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## PROFESSIONS AND BUSINESSES Used Car Dealers' Registration Act: Exclude Franchised Motor Vehicle Dealers

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## PROFESSIONS AND BUSINESSES

### *Used Car Dealers' Registration Act: Exclude Franchised Motor Vehicle Dealers*

CODE SECTIONS: O.C.G.A. §§ 43-47-2 (amended), 43-47-3 (amended), 43-47-7 (amended)

BILL NUMBER: SB 214

ACT NUMBER: 169

SUMMARY: The Act restricts the scope of the Used Car Dealers' Registration Act by excluding franchised motor vehicle dealers from the statutory definition of a used car dealer, from representation on the State Board of Registration of Used Car Dealers, and from used car dealer license and registration requirements.

EFFECTIVE DATE: March 22, 1989

#### *History*

During the 1988 session, the Georgia Legislature amended the Used Car Dealers' Registration Act to include the regulation of used car transactions by wholesale dealers, leasing companies, auto auctions, and franchised automobile dealers.<sup>1</sup> One year later, the Legislature reversed its course and removed franchised motor vehicle dealers from regulation under the Used Car Dealers' Registration Act.<sup>2</sup> This statutory reversal occurred because the Legislature recognized the significant distinctions between the operation of a used car dealer and a franchised dealer's business.<sup>3</sup>

The Act's removal of franchised motor vehicle dealers from used car dealer licensing and regulation requirements does not suggest, however, that the State will not eventually regulate franchised dealers who sell both new and used cars.<sup>4</sup> SR 56 creates a study committee to review and study the franchise industry, including manufacturers, distributors,

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1. 1988 Ga. Laws 1505 (formerly found at O.C.G.A. §§ 43-47-2, -3, -7 (1988)).

2. O.C.G.A. §§ 43-47-2, -3, -7 (Supp. 1989).

3. Synopsis of Senate Bill 214 issued by Senator Thomas Allgood, Senate Majority Leader, Senate District No. 22, (1989 Ga. Gen. Assem.) (available in Georgia State University College of Law Library) [hereinafter SB 214 Synopsis].

4. SB 214 Synopsis, *supra* note 3. "Franchised motor vehicle dealers' used car lots are controlled by their respective manufacturer" and, therefore, are different from independent used car business operations. *Id.*

and dealers.<sup>5</sup> A Franchised Motor Vehicle Practices Study Committee will evaluate the appropriateness and scope of state regulation of franchised motor vehicle dealers, manufacturers, distributors, and importers.<sup>6</sup> The Committee will report its conclusions and any proposed legislation to the Legislature by December 1, 1989.<sup>7</sup> Therefore, instead of regulation under the Used Car Dealers' Registration Act, the policy reflected by SB 214, and its companion SR 56, suggests that new and used car dealer operations should be addressed separately.<sup>8</sup>

### *SB 214*

The Act amends section 43-47-2 by redefining "used car dealer" to exclude franchised motor vehicle dealers.<sup>9</sup> The Act amends subsection 6(A) by narrowing the statutory coverage of used car dealers to exclude franchised motor vehicle dealers who also maintain a vehicle leasing organization and sell or offer to sell used motor vehicles.<sup>10</sup> Similarly, the Act amends subsection 6(B)(i) by removing franchised motor vehicle dealers who "sell, offer for sale, exchange, or rent with an option to purchase used motor vehicles" from the scope of the used car dealer definition.<sup>11</sup> As a result, franchised motor vehicle dealers are not statutorily characterized as used car dealers under the Act.<sup>12</sup>

The Act also amends section 43-47-3 by revising the membership composition and service terms of ten of the twelve members on the State Board of Registration of Used Car Dealers.<sup>13</sup> The prior law placed four franchised motor vehicle dealer members, including one having a leasing operation or agency, on the Board.<sup>14</sup> The Act amends subsection (a) by removing the four franchised motor vehicle dealer members from the Board and increasing the membership sizes of three of the five remaining board membership classes: motor vehicle leasing representatives, independent used car dealers, and public-at-large members.<sup>15</sup>

Subsection (b) changes the expiration date of the terms of the current Board members by advancing the date two years forward to June 30, 1990.<sup>16</sup> In addition, the Act lists July 1, 1990, as the date these classes

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5. SR 56, as passed, 1989 Ga. Gen. Assem.

6. *Id.*

7. *Id.*

8. SB 214 Synopsis, *supra* note 3; SR 56, as passed, 1989 Ga. Gen. Assem.

9. O.C.G.A. § 43-47-2 (Supp. 1989).

10. O.C.G.A. § 43-47-2(6)(A) (Supp. 1989).

11. O.C.G.A. § 43-47-2(6)(B)(i) (Supp. 1989).

12. O.C.G.A. § 43-47-2 (Supp. 1989).

13. O.C.G.A. § 43-47-3 (Supp. 1989).

14. 1988 Ga. Laws 1504 (formerly found at O.C.G.A. § 43-47-3 (1988)).

15. O.C.G.A. § 43-47-3(a) (Supp. 1989).

16. O.C.G.A. § 43-47-3(b) (Supp. 1989).

take office and enumerates staggered service term expiration dates for the enlarged membership classes.<sup>17</sup> The Act does not affect the remaining two members of the twelve member Board; the Director of the Motor Vehicle Division of the Department of Revenue and the Director of the Governor's Office of Consumer Affairs remain permanent *ex officio* members.<sup>18</sup>

The Act amends section 43-47-7 by removing used car dealer regulation requirements for franchised motor vehicle dealers.<sup>19</sup> Subsection (b) excludes franchised motor vehicle dealers from used motor vehicle business license and registration requirements.<sup>20</sup> The subsection adds licensing and registration requirements for independent motor vehicle leasing agencies.<sup>21</sup>

SB 214, as introduced, did not expressly provide for an effective date upon the Legislature's passage of the bill.<sup>22</sup> The Senate Committee on Public Safety amended SB 214 by clarifying the effective date for the Act.<sup>23</sup>

SR 56 creates a study committee to research the franchised industry, including manufacturers, distributors, and dealers.<sup>24</sup> The Committee will also study the franchised industry license requirements and regulations of other states.<sup>25</sup> The Committee will address the potential need for a separate committee to oversee the franchised motor vehicle industry.<sup>26</sup> As a result, future legislation may focus upon the special licensing and regulation requirements of the franchised motor vehicle dealer industry in Georgia.<sup>27</sup>

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17. *Id.*

18. O.C.G.A. § 43-47-3(a)(4)-(5) (Supp. 1989).

19. O.C.G.A. § 43-47-7 (Supp. 1989).

20. O.C.G.A. § 43-47-7(b) (Supp. 1989).

21. *Id.*

22. SB 214, as introduced, 1989 Ga. Gen. Assem.

23. SB 214 (SCS), 1989 Ga. Gen. Assem.

24. SR 56, as passed, 1989 Ga. Gen. Assem.

25. *Id.*

26. *Id.*

27. *Id.*