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Tesla Clashes With Car Dealers

Electric-Vehicle Maker Wants to Sell Directly to Consumers; Critics Say Plan Violates Franchise Laws

By MIKE RAMSEY and VALERIE BAUERLEIN



The state of North Carolina may pass a law banning sales of Tesla cars in favor of protecting the business of car dealership franchises, forcing Tesla consumers like Artis Beatty to act quickly with their purchases. WSJ's Michael Ramsey reports.

RALEIGH, N.C.—Elon Musk made a fortune disrupting the status quo in online shopping and renewable energy. Now he's up against his toughest challenge yet: local car dealers.

Mr. Musk, the billionaire behind PayPal and now [Tesla Motors Inc.](http://www.tesla.com), wants to sell his \$70,000 Tesla electric luxury vehicles directly to consumers, bypassing franchised automobile dealers. Dealers are flexing their considerable muscle in states including Texas and Virginia to stop him.



Tesla's Elon Musk has made a fortune disrupting the status quo in online shopping and renewable energy. Now, he's up against his toughest challenge yet: local car dealers. Michael Ramsey reports. Photo: Getty Images.

The latest battleground is North Carolina, where the Republican-controlled state Senate last month unanimously approved a measure that would block Tesla from selling online, its only sales outlet here. Tesla has staged whiz-bang test drives for legislators in front of the State House and hired one of the state's most influential lobbyists to stave off a similar vote in the House before the legislative session ends in early July.

The focus of the power struggle between Mr. Musk and auto dealers is a thicket of state franchise laws, many of

which go back to the auto industry's earliest days when industry pioneer Henry Ford began turning to eager entrepreneurs to help sell his Model T.



Stephen Voss for The Wall Street Journal

Tesla 'galleries' such as this one in McLean, Va., can show but not sell cars.

Dealers say laws passed over the decades to prevent car makers from selling directly to consumers are justified because without them auto makers could use their economic clout to sell vehicles for less than their independent franchisees. Dealers say Tesla's direct sales violate those laws. These franchise laws have insulated car dealers from much of the e-commerce revolution that has hammered other sectors from books to electronics.

Franchise laws don't apply to Tesla, Mr. Musk has said, because the company has never had franchised dealers. This argument has been a winner for Tesla in court skirmishes with dealers in New York and Massachusetts.

It has fared less well in state houses where lawmakers are more attuned to the concerns of important local employers and political donors.

Selling Hurdles

Tesla has opened more than two dozen stores or galleries in the U.S. but state laws can make finding a location difficult in some places.

STORES ALLOWED: In N.Y., N.J., Mass., Calif., Fla., Wash., Penn., Ill., and the District of Columbia residents can buy vehicles at company-owned Tesla stores

ONE STORE: Colorado and Oregon have one outlet each, but Colorado won't allow new stores and car dealers in Oregon want to close Tesla's one store.

ONLY GALLERIES: Texas, Arizona and Virginia have Tesla 'galleries' where cars can be viewed, but the vehicles can't be sold or test driven

NO STORES: North Carolina and remaining states have no stores or galleries. Their residents may order by phone or Internet.

Source: company reports, WSJ research

If Tesla is successful in establishing its own retail network, it could open the door for other new companies, such as Chinese auto makers, to set up direct sales networks, legal experts say. Dealers worry that existing car companies might try to create new subsidiaries to sell vehicles directly to consumers—a tactic [General Motors Co.](#) and [Ford Motor Co.](#) flirted with during the late 1990s before retreating in the face of a dealer backlash.

Franchise laws differ by state. Most prohibit manufacturers from having both company and franchised stores. Some states, like North Carolina and Texas, require manufacturers use independent dealers. In some states, including North Carolina, dealers are pushing lawmakers to strengthen prohibitions against any form of direct-to-consumer selling by auto makers.

Dealers have "an essential monopoly on their business and they want to maintain it," said Diarmuid O'Connell, Tesla's chief of business development. Car dealers and alcohol distributors, he said, are the rare businesses still vigorously fighting disruption by the Internet.



Stephen Voss for The Wall Street Journal

Mr. O'Connell said the company has been looking at a federal legal challenge based on limits to interstate commerce and at pursuing new legislation in Congress. The company is committed to selling direct, he said. Tesla doesn't break out its spending on lobbying, but its first quarter overhead costs rose 53% to \$47 million, in part because of hiring in sales and marketing.

Thomas Tallerico, a senior lawyer at Bodman PLC in Detroit who has represented auto makers and franchised

Shoppers can study Tesla's Model S cars at showrooms in several states but must use the Internet to buy.

dealers, said the chances of overturning franchise laws are dim.

"It is difficult to understand what the legal basis is by which Tesla could persuade a federal judge to strike down state laws designed to protect dealers, particularly when every state in the country has passed such laws and there is a federal law that protects dealers," he said.

Dealers' state house allies have given them tremendous sway. During their 2009 bankruptcies, GM and Chrysler terminated thousands of dealers using federal court's power to void contracts, but the pair were forced to go through binding arbitration and sometimes had to reinstate or buy out dealers because of state rules.

Mr. Musk, a founder of PayPal, co-founder of SolarCity Corp. and Space Exploration Technologies Corp., declined to comment for this article. At Tesla's annual meeting this month, Mr. Musk lashed out at dealers, calling their lobbying for laws to restrict Tesla sales a "perversion of democracy."

"I think customers are going to lead a revolt on this front," he said.

The clash in North Carolina illustrates the forces at play. Patrick Vaughn, a Charlotte investment banker, bought a pearl white Model S in January in a "simple and painless" online transaction. The car arrived with California temporary tags on a flatbed truck.

Mr. Vaughn said he doesn't buy that dealers, which are behind a proposal to block online car sales in the state, are trying to protect consumers. "They are trying to protect their turf—like any company would."

Thom Tillis, North Carolina's House speaker, said language that bars Internet car sales is unlikely to pass in the House.

David Westcott, chairman of the National Automobile Dealers Association who has a Buick-GMC dealership in Burlington, N.C., said Tesla's effort to sell direct to consumers was important to all dealers and something the national association was watching.

"The system has worked for a long time," he said. "We only want Tesla to play by the same rules," Mr. Westcott added.

Even if Tesla wins in North Carolina, it is still smarting from losing an effort last month to amend Texas law to allow the company to take orders at company-owned stores. Tesla has two retail showrooms, or "galleries," in the state, but buyers have to order the cars online from California. Mr. Musk made a push in Austin, trying to rally support, but the bill died without action and can't be reintroduced before 2015.

Bill Wolters, who leads the Texas Automobile Dealers Association and helped to defeat the Tesla-led proposal, said he is worried that GM or Ford might want to offer direct sales as well, cutting perhaps 15% out of the dealer business and putting thousands of business owners under.

Mr. Musk told shareholders he doesn't want to sell cars through established dealers because he doubts they'll advocate for electric vehicles as vigorously as Tesla would.

Many more battles remain. Tesla defeated a bill in Minnesota that would have blocked sales. But in Virginia, the state Department of Motor Vehicles has so far refused to issue Tesla a license to operate a company store.

Corrections & Amplifications

David Westcott is chairman of the National Automobile Dealers Association. An earlier version of this article misspelled his surname as Wescott and the group's name was incorrectly given as the National Auto Dealers Association.

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