

SENATE, No. 4750

STATE OF NEW JERSEY
222nd LEGISLATURE

INTRODUCED OCTOBER 5, 2026

Sponsored by:
Senator NICHOLAS P. SCUTARI
District 22 (Somerset and Union)

SYNOPSIS

“New Jersey Franchised Automobile Industry Retail (FAIR) Sales Act”; repeals statute permitting Tesla and other zero emission vehicle manufacturers to sell vehicles directly to consumers; prohibits motor vehicle galleries and studios.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning motor vehicle galleries and manufacturer sales
2 of zero emission vehicles, amending various parts of the
3 statutory law, and repealing section 6 of P.L.2015, c.24.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. This act shall be known and may be cited as the "New Jersey
9 Franchised Automobile Industry Retail (FAIR) Sales Act."

10
11 2. R.S.39:10-2 is amended to read as follows:

12 39:10-2. As used in this chapter unless other meaning is clearly
13 apparent from the language or context, or unless inconsistent with
14 the manifest intention of the Legislature:

15 "Authorized signatory" means a dealer or leasing dealer and any
16 employee, officer, director, partner, or other holder of an ownership
17 interest in the licensed business authorized to execute documents on
18 behalf of the dealer or leasing dealer, but shall not include any
19 attorney-in-fact who is not an employee, officer, director, partner,
20 or holder of an ownership interest.

21 "New motor vehicle" means only a newly manufactured motor
22 vehicle, except a nonconventional type motor vehicle, and includes
23 all such vehicles propelled otherwise than by muscular power, and
24 motorcycles, motorized bicycles, trailers and tractors, and
25 manufactured homes not subject to real property taxation pursuant
26 to P.L.1983, c.400 (C.54:4-1.2 et al.), excepting such vehicles as
27 run only upon rails or tracks and manufactured homes subject to
28 real property taxation.

29 "Used motor vehicle" means every motor vehicle and motorized
30 bicycle, except a nonconventional type motor vehicle, title to, or
31 possession of, which has been transferred from the person who first
32 acquired it from the manufacturer or dealer, and so used as to
33 become what is commonly known as "secondhand" within the
34 ordinary meaning thereof, and includes every motor vehicle and
35 motorized bicycle other than a "new motor vehicle," a
36 "nonconventional type motor vehicle," or a manufactured home
37 subject to real property taxation.

38 "Any motor vehicle," "every motor vehicle," or similar term,
39 means both new and used motor vehicles, except a
40 "nonconventional type motor vehicle."

41 "Nonconventional type motor vehicle" means every vehicle not
42 designed or used primarily for the transportation of persons or
43 property and only incidentally operated or moved over a highway,
44 including, but not limited to, ditch-digging apparatus, well-boring
45 apparatus, road and general purpose construction and maintenance

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 machinery, asphalt spreaders, bituminous mixers, bucket loaders,
2 ditchers, leveling graders, finishing machines, motor graders, road
3 rollers, scarifiers, earth-moving carryalls, scrapers, power shovels,
4 drag lines, self-propelled cranes, earth-moving equipment, trailers
5 and semitrailers which weigh less than 2,500 pounds, except that no
6 mobile or manufactured home or travel trailer shall be classified as
7 a nonconventional type motor vehicle, motorized wheelchairs,
8 motorized lawn mowers, bogies, farm equipment having a factory
9 shipping weight of less than 1,500 pounds, whether or not
10 motorized, including farm tractors within said weight limitation,
11 industrial tractors, scooters, go-carts, gas buggies and golf carts.
12 The Chief Administrator of the New Jersey Motor Vehicle
13 Commission shall have power to make, amend, and repeal
14 regulations, not inconsistent with the provisions of this paragraph,
15 prescribing what further vehicles or types of vehicles, not specified
16 in this paragraph, shall be included in the category of
17 nonconventional type motor vehicles.

18 "Motor vehicles which constitute inventory held for sale" means:
19 new motor vehicles and used motor vehicles held for the purpose of
20 sale by new motor vehicle dealers which can be identified by a
21 manufacturer's vehicle identification number (VIN) and have been
22 invoiced to, allocated to, or reserved by a new motor vehicle dealer
23 licensed to do business in New Jersey, and such vehicle can be
24 shipped by the manufacturer or distributor within a reasonable
25 period of time and used motor vehicles held for the purpose of sale
26 by new or used motor vehicle dealers which can be identified by a
27 manufacturer's VIN and title papers or right to title is held by the
28 used motor vehicle dealer. This term shall exclude motor vehicles
29 held for the purpose of lease or rental by a person engaged in the
30 motor vehicle leasing or rental business.

31 "Manufacturer's or importer's certificate of origin" means the
32 original written instrument or document required to be executed and
33 delivered by the manufacturer to **【his】** the manufacturer's agent or
34 a dealer, or a person purchasing **【direct】** directly from the
35 manufacturer, certifying the origin of the vehicle.

36 "Certificate of ownership" means the document issued in
37 conformance with this chapter, certifying ownership of a motor
38 vehicle, other than manufacturer's or importer's certificate of origin.

39 "Assignment" means the execution of a prescribed form
40 transferring ownership of a motor vehicle from the person named
41 therein to the purchaser.

