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1 A bill to be entitled

2 An act relating to motor vehicle manufacturers,
3 distributors, importers, and dealers; amending s. 320.13,
4 F.S.; clarifying provisions for use of dealer license
5 plates; amending s. 320.60, F.S.; clarifying definition of
6 "motor vehicle" and defining the terms "service" and
7 "certified preowned vehicle" for purposes of specified
8 provisions; amending s. 320.64, F.S.; prohibiting certain
9 acts by licensee or applicant; amending s. 320.642, F.S.;
10 revising provisions for evidence that an area is
11 adequately served; expanding grounds for protest of
12 proposed additional or relocated motor vehicle dealer;
13 amending s. 320.643, F.S.; revising provisions relating to
14 transfer, assignment, or sale of franchise agreement;
15 prohibiting rejection or withholding of approval by
16 licensee; requiring condition be met to protect the
17 licensee from liability; amending s. 320.644, F.S.,
18 relating to change in executive management; defining
19 "executive management"; revising procedures for approval
20 or rejection of change; specifying that termination of
21 employment is not deemed a change under the section;
22 prohibiting rejection or withholding of approval by
23 licensee; providing conditions for rejection or
24 withholding of approval by licensee; requiring condition
25 be met to protect the licensee from liability; amending s.
26 320.695, F.S.; revising provisions relating to injunctive
27 relief from violation of specified provisions regulating
28 motor vehicle manufacturers, distributors, importers, and
29 dealers; providing standing for described associations of
30 dealers to seek injunctive relief; amending s. 320.699,



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31 F.S.; revising administrative hearing procedures for
 32 certain complaints; amending s. 501.976, F.S., relating to
 33 actionable, unfair, or deceptive acts or practices by a
 34 motor vehicle dealer; revising specifications for
 35 representation by dealer of vehicle as a demonstrator;
 36 amending s. 817.7001, F.S.; revising the definition of
 37 "credit service organization" to exclude specified motor
 38 vehicle dealers for purposes of provisions regulating such
 39 organizations; providing an effective date.

40
 41 Be It Enacted by the Legislature of the State of Florida:

42
 43 Section 1. Paragraph (a) of subsection (1) of section
 44 320.13, Florida Statutes, is amended to read:

45 320.13 Dealer and manufacturer license plates and
 46 alternative method of registration.--

47 (1)(a) Any licensed motor vehicle dealer and any licensed
 48 mobile home dealer may, upon payment of the license tax imposed
 49 by s. 320.08(12), secure one or more dealer license plates,
 50 which are valid for use on motor vehicles or mobile homes owned
 51 by the dealer to whom such plates are issued while the motor
 52 vehicles are in inventory and for sale, or while being operated
 53 in connection with such dealer's business, or while being
 54 operated by a dealer owner or executive or a family member of
 55 such dealer owner or executive, with the permission of the
 56 dealer, or while being operated for demonstration purposes, but
 57 are not valid for use for hire. Dealer license plates may not be
 58 used on any tow truck or wrecker unless the tow truck or wrecker
 59 is being demonstrated for sale, and the dealer license plates



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60 may not be used on a vehicle used to transport another motor
61 vehicle for the motor vehicle dealer.

62 Section 2. Subsection (10) of section 320.60, Florida
63 Statutes, is amended, and subsections (16) and (17) are added to
64 said section, to read:

65 320.60 Definitions for ss. 320.61-320.70.--Whenever used
66 in ss. 320.61-320.70, unless the context otherwise requires, the
67 following words and terms have the following meanings:

