

1                                   A bill to be entitled  
2           An act relating to motor vehicles; amending s.  
3           320.01, F.S.; conforming the length limitation  
4           for a motor home to that established in ch.  
5           316, F.S.; amending s. 320.699, revising  
6           provisions relating to administrative hearings;  
7           amending s. 681.115, F.S.; providing that a  
8           motor vehicle sales agreement that prohibits  
9           disclosure of its terms is void; providing  
10          definitions; prohibiting certain unfair or  
11          deceptive acts by such dealers; requiring the  
12          trial court to consider certain information  
13          when awarding attorney's fees; repealing s.  
14          320.27(9)(n), F.S., relating to licensure  
15          sanctions for dealers who fail to disclose  
16          certain new vehicle damages to a purchaser;  
17          providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21           Section 1. Subsection (1) of section 320.01, Florida  
22 Statutes, is amended to read:

23           320.01 Definitions, general.--As used in the Florida  
24 Statutes, except as otherwise provided, the term:

25           (1) "Motor vehicle" means:

26           (a) An automobile, motorcycle, truck, trailer,  
27 semitrailer, truck tractor and semitrailer combination, or any  
28 other vehicle operated on the roads of this state, used to  
29 transport persons or property, and propelled by power other  
30 than muscular power, but the term does not include traction  
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1 engines, road rollers, such vehicles as run only upon a track,  
2 bicycles, or mopeds.

3 (b) A recreational vehicle-type unit primarily  
4 designed as temporary living quarters for recreational,  
5 camping, or travel use, which either has its own motive power  
6 or is mounted on or drawn by another vehicle. Recreational  
7 vehicle-type units, when traveling on the public roadways of  
8 this state, must comply with the length and width provisions  
9 of s. 316.515, as that section may hereafter be amended. As  
10 defined below, the basic entities are:

11 1. The "travel trailer," which is a vehicular portable  
12 unit, mounted on wheels, of such a size or weight as not to  
13 require special highway movement permits when drawn by a  
14 motorized vehicle. It is primarily designed and constructed to  
15 provide temporary living quarters for recreational, camping,  
16 or travel use. It has a body width of no more than 8 1/2 feet  
17 and an overall body length of no more than 40 feet when  
18 factory-equipped for the road.

19 2. The "camping trailer," which is a vehicular  
20 portable unit mounted on wheels and constructed with  
21 collapsible partial sidewalls which fold for towing by another  
22 vehicle and unfold at the campsite to provide temporary living  
23 quarters for recreational, camping, or travel use.

24 3. The "truck camper," which is a truck equipped with  
25 a portable unit designed to be loaded onto, or affixed to, the  
26 bed or chassis of the truck and constructed to provide  
27 temporary living quarters for recreational, camping, or travel  
28 use.

29 4. The "motor home," which is a vehicular unit which  
30 does not exceed the ~~40 feet in length, and the height, and the~~  
31 width limitations provided in s. 316.515, is a self-propelled

1 motor vehicle, and is primarily designed to provide temporary  
2 living quarters for recreational, camping, or travel use.

3 5. The "private motor coach," which is a vehicular  
4 unit which does not exceed the length, width, and height  
5 limitations provided in s. 316.515(9), is built on a  
6 self-propelled bus type chassis having no fewer than three  
7 load-bearing axles, and is primarily designed to provide  
8 temporary living quarters for recreational, camping, or travel  
9 use.

10 6. The "van conversion," which is a vehicular unit  
11 which does not exceed the length and width limitations  
12 provided in s. 316.515, is built on a self-propelled motor  
13 vehicle chassis, and is designed for recreation, camping, and  
14 travel use.

15 7. The "park trailer," which is a transportable unit  
16 which has a body width not exceeding 14 feet and which is  
17 built on a single chassis and is designed to provide seasonal  
18 or temporary living quarters when connected to utilities  
19 necessary for operation of installed fixtures and appliances.  
20 The total area of the unit in a setup mode, when measured from  
21 the exterior surface of the exterior stud walls at the level  
22 of maximum dimensions, not including any bay window, does not  
23 exceed 400 square feet when constructed to ANSI A-119.5  
24 standards, and 500 square feet when constructed to United  
25 States Department of Housing and Urban Development Standards.  
26 The length of a park trailer means the distance from the  
27 exterior of the front of the body (nearest to the drawbar and  
28 coupling mechanism) to the exterior of the rear of the body  
29 (at the opposite end of the body), including any protrusions.

30 8. The "fifth-wheel trailer," which is a vehicular  
31 unit mounted on wheels, designed to provide temporary living

1 quarters for recreational, camping, or travel use, of such  
2 size or weight as not to require a special highway movement  
3 permit, of gross trailer area not to exceed 400 square feet in  
4 the setup mode, and designed to be towed by a motorized  
5 vehicle that contains a towing mechanism that is mounted above  
6 or forward of the tow vehicle's rear axle.