42 "Contract" means conditional sale agreement, bailment, lease,
43 chattel mortgage, trust receipt, or any other form of security or
44 possession agreement executed prior to January 1, 1963, wherein
45 and whereby possession of a motor vehicle is delivered to the buyer
46 and title therein is to vest in the buyer at a subsequent time upon the
47 payment of part or all of the price, or upon the performance of any
48 other condition or happening of any contingency, or upon the

1 payment of a sum substantially equivalent to the value of the motor
2 vehicle, by which contract it is agreed that the buyer is bound to
3 become, or has the option of becoming, the owner of the motor
4 vehicle upon full compliance with the terms of the contract.

5 "Abstract" means the duplicate copy of the original certificate of
6 ownership recording any encumbrance or upon which the existence
7 of a security interest is noted.

8 "Title papers" means any instrument or document that is
9 evidence of ownership of a vehicle.

10 "Chief Administrator" means the Chief Administrator of the New
11 Jersey Motor Vehicle Commission.

12 "Manufacturer" means the person who originally manufactured
13 the motor vehicle.

14 "Licensee" means any person that is licensed to buy, sell or deal
15 in, or lease motor vehicles pursuant to R.S.39:10-19.

16 "Established place of business" means a permanent, properly
17 identified location within the State where the books, records, and
18 files necessary to buy, sell, or deal in motor vehicles are kept and
19 maintained, including, but not limited to, all documents required by
20 R.S.39:10-6, title papers, manufacturers' or importers' certificates of
21 origin, motor vehicle registration records, contracts, security
22 agreements, all payroll records, including, but not limited to, IRS
23 Form W-2 and IRS Form W-4 records, checkbooks, ledgers for
24 business accounts and trust accounts, corporate authorities and
25 licenses, dealer plates, ledgers listing all issued and unissued dealer
26 assignments, and dealer plates.

27 "New motor vehicle dealer" means **the agent, distributor, or** an
28 authorized dealer of **the manufacturer** a motor vehicle franchisor,
29 as defined in section 1 of P.L.1985, c.361 (C.56:10-26), of **the** a
30 new motor vehicle who has an established place of business. A new
31 motor vehicle dealer shall sell a minimum of four or more new
32 motor vehicles within a 12-month timeframe and may engage in the
33 business of buying, selling, or dealing in used motor vehicles in this
34 State under the provisions of this chapter.

35 "Used motor vehicle dealer" means a person engaged in the
36 business of selling, buying, or dealing in four or more used motor
37 vehicles per year at an established place of business, but who is not
38 a licensed new motor vehicle dealer. A used motor vehicle dealer
39 shall engage only in the business of buying, selling, or dealing in
40 used motor vehicles in this State under the provisions of this
41 chapter and shall not engage in the business of buying, selling, or
42 dealing in new motor vehicles in this State.

43 "Person" includes natural persons, firms or copartnerships,
44 corporations, associations, or other artificial bodies, receivers,
45 trustees, common law or statutory assignees, executors,
46 administrators, sheriffs, constables, marshals, or other persons in
47 representative or official capacity, and members, officers, agents,

1 employees, or other representatives of those hereinbefore
2 enumerated.

3 "Buyer" includes purchaser, debtor, lessee, bailee, transferee,
4 and any person buying, attempting to buy, or receiving a motor
5 vehicle subject to a security interest, lease, bailment or transfer
6 agreement, and their legal successors in interest.

7 "Seller" means manufacturer, dealer, lessor, bailor, transferor
8 with or without a security interest, and any other person selling,
9 attempting to sell, or delivering a motor vehicle, and their legal
10 successors in interest.

11 The terms "sell," "sale," "buy," or "purchase" and any form
12 thereof include absolute or voluntary sales and purchases,
13 agreements to sell and purchase, bailments, leases, security
14 agreements whereby any motor vehicles are sold and purchased, or
15 agreed to be sold and purchased, involuntary, statutory and judicial
16 sales, inheritance, devise, or bequest, gift or any other form or
17 manner of sale or agreement of sale thereof, or the giving or
18 transferring possession of a motor vehicle to a person for a
19 permanent use; continued possession for 60 days or more is to be
20 construed as permanent use.

21 "Online sale" means buying, selling, or dealing in motor vehicles
22 in this State over the Internet using electronic means.

23 "Electronic" means relating to technology having electrical,
24 digital, magnetic, optical, electromagnetic, or similar capabilities.

25 "Manufacturer's number" means the original manufacturer's
26 vehicle identification number die stamped upon the body, or frame,
27 or either or both of them, of a motor vehicle or the original
28 manufacturer's number die stamped upon the engine or motor of a
29 motor vehicle.

30 "Purchaser" means a person who takes possession of a motor
31 vehicle by transfer of ownership, either for use or resale, except a
32 dealer when the dealer takes possession through a certificate of
33 origin.

34 "Debtor" means the person who owes payment or other
35 performance of the obligation secured by a security interest in a
36 motor vehicle.

37 "Security interest" means an interest in a motor vehicle which
38 secures payment or other performance of an obligation.

39 "Security agreement" means an agreement which creates or
40 provides for a security interest in a motor vehicle.

41 "Secured party" means a lender, seller, or other person in whose
42 favor there is a security interest.

43 "Gross vehicle weight rating" means the value specified by the
44 manufacturer as the loaded weight of the single or combination
45 vehicle and, if the manufacturer has not specified a value for a
46 towed vehicle, means the value specified for the towing vehicle plus
47 the loaded weight of the towed unit.

