

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3347

By COMMITTEE ON RULES

May 13

1 On page 1 of the printed A-engrossed bill, line 3, delete “650.130 and”.

2 Delete lines 5 through 19 and delete pages 2 through 5.

3 On page 6, delete lines 1 through 29 and insert:

4 **“SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 650.120 to**
5 **650.170.**

6 **“SECTION 2. (1)(a) Except as provided in paragraph (b) of this subsection, a manufac-**
7 **turer, distributor or importer may not require a dealer to construct a new dealer facility or**
8 **materially alter or remodel an existing dealer facility within seven years after the date on**
9 **which the dealer previously constructed, materially altered or remodeled the existing dealer**
10 **facility if the existing dealer facility complies with the manufacturer’s, distributor’s or**
11 **importer’s approved brand image standards or plans that existed at the time the dealer**
12 **constructed, materially altered or remodeled the existing dealer facility.**

13 **“(b) A manufacturer, distributor or importer may require a dealer to construct a new**
14 **dealer facility or materially alter or remodel an existing dealer facility within seven years**
15 **after the dealer constructed, materially altered or remodeled the existing dealer facility:**

16 **“(A) If the manufacturer, distributor or importer demonstrates that the manufacturer’s,**
17 **distributor’s or importer’s requirement is reasonable and justifiable in light of:**

18 **“(i) The projected cost of the construction, material alteration or remodel;**

19 **“(ii) Existing and reasonably foreseeable economic conditions;**

20 **“(iii) Financial expectations;**

21 **“(iv) The availability of additional vehicle allocation; and**

22 **“(v) The dealer’s market for vehicle sales;**

23 **“(B) In order to comply with a health or safety law or with a technological requirement**
24 **that is necessary to sell or service a motor vehicle that the dealer sells or services under**
25 **the terms of the dealer’s franchise; or**

26 **“(C) By means of a written agreement separate from the franchise agreement if the**
27 **manufacturer, distributor or importer provides money, credit, an allowance, an incentive or**
28 **a reimbursement to the dealer to compensate for all or a substantial portion of the cost of**
29 **constructing a new dealer facility or materially altering or remodeling an existing dealer fa-**
30 **ility.**

31 **“(c) Paragraph (a) of this subsection does not prohibit a dealer from voluntarily agreeing**
32 **with a manufacturer, distributor or importer to construct a new dealer facility or materially**
33 **alter or remodel an existing dealer facility in return for separate and valuable consideration.**
34 **For the purposes of this paragraph, renewing a dealer’s franchise is not separate and valu-**
35 **able consideration.**

1 “(d) For purposes of this subsection:

2 “(A) ‘Materially alter’ means a significant architectural or structural modification to a
3 dealer facility that is directly related to effectively selling or servicing motor vehicles of the
4 type that the dealer’s franchise agreement or license permits the dealer to sell or service.

5 “(B) ‘Materially alter’ does not include routine maintenance, such as interior painting,
6 that is reasonably necessary to keep a dealer facility in attractive condition.

7 “(2)(a) Except as provided in paragraph (b) of this subsection, a manufacturer, distributor
8 or importer may not require a dealer to purchase goods or services for constructing, mate-
9 rially altering or remodeling a dealer facility from a vendor that the manufacturer, distrib-
10 utor or importer selects, identifies or designates without giving the dealer an option to
11 obtain goods or services of substantially similar quality and design from a vendor that the
12 dealer chooses, subject to the manufacturer’s, distributor’s or importer’s approval in ad-
13 vance. The manufacturer, distributor or importer may not withhold approval unreasonably.

14 “(b) A dealer may not select a vendor from which to obtain goods and services for con-
15 structing a new dealer facility or materially altering or remodeling an existing dealer facility
16 if a manufacturer, distributor or importer provides money, credit, an allowance or a re-
17 imbursement to compensate for all or a substantial portion of the cost of upgrading or im-
18 proving a dealer facility or for using a specific material, good or service to upgrade or
19 improve a dealer facility.

20 “(c) This subsection does not permit a dealer or vendor to:

21 “(A) Directly or indirectly or in any way infringe upon, eliminate or impair a
22 manufacturer’s, distributor’s or importer’s intellectual property rights or reasonable busi-
23 ness requirements; or

24 “(B) Erect or maintain signs that do not conform to the manufacturer’s, distributor’s
25 or importer’s intellectual property usage guidelines.”.

26 In line 30, delete “2” and insert “3”.

27 On page 7, line 11, after “less” delete the rest of the line and line 12 and insert “, for repairs
28 made not more than 180 days before the dealer’s submission.”.

29 In line 13, delete “posal under this subparagraph.”.

30 Delete lines 26 and 27 and insert:

31 “(i) Repairs for a manufacturer’s, distributor’s or importer’s specials, special events or promo-
32 tional discounts for retail customer repairs;”.

33 In line 37, after “parts” delete the rest of the line and line 38 and insert “. For purposes of this
34 paragraph, a manufacturer, distributor or importer approves the dealer’s proposal if the manufac-
35 turer, distributor or importer does not contest the proposed hourly rate or amount for parts within
36 30 days after the dealer submits the proposal.”.

37 On page 8, delete lines 25 through 33 and insert:

38 “**SECTION 4.** Section 2 of this 2013 Act and the amendments to ORS 650.158 by section 3 of
39 this 2013 Act apply to:”.