7 Section 2. Subsection (2) of section 320.699, Florida  
8 Statutes, is amended to read:

9 320.699 Administrative hearings and adjudications;  
10 procedure.--

11 (2) If a written objection or notice of protest is  
12 filed with the department under paragraph (1)(b), a hearing  
13 shall be held within 180 days of the date of filing of the  
14 first objection or notice of protest, unless the time is  
15 extended by the Administrative Law Judge for good cause shown.  
16 This subsection shall govern the schedule of hearings in lieu  
17 of any other provision of law with respect to administrative  
18 hearings conducted by the Department of Highway Safety and  
19 Motor Vehicles or the Division of Administrative Hearings,  
20 including performance standards of state agencies, which may  
21 be included in current and future appropriations acts. hearing  
22 ~~officer for good cause shown. If a hearing is not scheduled~~  
23 ~~within said time, any party may request such hearing which~~  
24 ~~shall be held forthwith by the hearing officer.~~

25 Section 3. Section 681.115, Florida Statutes, is  
26 amended to read:

27 681.115 Certain agreements void.--Any agreement  
28 entered into by a consumer that waives, limits, or disclaims  
29 the rights set forth in this chapter, or that requires a  
30 consumer not to disclose the terms of such agreement as a  
31 condition thereof, is void as contrary to public policy. The

1 rights set forth in this chapter shall extend to a subsequent  
2 transferee of such motor vehicle.

3 Section 4. Definitions.--As used in this act, the  
4 term:

5 (1) "Customer" includes a customer's designated agent.

6 (2) "Dealer" means a motor vehicle dealer as defined  
7 in section 320.27, Florida Statutes, but does not include a  
8 motor vehicle auction as defined in section 320.27(1)(c)4.,  
9 Florida Statutes.

10 (3) "Replacement item" means a tire, bumper, bumper  
11 fascia, glass, in-dashboard equipment, seat or upholstery  
12 cover or trim, exterior illumination unit, grill, sunroof,  
13 external mirror and external body cladding. The replacement of  
14 up to three of these items does not constitute repair of  
15 damage if each item is replaced because of a product defect or  
16 damaged due to vandalism while the new motor vehicle is under  
17 the control of the dealer and the items are replaced with  
18 original manufacturer equipment, unless an item is replaced  
19 due to a crash, collision, or accident.

20 (4) "Threshold amount" means 3 percent of the  
21 manufacturer's suggested retail price of a motor vehicle or  
22 \$650, whichever is less.

23 (5) "Vehicle" means any automobile, truck, bus,  
24 recreational vehicle or motorcycle required to be licensed  
25 under chapter 320, Florida Statutes, for operation over the  
26 roads of Florida, but does not include trailers, mobile homes,  
27 travel trailers or trailer coaches without independent motive  
28 power.

29 Section 5. It is an unfair or deceptive act or  
30 practice, actionable under the Florida Deceptive and Unfair  
31 Trade Practices Act, for a dealer to:

1           (1) Represent directly or indirectly that a motor  
2 vehicle is a factory executive vehicle or executive vehicle  
3 unless such vehicle was purchased directly from the  
4 manufacturer or a subsidiary of the manufacturer and the  
5 vehicle was used exclusively by the manufacturer, its  
6 subsidiary, or a dealer for the commercial or personal use of  
7 the manufacturer's, subsidiary's, or dealer's employees.

8           (2) Represent directly or indirectly that a vehicle is  
9 a demonstrator unless the vehicle was driven by prospective  
10 customers of a dealership selling the vehicle and such vehicle  
11 complies with the definition of a demonstrator in section  
12 320.60(3), Florida Statutes.

13           (3) Represent the previous usage or status of a  
14 vehicle to be something that it was not, or make usage or  
15 status representations unless the dealer has correct  
16 information regarding the history of the vehicle to support  
17 the representations.

18           (4) Represent the quality of care, regularity of  
19 servicing, or general condition of a vehicle unless known by  
20 the dealer to be true and supportable by material fact.

21           (5) Represent orally or in writing that a particular  
22 vehicle has not sustained structural or substantial skin  
23 damage unless the statement is made in good faith and the  
24 vehicle has been inspected by the dealer or his agent to  
25 determine whether the vehicle has incurred such damage.

26           (6) Sell a vehicle without fully and conspicuously  
27 disclosing in writing at or before the consummation of sale  
28 any warranty or guarantee terms, obligations, or conditions  
29 that the dealer or manufacturer has given to the buyer. If the  
30 warranty obligations are to be shared by the dealer and the  
31 buyer, the method of determining the percentage of repair

1 costs to be assumed by each party must be disclosed. If the  
2 dealer intends to disclaim or limit any expressed or implied  
3 warranty, the disclaimer must be in writing in a conspicuous  
4 manner and in layman's terms in accordance with chapter 672,  
5 Florida Statutes, and the Magnuson-Moss Warranty - Federal  
6 Trade Commission Improvement Act.

