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CHAMBER ACTION

The Committee on Transportation recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to motor vehicle dealers; amending s. 320.60, F.S.; revising definitions; defining "service"; amending s. 320.64, F.S.; prohibiting certain acts by licensee or applicant; providing for penalties, liability, and remedies for violation; amending s. 320.642, F.S.; revising provisions for evidence to be considered by the Department of Highway Safety and Motor Vehicles in making certain determinations of representation by preexisting dealers; providing criteria and procedures for protest of proposed addition or relocation of service-only dealership; requiring license to permit service only in certain circumstances; amending s. 320.643, F.S.; revising criteria and procedures for transfer, sale, or disposal of franchise agreements and acceptance or rejection by the licensee of such transfer, sale, or disposal; prohibiting certain acts by a licensee; amending s. 320.644, F.S.; defining "executive management"; revising criteria and procedures for change of executive management of motor



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29 vehicle dealership and acceptance or rejection by the
 30 licensee of such change; prohibiting certain acts by
 31 licensee; amending s. 320.645, F.S.; revising restriction
 32 upon ownership of dealership by licensee; amending s.
 33 501.976, F.S.; revising specifications under the Florida
 34 Deceptive and Unfair Trade Practices Act for
 35 representation by dealer of vehicle as a demonstrator;
 36 deleting the requirement that a demonstrator must have
 37 been driven by a prospective customer; providing an
 38 effective date.

39
 40 Be It Enacted by the Legislature of the State of Florida:

41
 42 Section 1. Subsections (3), (10), and (13) of section
 43 320.60, Florida Statutes, are amended, and subsection (16) is
 44 added to said section, to read:

45 320.60 Definitions for ss. 320.61-320.70.--Whenever used
 46 in ss. 320.61-320.70, unless the context otherwise requires, the
 47 following words and terms have the following meanings:

48 (3) "Demonstrator" means any new motor vehicle which is
 49 carried on the records of the dealer as a demonstrator and is
 50 used by, being inspected or driven by the dealer or his or her
 51 employees, or prospective customers for the purpose of
 52 demonstrating vehicle characteristics in the sale or display of
 53 motor vehicles sold by the dealer.

54 (10) "Motor vehicle" means any new automobile, motorcycle,
 55 or truck, including all trucks, regardless of weight, including
 56 "heavy truck" as defined in s. 320.01(10) and "truck" as defined



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57 | in s. 320.01(9), the equitable or legal title to which has never
58 | been transferred by a manufacturer, distributor, importer, or
59 | dealer to an ultimate purchaser; however, when legal title is
60 | not transferred but possession of a motor vehicle is transferred
61 | pursuant to a conditional sales contract or lease and the
62 | conditions are not satisfied and the vehicle is returned to the
63 | motor vehicle dealer, the motor vehicle may be resold by the
64 | motor vehicle dealer as a new motor vehicle, provided the
65 | selling motor vehicle dealer gives the following written notice
66 | to the purchaser: "THIS VEHICLE WAS DELIVERED TO A PREVIOUS
67 | PURCHASER." The purchaser shall sign an acknowledgment, a copy
68 | of which is kept in the selling dealer's file.

69 | (13) "Used motor vehicle" means any motor vehicle the
70 | title to ~~or possession of~~ which has been transferred, at least
71 | once, by a ~~from the person who first acquired it from the~~
72 | manufacturer, distributor, importer, or dealer to an ultimate
73 | purchaser and ~~which is commonly known as "secondhand" within the~~
74 | ~~ordinary meaning thereof.~~

75 | (16) "Service" means any maintenance or repair of any
76 | motor vehicle or used motor vehicle that is sold or provided to
77 | an owner, operator, or user pursuant to a motor vehicle
78 | warranty, or any extension thereof, issued by the licensee.

79 | Section 2. Subsections (33), (34), and (35) are added to
80 | section 320.64, Florida Statutes, to read:

81 | 320.64 Denial, suspension, or revocation of license;
82 | grounds.--A license of a licensee under s. 320.61 may be denied,
83 | suspended, or revoked within the entire state or at any specific
84 | location or locations within the state at which the applicant or



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85 licensee engages or proposes to engage in business, upon proof
86 that the section was violated with sufficient frequency to
87 establish a pattern of wrongdoing, and a licensee or applicant
88 shall be liable for claims and remedies provided in ss. 320.695
89 and 320.697 for any violation of any of the following
90 provisions. A licensee is prohibited from committing the
91 following acts:

92 (33) The applicant or licensee has attempted to sell or
93 lease, or has sold or leased, used motor vehicles at retail of a
94 line-make that is the subject of any franchise agreement with a
95 motor vehicle dealer in this state, other than heavy trucks with
96 a net weight of more than 8,000 pounds.