1 "Motor vehicle gallery or studio" means an establishment that
2 showcases, demonstrates, offers test drives of, or otherwise exhibits
3 motor vehicles but where motor vehicles are not sold or that, on
4 behalf of another, offers or displays motor vehicles for sale;
5 attempts to make sales directly or indirectly; or participates in any
6 transaction, including the brokering or auctioning of motor vehicles,
7 that may result, or is intended to result, in the transfer of title or
8 legal or beneficial ownership of a motor vehicle.

9 (cf: P.L.2026, c.63, s.1)

10
11 3. R.S.39:10-19 is amended to read as follows:

12 39:10-19. a. No person shall engage in the business of buying,
13 selling, or dealing in motor vehicles in this State, nor shall a person
14 engage in activity that would qualify the person as a leasing dealer,
15 as defined in section 2 of P.L.1994, c.190 (C.56:12-61), unless:

16 (1) the person is a licensed real estate broker acting as an agent
17 or broker in the sale of mobile homes without their own motor
18 power other than recreation vehicles, as defined in section 3 of
19 P.L.1990, c.103 (C.39:3-10.11), or manufactured homes, as defined
20 in section 3 of P.L.1983, c.400 (C.54:4-1.4); or

21 (2) the person is authorized to do so under the provisions of this
22 chapter **and** P.L.1985, c.361 (C.56:10-26 et seq.).

23 The chief administrator shall not permit a motor vehicle
24 franchisor, as defined in section 1 of P.L.1985, c.361 (C.56:10-26),
25 or a manufacturer through license or other agreement to operate a
26 motor vehicle gallery or studio or any similar establishment in this
27 State.

28 b. The chief administrator may, upon application in **[such]** the
29 form **[as]** the chief administrator prescribes, license any proper
30 person as a new motor vehicle dealer, used motor vehicle dealer, or
31 leasing dealer. A licensed real estate broker shall be entitled to act
32 as an agent or broker in the sale of a mobile or manufactured home,
33 as **[defined]** set forth in paragraph (1) of subsection a. of this
34 section, without obtaining a license from the chief administrator.
35 For the purposes of this chapter, a "licensed real estate broker"
36 means a real estate broker licensed by the New Jersey Real Estate
37 Commission pursuant to the provisions of chapter 15 of Title 45 of
38 the Revised Statutes. Any sale or transfer of a mobile or
39 manufactured home, in which a licensed real estate broker acts as a
40 broker or agent pursuant to this subsection, which sale or transfer is
41 subject to any other requirements of R.S.39:10-1 et seq., shall
42 comply with all of those requirements.

43 c. No person who has been convicted of a crime, arising out of
44 fraud or misrepresentation in the sale, leasing, or financing of a
45 motor vehicle, shall be eligible to receive a license pursuant to
46 subsection b. of this section. For the purposes of this section, each
47 applicant for a license shall submit to the chief administrator the
48 applicant's name, address, fingerprints, and written consent for a

1 criminal history record background check to be performed. The
2 chief administrator is hereby authorized to exchange fingerprint
3 data with and receive criminal history record information from the
4 State Bureau of Identification in the Division of State Police and the
5 Federal Bureau of Investigation, consistent with applicable State
6 and federal laws, rules, and regulations, for purposes of facilitating
7 determinations concerning licensure eligibility. The applicant shall
8 bear the cost for the criminal history record background check,
9 including all costs of administering and processing the check. The
10 Division of State Police shall promptly notify the chief
11 administrator in the event a current holder of a license or
12 prospective applicant, who was the subject of a criminal history
13 record background check pursuant to this section, is arrested for a
14 crime or offense in this State after the date the background check
15 was performed.

16 d. Each applicant for a new motor vehicle dealer license shall,
17 at the time **such** the license is issued, have established and
18 maintained, or by that application shall agree to establish and
19 maintain, within 90 days after the issuance thereof, a place of
20 business consisting of a permanent building not less than 1,000
21 square feet in floor space located in the State of New Jersey to be
22 used principally for the servicing or display of motor vehicles. For
23 the purpose of servicing motor vehicles, the applicant's place of
24 business shall have equipment therein as shall be requisite for the
25 servicing of motor vehicles **in such manner as to make** so the
26 motor vehicles comply with the laws of this State and with any
27 rules and regulations made by the board governing the equipment,
28 use, and operation of motor vehicles within the State. Each
29 applicant shall have the choice to:

30 (1) utilize the space attached to the applicant's place of business
31 for the servicing of motor vehicles;

32 (2) utilize a separate space on the same property as the
33 applicant's place of business for the servicing of motor vehicles; or

34 (3) establish an off-site facility within the relevant market area
35 of the applicant's place of business, as defined by section 1 of
36 P.L.1982, c.156 (C.56:10-16). The off-site facility shall be used
37 solely for the servicing of motor vehicles, shall be located within
38 the State, and shall be subject to the provisions of P.L.1982, c.156
39 (C.56:10-16 et seq.).

40 However, a leasing dealer who is not engaged in the business of
41 buying, selling, or dealing in motor vehicles in the State shall not be
42 required to maintain a place of business with floor space available
43 for the servicing or display of motor vehicles or to have an exterior
44 sign at the lessor's place of business.

45 e. (1) Any person who possesses a used motor vehicle dealer
46 license at the time of enactment of P.L.2021, c.484 shall maintain
47 an established place of business consisting of a minimum office
48 space of 72 square feet within a permanent, enclosed building

1 located in the State of New Jersey, in addition to complying with all
2 other applicable regulations prescribed by the chief administrator.

