

**Senate Intergovernmental Operations Committee Hearing**  
**Regulatory Reform, Red Tape Reduction & Transparency**

**December 12, 2019**

I would like to thank chairman Senator Mastriano and this committee for the opportunity to present my remarks regarding regulatory issues facing our business. My name is Bryan Burkholder, Vice President of Shively Motors for over 22 years in Chambersburg. As a constituent, resident, NFIB member, and member of the Chambersburg chamber of commerce, I appreciate your interest today in improving the business climate in the state of Pennsylvania. The balance between government regulations and free market business has always been a challenge. Regulations, while necessary in the course of business and the protection of consumers, can quickly become burdensome, impractical, and many times cause unintended consequences.

Unfortunately, many times new regulations seem to be written by individuals who never worked in the fields that they attempt to regulate. Since no one person can be an expert in every field, I believe that those in the legislature should at least consult with actual businesses in the field that they plan to regulate. By working with businesses and having candid conversations about how the new regulations would affect business and consumers, perhaps regulations could be more effective. This could possibly avoid some of the unintended consequences many times only discovered after they are enacted.

The automotive industry has always been heavily regulated on both the federal and state levels. One of the many agencies is the Pennsylvania Department of State. The Department of State regulates the issuance of Dealer sales licenses as well as individual vehicle salesperson licenses. While most vehicle dealers do not have an issue with the requirement to be licensed, there have been multiple issues with the burdensome regulations that are faced in obtaining that initial license. Some of the requirements are not even immediately possible since the business is just being established. Fortunately, the Pennsylvania Automotive Association was able to work with the Department of State and create a provisional license that would allow a new dealer to operate while the final requirements can be met. This, however, only applies to a new vehicle dealer and still can be difficult to complete. A continuing issue, however, still exists in the hiring of a new salesperson.

The Department of State also requires that each vehicle salesperson be licensed. Part of the application for a license includes a criminal background check. The larger issue is that the department requires a separate background check from each state that the applicant resided in the last five years. They will not accept a 50-state background check. There are sources to obtain near instant federal background checks. Obtaining individual state background checks can be time consuming. Once obtained, the department can take several weeks or more to process the application. The department states that a person can not act as a vehicle salesperson until licensed by the board.

This creates an unintended consequence. As a dealer you interview a potential employee as a salesperson. They do not have a current salesperson license in Pennsylvania. You can hire them, but they can not work as a salesperson. It could take weeks to a month or more to obtain the license. How does a business afford to hire a person for a job they are not allowed to perform? Yet, a person cannot obtain a vehicle salesperson license without being hired by a dealership. This can prove particularly difficult for

an employee who perhaps was in the military and lived in multiple states. Even though they may have a clean criminal record, this requirement could make it very difficult for them to be licensed to sell vehicles. If a potential employee, however, holds a current Pennsylvania salesperson license, they can sell immediately upon submission of a change of employer application. This can make it very difficult for a person to begin a career as a vehicle salesperson.

Again, I believe that most vehicle dealers do not want criminals working at their business, and many already do background checks prior to hiring as good business practice. A possible remedy to this situation could be like the changes made for initial dealer licenses. Create a provisional license for new salespersons so that it does not prohibit them the right to work while the final requirements can be met. Another improvement could be the ability to submit a federal background check opposed to the individual state background checks. The Department of State created a new website nearly two years ago to process applications, however, it is still not fully functional. It has proven to not be user friendly and difficult to navigate. With the technology available today, there should be no reason that applications could not be done online and reviewed in days, not weeks.

I would like to again thank the committee for hearing my remarks. I hope that you find this information helpful in your study of regulatory reform.