68 (10) "Motor vehicle" means any new automobile, motorcycle,
69 or truck, including all trucks regardless of weight, heavy
70 trucks as defined in s. 320.01(10), and trucks as defined in s.
71 320.01(9), the equitable or legal title to which has never been
72 transferred by a manufacturer, distributor, importer, or dealer
73 to an ultimate purchaser; however, when legal title is not
74 transferred but possession of a motor vehicle is transferred
75 pursuant to a conditional sales contract or lease and the
76 conditions are not satisfied and the vehicle is returned to the
77 motor vehicle dealer, the motor vehicle may be resold by the
78 motor vehicle dealer as a new motor vehicle, provided the
79 selling motor vehicle dealer gives the following written notice
80 to the purchaser: "THIS VEHICLE WAS DELIVERED TO A PREVIOUS
81 PURCHASER." The purchaser shall sign an acknowledgment, a copy
82 of which is kept in the selling dealer's file.

83 (16) "Service" means any maintenance, repair, or
84 replacement of any part of any motor vehicle or used motor
85 vehicle that is sold or provided to an owner, operator, or user
86 pursuant to a service contract or motor vehicle warranty.

87 (17) "Certified preowned vehicle" refers to a used motor
88 vehicle for which a licensee, manufacturer, or common entity has



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89 established criteria or standards, including reconditioning, for
 90 certification of such used motor vehicle.

91 Section 3. Subsection (33) is added to section 320.64,
 92 Florida Statutes, to read:

93 320.64 Denial, suspension, or revocation of license;
 94 grounds.--A license of a licensee under s. 320.61 may be denied,
 95 suspended, or revoked within the entire state or at any specific
 96 location or locations within the state at which the applicant or
 97 licensee engages or proposes to engage in business, upon proof
 98 that the section was violated with sufficient frequency to
 99 establish a pattern of wrongdoing, and a licensee or applicant
 100 shall be liable for claims and remedies provided in ss. 320.695
 101 and 320.697 for any violation of any of the following
 102 provisions. A licensee is prohibited from committing the
 103 following acts:

104 (33) The applicant or licensee attempts to sell or lease
 105 or sells or leases used motor vehicles at retail, including
 106 certified preowned vehicles, of the line-make that is the
 107 subject of any franchise agreement with a motor vehicle dealer
 108 in this state.

109 (a) No licensee or common entity, after enactment of this
 110 subsection, shall include in any franchise agreement with a
 111 motor vehicle dealer any obligation of the motor vehicle dealer
 112 with respect to the sale or lease, or offering for sale or
 113 lease, of any used motor vehicle, including any certified
 114 preowned vehicle; however, a licensee may prescribe requirements
 115 for:

- 116 1. Facility space requirements for used vehicles.
- 117 2. A number of sales personnel for the sale or lease of
- 118 used vehicles, provided such requirements are written,



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119 reasonable as to the market potential of each similarly sized
120 motor vehicle dealer, and uniformly applied.

121 (b) No licensee, by agreement or otherwise, in connection
122 with a motor vehicle dealer's sale or lease at retail of any
123 used vehicle, including any certified preowned vehicle, shall
124 require a motor vehicle dealer to issue to its customer any
125 extension of any original warranty or extended service contract
126 that overlaps, as to time, mileage, or coverage, with the
127 original warranty if the motor vehicle dealer or customer must
128 pay anything of value for such extension or extended service
129 contract.

130 (c) No licensee, manufacturer, or common entity, after
131 enactment of this subsection, by agreement, program, or
132 otherwise, shall:

133 1. Establish or continue any motor vehicle dealer
134 incentive, bonus, benefit, or other program; or

135 2. Condition a motor vehicle dealer's eligibility for, or
136 receipt of, a bonus, incentive, or benefit

137
138 which is based upon the dealer certifying, selling, or leasing a
139 prescribed or predetermined quantity of used motor vehicles,
140 including certified preowned vehicles.

