

DALE KOOYENGA
STATE SENATOR · 5TH DISTRICT

State Capitol · P.O. Box 7882 · Madison, WI 53707-7882 · (608) 266-2512

August 25, 2021

TO: Members of the Senate Committee on Government Operations, Legal Review and Consumer Protection

FR: Senator Dale Kooyenga

RE: Support for SB 462 – Allowing consumers to purchase electric vehicles directly from the manufacturer

Thank you for holding a hearing on Senate Bill 462. This bill has bipartisan support and will enable Wisconsin consumers to purchase electric vehicles (EVs) directly from the manufacturer, as is the case in approximately 34 other states. Additionally, enacting this bill will put Wisconsin in a much stronger position to attract a major EV manufacturing operation.

Wisconsin is one of approximately 16 states with a law expressly prohibiting car buyers from purchasing directly from a manufacturer, either online or at a manufacturer-owned dealership. Instead, car buyers must go through a third party dealership. This law dates back to the mid-twentieth century and was originally meant to protect dealerships, but it has become obsolete in the era of online shopping and will increasingly limit consumer options in the future.

SB 462 would allow EV manufacturers to sell all-electric powered vehicles directly to consumers in Wisconsin without the need to go through a dealership. This simple change to state law is good for the consumer, the environment, and the economy.

Passage of this bill will allow Wisconsin to compete in the race to attract an EV manufacturing facility at the Foxconn campus in Mount Pleasant. There is little to no chance such an operation would locate in a state that forbids it from selling its product.

Quoted in Forbes, Fisker CEO and co-founder Henrik Fisker said:

*"The one sticking point for Fisker—now, this is still Foxconn's decision—but the one sticking point for me would be that I don't want to start producing a car in a state where I can't sell my car direct...**If they change those (rules) I think they will be in the lead, but right now they're not.**"*

The bill also responds to increasing consumer interest in online buying. According to one study, up to 33% of new car purchases, from browsing to buying, will be conducted online in the U.S. by 2035. Today, more than 70% of consumers want to conduct at least some part of the car buying process online.

With consumer preference for online shopping surging, electric vehicle sales poised to soar, and an EV business model that does not utilize the traditional dealership approach, the bill opens an important avenue of commerce currently denied to consumers.

There are multiple electric vehicle manufacturers that would be allowed to sell directly to consumers in Wisconsin: Fisker, Rivian, Lordstown, Lucid, and Tesla. Other major manufacturers have launched or are likely to launch new all-electric models as well in the coming years.

Some argue that direct sales could harm traditional dealerships, but dealerships still prosper in states that have allowed direct sales. According to National Automobile Dealers Association data, employment at dealerships did not decline in states that have allowed direct sales compared to states that have not. That's because, in a free market society, the economic pie isn't a fixed amount to be divided up and fought over. Instead, new wealth is created through innovation.

Thank you for hearing SB 462. I respectfully ask for your support.

August 25, 2021

The Honorable Duey Stroebel
Chair, Senate Committee on Government Operations, Legal Review and Consumer Protection
Wisconsin State Capitol
2 East Main St.
Madison, Wisconsin 53707

RE: Oppose SB 462 - Relating to: ownership, control, or operation of a motor vehicle dealership and performance of motor vehicle warranty service.

Dear Chairman Stroebel,

On behalf of the Alliance for Automotive Innovation (Auto Innovators), I thank you for the opportunity to express our opposition to SB 462, legislation that would change the longstanding, state-mandated automobile distribution system in Wisconsin. Auto Innovators membership includes the vehicle manufacturers that produce nearly 99 percent of all cars and light trucks sold in the U.S., as well as Tier One suppliers, battery manufacturers, and technology companies.

SB 462 would permit a manufacturer that makes electric vehicles (EVs) to sell those electric vehicles (and only those vehicles) through stores that the manufacturer owns. The bill may appear to treat every manufacturer equally under the state law. Functionally, however, it would have disparate impacts within the industry and give some companies an unfair advantage over their competitors. Allowing manufacturers that have heavily-regulated contracts with franchised new car dealers to also open stores to sell electric vehicles would create new problems rather than put everyone on equal footing.