3 (2) Each applicant for a used motor vehicle dealer license, or
4 any licensee who relocates its place of business on or after the
5 effective date of P.L.2021, c.484, shall meet the requirements for an
6 established place of business for a used motor vehicle dealer, which
7 shall be established by the chief administrator by regulation adopted
8 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
9 (C.52:14B-1 et seq.).

10 f. An established place of business of a new motor vehicle
11 dealer or a used motor vehicle dealer shall display an exterior sign
12 permanently affixed to the land or building, which sign is consistent
13 with local ordinances and has letters easily readable from the major
14 avenues of traffic. The sign shall include the dealer name or trade
15 name, provided [such] the trade name has been previously
16 disclosed to the chief administrator.

17 g. A license fee of \$200 shall be paid by an applicant upon the
18 applicant's initial application for a license. The chief administrator
19 may renew an applicant's license upon application for renewal on a
20 form prescribed by the chief administrator and accompanied by a
21 renewal fee of \$200. Every license shall expire 24 months from the
22 date on which it is issued. The chief administrator may, at the chief
23 administrator's discretion and for good cause shown, extend an
24 applicant's license for an additional period not to exceed 12 months
25 from the date on which it is scheduled to expire. The chief
26 administrator may, at the chief administrator's discretion and for
27 good cause shown, issue a license which shall expire on a date fixed
28 by the chief administrator. The fee for licenses with an expiration
29 date fixed by the chief administrator shall be fixed by the chief
30 administrator in an amount proportionately less or greater than the
31 fee established herein.

32 h. For the purposes of this section, a leasing dealer or an
33 assignee of a leasing dealer whose leasing activities are limited to
34 buying motor vehicles for the purpose of leasing them and selling
35 motor vehicles at the termination of a lease to the lessee shall not be
36 deemed to be engaged in the business of buying, selling, or dealing
37 in motor vehicles in this State. However, a leasing dealer who
38 wishes to engage in the business of buying, selling, or dealing in
39 motor vehicles in this State by selling any vehicle at the end of the
40 lease term to a consumer other than the lessee, shall be required to
41 obtain a used car dealer license pursuant to this section.

42 (cf: P.L.2026, c.63, s.2)

43
44 4. Section 5 of P.L.1999, c.45 (C.56:10-7.4) is amended to read
45 as follows:

46 5. It shall be a violation of P.L.1971, c.356 (C.56:10-1 et seq.)
47 for any motor vehicle franchisor, directly or indirectly, through any

- 1 officer, agent or employee, to engage in any of the following
2 practices:
- 3 a. **【To】** to impose unreasonable standards of performance or
4 unreasonable facilities, financial, operating or other requirements
5 upon a motor vehicle franchisee**【.】**;
- 6 b. **【To】** to base the disapproval of the transfer, sale, or
7 assignment of a motor vehicle franchise, or any interest therein, on
8 the ground that the proposed transferee is not a natural person**【.】**;
- 9 c. **【To】** to fail to compensate a motor vehicle franchisee for all
10 reasonable costs incurred by the franchisee in complying with the
11 requirements imposed on the franchisee by the franchisor relating to
12 a product recall**【.】**;
- 13 d. **【To】** to utilize an arbitrary or unreasonable formula or other
14 calculation or process intended to gauge performance as a basis for
15 making any decision or taking any action governed by P.L.1971,
16 c.356 (C.56:10-1 et seq.)**【.】**;
- 17 e. **【Except as provided pursuant to section 6 of P.L.2015, c.24**
18 **(C.56:10-27.1),】** to own or operate or enter into an agreement with
19 a person, other than an existing motor vehicle franchisee, to operate
20 a retail facility for the servicing of motor vehicles, which is
21 authorized to perform warranty service on motor vehicles
22 manufactured or distributed by the motor vehicle franchisor. The
23 establishment, relocation, reopening, or reactivation of **【such】** a
24 facility pursuant to an agreement with a motor vehicle franchisee
25 shall be subject to the provisions of P.L.1982, c.156 (C.56:10-16 et
26 seq.), except that paragraph (3) of subsection b. of section 8 of that
27 act (C.56:10-23) shall not be applicable. Notice shall be given to
28 motor vehicle franchisees in the same line make or makes within six
29 miles of the proposed retail facility for the servicing of motor
30 vehicles which is authorized to perform warranty service on motor
31 vehicles manufactured or distributed by the motor vehicle
32 franchisor**【.】**;
- 33 f. **【To】** to require an unconditional release from a motor
34 vehicle franchisee without permitting the franchisee to except from
35 the release any claims for outstanding financial obligations of the
36 motor vehicle franchisor to the motor vehicle franchisee for which
37 payment will not be made at or before the giving of the release**【.】**;
- 38 g. (1) **【To】** to require or attempt to require a motor vehicle
39 franchisee to order or purchase a new or used motor vehicle, or any
40 accessory or equipment thereof not required by law; **【or】** (2) to
41 require or attempt to require a motor vehicle franchisee to accept
42 delivery of any motor vehicle, or any accessory or equipment
43 thereof not required by law, which is not as ordered by the motor
44 vehicle franchisee; or (3) to take or withhold or threaten to take or
45 withhold any action, impose or threaten to impose any penalty, or
46 deny or threaten to deny any benefit, as a result of the motor vehicle