141 (d) No licensee shall:

142 1. Establish any new motor vehicle sales planning volume
143 for any motor vehicle dealer, regardless of the terminology used
144 by a licensee to describe the quantity of new motor vehicles to
145 be made available to the dealer from the licensee in any period;

146 2. Refuse a new motor vehicle dealer its fair share of new
147 motor vehicle allocation; or



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148 3. Fail or refuse to sell to a new motor vehicle dealer
 149 any new motor vehicles, if such planning volume, allocation,
 150 failure, or refusal is based upon a dealer selling, leasing, or
 151 certifying a quantity of used motor vehicles, including
 152 certified preowned vehicles, prescribed by the licensee.

153
 154 A motor vehicle dealer who can demonstrate that a violation of,
 155 or failure to comply with, any of the preceding provisions by an
 156 applicant or licensee will or can adversely and pecuniarily
 157 affect the complaining dealer, shall be entitled to pursue all
 158 of the remedies, procedures, and rights of recovery available
 159 under ss. 320.695 and 320.697.

160 Section 4. Paragraph (b) of subsection (2) and subsection
 161 (3) of section 320.642, Florida Statutes, are amended to read:

162 320.642 Dealer licenses in areas previously served;
 163 procedure.--

164 (2)

165 (b) In determining whether the existing franchised motor
 166 vehicle dealer or dealers are providing adequate representation
 167 in the community or territory for the line-make, the department
 168 may consider evidence which may include, but is not limited to:

169 1. The impact of the establishment of the proposed or
 170 relocated dealer on the consumers, public interest, existing
 171 dealers, and the licensee; provided, however, that financial
 172 impact may only be considered with respect to the protesting
 173 dealer or dealers.

174 2. The size and permanency of investment reasonably made
 175 and reasonable obligations incurred by the existing dealer or
 176 dealers to perform their obligations under the dealer agreement.



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177 3. The reasonably expected market penetration of the line-
178 make motor vehicle for the community or territory involved,
179 after consideration of all factors which may affect said
180 penetration, including, but not limited to, demographic factors
181 such as age, income, import penetration, education, size class
182 preference, product popularity, retail lease transactions, or
183 other factors affecting sales to consumers of the community or
184 territory. Furthermore, with respect to any geographic
185 comparison area used to evaluate the performance of the
186 line-make within the community or territory, such comparison
187 area shall be reasonably similar in demographic traits to the
188 community or territory, including, but not limited to, age,
189 income, import penetration, education, size class preference,
190 and product popularity, and such comparison area shall not be
191 smaller than an entire county. Reasonably expected market
192 penetration shall be measured with respect to the community or
193 territory as a whole and not with respect to any part thereof or
194 identifiable plot therein.

195 4. Any actions by the licensees in denying its existing
196 dealer or dealers of the same line-make the opportunity for
197 reasonable growth, market expansion, or relocation, including
198 the availability of line-make vehicles in keeping with the
199 reasonable expectations of the licensee in providing an adequate
200 number of dealers in the community or territory.

201 5. Any attempts by the licensee to coerce the existing
202 dealer or dealers into consenting to additional or relocated
203 franchises of the same line-make in the community or territory.

204 6. Distance, travel time, traffic patterns, and
205 accessibility between the existing dealer or dealers of the same



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206 line-make and the location of the proposed additional or
207 relocated dealer.

208 7. Whether benefits to consumers will likely occur from
209 the establishment or relocation of the dealership which the
210 protesting dealer or dealers prove cannot be obtained by other
211 geographic or demographic changes or expected changes in the
212 community or territory.

213 8. Whether the protesting dealer or dealers are in
214 substantial compliance with their dealer agreement.

215 9. Whether there is adequate interbrand and intrabrand
216 competition with respect to said line-make in the community or
217 territory and adequately convenient consumer care for the motor
218 vehicles of the line-make, including the adequacy of sales and
219 service facilities.

220 10. Whether the establishment or relocation of the
221 proposed dealership appears to be warranted and justified based
222 on economic and marketing conditions pertinent to dealers
223 competing in the community or territory, including anticipated
224 future changes.

