



FINAL
FISCAL NOTE

Drafting Number: LLS 10-0137**Date:** June 15, 2010**Prime Sponsor(s):** Rep. Rice; Looper
Sen. Romer; Mitchell**Bill Status:** Signed into Law**Fiscal Analyst:** Harry Zeid (303-866-4753)

TITLE: CONCERNING THE FRANCHISE RIGHTS OF MOTOR VEHICLE DEALERS.

Summary of Legislation

This bill pertains to the franchise rights of motor vehicle dealers in Colorado. It provides remedies for motor vehicle dealers to ensure that previously terminated dealers have the right of first refusal or the dealer must be adequately compensated for its investment should a motor vehicle manufacturer decide to reestablish the same line-make of automobiles in the same market area after terminating a dealer. The right of first refusal area is defined to mean a five-mile radius extending from the location of where a motor vehicle dealer has a franchise terminated, cancelled, or not renewed if the franchise was in a county with a population of more than 150,000 or a 10-mile radius if the franchise was in a county with a population of 150,000 or less.

The bill was signed by the Governor and became law on March 22, 2010.

Assessment

The bill is assessed as having no fiscal impact. The bill addresses agreements between motor vehicle manufacturers and motor vehicle dealers in Colorado and will have no effect state or local revenue or expenditures.

Departmental Differences

The Department of Law has indicated the need for \$121,588 and 0.9 FTE in FY 2010-11, and \$59,701 and 0.4 FTE in FY 2011-12 to assist the Department of Revenue in establishing rules and enforcing the bill. Currently, there are no rules regarding the regulation of manufacturers, distributors, or manufacturer's representatives. The Department of Law suggests that the retroactive nature of the bill may be a violation of the General Motors and Chrysler bankruptcy orders issued in 2009, and that any challenge to the bill will likely occur in the New York Bankruptcy court.

This fiscal note disagrees with the need for any preemptive litigation assistance. Any bill passed by the General Assembly has the potential to be challenged and litigated. As a general rule, the cost of legal assistance to defend or enforce a law, or legal assistance to defend the General Assembly regarding its authority to enact such a law, is not considered for fiscal note purposes as a cost attributable to the bill.

It should be noted that after HB10-1049 became law on March 22, 2010, Chrysler Group LLC filed suit against the state of Colorado on April 23, 2010, in U.S. Bankruptcy Court in the southern district of New York. Chrysler asserts that HB10-1049 violates both a previous order from the bankruptcy court and the contract clauses of the U.S. and Colorado constitutions. Chrysler seeks to enjoin enforcement of the law permanently and to award Chrysler any attorney fees spent on its defense. The Department of Law has previously indicated that it believes that the bill is constitutional and that the Attorney General's office will defend its position if sued.

Departments Contacted

Revenue