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UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
ATLANTA REGIONAL OFFICE

COMMISSION AUTHORIZED

March 21, 1988

The Honorable David C. Waldrop, Jr.  
House of Representatives  
State of South Carolina  
District No. 40-Newberry County  
Box 813  
Newberry, South Carolina 29108

Dear Mr. Waldrop:

The staff of the Federal Trade Commission is pleased to respond to your request for comments on House Bill 3235.<sup>1</sup> This bill would amend Section 56-15-330 of the Laws of South Carolina, 1976, to permit dealers to sell vehicles at temporary locations away from the dealer's established place of business. We believe that the existing prohibition of off-site sales probably increases the costs of automobile marketing, reduces the competition among suppliers, and, therefore, harms consumers by increasing the prices of motor vehicles sold in South Carolina.

The Commission is charged by the United States Congress with enforcing the Federal Trade Commission Act. Section 5 of the FTCA prohibits unfair methods of competition and unfair or deceptive acts or practices. By enforcing this statute, the Commission and its staff have gained substantial experience in analyzing the impact of various restraints on competition generally. The staff has also studied consumer and competition issues in the retail automobile market specifically. For instance, in 1986, the Bureau of Economics staff issued a report on the effects of state

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<sup>1</sup> These comments represent the views of the Atlanta Regional Office and the Bureaus of Competition, Consumer Protection, and Economics of the Federal Trade Commission and do not necessarily represent the views of the Federal Trade Commission or any individual Commissioner. The Commission, however, has voted to authorize the submission of these comments.

regulation on the retail automobile market.<sup>2</sup> In addition, staff has also conducted law enforcement investigations of possible competitive and consumer abuses within the industry. Moreover, in 1984, the Commission issued the "Used Car Rule" to reduce the frequency and effect of oral misrepresentations in used car transactions.<sup>3</sup> Finally, in the past year, the staff has submitted comments to other states on issues similar to those raised by this bill.<sup>4</sup>

We believe that laws prohibiting off-site sales may prevent dealers from adopting the most efficient sales methods and restrict consumer choice in the purchase of new and used cars. Consequently, consumers may be forced to pay higher prices. For example, such prohibitions prevent fleet dealers from holding used car sales on credit union property. Since these sales entail low overhead, fleet dealers would be able to pass along savings to consumers. In one effort to calculate the savings, Illinois credit unions surveyed by the Illinois Credit Union League estimated that members paid an average of \$1,118 less for a used car sold at a credit union-sponsored fleet sale than they would have paid for a vehicle sold by a "conventional" used car dealer.<sup>5</sup>

Moreover, laws prohibiting off-site sales probably harm consumers in the rental car market as well. Fleet sales benefit this market by enabling fleet dealers to turn over their inventories more efficiently. By prohibiting fleet sales, Section 56-15-330 may tend to increase the cost of car rentals.

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<sup>2</sup> R. Rogers, Effect of State Entry Regulation on Retail Automobile Markets, [Bureau of Economics staff report to the Federal Trade Commission (1986)].

<sup>3</sup> Used Motor Vehicle Trade Regulation Rule, 16 C.F.R. §455. The Used Car Rule requires that all dealers display a window sticker on their vehicles that discloses the meaning of an "as is" sale and the existence of any warranty coverage. The sticker also includes a suggestion that consumers ask the dealer if a pre-purchase inspection is permitted and a warning against reliance on spoken promises that are not committed to writing.

<sup>4</sup> Letter from Jim Moseley of the FTC Dallas Regional Office to Texas Governor William P. Clements, Jr., June 1, 1987; Letter from John M. Peterson of the FTC Chicago Regional Office to Woods Bowman, Illinois House of Representatives, April 24, 1987.

<sup>5</sup> Illinois Credit Union League, Car Rental Agency Sales Survey Results (July 1986).

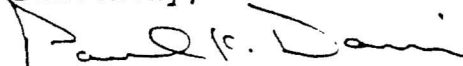
Laws prohibiting off-site sales may also impede the use of innovative sales techniques by dealers. For example, credit unions cannot organize new car sales events at central locations, such as fairgrounds or shopping center parking lots. Such events, which allow a number of dealers to offer vehicles to consumers at the same location, may result in savings to consumers.

It is our understanding that the purpose of Section 56-15-330 is to protect consumers from deceptive practices. South Carolina addresses this objective in other ways, however. The South Carolina Unfair Trade Practices Act prohibits unfair or deceptive acts or practices and provides for treble damages for willful and knowing violations of the Act.<sup>6</sup> Further, though we take no position on this requirement, Section 56-15-330 requires dealers to maintain an established place of business in the state of South Carolina, a mandate that may deter unscrupulous behavior. House Bill 3235 would retain this requirement.

In conclusion, we believe that unjustified limitations on off-site sales by automobile dealers are likely to increase dealer costs and decrease competition, and, therefore, increase the prices consumers pay for motor vehicles. For these reasons, we believe that House Bill 3235, if enacted, would benefit consumers.

We appreciate having had this opportunity to provide our views on this legislation.

Sincerely,



Paul K. Davis  
Regional Director  
Atlanta Regional Office

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<sup>6</sup> S.C.Code Ann. §§ 39-5-10 et seq. (Law. Co-op. 1987).