225 11. The volume of registrations and service business
226 transacted by the existing dealer or dealers of the same line-
227 make in the relevant community or territory of the proposed
228 dealership.

229 (3) An existing franchised motor vehicle dealer or dealers
230 shall have standing to protest a proposed additional or
231 relocated motor vehicle dealer where the existing motor vehicle
232 dealer or dealers have a franchise agreement for the same line-
233 make vehicle to be sold or serviced by the proposed additional
234 or relocated motor vehicle dealer and are physically located so



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235 as to meet or satisfy any of the following requirements or
236 conditions:

237 (a) If the proposed additional or relocated motor vehicle
238 dealer is to be located in a county with a population of less
239 than 300,000 according to the most recent data of the United
240 States Census Bureau or the data of the Bureau of Economic and
241 Business Research of the University of Florida:

242 1. The proposed additional or relocated motor vehicle
243 dealer is to be located in the area designated or described as
244 the area of responsibility, or such similarly designated area,
245 including the entire area designated as a multiple-point area,
246 in the franchise agreement or in any related document or
247 commitment with the existing motor vehicle dealer or dealers of
248 the same line-make as such agreement existed upon October 1,
249 1988;

250 2. The existing motor vehicle dealer or dealers of the
251 same line-make have a licensed franchise location within a
252 radius of 20 miles of the location of the proposed additional or
253 relocated motor vehicle dealer; or

254 3. Any existing motor vehicle dealer or dealers of the
255 same line-make can establish that during any 12-month period of
256 the 36-month period preceding the filing of the licensee's
257 application for the proposed dealership, such dealer or its
258 predecessor made 25 percent of its retail sales of new motor
259 vehicles to persons whose registered household addresses were
260 located within a radius of 20 miles of the location of the
261 proposed additional or relocated motor vehicle dealer; provided
262 such existing dealer is located in the same county or any county
263 contiguous to the county where the additional or relocated
264 dealer is proposed to be located.



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265 (b) If the proposed additional or relocated motor vehicle
 266 dealer is to be located in a county with a population of more
 267 than 300,000 according to the most recent data of the United
 268 States Census Bureau or the data of the Bureau of Economic and
 269 Business Research of the University of Florida:

270 1. Any existing motor vehicle dealer or dealers of the
 271 same line-make have a licensed franchise location within a
 272 radius of 12.5 miles of the location of the proposed additional
 273 or relocated motor vehicle dealer; or

274 2. Any existing motor vehicle dealer or dealers of the
 275 same line-make can establish that during any 12-month period of
 276 the 36-month period preceding the filing of the licensee's
 277 application for the proposed dealership, such dealer or its
 278 predecessor made 25 percent of its retail sales of new motor
 279 vehicles to persons whose registered household addresses were
 280 located within a radius of 12.5 miles of the location of the
 281 proposed additional or relocated motor vehicle dealer; provided
 282 such existing dealer is located in the same county or any county
 283 contiguous to the county where the additional or relocated
 284 dealer is proposed to be located.

285 Section 5. Section 320.643, Florida Statutes, is amended
 286 to read:

287 320.643 Transfer, assignment, or sale of franchise
 288 agreements.--

289 (1) A motor vehicle dealer shall not transfer, assign, or
 290 sell a franchise agreement to another person unless the dealer
 291 first notifies the licensee of the dealer's decision to make
 292 such transfer, by written notice setting forth the prospective
 293 transferee's name, address, financial qualification, and
 294 business experience during the previous 5 years. The licensee



