

MOTOR VEHICLE INDUSTRY LICENSING BOARD  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

MINUTES OF MEETING

Date: April 13, 2021

Time: 9:00 a.m.

Place: Virtual Videoconference Meeting – Zoom Webinar  
<https://dcca-hawaii-gov.zoom.us/j/94245451328>

Present: Wayne K. De Luz, Industry Member, Chairperson  
Steven J. T. Chow, Esq., Public Member, Vice-Chairperson  
Byron A. Hansen, Public Member  
John Uekawa, Industry Member  
Russell M. K. Wong, Industry Member  
Kedin C. Kleinhans, Executive Officer (“EO”)  
Kerrie E. Shahan, EO  
James R. Skizewski, EO  
Jenny M. Yam, EO  
Christopher J. I. Leong, Deputy Attorney General (“DAG”)  
LaJoy A. Lindsey, Secretary  
Christine V. Dela Cruz, Office Assistant  
Stephanie M. Karger, Office Assistant

Excused: None

Guests: Dave Rolf, Hawaii Auto Dealers Association

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by §92-7(b), Hawaii Revised Statutes (HRS).

A short video was played to explain the meeting procedures and how members of the public could participate in the virtual meeting.

Call to Order: Chairperson De Luz called the meeting to order at 9:04 a.m., at which time quorum was established. All Board members confirmed that they were present.

Executive Officer’s Report: EO Kleinhans introduced EO Yam, and reported that she was assigned to be the Board’s new EO moving forward. Due to the many industry intricacies, he will work closely with EO Yam during the transition. EO Yam briefly introduced herself to the Board.

February 9, 2021 Meeting; Motions Deferred EO Kleinhans reported after the February 9, 2021 Board meeting, he discovered the agenda was not posted on the State electronic calendar as required by HRS §92-7(b). To remedy the matter, the Board may vote on the previous agenda items at this meeting.

DAG Leong stated the purpose is to record motions and votes.

Approval of Minutes  
December 15, 2020  
Board Meeting:

It was moved by Mr. Wong, seconded by Mr. Uekawa, and unanimously carried to approve the minutes of the December 15, 2020 Board meeting.

Licensing:

- a. Ratification List of February 9, 2021

Motor Vehicle Salesperson Transfers  
Motor Vehicle Salesperson Licenses  
Motor Vehicle Dealer Licenses  
Motor Vehicle Distributor Licenses  
Motor Vehicle Manufacturer Licenses

It was moved by Mr. Wong, seconded by Mr. Hansen, and unanimously carried to approve the Ratification List of February 9, 2021.

Legislative  
Session:

- a. Bills Relating to the Motor Vehicle Industry

EO Kleinhans reported the bills relating to the motor vehicle industry discussed at the February 9, 2021 meeting and added they are all effectively dead for this session. He summarized the bills and previous Board discussion:

- (i) House Bill No. 393  
Relating to Ground Transportation

This measure established goals for the State to reduce emissions that cause climate change and build energy efficiencies across all sectors, including establishing a clean ground transportation target for light duty vehicles. The measure also prohibited the sale of new motor vehicles that are solely powered by fossil fuels and designed for personal use by Dealers and Salespersons beginning on a date to be later determined.

There were concerns about that legislation prohibiting products would be unfair to consumers; in particular, the most vulnerable consumers due to the high cost of manufacturing electric vehicles. The language would not preclude a consumer from purchasing a motor vehicle from an out-of-State Dealer.

Motor vehicle manufacturers are aware of the need to transition to electric vehicles; however, there is a considerable amount of time involved to evaluate assets and transition the motor vehicle fleet.

It was moved by Mr. Wong, seconded by Mr. Uekawa, and carried by the majority, with the exception of Vice-

Chairperson Chow who abstained from voting on this matter, to testify on this measure with comments and concerns regarding prohibition and the limitation of consumer choice, its consequent impact to commerce, and to report that Manufacturers see the need to change and are currently moving to non-fossil fuel fleets.

(ii) House Bill No. 463  
Relating to Climate Change

This bill is similar to House Bill No. 393 with a prohibition date of January 1, 2030.

It was moved by Mr. Wong, seconded by Mr. Uekawa, and carried by the majority, with the exception of Vice-Chairperson Chow who abstained from voting on this matter, to testify on this measure with comments and concerns regarding prohibition and the limitation of consumer choice, its consequent impact to commerce, and to report that Manufacturers see the need to change and are currently moving to non-fossil fuel fleets.

(iii) House Bill No. 602 / Senate Bill No. 171  
Relating to Registration of Vehicles

These bills amended the procedure of transferring the title or ownership interest in a vehicle; required the transferor, or transferor's representative with the appropriate documentation, and transferee to appear in person before the clerk of the respective county Department of Motor Vehicles ("DMV") to execute the transfer of title; and exempted licensed dealers from appearing in person with the transferee to execute such transfer.

