.

Online car shopping does sound attractive for people with busy lives. However, the sad truth is one in four online car customers later discovered that—although they were led to believe that “online price” was the lowest price possible—they could have gotten a better deal on the same vehicle if they had just shopped at their local dealer. This is not to say the concept of Internet commerce is bad, but a low resolution graphic on a computer screen is a poor substitute for the real thing.

Local dealers realize the power of Internet as a tool to educate the consumer about a vehicle’s features. In fact, a whopping 74 percent of all local dealers in the U.S. have made an investment in technology and are online. Their websites can be counted on to provide the most up-to-date information on the latest models, as well as upcoming sales, rebates, incentives and promotional interest rates—some of which are only available from dealerships.

A modem connection can’t take the place of a consumer’s “car buying” and “car owning” experience. That’s why, in order to help preserve customer choice and satisfaction, the proposed legislation prohibiting manufacturer-owned dealerships in Kansas stipulates that all cars bought online will need to be delivered by a dealer.

The specter of manufacturer-owned dealerships is a real one. Hoping to “cherry pick” the best locations in the state for their company-owned stores, Detroit’s largest auto manufacturers want to use insider information about family-owned and operated Kansas dealerships to gain a competitive advantage.

Here’s how the cards are stacked against local dealerships:

- 1) Manufacturers control which dealerships get shipments of popular new models, and control rebates;
- 2) Manufacturers have proprietary information, including a dealer’s financial statements, floor plans, and payroll records;
- 3) Manufacturers can undercut pricing, limit supply, and drive dealers out of business using this unfair advantage;
- 4) After manufacturers eliminate competition and create monopolies in the largest population centers, they can price vehicles as they want, sending profits to Detroit.

Thirty-two states have recognized the devastating impact of unfair competition on current dealerships, and have passed laws limiting or prohibiting altogether the manufacturer’s ability to operate a retail store in competition with its franchised dealers. Most recently, such unfair practices were prohibited in eight states: Arkansas, Georgia, Illinois, Montana, Nevada, North Carolina, Texas, and Wisconsin.

Kansas has an opportunity to act now, on behalf of its citizens, to assure local small businesses can continue to compete on a level playing field.

By prohibiting large manufacturers from cornering the market on their brands of automobiles, thus controlling product distribution and driving existing dealerships out of business, Kansas maintains a competitive system of family-owned and operated dealerships to serve all its communities.

Strengthening the franchise law provides many benefits to taxpayers and consumers:

- ◆ Assures future buyers the ability to find a selection of competitively-priced vehicles within a short drive of their hometown
- ◆ Preserves the convenience and accountability of local service after the sale
- ◆ Allows consumers the opportunity to comparison shop between brands, without being limited to one particular manufacturer's models and monopolistic pricing
- ◆ Provides a level playing field for the state's existing small businesses
- ◆ Protects local jobs, local investments, and local business relationships of dealerships in communities large and small
- ◆ Continues the level of corporate, payroll, and sales taxes generated by local dealerships
- ◆ Models legislation previously passed and proven fair in 14 other states

**Metropolitan-Focus
White Paper Report**

White Paper Report

New legislation protects consumer pocketbooks, Retains vigorous competition between local dealerships

In the state's largest metropolitan areas, a vast number of new car dealerships share the same marketplace, creating vigorous competition to the benefit of buyers. Can you imagine what would happen if these dealerships were consolidated, and a single auto manufacturer's monopoly took their place? Consumers would suffer devastating consequences: higher prices, less selection, and unsatisfactory service after the sale.

That's the scenario facing new car buyers in the metropolitan area if Detroit's largest manufacturers have their way. Unless legislators put the brakes on and stop the Big Three automakers in their tracks, many metropolitan dealerships will be bought out or driven from business through predatory practices now banned in 14 other states.

Currently, there are 305 new car dealers in Kansas. In 1998, they sold \$5.283 billion in new vehicles, 23.8 percent of the total retail sales in the state. Due to healthy competition between dealerships in the greater metropolitan area, and a tremendous selection of new vehicles of all makes and models, new car sales have reached record levels.

Now, Detroit's largest auto manufacturers want to use insider information about these metropolitan dealerships to gain a competitive advantage, hoping to "corner the market" and create a citywide monopoly for their company-owned stores.

Here's how the cards are stacked against local dealerships:

- 1) Manufacturers control which dealerships get shipments of popular new models, and control rebates;
- 2) Manufacturers have proprietary information, including a dealer's financial statements, floor plans, customer lists and payroll records;
- 3) Manufacturers can limit supply and drive dealers out of business using unfair business practices;

After manufacturers eliminate competition and create monopolies in the largest population centers, they can price vehicles any way they want, sending profits back to Detroit.

