

## Tesla's Battle for Direct Sales May Look to a 2013 Circuit Court Decision For Guidance

By Ben Hinshaw, J.D. Candidate 2017 | April 11, 2016

Tesla is an electric automotive company founded in 2003 that aimed to change the car industry. Tesla has a unique market strategy to achieve this goal. Differing from the usual car manufacturing company, Tesla focuses solely on electronic car technologies. Another part of Tesla's innovative strategy to disrupt the incumbent market leaders is direct sales. This difference is a crucial element for Tesla's [success](#). Having direct sales to consumers [avoids](#) the middleman of dealerships, reduces inventories, and better matches consumer's desires. This valuable market strategy is under constant threat as states like Texas and Michigan attempt to block direct sales.

The idea behind direct sales helps consumers avoid the costs associated with dealerships and allows for Tesla to earn more profit for each sale. However, the threat to the plan continues to come from dealerships, auto companies, and states that all have invested stakes in the current status quo. Tesla's challenge to overcome the norm is important for the company because the sales of the more affordable Model 3, which have reached over [325,000](#) preorders in less than a week, depends on direct sales.

Tesla's lawyers have been reviewing a 2013 5<sup>th</sup> US Circuit Court of Appeals decision that upheld a lower court's holding to strike down a state law that limited selling of caskets to only licensed members of the funeral industry. The 5<sup>th</sup> Circuit [explained](#) that a state can make decisions about its own regulation, but courts are not required to "accept nonsensical explanations for regulation."

Tesla plans to utilize this case as additional support in the effort to uproot the traditional auto industry and continue to sell directly to consumers. The need for dealerships developed because manufacturers had limited distribution and dealerships could better assess demand in their locality. That requirement is no longer necessary due largely to the ability to make purchases online. Tesla may argue that this regulation blocking direct sales is obsolete and hopes the courts will listen.