



1050 17th Street, N.W.
Suite 1150
Washington, DC 20036
202.525.5717

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**Rep. Wayne Smith, Chairman
Licensing & Administrative Procedures Committee
Texas House of Representatives**

Re: H.B. 1653, direct sales of automobiles

Chairman Smith, members, my name is Josiah Neeley and I am Texas director of the R Street Institute. R Street is a nonprofit, free-market think tank headquartered in Washington, though I am based in Austin. I'm here today to speak in favor of H.B. 1653.

Texas' current blanket prohibition on direct sales of automobiles by manufacturers hurts Texas consumers. An analysis by Goldman Sachs found that alternative automobile-distribution systems could save consumers 8.6 percent on the cost of a vehicle. Innovative models that allow greater consumer choice and lower overhead are prohibited by the current franchise system.

H.B. 1653 is not an anti-dealership bill. It simply creates a minor exception to the current auto dealer franchise laws that would allow manufacturers to sell directly to the consumer in certain cases. Whether direct sales are superior to sales through dealerships is something that should be left to the market. While the bill is more limited than we believe is justified, it is a step in the right direction.

Some have suggested this bill raises equal-protection concerns, because it establishes two different systems for auto sales. As an attorney who has specialized in constitutional law, I can assure you these concerns are without merit. Heightened scrutiny under the Equal Protection Clause applies only to laws impinging on fundamental rights (such as the free exercise of religion) or that involve certain protected classifications (such as race). Auto dealers are not such a class. Therefore, laws governing dealer franchises are subject to rational basis review, a very minimal standard that is easily met here.

I would be happy to answer any questions.