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LEGISLATIVE ACTION

Senate

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House

The Committee on Commerce and Tourism (Avila) recommended the following:

Senate Amendment to Amendment (224252) (with title amendment)

Delete lines 19 - 194

and insert:

distributor, or a licensee, or an affiliate thereof; or

(b) Who has more than 30 percent of its equity interest directly or indirectly controlled or owned, beneficially or of record, through any form of ownership structure, by one or more persons who also directly or indirectly control or own,



335364

beneficially or of record, more than 30 40 percent of the voting equity interests of a manufacturer, an importer, a distributor, or a licensee, or an affiliate thereof; ~~or~~

~~(b) Who shares directors or officers or partners with a manufacturer.~~

(c) Notwithstanding the foregoing, an entity that would otherwise be considered a common entity of a distributor under paragraph (a) or paragraph (b) because of its relation to a distributor is not considered a common entity of that distributor if:

1. The distributor that the entity is related to was a licensed distributor on March 1, 2023;

2. The entity is not a common entity of a manufacturer or importer; and

3. The distributor that the entity is related to is not, and has never been, a common entity of a manufacturer or importer.

(8) "Independent person" means a person who is not an agent, parent, subsidiary, common entity, officer, director, or an employed representative of a licensee, manufacturer, importer, or distributor.

(14) "Motor vehicle dealer association" means a not-for-profit entity organized under the laws of this state and qualified as tax-exempt under s. 501(c)(6) of the Internal Revenue Code which acts as a trade association that primarily represents the interests of franchised motor vehicle dealers and has a membership of at least 500 franchised motor vehicle dealers as defined in s. 320.27(1)(c)1.

(16)~~(15)~~ "Sell," "selling," "sold," "exchange," "retail



335364

sales," and "leases" includes:

(a) Accepting a deposit or receiving a payment for the retail purchase, lease, or other use of a motor vehicle, but does not include facilitating a motor vehicle dealer's acceptance of a deposit or receipt of a payment from a consumer, and does not include receiving payment under a retail installment sale contract;

(b) Accepting a reservation from a retail consumer for a specific motor vehicle identified by a vehicle identification number or other product identifier;

(c) Setting the retail price for the purchase, lease, or other use of a motor vehicle, but does not include setting a Manufacturer's Suggested Retail Price;

(d) Offering or negotiating with a retail consumer terms for the purchase, lease, or other use of a motor vehicle;

(e) Offering or negotiating with a retail consumer a value for a motor vehicle being traded in as part of the purchase, lease, or other use of a motor vehicle, but does not include a website or other means of electronic communication that identifies to a consumer a conditional trade-in value and that contains language informing the consumer that the trade-in value is not binding on any motor vehicle dealer;

(f) Any transaction where the title of a motor vehicle or a used motor vehicle is transferred to a retail consumer; ~~or, and also~~

(g) Any retail lease transaction where a retail consumer ~~customer~~ leases a vehicle for a period of at least 12 months, but does not include administering lease agreements, taking assignments of leases, performing required actions pursuant to



335364

such leases, or receiving payments under a lease agreement that was originated by a motor vehicle dealer. ~~Establishing a price for sale pursuant to s. 320.64(24) does not constitute a sale or lease.~~

Section 2. Section 320.605, Florida Statutes, is amended to read:

320.605 Legislative intent.—It is the intent of the Legislature to protect the public health, safety, and welfare of the citizens of the state by regulating the licensing of motor vehicle dealers and manufacturers, maintaining competition, providing consumer protection and fair trade and providing minorities with opportunities for full participation as motor vehicle dealers. Sections 320.61-320.70 are intended to apply solely to the licensing of manufacturers, factory branches, distributors, and importers and do not apply to non-motor-vehicle-related businesses.

