

**ASSEMBLY BILL NO. 5854**  
**(First Reprint)**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 5854 (First Reprint) with my recommendations for reconsideration.

Assembly Bill No. 5854 (First Reprint) amends the Motor Vehicle Certificate of Ownership Law, R.S.39:10-1 et seq., to add a definition of "motor vehicle franchisor," which means a person who manufactures, assembles, distributes, or imports at least 10 new motor vehicles in a calendar year. The bill requires the chief administrator of the New Jersey Motor Vehicle Commission ("MVC") to create and issue a new motor vehicle dealer license designation for a motor vehicle franchisor who operates a primary place of business in this State and is authorized to sell, lease, or assign a vehicle to the motor vehicle franchisor's employees under existing law. The bill allows the franchisor to sell, lease, or assign a vehicle to employees of its affiliate or subsidiary with a primary place of business in this State. The bill designates the new motor vehicle dealer license with the letter "M."

The new "M" license allows motor vehicle franchisors to sell, lease, assign, title, register, lend for use and operation, service, and maintain motor vehicles owned or controlled by the motor vehicle franchisor to its employees, or provided to individuals or entities for promotional, testing, marketing, or product familiarity purposes. Such vehicles are eligible to receive a standard issue license plate, with an aggregate limitation of 50 standard plates for vehicles provided for promotional, testing, marketing, or product familiarity purposes. The bill exempts such franchisors from the requirement to maintain an exterior sign and a building with at least 1,000 square feet for servicing or displaying vehicles.

Under current law, the Franchise Practices Act ("FPA") defines the relationship and responsibilities of franchisors (i.e. manufacturers) and franchisees (i.e. new car dealers) in connection with franchise arrangements. Specifically, N.J.S.A. 56:10-27 prohibits franchisors - except for those producing exclusively electric vehicles - from selling vehicles to consumers but allows them to sell vehicles directly to their employees. Further, N.J.S.A. 56:10-7.4 prohibits franchisors from servicing consumers' vehicles but does not expressly prohibit or allow franchisors or manufacturers to service vehicles that are sold, leased, or used by or to employees and/or for promotional, testing, marketing, or product familiarity purposes.

I applaud the bill's sponsors for their responsiveness to the business needs of motor vehicle manufacturers and franchisors who have chosen to operate a primary place of business in New Jersey. While I support the goals of the legislation, I believe they can be more effectively achieved by amending the FPA rather than the Motor Vehicle Certificate of Ownership Law.

As noted above, the FPA prohibits anyone other than a dealer/franchisee from selling cars to the public, although it allows manufacturers/franchisors to sell, lease, or assign vehicles to employees. The Motor Vehicle Certificate of Ownership Law limits the ability to engage in "the business of buying, selling or dealing in motor vehicles in this State" to those who are authorized to do so under the FPA, which is exclusively dealers, with the aforementioned exception for direct sales to employees. As written, Assembly Bill No. 5854 (First Reprint) is partly superfluous, as current law already permits manufacturers/franchisors to sell motor vehicles to their employees. At the same time, the manner in which the bill is

drafted could inadvertently place obligations on manufacturers to comply with the licensing requirements for new vehicle dealers.

For these reasons, and in collaboration with the bill's sponsors, I am recommending amendments that create an alternative mechanism for meeting the needs of motor vehicle manufacturers and franchisors while both adhering to the spirit of the FPA and preserving the protections the FPA affords to motor vehicle franchisees and dealers operating in New Jersey. My revisions amend the FPA to make clear that manufacturers and franchisors may lease and assign vehicles to employees and receive standard plates for those vehicles when titled and registered with MVC. My amendments also provide that a franchisor with headquarters in this State may assign or lend vehicles for promotional, testing, marketing, or product familiarity purposes, with up to an aggregate of 50 vehicles at any given time that would be eligible for standard plates once titled and registered with MVC. My revisions would also make clear that a franchisor with headquarters in this State may service these vehicles, and provide an exception from the requirement to maintain both an exterior sign and a building with at least 1,000 square feet for servicing and displaying vehicles. These changes would achieve the bill's objectives without requiring MVC to create an entirely new license category and while avoiding the confusion that could result from introducing additional definitions that vary across Title 39 and the FPA. Finally, my recommendations revise the effective date of the bill to apply retroactively so that manufacturers and franchisors may license and service motor vehicles sold, leased, or assigned to employees without interrupting their operations pending enactment of this legislation.