There were concerns the amendments consequently required a thirty-day period, and placed the burden on the Dealer, but the Dealer has no control over the process because each County DMV handles the delivery of the certificate of ownership title. These bills would require Dealers to hold more inventory; consequently, spending more on carrying costs, interest, insurance, and storage fees which may pass down to consumers.

It was moved by Mr. Wong, seconded by Mr. Uekawa, and carried by the majority, with the exception of Vice-Chairperson Chow who abstained from voting on this matter, to testify in opposition to this measure.

(iv) House Bill No. 804  
Relating to Environmental Protection

This bill is similar to House Bill Nos. 393 and 463 with a prohibition date of January 1, 2035.

It was moved by Mr. Wong, seconded by Mr. Uekawa, and carried by the majority, with the exception of Vice-Chairperson Chow who abstained from voting on this matter, to testify on this measure with comments and concerns regarding prohibition and the limitation of consumer choice, its consequent impact to commerce, and to report that Manufacturers see the need to change and are currently moving to non-fossil fuel fleets.

(v) Senate Bill No. 21  
Relating to Motor Vehicles

This bill established a zero net vehicle growth policy in the State to ensure that the number of vehicles in the State does not exceed the vehicle threshold; prohibited the importation of a vehicle into the State unless the dealer or individual importing the vehicle demonstrates proof that an existing vehicle in the State was recycled, destroyed, or transported out of the State and the importation of the vehicle does not cause the total number of vehicles in the State to exceed the vehicle threshold; and required proof of compliance for Dealers and individuals importing vehicles into the State.

There were concerns the measure required Dealers and consumers to submit proof of compliance with the zero net vehicle growth policy; however, Dealers do not have a mechanism for tracking motor vehicles not within their inventory, and consumers are able to purchase motor vehicles out-of-State, but is subsequently required to demonstrate proof an existing vehicle in the State was recycled, destroyed, or transported out-of-State. Dealers would be further required to deliver a motor vehicle to a consumer who purchased from an out-of-State Dealer at no charge.

It was moved by Mr. Wong, seconded by Mr. Uekawa, and carried by the majority, with the exception of Vice-Chairperson Chow who abstained from voting on this matter, to testify in opposition to this measure.

b. Bills Relating to Board Meetings, Members, Interactive Conference Technology

EO Kleinhans reported most of the following bills relate to Board meetings, members, and help facilitate meetings through Interactive Conference Technology are effectively dead for this session.

- (i) House Bill No. 157 / Senate Bill No. 456  
Relating to Public Agency Meetings and Records
- (ii) House Bill No. 166 / Senate Bill No. 439  
Relating to Sunshine Law Boards
- (iii) House Bill No. 168 / Senate Bill No. 393  
Relating to Public Agency Meetings and Records
- (iv) House Bill No. 190 / Senate Bill No. 442  
Relating to Sunshine Law Boards
- (v) House Bill No. 503 / Senate Bill No. 661  
Relating to Board Meetings
- (vi) House Bill No. 677  
Relating to The Sunshine Law
- (vii) House Bill No. 880 / Senate Bill No. 1034  
Relating to Sunshine Law Boards
- (viii) Senate Bill No. 9  
Relating to Board Members
- (ix) Senate Bill No. 592  
Relating to The Uniform Information Practices Act
- (x) Senate Bill No. 610  
Relating to Boards and Commissions

It was moved by Mr. Wong, seconded by Mr. Hansen, and carried by the majority, with the exception of Vice-Chairperson Chow who abstained from voting on this matter, to track these measures.

Chapter 91, HRS  
Adjudicatory  
Matters:

Chairperson De Luz called for a recess from the meeting at 9:28 a.m., to discuss and deliberate on the following adjudicator matters pursuant to Chapter 91, HRS (Note: Board members and staff entered into the Microsoft Teams meeting):

- a. In the Matter of the Motor Vehicle Dealer License of Jim Falk Motors of Maui, Inc.; MVI 2020-18-L

It was moved by Mr. Hansen, seconded by Vice-Chairperson Chow, and unanimously carried to approve the Settlement Agreement After Filing of Petition for Disciplinary Action and Board's Final Order.

Following the Board's review, deliberation, and decision on these matters pursuant to Chapter 91, HRS, Chairperson De Luz announced that the

Board reconvene to its regular Chapter 92, HRS, meeting at 9:38 a.m.  
Board members and staff returned to the Zoom meeting.

A roll call was taken to reestablish quorum, and all Board members confirmed that they were present.

Licensing:

a. Ratification List of April 13, 2021

Motor Vehicle Salesperson Transfers  
Motor Vehicle Salesperson Licenses  
Motor Vehicle Dealer Licenses  
Motor Vehicle Manufacturer Licenses

Mr. Hansen requested the following amendment to the ratification list for Motor Vehicle Salesperson License:

Micah J. Fernandez employed by Niethammer Family LLC dba King Honda be removed from City and County of Honolulu and added to County of Kauai.

