



Robert F. O’Koniewski, Esq.

Executive Vice President

MEMORANDUM

TO: Governor Charles Baker
Lt. Governor Karen Polito

FR: Robert O’Koniewski

DT: July 25, 2022

RE: **URGENT - House 5060, *An Act Driving Clean Energy and Offshore Wind* – Proposed Needed Amendment**

On behalf of the Massachusetts State Automobile Dealers Association, which represents the interests of the 427 new-car and truck franchised dealers in the Commonwealth who employ over 25,000 men and women at their stores and whose economic activity represents almost 20% of the state’s retail economy, **I write to respectfully request that you provide the Legislature a further amendment to House 5060, *An Act Driving Clean Energy and Offshore Wind*, to correct what we believe is a drafting error that would have the immediate effect of prohibiting a Massachusetts automobile dealer from retailing any new vehicle that is not a “zero emission vehicle” as soon as you affix your signature to the legislation.**

As you know, both the California Air Resources Board’s (CARB) Advanced Clean Cars II and the Massachusetts Clean Energy and Climate plan for 2025 and 2030 require all passenger vehicle sales and most medium- and heavy- duty vehicle sales to be electric by 2035. Section 46 of House 5060 codifies this idea into state law by amending MGL 93B to prevent Massachusetts automobile dealers from selling any new vehicle in Massachusetts unless the vehicle is a ZEV:

SECTION 46. Subsection (d) of section 4 of chapter 93B of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by adding the following paragraph:- (4) to sell in-state any new vehicle that is not a zero-emission vehicle. For the purposes of this paragraph, “vehicle” shall mean a passenger car or light duty truck and “zero-emission vehicle” shall have the same meaning as defined in section 16 of chapter 25A.

However, as presently drafted and presented to you for your review and potential signature, Section 95 of House 5060 does not have a separately stated effective date for Section 46, consequently making the section effective upon your signature since both the House and Senate adopted an emergency preamble when enacting the legislation. We believe that Section 95 of House 5060 contains the intended effective date for Section 46 but, as drafted, instead contains the effective date for Section 45 of the legislation:

SECTION 95. Section 45 shall take effect upon the secretary of energy and environmental affairs’ certification in writing to the state secretary that a similar requirement regarding the sale of zero-emission vehicles has taken effect in the state of

California; provided, however, that said section 45 shall not take effect prior to January 1, 2035 unless otherwise authorized by section 142k of chapter 111 of the General Laws.

We do not believe that the Legislature intended to immediately ban the sale of all new non-ZEV vehicles. As one can imagine, such an action would create severe and devastating economic repercussions for the Massachusetts economy, our members and especially their employees and the automobile-buying public. Accordingly, we respectfully request that, should you sign House 5060 into law, you first amend Section 95 of House 5060, at lines 2079 and 2082, to replace "Section 45" with "Section 46".

Thank you for your attention to this request. Please do not hesitate to contact me if you require any additional information.