97 (34) The applicant or licensee, after the effective date
98 of this subsection, has included in any franchise agreement with
99 a motor vehicle dealer a mandatory obligation or requirement of
100 the motor vehicle dealer to purchase, sell, or lease, or offer
101 for purchase, sale, or lease, any quantity of used motor
102 vehicles.

103 (35) The applicant or licensee has refused to assign
104 allocation earned by a motor vehicle dealer, or has refused to
105 sell motor vehicles to a motor vehicle dealer, because the motor
106 vehicle dealer has failed or refused to sell, lease, or certify
107 a certain quantity of used motor vehicles prescribed by the
108 licensee.

109
110 A motor vehicle dealer who can demonstrate that a violation of,
111 or failure to comply with, any of the preceding provisions by an
112 applicant or licensee will or can adversely and pecuniarily



113 affect the complaining dealer, shall be entitled to pursue all
 114 of the remedies, procedures, and rights of recovery available
 115 under ss. 320.695 and 320.697.

116 Section 3. Paragraph (b) of subsection (2) and subsection
 117 (3) of section 320.642, Florida Statutes, are amended, and
 118 subsection (6) is added to said section, to read:

119 320.642 Dealer licenses in areas previously served;
 120 procedure.--

121 (2)

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

126 1. The impact of the establishment of the proposed or
 127 relocated dealer on the consumers, public interest, existing
 128 dealers, and the licensee; provided, however, that financial
 129 impact may only be considered with respect to the protesting
 130 dealer or dealers.

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

134 3. The reasonably expected market penetration of the line-
 135 make motor vehicle for the community or territory involved,
 136 after consideration of all factors which may affect said
 137 penetration, including, but not limited to, demographic factors
 138 such as age, income, education, size class preference, product
 139 popularity, retail lease transactions, or other factors
 140 affecting sales to consumers of the community or territory.



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141 4. Any actions by the licensees in denying its existing
142 dealer or dealers of the same line-make the opportunity for
143 reasonable growth, market expansion, or relocation, including
144 the availability of line-make vehicles in keeping with the
145 reasonable expectations of the licensee in providing an adequate
146 number of dealers in the community or territory.

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

150 6. Distance, travel time, traffic patterns, and
151 accessibility between the existing dealer or dealers of the same
152 line-make and the location of the proposed additional or
153 relocated dealer.

154 7. Whether benefits to consumers will likely occur from
155 the establishment or relocation of the dealership which ~~the~~
156 ~~protesting dealer or dealers prove~~ cannot be obtained by other
157 geographic or demographic changes or expected changes in the
158 community or territory.

159 8. Whether the protesting dealer or dealers are in
160 substantial compliance with their dealer agreement.

161 9. Whether there is adequate interbrand and intrabrand
162 competition with respect to said line-make in the community or
163 territory and adequately convenient consumer care for the motor
164 vehicles of the line-make, including the adequacy of sales and
165 service facilities.

166 10. Whether the establishment or relocation of the
167 proposed dealership appears to be warranted and justified based
168 on economic and marketing conditions pertinent to dealers



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169 competing in the community or territory, including anticipated
170 future changes.

171 11. The volume of registrations and service business
172 transacted by the existing dealer or dealers of the same line-
173 make in the relevant community or territory of the proposed
174 dealership.

175 (3) An existing franchised motor vehicle dealer or dealers
176 shall have standing to protest a proposed additional or
177 relocated motor vehicle dealer where the existing motor vehicle
178 dealer or dealers have a franchise agreement for the same line-
179 make vehicle to be sold or serviced by the proposed additional
180 or relocated motor vehicle dealer and are physically located so
181 as to meet or satisfy any of the following requirements or
182 conditions:

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

188 1. The proposed additional or relocated motor vehicle
189 dealer is to be located in the area designated or described as
190 the area of responsibility, or such similarly designated area,
191 including the entire area designated as a multiple-point area,
192 in the franchise agreement or in any related document or
193 commitment with the existing motor vehicle dealer or dealers of
194 the same line-make as such agreement existed upon October 1,
195 1988;



196 2. The existing motor vehicle dealer or dealers of the
197 same line-make have a licensed franchise location within a
198 radius of 20 miles of the location of the proposed additional or
199 relocated motor vehicle dealer; or

200 3. Any existing motor vehicle dealer or dealers of the
201 same line-make can establish that during any 12-month period of
202 the 36-month period preceding the filing of the licensee's
203 application for the proposed dealership, such dealer or its
204 predecessor made 25 percent of its retail sales of new motor
205 vehicles to persons whose registered household addresses were
206 located within a radius of 20 miles of the location of the
207 proposed additional or relocated motor vehicle dealer; provided
208 such existing dealer is located in the same county or any county
209 contiguous to the county where the additional or relocated
210 dealer is proposed to be located.