The first problem that the bill would create for legacy manufacturers seeking to use these provisions is that their products would be split. EVs could be sold and serviced through both manufacturer stores and dealerships, but internal combustion vehicles could only be sold and serviced through a dealership. That is a recipe for customer confusion about a brand. In addition, a manufacturer could not simply sell EVs exclusively through a manufacturer-owned store and sell internal combustion vehicles through dealerships because Wisconsin law requires the manufacturer to make all of its vehicles under a franchise available to the dealer.¹

Another problem is that the bill creates risk of lawsuits from dealers against manufacturers if manufacturer-owned stores operate in the same area as independent franchisees and sell the same products. Indeed, Wisconsin law already has a provision that allows dealers to challenge the fairness of any change to the system of allocation for vehicles.²

¹ Wis. Stat. § 218.0116(1)(v).

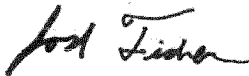
² Wis. Stat. § 218.0123.

The Wisconsin automobile franchise law treats all competitors equally in a state-mandated system of distribution. Automakers have made considerable investments into that franchise system for generations, and they are bound to that system by contracts that the state heavily regulates. Nothing is preventing a new market entrant from competing in Wisconsin under the same set of rules that everyone plays by. Equal treatment of all competitors is critical, and ultimately benefits consumers as automakers compete for their business.

Auto Innovators welcomes added competition. Indeed, one of the strengths of the automobile industry is that it is so competitive. It has many manufacturers that develop sophisticated, modern vehicles that continue to grow safer, cleaner, and smarter than ever. That competitive marketplace benefits when state laws that govern the sale of vehicles provide a fair and equitable playing field for all and is not changed to serve the interests of a select few.

Due to these reasons, we ask that you vote against the passage of SB 462. Thank you for your consideration of our position. Please do not hesitate to contact me, should I be able to provide any additional information.

Sincerely,

A handwritten signature in black ink that reads "Josh Fisher". The signature is written in a cursive, slightly slanted style.

Josh Fisher
Director, State Affairs
Alliance for Automotive Innovation



**Metropolitan Milwaukee
Association of Commerce**

Testimony: SB 462 / AB 439

**Andrew Davis, Director for Government Affairs
Metropolitan Milwaukee Association of Commerce
August 25, 2021**

Mr. Chairman and members, thank you for the opportunity to voice MMAC's support for these bills.

We live in an era of exciting and sometimes disruptive change. Over the past decade, new technologies and new business models have changed everything. Numerous products have been moving directly from market production straight to consumers for years already. In this era of rapidly changing automobile technology, transportation is the most recent market that's been disrupted.

This legislature has attempted to harness that disruption and put Wisconsin in position to capture some of its wake to no avail. Once again, SB 462 and AB 439, recognize the change that is taking place in the automobile industry and the opportunity to put Wisconsin on the map as a car manufacturing state again. This legislation allows Wisconsin to embrace that change and all the opportunity that comes with it.

The MMAC's mission is to invest capital, grow business and create jobs. We are the founding members of the Milwaukee7, the regional economic development organization in southeast Wisconsin. Their team helps bring job creators to the region and are pivotal partners in helping local companies expand their businesses. This legislation opens the door to greater competitiveness for our economic development team when they pursue and recruit companies and all EV related manufacturing to bring them to Wisconsin. Changing the law, changes the game for those recruitment efforts.

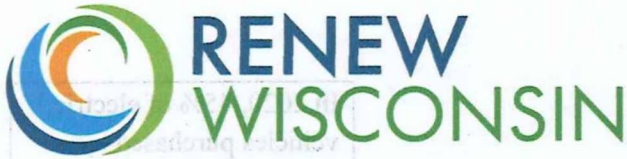
Electric vehicles are the technology of today, and they're here to stay. Wisconsin can be on the cutting edge of the automotive and battery industries driving these products to market and directly to consumers. But only if we act now and allow our state to do so. Wisconsin is well positioned to be a national leader in this growing area of the economy, but only if we adapt our laws to the changes that have occurred around us in the marketplace. Until we do, Wisconsin will continue to be looked over and passed by as automotive companies continue to innovate.