Therefore, I herewith return Assembly Bill No. 5854

(First Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 1: Delete "sale" and insert "leasing, assigning, and servicing"

Page 2, Title, Line 2: Delete "R.S.39:10-2 and R.S.39:10-19" and insert "P.L.1985, c.361"

Page 2, Section 1, Line 7: Delete "R.S.39:10-2 is amended to read as follows:" and insert "Section 2 of P.L.1985, c.361 (C.56:10-27) is amended to read as follows:

a. Except as provided pursuant to section 6 of P.L.2015, c.24 (C.56:10-27.1), it shall be a violation of this act for any motor vehicle franchisor, directly or indirectly, through any officer, agent, employee, broker, or any shareholder of the franchisor, except a shareholder of 1% or less of the outstanding shares of any class of securities of a franchisor which is a publicly traded corporation, or other person, to offer to sell or sell motor vehicles, to a consumer, other than an employee of the franchisor, except through a motor vehicle franchisee.

b. Subsection a. of this section shall not be construed to prohibit the leasing or assigning of vehicles by a franchisor to its employees or to employees of an affiliate or subsidiary of the franchisor. Such vehicles shall be titled and registered with the Motor Vehicle Commission and shall therefore be eligible to receive a standard issue license plate. A franchisor may elect to title and register the vehicles with the Motor Vehicle Commission or to designate a third party approved by the Motor Vehicle Commission to do so on behalf of the franchisor.

c. A franchisor that has its headquarters in this State may assign, or otherwise lend for use and operation, vehicles to individuals or entities for promotional, testing,

marketing, or product familiarity purposes. Any such vehicle that is titled, registered, and insured in the name of the franchisor or its affiliate or subsidiary and shall therefore be eligible to receive a standard issue license plate up to an aggregate of 50 vehicles at any given time for such plate. A franchisor may elect to title and register the vehicles with the Motor Vehicle Commission or to designate a third party approved by the Motor Vehicle Commission to do so on its behalf.

d. A franchisor that has its headquarters in this State may perform service, including but not limited to warranty, routine, and recall maintenance on vehicles leased or assigned pursuant to this section, including ordering parts, components, accessories, or any other item needed for the servicing of such motor vehicles. Except as otherwise provided in this section, this subsection shall not be construed to permit a franchisor to perform retail service on motor vehicles sold, leased, or assigned to a consumer by a franchisee or another franchisor.

Such franchisor shall operate such servicing and the servicing facility with the equipment installed therein as shall be requisite for the servicing of motor vehicles in a manner as to make them comply with the laws of this State and with any rules and regulations governing the equipment, use, and operation of motor vehicles within the State. However, such franchisor shall not be required to comply with the provisions of R.S.39:10-19 requiring the maintaining of a place of business with a permanent building of not less than 1,000 square feet in floor space to be used principally for the servicing and display of motor vehicles floor or to have an exterior sign at the franchisor's servicing facility."

Page 3, Section 1, Lines 1-47: Delete in their entirety  
Page 4, Section 1, Lines 1-47: Delete in their entirety  
Page 5, Section 1, Lines 1-47: Delete in their entirety  
Page 6, Section 1, Lines 1-6: Delete in their entirety  
Page 6, Section 2, Lines 8-48: Delete in their entirety  
Page 7, Section 2, Lines 1-48: Delete in their entirety  
Page 8, Section 2, Lines 1-48: Delete in their entirety  
Page 9, Section 2, Lines 1-7: Delete in their entirety  
Page 9, Section 3, Line 9: Delete "3." and insert "2."  
Page 9, Section 3, Line 9: After "immediately" insert  
"and shall apply retroactively  
to January 1, 2025"

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Kate E. McDonnell

Chief Counsel to the Governor