7 (7) Provide an express or implied warranty and fail to  
8 honor such warranty unless properly disclaimed pursuant to  
9 subsection (6).

10 (8) Misrepresent warranty coverage, application  
11 period, or any warranty transfer cost or conditions to a  
12 customer.

13 (9) Obtain signatures from a customer on contracts  
14 that are not fully completed at the time the customer signs or  
15 which do not reflect accurately the negotiations and agreement  
16 between the customer and the dealer.

17 (10) Require or accept a deposit from a prospective  
18 customer prior to entering into a binding contract for the  
19 purchase and sale of a vehicle unless the customer is given a  
20 written receipt that states how long the dealer will hold the  
21 vehicle from other sale and the amount of the deposit, and  
22 clearly and conspicuously states whether and upon what  
23 conditions the deposit is refundable or nonrefundable.

24 (11) Add to the cash price of a vehicle as defined in  
25 section 520.02(2), Florida Statutes, any fee or charge other  
26 than those provided in that section and in Rule 3D-50.001,  
27 Florida Administrative Code. All fees or charges permitted to  
28 be added to the cash price by Rule 3D-50.001, Florida  
29 Administrative Code, must be fully disclosed to customers in  
30 all binding contracts concerning the vehicle's selling price.

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1           (12) Alter or change the odometer mileage of a  
2 vehicle.

3           (13) Sell a vehicle without disclosing to the customer  
4 the actual year and model of the vehicle.

5           (14) File a lien against a new vehicle purchased with  
6 a check unless the dealer fully discloses to the purchaser  
7 that a lien will be filed if purchase is made by check and  
8 fully discloses to the buyer the procedures and cost to the  
9 buyer for gaining title to the vehicle after the lien is  
10 filed.

11           (15) Increase the price of the vehicle after having  
12 accepted an order of purchase or a contract from a buyer,  
13 notwithstanding subsequent receipt of an official price change  
14 notification. The price of a vehicle may be increased after a  
15 dealer accepts an order of purchase or a contract from a buyer  
16 if:

17           (a) A trade-in vehicle is reappraised because it  
18 subsequently is damaged, or parts or accessories are removed;

19           (b) The price increase is caused by the addition of  
20 new equipment, as required by state or federal law;

21           (c) The price increase is caused by the revaluation of  
22 the U.S. dollar by the Federal Government, in the case of a  
23 foreign-made vehicle;

24           (d) The price increase is caused by state or federal  
25 tax rate changes; or

26           (e) Price protection is not provided by the  
27 manufacturer, importer, or distributor.

28           (16) Advertise the price of a vehicle unless the  
29 vehicle is identified by year, make, model, and a commonly  
30 accepted trade, brand, or style name. The advertised price  
31 must include all fees or charges that the customer must pay,



1 including freight or destination charge, dealer preparation  
2 charge, and charges for undercoating or rustproofing. State  
3 and local taxes, tags, registration fees, and title fees,  
4 unless otherwise required by local law or standard, need not  
5 be disclosed in the advertisement. When two or more dealers  
6 advertise jointly, with or without participation of the  
7 franchiser, the advertised price need not include fees and  
8 charges that are variable among the individual dealers  
9 cooperating in the advertisement, but the nature of all  
10 charges that are not included in the advertised price must be  
11 disclosed in the advertisement.

12 (17) Charge a customer for any pre-delivery service  
13 required by the manufacturer, distributor, or importer for  
14 which the dealer is reimbursed by the manufacturer,  
15 distributor, or importer.

16 (18) Charge a customer for any pre-delivery service  
17 without having printed on all documents that include a line  
18 item for pre-delivery service the following disclosure: "This  
19 charge represents costs and profit to the dealer for items  
20 such as inspecting, cleaning, and adjusting vehicles, and  
21 preparing documents related to the sale."

22 (19) Add an additional charge for pre-delivery service  
23 other than those shown on a conspicuous label attached to the  
24 window of the vehicle specifying any charges for pre-delivery  
25 services and describing the charges as pre-delivery services,  
26 delivery and handling, dealer preparation, or in similar terms  
27 the dealer's charge for each dealer-installed option, and a  
28 total price line.

29 (20) Fail to disclose damage to a new motor vehicle,  
30 as defined in subsection 319.001(4), Florida Statutes, of  
31 which the dealer had actual knowledge, if the dealer's actual

1 cost of repairs exceeds the threshold amount, excluding  
2 replacement items.

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4 In any civil litigation resulting from a violation of this  
5 section, when evaluating the reasonableness of an award of  
6 attorney's fees to a private person, the trial court shall  
7 consider the amount of actual damages in relation to the time  
8 spent.

9           Section 6. Paragraph (n) of subsection (9) of section  
10 320.27, Florida Statutes, is repealed.

11           Section 7. This act applies to any vehicle sold after  
12 October 1, 2001.

13           Section 8. This act shall take effect October 1, 2001.

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