But this issue goes well beyond local economics—consumers could ultimately feel the crunch because they will lose out on fair pricing, reliable service and the chance to comparison shop between brands. Automobile manufacturers like to stress the fact that car shopping has changed dramatically in the age of the Internet. And the possibility of buying a car online and taking delivery at a centrally located “mega” dealership would offer the ultimate in customer convenience.

Online car shopping does sound attractive for people with busy lives. However, the sad truth is one in four online car customers later discovered that—although they were led to believe that “online price” was the lowest price possible—they could have gotten a better deal on the same vehicle if they had just shopped at a local dealership. This is not to say the concept of Internet commerce is bad, but a low resolution graphic on a computer screen is a poor substitute for the real thing.

Local dealers realize the power of Internet as a tool to educate the consumer about a vehicle’s feature. In fact, a whopping 74 percent of all local dealers have made an investment in technology and are online. Their websites can be counted on to provide the most up-to-date information on the latest models, as well as upcoming sales, rebates, incentives and promotional interest rates—some of which are only available from dealerships.

A modem connection can’t take the place of a consumer’s “car buying” and “car owning” experience. That’s why, in order to help preserve customer choice and satisfaction, the proposed legislation to prohibit manufacturer-owned dealerships in Kansas stipulates that all cars bought online will need to be delivered by a dealer.

Hometown dealers are local business people, and naturally, they do business locally. They have longstanding relationships with local banks, insurers, suppliers, and advertising companies. Dealers and their employees support local charities, churches, and civic organizations. Their commitment is to the communities where they live and work, not to a monopolistic headquarters in a far away state.

Dollars generated locally tend to circulate locally as well. Dealerships in Kansas employ 11,399 people statewide. Local economies depend on the millions of dollars of sales, property and payroll taxes generated locally by these dealerships. What if even a portion of this was lost? Who will make up the difference?

Thirty-two states have recognized the devastating impact of unfair competition on current dealerships, and have passed laws limiting or prohibiting altogether the manufacturer’s ability to operate a retail store in competition with its franchised dealers. Most recently, such unfair practices were prohibited in eight states: Arkansas, Georgia, Illinois, Montana, Nevada, North Carolina, Texas, and Wisconsin.

Kansas has an opportunity to act now, on behalf of its citizens, to assure local small businesses can continue to compete on a level playing field.

By prohibiting large manufacturers from cornering the market on their brands of automobiles, thus controlling product distribution and driving existing dealerships out of business, Kansas maintains a system that currently works well for its citizens and their communities.

Strengthening the franchise law provides many benefits to taxpayers and consumers:

- Assures future buyers the ability to find a selection of competitively-priced vehicles within a short drive of their hometown
- Preserves the convenience and accountability of local service after the sale
- Allows consumers the opportunity to comparison shop between brands, without being limited to one particular manufacturer's models and monopolistic pricing
- Provides a level playing field for the state's existing small businesses
- Protects local jobs, local investments, and local business relationships of dealerships in communities large and small
- Continues the level of corporate, payroll, and sales taxes generated by local dealerships
- Models legislation previously passed and proven fair in 14 other states

PERL

CHEVROLET • BUICK • MAZDA

806 W 8TH • P.O. BOX 346 • COFFEYVILLE, KS 67337 • (316) 251-4050 • 800 279-3653

March 7, 2000

To: Chairman Gary Hayzlett
And the Members of the House Transportation Committee

From: John W. Schmid, KADA Legislative Committee Chairman

RE: Senate Bill 489- Amendments to the Kansas Dealers and Manufacturers
Licensing Act.

Good afternoon, Chairman Hayzlett and Members of the House Transportation Committee. My name is John Schmid. I am the Chevrolet and Buick dealer in Coffeyville, Kansas, and I serve as the Chairman of the Legislative Committee of the Kansas Automobile Dealers Association.

I appear before you today in support of SB 489. Kansas consumers, Kansas political subdivisions, Kansas taxpayers, Kansas motorists, and Kansas Franchised New Motor Vehicle Dealers need passage of this bill.

The David and Goliath relationship between your local new car dealer and their franchisors, the largest manufacturers on earth, industrial behemoths whose recent combined net profit dwarfs the total annual revenue for our state, is fertile ground for mischief.