Section 3. Subsections (18), (23), and (24) of section 320.64, Florida Statutes, are amended to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license of a licensee under s. 320.61 may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, upon proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing, and a licensee or applicant shall be liable for claims and remedies provided in ss. 320.695 and 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:



335364

(18) The applicant or licensee has established a system of motor vehicle allocation or distribution or has implemented a system of allocation or distribution of motor vehicles to one or more of its franchised motor vehicle dealers which:

(a) Reduces or alters allocations or supplies of new motor vehicles to the dealer to achieve, directly or indirectly, a purpose that is prohibited by ss. 320.60-320.70;

(b) Conditionally or unconditionally reserves a specific motor vehicle identified by vehicle identification number or other unique identifier for a specifically named person, except for purposes of replacing a consumer's vehicle pursuant to chapter 681;

(c) Requires or incentivizes motor vehicle dealers to sell or lease, or to negotiate the sale or lease of, a specific motor vehicle identified by vehicle identification number or other unique identifier to a specifically named person;

(d) Requires or incentivizes motor vehicle dealers to sell or lease a motor vehicle at a specified price or profit margin or restricts the price at which a motor vehicle dealer may sell or lease a motor vehicle; or

(e) Is, ~~or which~~ otherwise is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause after considering the equities of the affected motor vehicles dealer or dealers. As used in this paragraph, the term "unfair" includes, but is not limited to, refusing or failing to offer to any dealer an equitable supply of new vehicles under its franchise, by model, mix, or color, as the licensee offers or allocates to its other same line-make dealers in this state or using the number of motor vehicles preordered or reserved by



335364

consumers as a factor in determining the allocation of motor vehicles to motor vehicle dealers.

An applicant or licensee shall maintain for 3 years records that describe its methods or formula of allocation and distribution of its motor vehicles and records of its actual allocation and distribution of motor vehicles to its motor vehicle dealers in this state. ~~As used in this subsection, "unfair" includes, without limitation, the refusal or failure to offer to any dealer an equitable supply of new vehicles under its franchise, by model, mix, or colors as the licensee offers or allocates to its other same line-make dealers in the state.~~

(23) The applicant or licensee has engaged in any of the activities of a motor vehicle dealer as defined in s. 320.60(13)(a) or any activities described in s. 320.60(16) or has competed or is competing with respect to any activity covered by the franchise agreement with a motor vehicle dealer of the same line-make located in this state with whom the applicant or licensee has entered into a franchise agreement, except as permitted in s. 320.645 or in subsection (24) with respect to the remote electronic transmission of a permanent or temporary feature or improvement of a motor vehicle.

(24) The applicant or licensee, or common entity thereof, has sold or leased a motor vehicle to any retail consumer in this state, or has sold or activated for a fee to any retail consumer in the state any permanent or temporary motor vehicle feature or improvement that functions through hardware or components installed on the motor vehicle, except through a motor vehicle dealer properly licensed pursuant to s. 320.27 and



335364

holding a franchise agreement for the line-make that includes the motor vehicle. Notwithstanding this subsection, an applicant or a licensee, or common entity thereof, may sell or activate for a fee a permanent or temporary motor vehicle feature or improvement to a retail consumer in this state only if the feature or improvement is provided directly to the motor vehicle through remote electronic transmission, provided that if such motor vehicle was sold or leased as new by a motor vehicle dealer in this state within the 3-year period preceding such remote electronic transmission, the applicant or licensee must pay such motor vehicle dealer a minimum of 8 percent of the payment received by the applicant, licensee, or common entity from the sale of the feature or improvement. As used in this subsection, the term "feature or improvement" includes the activation or use of motor vehicle components or hardware, but does not include services that require the transmission of data or information to or from the motor vehicle while the service is being used. Payments required under this subsection shall be made within 30 days after the date of sale of the feature or improvement. This subsection ~~section~~ does not apply to sales by the

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 428 - 444

and insert:

applicability; requiring certain payments to be made within a certain timeframe; amending s. 320.642, F.S.; conforming cross-references; amending s. 320.645,



335364

F.S.; revising provisions prohibiting a manufacturer,
a distributor, or an importer from owning, operating,
or controlling a motor vehicle dealership in this
state; specifying when certain licenses may be and are
prohibited from being issued; revising exceptions to
certain prohibitions on licensees; providing
applicability; making technical changes; deleting the
definition of the term "independent person";
conforming cross-references; amending s. 320.67, F.S.;
requiring the Department of Highway Safety and Motor
Vehicles to conduct an inquiry relating to certain
written complaints; providing purposes of the
department's use of a subpoena; authorizing the
department to allow a written response to the
complaint; requiring the department to commence the
inquiry within a certain