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

216 1. Any existing motor vehicle dealer or dealers of the
217 same line-make have a licensed franchise location within a
218 radius of 12.5 miles of the location of the proposed additional
219 or relocated motor vehicle dealer; or

220 2. Any existing motor vehicle dealer or dealers of the
221 same line-make can establish that during any 12-month period of
222 the 36-month period preceding the filing of the licensee's
223 application for the proposed dealership, such dealer or its



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224 predecessor made 25 percent of its retail sales of new motor
225 vehicles to persons whose registered household addresses were
226 located within a radius of 12.5 miles of the location of the
227 proposed additional or relocated motor vehicle dealer; provided
228 such existing dealer is located in the same county or any county
229 contiguous to the county where the additional or relocated
230 dealer is proposed to be located.

231 (6) When a proposed addition or relocation concerns a
232 dealership that performs or is to perform only service, as
233 defined in s. 320.60(16), and will not or does not sell or lease
234 new motor vehicles, as defined in s. 320.60(15), the proposal
235 shall be subject to notice and protest pursuant to the
236 provisions of this section.

237 (a) Standing to protest the addition or relocation of a
238 service-only dealership shall be limited to those instances in
239 which the applicable mileage requirement established in
240 subparagraphs (3)(a)2. and (3)(b)1. is met.

241 (b) The addition or relocation of a service-only
242 dealership shall not be subject to protest if:

243 1. The applicant for the service-only dealership location
244 is an existing motor vehicle dealer of the same line-make as the
245 proposed additional or relocated service-only dealership;

246 2. There is no existing dealer of the same line-make
247 closer than the applicant to the proposed location of the
248 additional or relocated service-only dealership; and

249 3. The proposed location of the additional or relocated
250 service-only dealership is at least 7 miles from all existing



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251 motor vehicle dealerships of the same line-make, other than
252 motor vehicle dealerships owned by the applicant.

253 (c) In determining whether existing franchised motor
254 vehicle dealers are providing adequate representations in the
255 community or territory for the line-make in question in a
256 protest of the proposed addition or relocation of a service-only
257 dealership, the department may consider the elements set forth
258 in paragraph (2)(b), provided:

259 1. With respect to subparagraph (2)(b)1., only the impact
260 as it relates to service may be considered;

261 2. Subparagraph (2)(b)3. shall not be considered;

262 3. With respect to subparagraph (2)(b)9., only service
263 facilities shall be considered; and

264 4. With respect to subparagraph (2)(b)11., only the volume
265 of service business transacted shall be considered.

266 (d) If an application for a service-only dealership is
267 granted, the department shall issue a license which permits only
268 service, as defined in s. 320.60(16), and does not permit the
269 selling or leasing of new motor vehicles, as defined in s.
270 320.60(15). If a service-only dealership subsequently seeks to
271 sell new motor vehicles at its location, the notice and protest
272 provisions of this section shall apply.

273 Section 4. Section 320.643, Florida Statutes, is amended
274 to read:

275 320.643 Transfer, assignment, or sale of franchise
276 agreements.--

277 (1)(a) Notwithstanding the terms of any franchise
278 agreement, a licensee shall not, by contract or otherwise, fail