Over the past decade the automakers have pushed consolidation, elimination of small, low volume & "off channel" dealer locations of all sizes, which has left many cities and counties across our state with no local franchised new automobile dealer to serve the needs of these rural markets. While they, the automakers, have simultaneously announced multibillion dollar plans to enter the biggest and the best markets directly, including locations in Kansas and then a little over a month ago, they do an about face and pledge they would never ever do what they had previously announced.

This leaves dealers, and should leave motorists, local units of government, and Kansas consumers with the same high level of confidence as the long abused spouse who's husband has entered a 12 step program for the third time.

House Transportation Committee
March 7, 2000
Attachment 2



The legislation before you is quite reasonable. Many in our industry would question if it goes far enough to provide a "level playing field" should the manufacturers abandon their recently-adopted position of leaving retailing to the retailers. KADA has historically worked diligently with the manufacturers in matters of this nature and SB 489 in its current format is no exception. However, we hope our amicability is not mistaken for a lack of resolve, as we cannot support or accept the manufacturers additional proposed amendments as they essentially seek to void or circumvent the intent and purpose of the legislation before you.

In fact, if the manufacturers were serious at addressing the "at-risk markets" in Kansas, they would assist the small and medium size rural dealers as opposed to sending under-capitalization correction letters, termination threats and imposing costly unreasonable dealer requirements. Over the past few years, the manufacturers have done everything possible to run the small and medium size franchised dealer out of business, without any regard to his or her investment, or the impact their action will have upon the community where the business is located.

On behalf of the Kansas Automobile Dealers Association, I would like to thank the Committee for allowing me to appear this afternoon and I respectfully request your support for SB 489 in its current form. I would be more than happy to respond to any questions you may have at this time.

**McGILL
GACHES**



& ASSOCIATES INC.

GOVERNMENT AFFAIRS & PUBLIC RELATIONS

300 WEST EIGHTH • THIRD FLOOR • TOPEKA, KANSAS 66603-3912 • 785-233-4512 • FAX 785-233-2206

**Testimony of Sandy Braden
McGill, Gaches, and Associates**

On behalf of the Alliance of Automobile Manufacturers

**Regarding Senate Bill 489
As Amended by Senate Committee
The Automobile Dealers and Manufacturers
Licensing Act**

**Submitted to House Transportation Committee
Tuesday, March 7, 2000**

House Transportation Committee
March 7, 2000
Attachment 3

Thank you Chairman Hayzlett for this opportunity to appear before your Committee regarding Senate Bill 489. I am Sandy Braden with McGill Gaches and Associates and I appear today on behalf of the Alliance of Automobile Manufacturers.

The Alliance of Automobile Manufacturers member companies include BMW, DaimlerChrysler, Fiat, Ford, General Motors, Isuzu, Mazda, Nissan, Toyota, Volkswagen, and Volvo.

Senate Bill 489 would create a broad prohibition against automobile manufacturers owning automobile dealerships in the state of Kansas.

As the Alliance recognizes the importance of the Automobile Dealers as business partners, they do not oppose the broad intent of SB 489. The Alliance would like to suggest two amendments to the bill, which are attached to this testimony. With adoption of these amendments, the Alliance would support passage of SB 489.

Section 1 of the bill prohibits a manufacturer from directly or indirectly owning or operating a new vehicle dealership. The Alliance believes this indirect prohibition will affect investments made in publicly held dealerships for pension plans. The Alliance suggests adding the words “, other than an interest solely for investment purposes.” to page one, line 22.

Our second amendment proposes to strike the language on page two, line 9, that reads, "but for no other purpose," and adding “or in markets in which it is necessary for economic reasons for the manufacturer to temporarily hold an ownership interest for the purpose of attracting dealer investment.” This would assist in the transfer of a dealership in an at risk market, as determined by local market conditions, to a dealer who is reluctant to invest their own capital in the location until they have had an opportunity to operate and develop the dealership for some time.

Automobile dealers and their manufacturers represent one of the most dynamic and productive business partnerships in the US economy today. Recognizing the importance of strong and healthy relationships with their dealers, the Alliance of Automobile Manufacturers is committed to working with the Kansas Automobile Dealers Association to craft a Dealers and Manufacturers Licensing Act that is beneficial to both parties and Kansas consumers.

The Alliance proposals are relatively modest, compared to the overall impact of the bill, but important to striking a good balance between the concerns of both dealers and manufacturers. The Alliance has discussed these amendments with the Kansas Automobile Dealers Association and is hopeful that continued efforts to resolve the issues will result in development of language that both dealers and manufacturers can support.

Thank you, Mr. Chairman. I'll respond to any questions.

Attachment: Alliance amendments to SB 489.