History is not on the side of the status quo. The economy is changing, and we need to change our laws if we want the Wisconsin economy to benefit. Consumers are already changing their patterns of what they want and how they want to get it. Will the future be something we let happen to us, or will it be something that we take an active role in shaping?

The legislation before you today positions Wisconsin to be an active participant in an exciting future in this sector of our economy. These bills acknowledge that Wisconsin cannot truly be "open for business" if we have regulatory walls keeping new business models out.

I thank you again for hearing testimony on these pieces of legislation. I urge your favorable consideration of SB 462 to send a clear message of Wisconsin's strong commitment to remaining globally competitive in the innovation economy of the 21st Century.

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Committee on Government Operations, Legal Review and Consumer Protection

Wednesday, August 25, 2021

SB 462 – *Direct Sales and Service of Electric Vehicles*

Testimony by Jeremy Orr, Emerging Technologies Program Manager

Mr. Chairman and Committee members, thank you for the opportunity to speak today. My name is Jeremy Orr, Emerging Technologies Program Manager for RENEW Wisconsin. We are a not-for-profit organization that supports the development of renewable energy and energy saving technology in Wisconsin.

RENEW Wisconsin supports SB 462 and we urge you to support passage as well.

Why? The free market has spoken, both in terms of consumer interest in electric vehicles, and consumer interest in buying directly (online or straight from manufacturer)

- Bloomberg projects 70% of global passenger vehicle sales in 2040 will be electric
- Here in Wisconsin, we can expect anywhere from 25%-50% electric vehicle adoption by 2050 (2019 analysis conducted by RENEW Wisconsin and UW Wisconsin graduate students; does not include potential adoption resulting from Federal legislation or other State legislation)
- Research shows
 - Consumers do much of their research online.
 - Some of their vehicle purchasing is online.
 - The virtual EV marketplace will grow as rapidly as the growing EV market.

This Bill allows consumers to do just that – shop for an electric vehicle online, directly from the manufacturer, *if they so choose*. It would permit Wisconsin's consumers greater access to EVs that better suit their financial and driving needs by allowing them to purchase online or directly from the manufacturer-dealership without having to travel to Illinois or Minnesota. This Bill simply *removes market barriers* to consumer choices.

It also has the potential to bring jobs to Wisconsin by opening the door for companies like Fisker, Rivian, Lucid, and Tesla to both manufacture and sell EVs directly in Wisconsin, if they so wish.

Most importantly, this bill would allow Wisconsin *consumers to decide how they* want to shop for a new electric vehicle. It would allow consumers to make that choice for themselves.

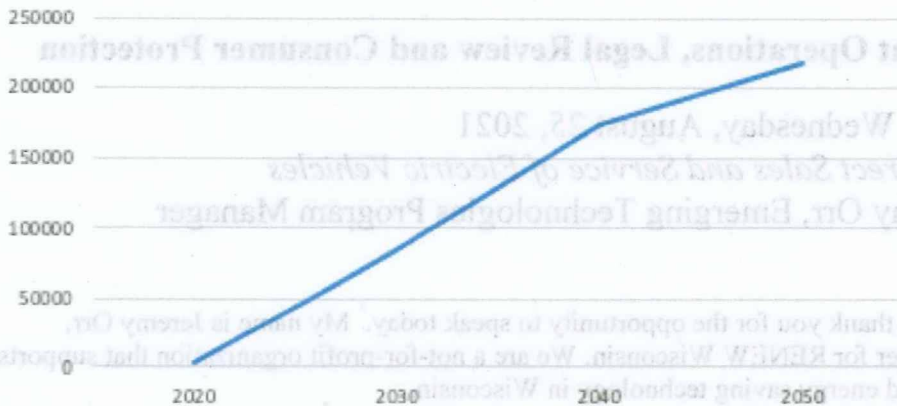
This Bill isn't anti-dealership; It's Pro-Consumer choice; It's Pro-Free Market;

- It is not designed to put dealerships out of business.
- It is about diversifying Wisconsin's auto industry and Wisconsin's economy.
- And it means letting consumers decide for themselves, how they want to shop and purchase an electric vehicle

Again, we urge you to support passage of this legislation!