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279 or refuse to give effect to, prevent, prohibit, or penalize or
280 attempt to refuse to give effect to, prohibit, or penalize any
281 motor vehicle dealer from selling, assigning, transferring,
282 alienating, or otherwise disposing of its franchise agreement to
283 any other person or persons, including a corporation established
284 or existing for the purpose of owning or holding a franchise
285 agreement, unless the licensee proves at a hearing pursuant to a
286 complaint filed by a motor vehicle dealer under this section
287 that such sale, transfer, alienation, or other disposition is to
288 a person who is not, or whose controlling executive management
289 is not, of good moral character or does not meet the written,
290 reasonable, and uniformly applied standards or qualifications of
291 the licensee relating to financial qualifications of the
292 transferee and business experience of the transferee or the
293 transferee's executive management. A motor vehicle dealer who
294 desires to sell, assign, transfer, alienate, or otherwise
295 dispose of a franchise shall notify, or cause the proposed
296 transferee to notify, the licensee, in writing, setting forth
297 the prospective transferee's name, address, financial
298 qualifications, and business experience during the previous 5
299 years. A licensee who receives such notice may, within 60 days
300 following such receipt, notify the motor vehicle dealer, in
301 writing, that the proposed transferee is not a person qualified
302 to be a transferee under this section and setting forth the
303 material reasons for such rejection. Failure of the licensee to
304 notify the motor vehicle dealer within the 60-day period of such
305 rejection shall be deemed an approval of the transfer. No such
306 transfer, assign, or sale shall be valid unless the transferee



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307 agrees in writing to comply with all requirements of the
308 franchise then in effect ~~A motor vehicle dealer shall not~~
309 ~~transfer, assign, or sell a franchise agreement to another~~
310 ~~person unless the dealer first notifies the licensee of the~~
311 ~~dealer's decision to make such transfer, by written notice~~
312 ~~setting forth the prospective transferee's name, address,~~
313 ~~financial qualification, and business experience during the~~
314 ~~previous 5 years. The licensee shall, in writing, within 60 days~~
315 ~~after receipt of such notice, inform the dealer either of the~~
316 ~~licensee's approval of the transfer, assignment, or sale or of~~
317 ~~the unacceptability of the proposed transferee, setting forth~~
318 ~~the material reasons for the rejection. If the licensee does not~~
319 ~~so inform the dealer within the 60-day period, its approval of~~
320 ~~the proposed transfer is deemed granted. No such transfer,~~
321 ~~assignment, or sale will be valid unless the transferee agrees~~
322 ~~in writing to comply with all requirements of the franchise then~~
323 ~~in effect. For the purposes of this section, the refusal by the~~
324 ~~licensee to accept a proposed transferee who is of good moral~~
325 ~~character and who otherwise meets the written, reasonable, and~~
326 ~~uniformly applied standards or qualifications, if any, of the~~
327 ~~licensee relating to financial qualifications of the transferee~~
328 ~~and the business experience of the transferee or the~~
329 ~~transferee's executive management is presumed to be~~
330 ~~unreasonable.~~

331 (b) A motor vehicle dealer whose proposed sale is rejected
332 may, within 60 days following such receipt of such rejection,
333 file with the department a complaint for a determination that
334 the proposed transferee has been rejected in violation of this



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335 section. The licensee has the burden of proof with respect to
336 all issues raised by such complaint. The department shall
337 determine, and enter an order providing, that the proposed
338 transferee is either qualified or is not and cannot be qualified
339 for specified reasons, or the order may provide the conditions
340 under which a proposed transferee would be qualified. If the
341 licensee fails to file such a response to the motor vehicle
342 dealer's complaint within 30 days after receipt of the
343 complaint, unless the parties agree in writing to an extension,
344 or if the department, after a hearing, renders a decision other
345 than one disqualifying the proposed transferee, the franchise
346 agreement between the motor vehicle dealer and the licensee
347 shall be deemed amended to incorporate such transfer or amended
348 in accordance with the determination and order rendered,
349 effective upon compliance by the proposed transferee with any
350 conditions set forth in the determination or order.

351 (2)~~(a)~~ Notwithstanding the terms of any franchise
352 agreement, a licensee shall not, by contract or otherwise, fail
353 or refuse to give effect to, prevent, prohibit, or penalize, or
354 attempt to refuse to give effect to, prevent, prohibit, or
355 penalize, any motor vehicle dealer or any proprietor, partner,
356 stockholder, owner, or other person who holds or otherwise owns
357 an interest therein from selling, assigning, transferring,
358 alienating, or otherwise disposing of, in whole or in part, the
359 equity interest of any of them in such motor vehicle dealer to
360 any other person or persons, including a corporation established
361 or existing for the purpose of owning or holding the stock or
362 ownership interests of other entities, unless the licensee