1 franchisee's failure or refusal to purchase, order, or accept delivery
2 of **any such** a motor vehicle, accessory, or equipment. This
3 subsection shall not prevent a motor vehicle franchisor from
4 requiring that a motor vehicle franchisee carry a representative
5 inventory of models offered for sale by the motor vehicle
6 franchisor~~].~~;

7 h. ~~To~~ to fail or refuse to sell or offer to sell to all motor
8 vehicle franchisees in a line make every motor vehicle sold or
9 offered for sale to any motor vehicle franchisee of the same line
10 make, or to fail or refuse to sell or offer to sell **such** motor
11 vehicles to all motor vehicle franchisees at the same price for a
12 comparably equipped motor vehicle, on the same terms, with no
13 differential in discount, allowance, credit or bonus, and on
14 reasonable, good faith and non-discriminatory allocation and
15 availability terms. However, the failure to deliver **any such** the
16 motor vehicle shall not be considered a violation of this section if
17 the failure is not arbitrary and is due to a lack of manufacturing
18 capacity or to a strike or labor difficulty, a shortage of materials, a
19 freight embargo or other cause over which the franchisor has no
20 control. A motor vehicle franchisor shall not require a motor
21 vehicle franchisee to purchase unreasonable quantities of
22 advertising materials, purchase special tools not required to
23 properly service a motor vehicle or undertake sales person or
24 service person training unrelated to the motor vehicle or meet
25 unreasonable display requirements as a condition of receiving a
26 motor vehicle~~].~~;

27 i. ~~Unless~~ unless compelled by law or legal process, (1) if the
28 customer has objected thereto in writing, to require a motor vehicle
29 franchisee to publish, release, convey or otherwise provide
30 information obtained with respect to any customers, contracts,
31 products, services or other transactions of the motor vehicle
32 franchisee which is not necessary for the motor vehicle franchisor
33 to meet its obligations to consumers or the motor vehicle
34 franchisee, including vehicle recalls or other requirements imposed
35 by State or federal law, or for complying with the duties or
36 obligations of the respective parties under the franchise; or (2) to
37 release **such** information which has been provided to it by the
38 motor vehicle franchisees to any third party~~].~~;

39 j. ~~To~~ to impose or attempt to impose any requirement,
40 limitation or regulation on, or interfere or attempt to interfere with,
41 the manner in which a motor vehicle franchisee utilizes the facilities
42 at which a motor vehicle franchise is operated, including, but not
43 limited to, requirements, limitations or regulations as to the line
44 makes of motor vehicles that may be sold or offered for sale at the
45 facility, or to take or withhold or threaten to take or withhold any
46 action, impose or threaten to impose any penalty, or deny or
47 threaten to deny any benefit, as a result of the manner in which the

1 motor vehicle franchisee utilizes his facilities, except that the motor
2 vehicle franchisor may require that the portion of the facilities
3 allocated to or used for the motor vehicle franchise meets the motor
4 vehicle franchisor's reasonable, written space and volume
5 requirements as uniformly applied by the motor vehicle franchisor.
6 The provisions of this subsection shall not apply if the motor
7 vehicle franchisor and the motor vehicle franchisee voluntarily
8 agree to the requirement and separate and valuable consideration
9 therefor is paid~~].~~;

10 k. ~~【To】~~ to require or attempt to require a motor vehicle
11 franchisee, or the owner or landlord of property on which a motor
12 vehicle franchise is operated, to give a motor vehicle franchisor or
13 any person under the control of the motor vehicle franchisor an
14 interest in or option with respect to the real property on which the
15 motor vehicle franchise is operated, to restrict the uses to which the
16 facility at which the motor vehicle franchise is operated may be put
17 during or after the term of the franchise, or to take or withhold or
18 threaten to take or withhold any action, impose or threaten to
19 impose any penalty, or deny or threaten to deny any benefit, as a
20 result of the failure or refusal of a motor vehicle franchisee,
21 property owner, or landlord to agree to or comply with ~~【any such】~~
22 the demand or restriction. Nothing in this subsection shall be
23 deemed to bar a voluntary agreement between a motor vehicle
24 franchisor and a motor vehicle franchisee, or the owner or landlord
25 of property on which a motor vehicle franchise is operated, to give
26 the motor vehicle franchisor or the person under the control of the
27 motor vehicle franchisor an interest in or option with respect to the
28 real property on which a motor vehicle franchise is operated, or to
29 restrict the uses to which the facility at which the motor vehicle
30 franchise is operated is put, provided that separate and valuable
31 consideration is paid for ~~【such】~~ the interest, option, or
32 restriction~~].~~;

33 1. ~~【To】~~ to require or attempt to require a motor vehicle
34 franchisee to relocate his franchise or to implement any facility or
35 operational modification or to take or withhold or threaten to take
36 or withhold any action, impose or threaten to impose any penalty, or
37 deny or threaten to deny any benefit as a result of the failure or
38 refusal of ~~【such】~~ the motor vehicle franchisee to agree to ~~【any~~
39 ~~such】~~ the relocation or modification, unless the motor vehicle
40 franchisor can demonstrate that: (1) funds are generally available to
41 the franchisee for the relocation or modification on reasonable
42 terms; and (2) the motor vehicle franchisee will be able, in the
43 ordinary course of business as conducted by ~~【such】~~ the motor
44 vehicle franchisee, to earn a reasonable return on his total
45 investment in ~~【such】~~ the facility or from ~~【such】~~ operational
46 modification, and the full return of his total investment in ~~【such】~~
47 the facility or from ~~【such】~~ operational modifications within 10

