

LEGAL UPDATE: FORD ELECTRIC VEHICLE PROTEST

Protest Update

The IADA Legal Defense Fund has supported a group of 29 Illinois Ford dealers who have filed a protest with the Illinois Motor Vehicle Review Board to challenge Ford's misguided electric vehicle allocation program, the Ford Model e Program. Ford's Model e Program places unreasonable public charging station requirements and interferes with dealer/customer price negotiation, and unfairly allocates electric vehicles.

The Model e Program would erode important provisions in the Motor Vehicle Franchise Act. IADA has committed to defending the Franchise Act for the benefit of all Illinois dealers by providing up to \$100,000 in financial assistance to support the Ford dealer protest. With some of the new EV-only manufacturers attempting to sell vehicles direct, more and more challenges will arise.

The Motor Vehicle Review Board will hold a Mandatory Settlement Conference on Friday, **February 24, 2023**. After objections from Ford, the Board has set the hearing to commence on May 9, 2023, and will continue for several days. In addition, the parties have begun the process of discovery related to this dispute.

Changes to Model e

Ford announced several changes to the Model e Program during the NADA Show. Ford has not put the changes into writing, so additional details may emerge. Ford's changes appear to make the Model e Program slightly less burdensome, but fall short of reversing the fundamental violations of the Illinois Motor Vehicle Franchise Act that existed in the program as originally announced. Ford's announced changes are:

- Ford is no longer requiring the public Level 3 charger to be available around the clock but will instead require the chargers to be publicly available from 7 a.m. – 8p.m., 6 days a week. This change will reduce staffing and security burdens but does not eliminate the expense of purchasing and installing the chargers. The public charging requirement remains an unreasonable modification to the Ford Sales and Service Agreement as it is unrelated to a dealer's ability to sell or service electric vehicles.
- Ford is removing some of the burdens from dealers who sign up for the lower tier Certified Dealer status, purportedly adjusting the 25-unit allocation cap on Certified dealers and allowing Certified Dealers to advertise on Ford's website.
- Ford has also reduced the EV training cost by \$10,000, which is negligible for a program that requires Certified Dealers to invest an estimated \$500,000 and Certified Elite Dealers to invest an estimated \$1.2 Million.

As discussed, Ford has been unclear about these changes and has hinted that additional changes could be forthcoming. It is also unclear that Ford even has the capacity to manufacture enough vehicles to fulfill dealer orders.

Ford has not addressed fundamental flaws dealers have raised about the Model e Program, including Ford's interference with price negotiation, control over trade-in valuations, and unfair allocation.