

MOTOR VEHICLE INDUSTRY LICENSING BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by §92-7(b), Hawaii Revised Statutes (HRS).

Date: Tuesday, May 22, 2012

Time: 9:00 a.m.

Place: King Kalakaua Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Present: Werner Umbhau, Public Member, Chairperson
Thomas Nakama, Industry Member, Vice-Chairperson
Stan Masamitsu, Industry Member
Dennis Short, Industry Member
Donald Touchi, Public Member

Christine Rutkowski, Executive Officer
Rodney J. Tam, Deputy Attorney General
Alice Worthy, Secretary

Excused: Russell Y. J. Chung, Public Member
Carl D. Johnsen, Public Member

Guests: None.

Call to Order: Chairperson Umbhau called the meeting to order at 9:04 a.m., at which time quorum was established.

Additions/Revisions
to Agenda:

None.

H.B. No. 1543, Members were provided with the bill and respective Committee Reports.

S.D. 1, C.D. 1:

H.B. 1543, S.D. 1 proposes to amend Part II of Chapter 437, HRS, by prohibiting motor vehicle manufacturers or distributors from recovering or attempting to recover, from the franchised dealers, the cost for reimbursing a dealer for vehicle warrant repairs that are required under the law.

The Executive Officer reported that the Legislature passed the bill and the bill has been referred to the Governor for signature.

The Executive Officer also reported that the last time the Board discussed this bill was before the bill went to Conference Committee. Since then, the Conferees decided to amend the S.D. 1 by inserting the following language:

“...(f) For the purposes of this section, the director of commerce and consumer affairs shall:

- (1) Conduct a review of the costs of the repairs of motor vehicles, including the prices charged by dealers for performing repairs under warranty and repairs not under warranty; and
- (2) Compare such costs to repairs performed by non-dealers.”

Chair Umbhau asked Mr. Short to provide background on warranty repair costs and the manufacturer/distributor reimbursements for those costs.

Mr. Short stated that he is not a member of the HADA Board and has no specific knowledge about the underlying matter that resulted in this legislation. He added that he has no opinion regarding the underlying matter.

Mr. Short stated that over the recent years, there has been a shift of costs resulting in the manufacturers making larger profits with dealers facing the larger burden.

Board members engaged in a brief discussion regarding Part II of Chapter 437, which became law as a result of HADA's initiative in 2010. Part II includes a provision that manufacturers would reimburse dealers at the retail rate. However, in the underlying case, the manufacturers decided to surcharge the new vehicles to be sold. Members discussed that the surcharge may circumvent the Monroney Act.

Members discussed the position of the Alliance and its assertion of the possible consequences on the Hawaii market. Members expressed confidence that the Hawaii market is viable.

At 10:10 a.m., it was moved by Mr. Touchi, seconded by Mr. Short, and unanimously carried to enter into Executive Session to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with Chapter 92-5(a) (4), Hawaii Revised Statutes.

EXECUTIVE SESSION

Mr. Masamitsu arrived at 10:27 a.m.

At 10:29 a.m., it was moved by Mr. Short, seconded by Mr. Touchi, and unanimously carried to return to the Board's regular order of business.

The Board continued its discussion.

Mr. Touchi asked how this bill would affect licensing. The Executive Officer stated that it does not affect licensing or the regulatory scheme. The bill proposes to amend Part II of the law pertaining to disputes between motor vehicle manufacturers/distributors and dealers.

Mr. Touchi asked how the handling of the collection of documents, the costs involved, and inquiries were going to be implemented. There is no clear definition on the logistics.

A question was raised on why (f) was inserted and what the intent of (f) is. Mr. Matsumitsu responded that it was probably to appease the manufacturers as a last ditch effort on the manufacturer's part to kill the bill. There was discussion about the vagueness of (f). Board members noted that there are no guidelines and no legislative intent.

With respect to (e) harming the consumer, the majority of the members agreed that (e) would not harm the consumer and may provide consumer protection.

With a motion by Mr. Short, seconded by Mr. Touchi, it was carried by a majority vote (Mr. Matsumitsu recused himself due to a conflict of interest) to direct the Executive Officer to submit the Board's comment (a) supporting the bill because of the protection that will be afforded to consumers; and (b) expressing the Board's concerns regarding (f) in that it is vague, and that it fails to give direction to DCCA on what information to collect and what to do with the information.

After discussion, it was moved by Mr. Short, seconded by Mr. Touchi, and unanimously carried (Mr. Masamitsu abstained) to affirm the "no position" testimony that the Chair submitted on the Board's behalf on H.B. 1543, S.D. 1.

Next Meeting: Tuesday, June 26, 2012
9:00 a.m.
Queen Liliuokalani Conference Room
335 Merchant Street, 1st Floor
Honolulu, HI 96813

Adjournment: There being no further business to discuss, the meeting adjourned at 10:56 a.m.

Taken and recorded by:

/s/ Alice Worthy

Alice Worthy, Secretary

Reviewed and approved by:

/s/ Christine Rutkowski

Christine Rutkowski
Executive Officer

CR:aw
6/21/12

- Minutes approved as is.
 Minutes approved with changes. See Minutes of _____.