1 years; or (3) the modification is required so that the motor vehicle
2 franchisee can effectively sell and service a motor vehicle offered
3 by the motor vehicle franchisor based on the specific technology of
4 the motor vehicle. This subsection shall not be construed as
5 requiring a motor vehicle franchisor to guarantee that the return as
6 provided in paragraph (2) of this subsection will be realized[.];

7 m. **【Directly】** directly, or through any financial institution
8 having any commonality of ownership with the motor vehicle
9 franchisor, to require or attempt to require, or to take or withhold or
10 threaten to take or withhold any action, impose or threaten to
11 impose any penalty, or deny or threaten to deny any benefit, as a
12 result of the failure or refusal of a motor vehicle franchisee to
13 maintain working capital, equity, floor plan financing or other
14 indications of financial condition, greater than the lesser of: (1) the
15 minimum required to operate the motor vehicle franchise based on
16 the operations of the franchise over the prior 12-month period; or
17 (2) an increase of no more than **【5%】** five percent over the prior
18 calendar year, unless the motor vehicle franchisor, or the financial
19 institution having any commonality of ownership with a motor
20 vehicle franchisor, can establish that **【such】** failure or refusal
21 prevents the franchisee from operating the franchise in the ordinary
22 course of business. This subsection shall not apply if the working
23 capital, equity, floor plan financing or other indication of financial
24 condition is the result of an accommodation by the motor vehicle
25 franchisor, or financial institution with a commonality of ownership
26 with the motor vehicle franchisor, to the motor vehicle franchisee,
27 containing specific terms and deadlines for the restoration of the
28 motor vehicle franchisee's working capital, inventory, floor plan
29 financing or other indication of financial condition, which
30 accommodation is agreed to in writing by the motor vehicle
31 franchisee[.];

32 n. **【To】** to impose or attempt to impose any conditions on the
33 approval of the transfer of a motor vehicle franchise, except as
34 provided in section 6 of P.L.1971, c.356 (C.56:10-6)[.];

35 o. **【To】** to amend or modify the franchise of a motor vehicle
36 franchisee, or any lease or agreement ancillary or collateral to
37 **【such】** the franchise, including in connection with the renewal of a
38 franchise, if **【such】** the amendment or modification is not in good
39 faith, is not for good cause, or would adversely and substantially
40 alter the rights, obligations, investment or return on investment of
41 the motor vehicle franchisee[.];

42 p. **【To】** to take or withhold or threaten to take or withhold any
43 action, impose or threaten to impose any penalty, or deny or
44 threaten to deny any benefit, because the motor vehicle franchisee
45 sold or leased a motor vehicle to a customer who exported the
46 vehicle to a foreign country or who resold the vehicle, unless the
47 motor vehicle franchisor can establish that the motor vehicle

1 franchisee knew or reasonably should have known, prior to the sale
2 or lease, that the customer intended to export or resell the motor
3 vehicle; provided, however, that it shall be presumed that the motor
4 vehicle franchisee did not know or should not have reasonably
5 known that the vehicle would be exported if the vehicle is titled or
6 registered in any state or the District of Columbia~~【.】~~;

7 q. ~~【To】~~ to require a motor vehicle franchisee, at the time of
8 entering into a franchise arrangement, any lease or agreement
9 ancillary or collateral to a motor vehicle franchise, or any
10 amendment, modification, renewal or termination thereof, to assent
11 to a release, assignment, novation, waiver or estoppel, which would
12 relieve any person from liability imposed by P.L.1971, c.356
13 (C.56:10-1 et seq.); provided that nothing in this subsection shall be
14 deemed to prohibit a voluntary agreement between the motor
15 vehicle franchisor and the motor vehicle franchisee which contains
16 a release, assignment, novation, waiver or estoppel for which
17 separate and valuable consideration is paid by the motor vehicle
18 franchisor to the motor vehicle franchisee~~【.】~~;

19 r. ~~【To】~~ to provide any term or condition in any motor vehicle
20 franchise, in any lease or other agreement ancillary or collateral to a
21 motor vehicle franchise or in any renewal, amendment or
22 modification thereof, which term or condition directly or indirectly
23 violates P.L.1971, c.356 (C.56:10-1 et seq.)~~【.】~~; or

24 s. ~~【To】~~ to allocate vehicles to or evaluate the performance of a
25 motor vehicle franchise based on, or offer any discount, incentive,
26 bonus, program, allowance₂, or credit that differentiates between
27 vehicle sales by a motor vehicle franchisee within a territory or
28 geographic area assigned to the motor vehicle franchisee and
29 vehicle sales outside of ~~【such】~~ the territory or geographic area.
30 (cf: P.L.2015, c.24, s.2)

31
32 5. Section 1 of P.L.1985, c.361 (C.56:10-26) is amended to
33 read as follows:

34 1. As used in this act:

35 "Consumer" means the purchaser, other than for resale, of a
36 motor vehicle.

37 "Franchise" means a written arrangement for a definite or
38 indefinite period in which a motor vehicle franchisor grants a right
39 or license to use a trade name, trademark, service mark or related
40 characteristics and in which there is a community of interest in the
41 marketing of new motor vehicles at retail, by lease, agreement or
42 otherwise.