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295 shall, in writing, within 60 days after receipt of such notice,
296 inform the dealer either of the licensee's approval of the
297 transfer, assignment, or sale or of the unacceptability of the
298 proposed transferee, setting forth the material reasons for the
299 rejection. If the licensee does not so inform the dealer within
300 the 60-day period, its approval of the proposed transfer is
301 deemed granted. No such transfer, assignment, or sale will be
302 valid unless the transferee agrees in writing to comply with all
303 requirements of the franchise then in effect. For the purposes
304 of this section, the refusal by the licensee to accept a
305 proposed transferee who is of good moral character and who
306 otherwise meets the written, reasonable, and uniformly applied
307 standards or qualifications, if any, of the licensee relating to
308 financial qualifications of the transferee and the business
309 experience of the transferee or the transferee's executive
310 management is presumed to be unreasonable. A motor vehicle
311 dealer whose proposed sale is rejected may, within 60 days
312 following such receipt of such rejection, file with the
313 department a complaint for a determination that the proposed
314 transferee has been rejected in violation of this section. The
315 licensee has the burden of proof with respect to all issues
316 raised by such complaint. The department shall determine, and
317 enter an order providing, that the proposed transferee is either
318 qualified or is not and cannot be qualified for specified
319 reasons, or the order may provide the conditions under which a
320 proposed transferee would be qualified. If the licensee fails to
321 file such a response to the motor vehicle dealer's complaint
322 within 30 days after receipt of the complaint, unless the
323 parties agree in writing to an extension, or if the department,
324 after a hearing, renders a decision other than one disqualifying



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325 the proposed transferee, the franchise agreement between the
326 motor vehicle dealer and the licensee shall be deemed amended to
327 incorporate such transfer or amended in accordance with the
328 determination and order rendered, effective upon compliance by
329 the proposed transferee with any conditions set forth in the
330 determination or order.

331 (2)~~(a)~~ Notwithstanding the terms of any franchise
332 agreement, a licensee shall not, by contract or otherwise, fail
333 or refuse to give effect to, prevent, prohibit, or penalize, or
334 attempt to refuse to give effect to, prevent, prohibit, or
335 penalize, any motor vehicle dealer or any proprietor, partner,
336 stockholder, owner, or other person who holds or otherwise owns
337 an interest therein from selling, assigning, transferring,
338 alienating, or otherwise disposing of, in whole or in part, the
339 equity interest of any of them in such motor vehicle dealer to
340 any other person or persons, including a corporation established
341 or existing for the purpose of owning or holding the stock or
342 ownership interests of other entities, unless the licensee
343 proves at a hearing pursuant to this section that such sale,
344 transfer, alienation, or other disposition is to a person who is
345 not, or whose controlling executive management is not, of good
346 moral character. A motor vehicle dealer, or any proprietor,
347 partner, stockholder, owner, or other person who holds or
348 otherwise owns an interest in the motor vehicle dealer, who
349 desires to sell, assign, transfer, alienate, or otherwise
350 dispose of any interest in such motor vehicle dealer shall
351 notify, or cause the proposed transferee to so notify, the
352 licensee, in writing, of the identity and address of the
353 proposed transferee. A licensee who receives such notice may,
354 within 60 days following such receipt, notify the motor vehicle



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355 dealer in writing that the proposed transferee is not a person
356 qualified to be a transferee under this section and setting
357 forth the material reasons for such rejection. Failure of the
358 licensee to notify the motor vehicle dealer within the 60-day
359 period of such rejection shall be deemed an approval of the
360 transfer. Any person whose proposed sale of stock is rejected
361 may file within 60 days of receipt of such rejection a complaint
362 with the department alleging that the rejection was in violation
363 of the law or the franchise agreement. The licensee has the
364 burden of proof with respect to all issues raised by such
365 complaint. The department shall determine, and enter an order
366 providing, that the proposed transferee either is qualified or
367 is not and cannot be qualified for specified reasons; or the
368 order may provide the conditions under which a proposed
369 transferee would be qualified. If the licensee fails to file a
370 response to the motor vehicle dealer's complaint within 30 days
371 of receipt of the complaint, unless the parties agree in writing
372 to an extension, or if the department, after a hearing, renders
373 a decision on the complaint other than one disqualifying the
374 proposed transferee, the transfer shall be deemed approved in
375 accordance with the determination and order rendered, effective
376 upon compliance by the proposed transferee with any conditions
377 set forth in the determination or order.