It was moved by Vice-Chairperson Chow, seconded by Mr. Hansen, and unanimously carried, to approve the Ratification List of April 13, 2021 with the aforementioned amendment.

Legislative Session:

EO Kleinhans reported the following legislative resolutions and bills:

a. Relating to the Motor Vehicle Industry

- (i) Senate Resolution No. 176 /  
Senate Concurrent Resolution No. 213  
(and subsequent drafts)  
Urging the State to Consider and Adopt Innovative Policies to Improve Transit and Reduce Traffic Congestion

The initial drafts adopted a zero net growth policy similar to Senate Bill No. 21. The policy has been removed in Senate Draft 1 to clarify that part of the intent of the resolution is to reduce traffic congestion. Senate Draft 1 also broadens the composition of the proposed working group.

It was moved by Mr. Wong, seconded by Mr. Uekawa, and unanimously carried to track these resolutions.

b. Relating to Board Meetings, Members, Interactive Conference Technology

- (i) Senate Bill No. 610 (and subsequent drafts)  
Relating to Boards and Commissions

This bill was not heard by the House Committee on Consumer Protection & Commerce and is effectively dead for this session.

- (ii) Senate Bill No.1034 (and subsequent drafts)  
Relating to Sunshine Law Boards

This bill was heard from all assigned legislative committees.

Discussion on  
Finance and Cash  
Value of Motor  
Vehicles:

Chairperson De Luz provided a scenario where a consumer traded in his/her vehicle during a purchase, and at a later time was found unable to qualify for financing which would void the purchase; however, upon return found the Dealer had already sold the trade-in.

Dave Rolf asked to be recognized. Chairperson De Luz recognized Mr. Rolf to provide his public comment.

Mr. Rolf introduced himself and thanked the Board for their time. He provided possible rule language to address the concern:

In the event financing is not obtained in a reasonable amount of time under the terms of the financing agreement, the Dealer must return any consideration, including any trade-in vehicle received, that is covered under the financing agreement.

Dave indicated the language is still in draft form and will provide final language for Board consideration.

Hawaii Administrative  
Rules Chapter 86: EO Kleinhans reported amendments to Subchapter 3 as requested from the previous meeting.

Section 16-86-6 returns to the old language to address concerns on the verbiage "under the purview":

- (a) Any person who engages in the business as or serves in the capacity of, or acts as a motor vehicle dealer, motor vehicle salesperson, motor vehicle auction, [~~motor vehicle auctioneer,~~] motor vehicle manufacturer, [~~factory branch, factory representative,~~] or motor vehicle distributor [~~, distributor branch, or distributor representative~~] in this State or otherwise engages in the business of seeing or negotiating for the purchase of motor vehicles in this State are required to be licensed as provided for in chapter 437, HRS, and this chapter.
- (b) A motor vehicle manufacturer [~~factory branch, factory representative,~~] or motor vehicle distributor [~~, distributor branch, or distributor representative~~] who pays the applicable fee(s) for one

county shall not be assessed additional license fee(s) to operate in other counties in this State. An [Applicant] applicant for motor vehicle manufacturer or motor vehicle distributor desiring to operate in more than one county shall indicate this in the original application or advise the board in writing and the information shall be reflected on the license certificate.

(c) [Licenses issued under the provisions of chapter 437, HRS, shall be nontransferable.] A motor vehicle consumer consultant shall not act, or assume to act, as a motor vehicle consumer consultant in this State without a registration issued by the board in compliance with this chapter and chapter 437, HRS.

EO Kleinhans reported new amendments to Subchapter 4 and recalled from a previous Board meeting that rule language regurgitating the statute may not be necessary, especially if the statute were to change. He will compare Subchapter 4 with HRS 437 and eliminate regurgitating rule language.

Mr. Rolf inquired if the proposed HAR section 16-86-11(a)(12) required a Dealer applicant to submit a franchise agreement with their Manufacturer or Distributor.

EO Kleinhans responded there is no language that prohibits an entity from having both a Dealer and Manufacturer or Distributor license; consequently, franchising with their self. Further discussion on the particular matter may be a new agenda item.

Public Comment: None.

Next Meeting: June 8, 2021  
9:00 a.m.  
Virtual Videoconference Meeting  
Zoom Webinar

Adjournment: There being no further business to discuss, the meeting adjourned at 10:25 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Jenny M. Yam

/s/ LaJoy Lindsey

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Jenny M. Yam  
Executive Officer

\_\_\_\_\_  
LaJoy Lindsey  
Secretary

JMY:ll  
4/13/21

[ x ] Minutes approved as is.  
[ ] Minutes approved with changes. See Minutes of \_\_\_\_\_.