43 "Motor vehicle" means and includes all vehicles propelled
44 otherwise than by muscular power, and motorcycles, trailers and
45 tractors, excepting: (1) those vehicles as run only upon rails or
46 tracks, motorized bicycles, and buses, including school buses; and
47 (2) those motor vehicles not designed or used primarily for the

1 transportation of persons or property and only incidentally operated
2 or moved over a highway.

3 "Motor vehicle franchisee" means a person to whom a franchise
4 is granted by a motor vehicle franchisor and who or which holds a
5 current valid motor vehicle dealer's license issued pursuant to
6 R.S.39:10-19 and has an established place of business.

7 "Motor vehicle franchisor" means a person engaged in the
8 business of manufacturing, assembling or distributing new motor
9 vehicles, or importing into the United States new motor vehicles
10 manufactured or assembled in a foreign country, who will under
11 normal business conditions during the year, manufacture, assemble,
12 distribute or import at least 10 new motor vehicles.

13 "Motor vehicle gallery or studio" means an establishment that
14 showcases, demonstrates, offers test drives of, or otherwise exhibits
15 motor vehicles but where motor vehicles are not sold or that, on
16 behalf of another, offers or displays motor vehicles for sale;
17 attempts to make sales directly or indirectly; or participates in any
18 transaction, including the brokering or auctioning of motor vehicles,
19 that may result, or is intended to result, in the transfer of title or
20 legal or beneficial ownership of a motor vehicle.

21 "New motor vehicle" means a newly manufactured motor
22 vehicle.

23 "Person" means a natural person, corporation, partnership, trust,
24 or other entity and, in the case of an entity, it shall include any other
25 entity which has a majority interest in that entity or effectively
26 controls that other entity as well as the individual officers, directors,
27 and other persons in active control of the activities of each such
28 entity.

29 "Place of business" means a fixed geographical location at which
30 the motor vehicle franchisor's motor vehicles are offered for sale
31 and sold, but shall not include an office, a warehouse, a place of
32 storage, a residence or a vehicle.

33 "Zero emission vehicle" means a motor vehicle certified as a
34 zero emission vehicle pursuant to the California Air Resources
35 Board zero emission vehicle standards for the applicable model
36 year, but shall not include an advanced technology partial zero
37 emission vehicle, a partial zero emission vehicle, or a hybrid
38 electric vehicle.

39 (cf: P.L.2015, c.24, s.3)

40
41 6. Section 2 of P.L.1985, c.361 (C.56:10-27) is amended to
42 read as follows:

43 2. a. **【**Except as provided pursuant to section 6 of P.L.2015,
44 c.24 (C.56:10-27.1), it**】** (1) It shall be a violation of 【this act】
45 P.L.1985, c.361 (C.56:10-26 et seq.), for any motor vehicle
46 franchisor, directly or indirectly, through any officer, agent,
47 employee, broker, or any shareholder of the franchisor, except a
48 shareholder of one percent or less of the outstanding shares of any

1 class of securities of a franchisor which is a publicly traded
2 corporation, or other person, to offer to sell or sell motor vehicles to
3 a consumer, other than an employee of the franchisor, except
4 through a motor vehicle franchisee.

5 (2) It shall be a violation of P.L.1985, c.361 (C.56:10-26 et
6 seq.), for a motor vehicle franchisor to directly or indirectly,
7 through an officer, agent, employee, broker, or any shareholder of a
8 franchisor or business, establish a motor vehicle gallery or studio or
9 any similar establishment in this State.

10 b. Subsection a. of this section shall not be construed to
11 prohibit the leasing or assigning of vehicles by a franchisor to its
12 employees or to employees of an affiliate or subsidiary of the
13 franchisor. **【Such】** Any leased or assigned vehicles shall be titled
14 and registered with the New Jersey Motor Vehicle Commission and
15 shall therefore be eligible to receive a standard issue license plate.
16 A franchisor may elect to title and register the vehicles with the
17 New Jersey Motor Vehicle Commission or to designate a third party
18 approved by the New Jersey Motor Vehicle Commission to do so on
19 behalf of the franchisor.

20 c. A franchisor that has its headquarters in this State may
21 assign, or otherwise lend for use and operation, vehicles to
22 individuals or entities for promotional, testing, marketing, or
23 product familiarity purposes. Any **【such】** assigned or loaned
24 vehicle that is titled, registered, and insured in the name of the
25 franchisor or its affiliate or subsidiary and shall therefore be eligible
26 to receive a standard issue license plate up to an aggregate of 50
27 vehicles at any given time for **【such】** the plate. A franchisor may
28 elect to title and register the vehicles with the New Jersey Motor
29 Vehicle Commission or to designate a third party approved by the
30 New Jersey Motor Vehicle Commission to do so on its behalf.

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

40 **【Such】** A franchisor shall operate 【such servicing】 services and
41 the servicing facility with the equipment installed therein as shall be
42 requisite for the servicing of motor vehicles in a manner as to make
43 them comply with the laws of this State and with any rules and
44 regulations governing the equipment, use, and operation of motor
45 vehicles within the State. However, **【such】** a franchisor shall not
46 be required to comply with the provisions of R.S.39:10-19 requiring
47 the maintaining of a place of business with a permanent building of

1 not less than 1,000 square feet in floor space to be used principally
2 for the servicing and display of motor vehicles or to have an
3 exterior sign at the franchisor's servicing facility.