Thank you and I would be happy to try and answer any questions.

WI EV Adoption Scenario
Downscaled from Bloomberg's EV Outlook 2021



In 2020, 45% of electric vehicles purchased by Wisconsinites were purchased in-state, and 55% were purchased out-of-state.

That's **55% in lost sales revenue** due to an out-of-state electric vehicle purchase!

The chart illustrates the WI EV Adoption Scenario based on Bloomberg's EV Outlook 2021 downscaled to Wisconsin. Analysis conducted by Robin Lisowski of Slipstream (Aug 2021).¹

Data suggests Direct Sales helps, not hinders, dealerships and the general economy (Mackinac Center):



Since the Direct Sales model emerged in 2012, nationwide traditional automobile sales and dealer revenue increased;

- Sales increased by 52%
- Employment growth of 18%

States that allow Direct Sales, outperformed the national average;

- Sales growth of 58%
- Employment growth of 21%

States that do not allow Direct Sales show only 29% sales growth and 12% employment growth (below the national average)

Additional Consumer Data:

- In 2020, 80% of electric vehicles were sold through direct sales.
 - The nation's 16,682 franchise dealerships sold 44,902 plug-in vehicles in 2020, fewer than 3 per dealership. (Mackinac Center).
- 33% of new car purchases will be online by 2035 (Boston Consulting Group)
- More than 70% of consumers want to conduct at least some part of car buying process online (Cars.com)
- Edmunds predicts record EV sales in US in 2021
 - Projected growth from 1.9% to 2.5% of all vehicles in 2021

¹ This analysis utilized Bloomberg's EV Outlook 2021 downscaled to Wisconsin. For example, Bloomberg's outlook says by 2030, 34% of all vehicle sales will be electric, by 2040 70%, and by 2050 88%. The analysis used a 2020 number provided by the DOT for new registrations/sales and took a very conservative approach by assuming no growth in future EV sales overall. The graph shows the escalation of EV adoption. 2020 EV sales and EV registration statistics are also included.



Wisconsin Technology Council

August 25, 2021

TO: Members of the Senate Committee on Government Operations, Legal Review and Consumer Protection.
FROM: Tom Still, president of the Wisconsin Technology Council
RE: Senate Bill 462, relating to ownership, control, or operation of a motor vehicle dealership and performance of motor vehicle warranty service

Dear Chairman Stroebel and committee members:

The Wisconsin Technology Council supports SB 462 and its Assembly companion, AB 439, which allow manufacturers that produce only electric-powered automobiles to sell directly to consumers and perform warranty services.

This bill is consistent with several guiding principles of the Tech Council, which is an independent, non-profit company that has provided advice and recommendations to the governor and the Legislature since its creation in 2001.

Support innovation: The electric vehicle revolution is in full swing. While the nation's vehicle fleet will not be fully electric for decades, the transition is well under way. Companies such as Tesla have helped set the pace with vehicles that are technologically advanced, simple in design and appealing to a certain segment of the marketplace. Other companies that manufacture all-electric vehicles are emerging, as well, and this legislation ensures they are also able to open their own dealerships and to provide service to customers in different ways.

"First, do no harm": While some people think that phrase applies to the medical profession only, the Tech Council has traditionally supported legislation that opens the state to competition and innovation – and has opposed bills that put the state at a competitive disadvantage versus other states. This bill would make Wisconsin the 30th state to allow dealerships, charging stations and repair facilities for manufacturers who make and sell only electric-powered vehicles. That is good for consumers in Wisconsin and, ultimately, beneficial to the state.

