Law360 Article Addresses Pending Georgia Direct Sales Bill for EV Makers

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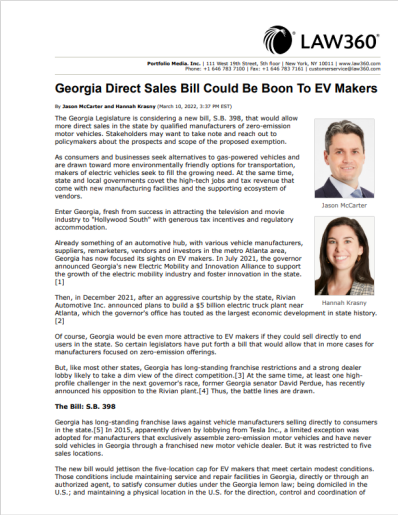
In the article published by *Law360*, Miller & Martin attorney Jason McCarter and co-author discuss a new bill, S.B. 398, that is being considered by the Georgia Legislature that would allow more direct sales in the state by qualified manufacturers of zero-emission motor vehicles.



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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Georgia Direct Sales Bill Could Be Boon To EV Makers

By **Jason McCarter and Hannah Krasny** (March 10, 2022, 3:37 PM EST)

The Georgia Legislature is considering a new bill, S.B. 398, that would allow more direct sales in the state by qualified manufacturers of zero-emission motor vehicles. Stakeholders may want to take note and reach out to policymakers about the prospects and scope of the proposed exemption.

Jason McCarter

Hannah Krasny

As consumers and businesses seek alternatives to gas-powered vehicles and are drawn toward more environmentally friendly options for transportation, makers of electric vehicles seek to fill the growing need. At the same time, state and local governments covet the high-tech jobs and tax revenue that come with new manufacturing facilities and the supporting ecosystem of vendors.

Enter Georgia, fresh from success in attracting the television and movie industry to "Hollywood South" with generous tax incentives and regulatory accommodation.

Already something of an automotive hub, with various vehicle manufacturers, suppliers, remarketers, vendors and investors in the metro Atlanta area, Georgia has now focused its sights on EV makers. In July 2021, the governor announced Georgia's new Electric Mobility and Innovation Alliance to support the growth of the electric mobility industry and foster innovation in the state. [1]

Then, in December 2021, after an aggressive courtship by the state, Rivian Automotive Inc. announced plans to build a $5 billion electric truck plant near Atlanta, which the governor's office has touted as the largest economic development in state history. [2]

Of course, Georgia would be even more attractive to EV makers if they could sell directly to end users in the state. So certain legislators have put forth a bill that would allow that in more cases for manufacturers focused on zero-emission offerings.

But, like most other states, Georgia has long-standing franchise restrictions and a strong dealer lobby likely to take a dim view of the direct competition.[3] At the same time, at least one high-profile challenger in the next governor's race, former Georgia senator David Perdue, has recently announced his opposition to the Rivian plant.[4] Thus, the battle lines are drawn.

The Bill: S.B. 398

Georgia has long-standing franchise laws against vehicle manufacturers selling directly to consumers in the state.[5] In 2015, apparently driven by lobbying from Tesla Inc., a limited exception was adopted for manufacturers that exclusively assemble zero-emission motor vehicles and have never sold vehicles in Georgia through a franchised new motor vehicle dealer. But it was restricted to five sales locations.

The new bill would jettison the five-location cap for EV makers that meet certain modest conditions. Those conditions include maintaining service and repair facilities in Georgia, directly or through an authorized agent, to satisfy consumer duties under the Georgia lemon law; being domiciled in the U.S.; and maintaining a physical location in the U.S. for the direction, control and coordination of

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