4 e. Nothing in P.L. , c. (C.) (pending before the
5 Legislature as this bill) shall be construed to restrict the right of a
6 motor vehicle franchisor who exclusively manufacturers zero
7 emission vehicles; was authorized to buy from and directly sell,
8 offer to sell, or deal to a consumer zero emission vehicles pursuant
9 to P.L.2015, c.24; and was licensed pursuant to R.S.39:10-19 from
10 maintaining a retail facility that was established before the effective
11 date of P.L. , c. (C.) (pending before the Legislature as
12 this bill) for the servicing, including warranty servicing, of zero
13 emission vehicles sold, offered for sale, or otherwise distributed in
14 this State as long as the retail facility is not also operated as a motor
15 vehicle gallery or studio.

16 (cf: P.L.2025, c.176, s.1)

17
18 7. Section 3 of P.L.1985, c.361 (C.56:10-28) is amended to
19 read as follows:

20 3. **【Except as provided pursuant to section 6 of P.L.2015, c.24**
21 **(C.56:10-27.1), it】** It shall be a violation of this act for a motor
22 vehicle franchisor, directly or indirectly, through any officer, agent,
23 employee, broker or any shareholder of the franchisor, except a
24 shareholder of **【1%】** one percent or less of the outstanding shares of
25 any class of securities of a franchisor which is a publicly traded
26 corporation, or other person, to own or operate a place of business
27 as a motor vehicle franchisee, except that this section shall not
28 prohibit the ownership or operation of a place of business by a
29 motor vehicle franchisor for a period, not to exceed 24 consecutive
30 months, during the transition from one motor vehicle franchisee to
31 another; or the investment in a motor vehicle franchisee by a motor
32 vehicle franchisor if the investment is for the sole purpose of
33 enabling a partner or shareholder in that motor vehicle franchisee to
34 acquire an interest in that motor vehicle franchisee and that partner
35 or shareholder is not otherwise employed by or associated with the
36 motor vehicle franchisor and would not otherwise have the requisite
37 capital investment funds to invest in the motor vehicle franchisee,
38 and has the right to purchase the entire equity interest of the motor
39 vehicle franchisor in the motor vehicle franchisee within a
40 reasonable period of time not to exceed 10 years.

41 (cf: P.L.2015, c.24, s.5)

42
43 8. Section 6 of P.L.2015, c.24 (C.56:10-27.1) is repealed.

44
45 9. (New section) Notwithstanding the repeal of section 6 of
46 P.L.2015, c.24 (C.56:10-27.1) and any other law, rule, or regulation
47 to the contrary, a motor vehicle franchisor who exclusively
48 manufacturers zero emission vehicles; was authorized to buy from

1 and directly sell, offer to sell, or deal to a consumer zero emission
2 vehicles pursuant to P.L.2015, c.24; and was licensed pursuant to
3 R.S.39:10-19 shall comply with the provisions of, and any rules and
4 regulations adopted pursuant to, P.L.1985, c.361 (C.56:10-26 et
5 seq.), within two years of the effective date of P.L. , c.
6 (C.) (pending before the Legislature as this bill).

7
8 10. This act shall take effect immediately.

9
10
11 STATEMENT

12
13 This bill, the “New Jersey Franchised Automobile Industry
14 Retail (FAIR) Sales Act,” repeals the law that allows a
15 manufacturer of zero emission vehicles, including Tesla, to directly
16 buy zero emission vehicles from or sell zero emission vehicles to a
17 consumer. A motor vehicle manufacturer is generally prohibited
18 from selling motor vehicles to a consumer unless the sale is made
19 through a franchisee. However, current statutory law allows a
20 franchisor that exclusively manufactures zero emission vehicles,
21 and meets other criteria, to sell motor vehicles directly to
22 consumers. Under this bill, a manufacturer of zero emission
23 vehicles has two years from the effective date of the bill to begin
24 buying and selling motor vehicles through a franchisee like all other
25 manufacturers in the State.

26 The bill also prohibits a motor vehicle franchisor from operating
27 a motor vehicle gallery or studio and the Chief Administrator of the
28 New Jersey Motor Vehicle Commission in the Department of
29 Transportation from permitting the operation of a motor vehicle
30 gallery or studio through license or other agreement. Under the bill,
31 “motor vehicle gallery or studio” means an establishment that
32 showcases, demonstrates, offers test drives of, or otherwise exhibits
33 motor vehicles but where motor vehicles are not sold or that, on
34 behalf of another, offers or displays motor vehicles for sale;
35 attempts to make sales directly or indirectly; or participates in any
36 transaction, including the brokering or auctioning of motor vehicles,
37 that may result, or is intended to result, in the transfer of title or
38 legal or beneficial ownership of a motor vehicle.

39 Under the bill, a motor vehicle franchisor currently operating a
40 retail facility for the servicing of zero emission vehicles sold in this
41 State is permitted to continue operating the retail facility as long as
42 the facility is not also operated as a motor vehicle gallery or studio.

43 It is the sponsor’s understanding that this bill requires each
44 motor vehicle manufacturer to operate pursuant to the same rules,
45 which were designed to promote competition, protect consumers,
46 and ensure consumers have access to qualified repair facilities for
47 warranty repairs, recall services, and safety fixes.