378 ~~(b) During the pendency of any such hearing, the franchise~~
379 ~~agreement of the motor vehicle dealer shall continue in effect~~
380 ~~in accordance with its terms. The department shall expedite any~~
381 ~~determination requested under this section.~~

382 (3) During the pendency of any such hearing, the franchise
383 agreement of the motor vehicle dealer shall continue in effect



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384 in accordance with its terms. The department shall expedite any
 385 determination requested under this section.

386 (4)(3) Notwithstanding the terms of any franchise
 387 agreement, the acceptance by the licensee of the proposed
 388 transferee shall not be unreasonably withheld. For the purposes
 389 of this section, the refusal by the licensee to accept a
 390 proposed transferee who satisfies the criteria set forth in
 391 subsection (1) or subsection (2) is presumed to be unreasonable.

392 (5) It shall be a violation of this section for the
 393 licensee to reject or withhold approval of a proposed transfer
 394 unless the licensee can prove in any court of competent
 395 jurisdiction or in a hearing before the department or in defense
 396 of any claim brought pursuant to s. 320.697 that, in fact, the
 397 proposed transferee was not qualified as set forth in subsection
 398 (1) or subsection (2). Alleging the permitted statutory grounds
 399 by the licensee in the written rejection of the proposed
 400 transfer shall not protect the licensee from liability for
 401 violating this section unless the licensee can prove such
 402 allegations are true.

403 Section 6. Section 320.644, Florida Statutes, is amended
 404 to read:

405 320.644 Change of executive management control; objection
 406 by licensee; procedure.--

407 ~~(1) No licensee shall prohibit or prevent, or attempt to~~
 408 ~~prohibit or prevent, any motor vehicle dealer from changing the~~
 409 ~~executive management control of the motor vehicle dealer unless~~
 410 ~~the proposed change of executive management control of the motor~~
 411 ~~vehicle dealer is to a person or persons not of good moral~~
 412 ~~character or who do not meet the written, reasonable, and~~
 413 ~~uniformly applied standards of the licensee relating to the~~



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414 ~~business experience of executive management required by the~~
415 ~~licensee of its motor vehicle dealers.~~ A motor vehicle dealer
416 who desires to change its executive management control shall
417 notify the licensee by written notice, setting forth the name,
418 address, and business experience of the proposed executive
419 management. A licensee who receives such notice shall, in
420 writing ~~may~~, within 60 days following such receipt, inform the
421 motor vehicle dealer either of the approval of the proposed
422 change in executive management or the unacceptability of the
423 proposed change. If the licensee does not so inform the motor
424 vehicle dealer within the 60-day period, its approval of the
425 proposed change is deemed granted. For the purposes of this
426 section, rejection of a proposed change to a person who is of
427 good moral character and who otherwise meets the written,
428 reasonable, and uniformly applied standards of the licensee
429 relating to the business experience of executive management
430 required by the licensee of its motor vehicles dealers is
431 presumed to be unreasonable. A motor vehicle dealer whose
432 proposed change is rejected may, within 60 days following
433 receipt of such rejection, file with the department a complaint
434 for a determination that the proposed change of executive
435 management has been rejected in violation of this section. The
436 licensee has the burden of proof with respect to all issues
437 raised by such complaint. The department shall determine, and
438 enter an order providing, that the person proposed for the
439 change is either qualified or is not and cannot be qualified for
440 specific reasons, or the order may provide the conditions under
441 which a proposed executive manager would be qualified. If the
442 licensee fails to file a response to the motor vehicle dealer's
443 complaint within 30 days after receipt of the complaint, unless



