

## **SB 91**

In 2000, this legislature passed the "Motor Vehicle Dealer Franchise Act, which placed in statute, rules governing how manufactures and dealers were to operate in Colorado, just as many other states had done.

In 2004 the Department of Revenue's Motor Vehicle Dealer Board, informed International Truck and Engine (a manufacturer based in Illinois) that they were in **violation** of statute by holding a motor vehicle dealers license. International Truck and Engine applied for a used motor vehicle license and was **denied** their application. The Dealer Board's denial was based on the language in 12-6-120, which stated that "No manufacturer shall own, operate, or control **"any"** motor vehicle dealer in Colorado".

International Truck and Engine took this decision to the court of appeals. The court stated that the term **'any'** in this instance, clearly prohibited manufactures from owning and operating **'every'** type of motor vehicle dealer. However, in another section of statute, 12-6-102, there is a separate definition of a "used motor vehicle dealer". Because of this separate definition, the court was hesitant to apply the language in 12-6-120 to that definition.

The language in the Franchise Act of 2000 was meant to apply to **every** type of dealer license, and nowhere in that legislation was there any distinction made between new and used dealer. Since no distinction was made, the clear intent was a comprehensive prohibition of manufactures from holding any dealer license, new, used or wholesale due to the unfair competitive advantage manufactures have over dealers.

If the statute is corrected, International Truck and Engine (a manufacturer) who had an estimated \$3.6 billion in earnings last quarter, does not go out of business. They can simply convert this outlet into a franchise dealership and compete fairly in the market place, as others do.

We make laws to prevent injury, and currently Transwest Trucks (a franchise dealer) is the one being **injured**.

We make rules and regulations to promote balance and fairness; Transwest Trucks (a franchise dealer) is the one being treated **unfairly**.

To make an exception in this case promotes neither!

If it is right to prohibit manufactures from competing unfairly against franchise dealers, as this legislation seeks to do, then that prohibition should apply to **all** manufactures.

Let's correct this inequity and **close the loophole!**

Thank you for your consideration.

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