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DATE: December 28, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 183
RELATING TO: Motor Vehicles/Pre-Delivery Services
SPONSOR(S): Representative(s) Gardiner

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 12 NAYS 0
- (2) COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS
- (3) READY INFRASTRUCTURE COUNCIL
- (4)
- (5)

I. SUMMARY:

Section 29 of chapter 2001-196, Laws of Florida, provides that certain motor vehicle dealer practices are actionable under the Florida Deceptive and Unfair Trade Practices Act. This provision codified the violations proscribed in a repealed Department of Legal Affairs administrative rule regarding motor vehicle sales.

This bill amends this section to eliminate a pre-delivery disclosure requirement and conform Florida law to a prior administrative rule and to established industry practice. Specifically, the bill deletes a requirement that motor vehicle dealers post a disclosure of pre-delivery service charges on a window sticker. Motor vehicle dealers will still be required to disclose all pre-delivery service charges to prospective purchasers prior to the consummation of the sale.

This bill repeals subsection (19) of section 29 of chapter 2001-196, Laws of Florida (s. 501.196, F.S.).

The bill does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The repealed Department of Legal Affairs administrative rule (Ch. 2-19.05, F.A.C.) stated that it is an unfair or deceptive act to charge a customer for any pre-delivery service without disclosing such charges prior to the consummation of a sale. In addition, the former rule provided that where a motor vehicle is available for inspection by a prospective purchaser, the dealer has the **option** of attaching a window sticker that specifies pre-delivery service charges. If the dealer opted to utilize the window sticker to make the pre-delivery service charges disclosure, he was prohibited from adding additional pre-delivery service charges on other sales documents.

During the 2001 Legislative Session, the language contained in the repealed administrative rule was incorporated into SB 1956. During the bill drafting process, this disclosure language was revised in an attempt to provide greater clarity and consistency. However, this revision inadvertently changed the pre-delivery service window sticker provision from optional to mandatory. Currently, subsection (19) of s. 29, chapter 2001-196, Laws of Florida, states that it is an unfair or deceptive act to:

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

This provision, combined with the existing requirement that dealers disclose charges for pre-delivery services prior to final sale, appears to require motor vehicle dealers to make two disclosures of pre-delivery service charges: one on a window sticker and one at the time of sale. Motor vehicle dealers maintain that this double disclosure requirement is contrary to the former administrative rule and creates a potential hardship for many Florida dealers. According to representatives of the Florida Automobile Dealers Association, most used car dealers, motorcycle dealers, and recreational vehicle dealers do not currently use window stickers for purposes of disclosing pre-delivery service charges.

C. EFFECT OF PROPOSED CHANGES:

This bill repeals subsection (19) of section 29 of chapter 2001-196, Laws of Florida. This repeals a provision of law that makes it a deceptive and unfair trade practice to add an additional charge for pre-delivery services other than those shown on a window sticker affixed to the vehicle. Dealers will still be required to disclose all pre-delivery charges to prospective purchasers prior to the final sale.

The bill takes effect upon becoming law, and applies retroactively to any motor vehicle sold on or after October 1, 2001. The bill is made to apply retroactively to this date because it is the date upon which section 29 of chapter 2001-196, Laws of Florida, took effect.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Repeals subsection (19) of section 29 of chapter 2001-196, Laws of Florida.

Section 2. Provides that the bill takes effect upon becoming law, and provides that the bill will apply retroactively to any motor vehicle sold on or after October 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

The bill does not appear to require expenditures by state government.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to require expenditures by local government.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill eliminates the requirement for motor vehicle dealers to make certain disclosures on window stickers. Since many Florida dealers do not currently use window stickers, the bill prevents them from incurring the expense required to comply with window sticker disclosure requirements.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with a county or city.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

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AS REVISED BY THE COMMITTEE ON COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Susan D. Reese

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