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444 the parties agree in writing to an extension, or if the
445 department after a hearing renders a decision other than one
446 disqualifying the person proposed for the change, the franchise
447 agreement between the motor vehicle dealer and the licensee
448 shall be deemed amended to incorporate such change or amended in
449 accordance with the determination or order rendered, effective
450 upon compliance by the person proposed for the change with any
451 conditions set forth in the determination or order ~~file with the~~
452 ~~department a verified complaint for a determination that the~~
453 ~~proposed change of executive management will result in executive~~
454 ~~management control by persons who are not of good moral~~
455 ~~character or who do not meet such licensee's standards. The~~
456 ~~licensee has the burden of proof with respect to all issues~~
457 ~~raised by such verified complaint. If the licensee fails to file~~
458 ~~such verified complaint within such 60 day period or if the~~
459 ~~department, after a hearing, dismisses the complaint, the~~
460 ~~franchise agreement between the motor vehicle dealer and the~~
461 ~~licensee shall be deemed amended to incorporate such change or~~
462 ~~amended in accordance with the decision rendered. For the~~
463 ~~purpose of this section, the mere termination of employment of~~
464 ~~executive management, including the dealer/operator or such~~
465 ~~similarly designated person or persons, shall not be deemed to~~
466 ~~be a change in executive management or a transfer of the~~
467 ~~franchise. Provided, however, the designation of replacement~~
468 ~~executive management shall be subject to this section.~~

469 (2) For the purpose of this section, the mere termination
470 of employment of executive management shall not be deemed to be
471 a change in executive management or a transfer of the franchise;
472 however, the proposal of replacement executive management shall
473 be subject to this section ~~During the pendency of any such~~



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474 ~~hearing, the franchise agreement of the motor vehicle dealer~~
475 ~~shall continue in effect in accordance with its terms. The~~
476 ~~department shall expedite any determination requested under this~~
477 ~~section.~~

478 (3) For the purpose of this section, the term "executive
479 management" shall mean and be limited to the person or persons
480 designated under the franchise agreement as the dealer-operator,
481 executive manager, or similarly designated persons who are
482 responsible for the overall day-to-day operation of the
483 dealership. A motor vehicle dealer may change all other
484 dealership personnel without seeking approval from the licensee.

485 (4) During the pendency of any such hearing, the franchise
486 agreement of the motor vehicle dealer shall continue in effect
487 in accordance with its terms. The department shall expedite any
488 determination requested under this section.

489 (5) It shall be a violation of this section for the
490 licensee to reject or withhold approval of a proposed change of
491 executive management, unless the licensee can prove in any court
492 of competent jurisdiction or in a hearing before the department
493 or in defense of any claim brought pursuant to s. 320.697 that,
494 in fact, the person proposed for executive management was not
495 qualified as set forth in subsection (1). Alleging the permitted
496 statutory grounds by the licensee in the written rejection of
497 the proposed change of executive management shall not protect
498 the licensee from liability for violating this section unless
499 the licensee proves such allegations are true.

500 Section 7. Section 320.695, Florida Statutes, is amended
501 to read:

502 320.695 Injunction.--In addition to the remedies provided
503 in this chapter, and notwithstanding the existence of any



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504 adequate remedy at law, the department, or any motor vehicle
 505 dealer or any association of 30 or more motor vehicle dealers ~~in~~
 506 ~~the name of the department and state and~~ for the use and benefit
 507 of one or more ~~the~~ motor vehicle dealers ~~dealer~~, is authorized
 508 to make application to any circuit court of the state for the
 509 grant, upon a hearing and for cause shown, of a temporary or
 510 permanent injunction, or both, restraining any person from
 511 acting as a licensee under the terms of ss. 320.60-320.70
 512 without being properly licensed hereunder, or from violating or
 513 continuing to violate or threatening to violate any of the
 514 provisions of ss. 320.60-320.70, or from failing or refusing to
 515 comply with the requirements of this law or any rule or
 516 regulation adopted hereunder. Such injunction shall be issued
 517 without bond. A single act in violation of the provisions of ss.
 518 320.60-320.70 shall be sufficient to authorize the issuance of
 519 an injunction. However, this statutory remedy shall not be
 520 applicable to any motor vehicle dealer after final determination
 521 by the department under s. 320.641(3).