Build on Wisconsin's reputation as a tech-savvy state: Wisconsin's technology footprint is remarkably diverse. Despite some perceptions to the contrary, the Badger state is not trapped in a 20th century economic model. Wisconsin is making important strides in the life sciences, information technology, "cleantech," advanced manufacturing and much more. This bill represents a chance to demonstrate Wisconsin's openness to technology, companies and investors that may want to call the state home.

Thank you for your time and continued interest in building the Wisconsin economy through innovation. On behalf of the Tech Council, I hope you can pass this bipartisan bill.



Senate Committee on Government Operations
Legal Review and Consumer Protection
Chairman Duey Stroebel
Room 18 South
State Capitol
PO Box 7882
Madison, WI 53707

Thank you to Chairman Stroebel and members of the Senate Committee on Government Operations Legal Review and Consumer Protection for the opportunity to submit testimony today in support of Senate Bill 462. Wisconsin Conservative Energy Forum has a unique mission in our state; to bring a free market, conservative voice to the debate over energy and emerging technologies like electric vehicles. Our support for SB 462 is grounded in the understanding that the electric vehicle market is quickly emerging and these new vehicles offer Wisconsin a large economic and consumer opportunity.

Electric vehicles are arriving quickly to Wisconsin's streets; they are no longer a science fiction dream of Elon Musk and Tesla isn't the only company capitalizing on energy innovation. In fact, Reuters Business reports 29 major auto manufacturers around the world are investing roughly \$300 billion in battery and electric vehicle technology. General Motors, Ford, and Toyota have all made announcements about what the future of automotive transport will be: electric.

It's easy to see why electric vehicles have the potential to be popular with consumers. Without fuel and maintenance costs such as oil changes, electric vehicles are far cheaper to drive and maintain over the lifetime of the car. Batteries are also becoming increasingly efficient with the cost of battery technology plummeting in the last five years alone.

The two largest impediments to advancing the electric vehicle market are sticker cost and range. As battery technology advances energy density increases, allowing for more miles to a single charge and cost decreases, making electric vehicles more cost competitive with traditional engines. Ford, Tesla, General Motors and a host of other automakers are proving the results, introducing new electric models with higher ranges and lower costs than ever before.

As a result, the electric vehicle market is poised for a decade of aggressive growth. This can be hugely beneficial to everyday consumers that now have the opportunity to tap into a new technology at a cheaper price and Wisconsin stands to benefit economically. In our state, without oil or natural gas deposits, we send nearly \$9 billion out of state to purchase fuel for our vehicles. Electric vehicles offer us the ability to "fuel up" with an energy source that can be locally generated right in our back yards or even on our rooftops, bringing jobs and investment back to the state.



SB 462 looks to moves our state in the correct direction to seize that opportunity. Their bill would simply allow electric vehicle makers, from Tesla to new startups like Fisker and Lordstown Motors, to sell their vehicles directly to consumers. This is already allowed in 28 states across the country. For policymakers there should be a focus on knocking down barriers to entry in the new electric vehicle market. Increased competition and the pursuit of new and innovative business models have the potential to drive down costs for consumers. This is how we get to an electric vehicle future; through increased competition and innovative business solutions. As the vehicle market changes, offering more choices and allowing **innovation will be important for both consumers and the state's economy.**

State statutes and regulation should not dictate the business models of companies looking to sell electric vehicles in Wisconsin and should not dictate to consumers how they shop in this market. Indeed Fisker, an electric vehicle startup in partnership with Foxconn, is reportedly considering manufacturing their vehicles right here in our state. **Shouldn't they be allowed to sell those vehicles however they see fit?**

We have a significant opportunity to utilize this superior technology and give new meaning to homegrown energy to create jobs and economic development. The future is here, and step one in Wisconsin should be making certain consumers have the ability purchase electric vehicles in this growing market. With forward looking leadership our state has an opportunity to lead in the next generation of vehicles. We applaud Senator Kooyenga and Representative Neylon for showing leadership and stepping up to find solutions and pursue these opportunities.

Thank you again for the opportunity to submit testimony in support of Senate Bill 462. Please feel free to contact us with any questions you may have.

Scott Coenen
Executive Director
Wisconsin Conservative Energy Forum