

<b>LFC Requester:</b>	<b>Christine Boerner</b>
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**AGENCY BILL ANALYSIS  
2013 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**LFC@NMLEGIS.GOV**

*And*

**DFA@STATE.NM.US**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**        **Amendment**      
**Correction**        **Substitute**   

**Date** February 11, 2013  
**Bill No:** HB 202(CS)--305

**Sponsor:** HBIC  
**Short**    Unlawful Acts for Car Dealers  
**Title:**    \_\_\_\_\_

**Reviewing**    Attorney General's Office  
**Person Writing**    Ismael L. Camacho  
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**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHADED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY13</b>	<b>FY14</b>		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY13</b>	<b>FY14</b>	<b>FY15</b>		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

**BILL SUMMARY**

Summary Synopsis:

HBIC/HB 202 is the same bill as HB 202. This substituted bill does not make any changes to HB 202.

See previous analysis of HB202.

The new material added in section Z, makes it unlawful for a manufacturer, distributor or representative to require a dealer or the dealer’s successor to: construct a new dealership, relocate the existing dealership or substantially change or alter or remodel a dealer’s facility – except as necessary to comply with health or safety laws and to comply with technology requirements necessary to sell or service a line-make.

Section Z also makes it unlawful for a manufacturer, distributor or representative to require the relocation of an existing dealership before the 15<sup>th</sup> anniversary of the date that the construction or change, alteration or remodel of the existing dealership at that location was completed, if the construction was in substantial compliance with standards or plans provided by the manufacturer, distributor or representative.

HBIC/HB 202 provides a dealer or their successors with a 15-year grace period. HBIC/HB 202 does not make it clear if they mean from the date the dealer complied with standards or plans provided by each entity listed i.e. the manufacturer, distributor or representative. Or does substantial compliance with any standard or plan provided by any manufacturer, distributor or representative begin the grace period?

Section AA makes it unlawful for the manufacturer, distributor or representative to withhold approval for a “new motor vehicle dealer” to purchase substantially similar goods and services from vendors of the dealer’s choice based on construction of a new or existing facility or the change, alteration or remodel of an existing facility.

HBIC/HB 202 section AA, appears to waive a new motor vehicle dealer’s requirement to comply with health or safety laws required under Z(1).

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

None

## **SIGNIFICANT LEGAL ISSUES**

HBIC/HB202 like its predecessor does not define or provide guidance as to how a dealer determines what the technology requirements necessary to sell are. Are they simply a computer and appropriate software; or would the establishment and maintenance of a web page be required?

Must a dealer or their successors comply with any standard or plan provided by each manufacturer, distributor or representative?

Why would a new dealer not be required by the manufacturer, distributor or representative to construct a new or existing facility or to change, alter or remodel the existing facility to comply with health and safety laws?

## **PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

None

## **ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

None

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION**

Substitute for HB 202

## **TECHNICAL ISSUES OR DRAFTING ERROR**

None

## **OTHER SUBSTANTIVE LEGAL ISSUES**

None

## **ALTERNATIVES TO ENACTING THIS BILL**

No suggestions or alternatives offered.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

## **AMENDMENTS NEEDED TO IMPROVE THIS BILL**

Amend section AA of HBIC/HB 202 to require new dealers to comply with health and safety laws i.e. by allowing a manufacturer, distributor or representative to withhold approval for a new motor vehicle dealer's facility if does not comply with health and safety laws.