522 Section 8. Subsection (3) is added to section 320.699,
 523 Florida Statutes, to read:

524 320.699 Administrative hearings and adjudications;
 525 procedure.--

526 (3) If a complaint is filed pursuant to s. 320.6403, s.
 527 320.641, s. 320.643, s. 320.644, or s. 320.696, a hearing shall
 528 be held no sooner than 180 days nor later than 240 days after
 529 the date of the filing of the complaint unless all parties
 530 stipulate to a hearing date sooner than 180 days, or unless the
 531 time is extended by the administrative law judge for good cause
 532 shown. This subsection shall govern the schedule of hearings in
 533 lieu of any other provision of law with respect to



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534 administrative hearings conducted by the Department of Highway
 535 Safety and Motor Vehicles or the Division of Administrative
 536 Hearings, including performance standards of state agencies,
 537 which may be included in current and future appropriations acts.

538 Section 9. Subsection (2) of section 501.976, Florida
 539 Statutes, is amended to read:

540 501.976 Actionable, unfair, or deceptive acts or
 541 practices.--It is an unfair or deceptive act or practice,
 542 actionable under the Florida Deceptive and Unfair Trade
 543 Practices Act, for a dealer to:

544 (2) Represent directly or indirectly that a vehicle is a
 545 demonstrator unless the vehicle ~~was driven by prospective~~
 546 ~~customers of a dealership selling the vehicle and such vehicle~~
 547 complies with the definition of a demonstrator in s. 320.60(3).
 548

549 In any civil litigation resulting from a violation of this
 550 section, when evaluating the reasonableness of an award of
 551 attorney's fees to a private person, the trial court shall
 552 consider the amount of actual damages in relation to the time
 553 spent.

554 Section 10. Paragraph (b) of subsection (2) of section
 555 817.7001, Florida Statutes, is amended to read:

556 817.7001 Definitions.--As used in this part:

557 (2)

558 (b) "Credit service organization" does not include:

559 1. Any person authorized to make loans or extensions of
 560 credit under the laws of this state or the United States who is
 561 subject to regulation and supervision by this state or the
 562 United States or a lender approved by the United States



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563 Secretary of Housing and Urban Development for participation in
 564 any mortgage insurance program under the National Housing Act;
 565 2. Any bank, savings bank, or savings and loan association
 566 whose deposits or accounts are eligible for insurance by the
 567 Federal Deposit Insurance Corporation or the Federal Savings and
 568 Loan Insurance Corporation, or a subsidiary of such bank,
 569 savings bank, or savings and loan association;
 570 3. Any credit union, federal credit union, or out-of-state
 571 credit union doing business in this state;
 572 4. Any nonprofit organization exempt from taxation under
 573 s. 501(c)(3) of the Internal Revenue Code;
 574 5. Any person licensed as a real estate broker by this
 575 state if the person is acting within the course and scope of
 576 that license;
 577 6. Any person collecting consumer claims pursuant to s.
 578 559.72;
 579 7. Any person licensed to practice law in this state if
 580 the person renders services within the course and scope of his
 581 or her practice as an attorney and does not engage in the credit
 582 service business on a regular and continuing basis;
 583 8. Any broker-dealer registered with the Securities and
 584 Exchange Commission or the Commodity Futures Trading Commission
 585 if the broker-dealer is acting within the course and scope of
 586 that regulation; ~~or~~
 587 9. Any consumer reporting agency as defined in the Federal
 588 Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681t; or
 589 10. Any motor vehicle dealer as defined by s. 320.27(1)(c)
 590 or s. 320.60(11)(a) and (b).

591 Section 11. This act shall take effect upon becoming a
 592 law.