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363 | proves at a hearing pursuant to a complaint filed by a motor
364 | vehicle dealer under this section that such sale, transfer,
365 | alienation, or other disposition is to a person who is not, or
366 | whose controlling executive management is not, of good moral
367 | character. A motor vehicle dealer, or any proprietor, partner,
368 | stockholder, owner, or other person who holds or otherwise owns
369 | an interest in the motor vehicle dealer, who desires to sell,
370 | assign, transfer, alienate, or otherwise dispose of any interest
371 | in such motor vehicle dealer shall notify, or cause the proposed
372 | transferee to so notify, the licensee, in writing, of the
373 | identity and address of the proposed transferee. A licensee who
374 | receives such notice may, within 60 days following such receipt,
375 | notify the motor vehicle dealer in writing that the proposed
376 | transferee is not a person qualified to be a transferee under
377 | this section and setting forth the material reasons for such
378 | rejection. Failure of the licensee to notify the motor vehicle
379 | dealer within the 60-day period of such rejection shall be
380 | deemed an approval of the transfer. Any person whose proposed
381 | sale of stock is rejected may file within 60 days of receipt of
382 | such rejection a complaint with the department alleging that the
383 | rejection was in violation of the law or the franchise
384 | agreement. The licensee has the burden of proof with respect to
385 | all issues raised by such complaint. The department shall
386 | determine, and enter an order providing, that the proposed
387 | transferee either is qualified or is not and cannot be qualified
388 | for specified reasons; or the order may provide the conditions
389 | under which a proposed transferee would be qualified. If the
390 | licensee fails to file a response to the motor vehicle dealer's



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391 complaint within 30 days of receipt of the complaint, unless the
392 parties agree in writing to an extension, or if the department,
393 after a hearing, renders a decision on the complaint other than
394 one disqualifying the proposed transferee, the transfer shall be
395 deemed approved in accordance with the determination and order
396 rendered, effective upon compliance by the proposed transferee
397 with any conditions set forth in the determination or order.

398 (3)~~(b)~~ During the pendency of any such hearing, the
399 franchise agreement of the motor vehicle dealer shall continue
400 in effect in accordance with its terms. The department shall
401 expedite any determination requested under this section.

402 (4)~~(3)~~ Notwithstanding the terms of any franchise
403 agreement, the acceptance by the licensee of the proposed
404 transferee shall not be unreasonably withheld. For the purposes
405 of this section, the refusal by the licensee to accept a
406 proposed transferee who satisfies the criteria set forth in
407 subsection (1) or subsection (2) is presumed to be unreasonable.

408 (5) It shall be a violation of this section for the
409 licensee to reject or withhold approval of a proposed transfer
410 unless the licensee can prove in any court of competent
411 jurisdiction in defense of any claim brought pursuant to s.
412 320.697 that, in fact, the rejection or withholding of approval
413 of the proposed transfer was reasonable. The determination of
414 whether such rejection or withholding was reasonable shall be
415 based on an objective standard. Alleging the permitted statutory
416 grounds by the licensee in the written rejection of the proposed
417 transfer shall not protect the licensee from liability for
418 violating this section.



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419 Section 5. Section 320.644, Florida Statutes, is amended
420 to read:

421 320.644 Change of executive management control; objection
422 by licensee; procedure.--

423 (1) Notwithstanding the terms of any franchise agreement,
424 a licensee shall not, by contract or otherwise, fail or refuse
425 to give effect to, prevent, prohibit, or penalize, or attempt to
426 refuse to give effect to, prevent, prohibit, or penalize any
427 motor vehicle dealer from changing its executive management
428 control unless the licensee proves at a hearing pursuant to a
429 complaint filed by a motor vehicle dealer under this section
430 that such change is to a person who is not of good moral
431 character or who does ~~No licensee shall prohibit or prevent, or~~
432 ~~attempt to prohibit or prevent, any motor vehicle dealer from~~
433 ~~changing the executive management control of the motor vehicle~~
434 ~~dealer unless the proposed change of executive management~~
435 ~~control of the motor vehicle dealer is to a person or persons~~
436 ~~not of good moral character or who do not meet the written,~~
437 reasonable, and uniformly applied standards of the licensee
438 relating to the business experience of executive management
439 required by the licensee of its motor vehicle dealers. A motor
440 vehicle dealer who desires to change its executive management
441 control shall notify the licensee by written notice, setting
442 forth the name, address, and business experience of the proposed
443 executive management. A licensee who receives such notice shall,
444 in writing ~~may~~, within 60 days following such receipt, inform
445 the motor vehicle dealer either of the approval of the proposed
446 change in executive management or the unacceptability of the



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447 proposed change. If the licensee does not so inform the motor
448 vehicle dealer within the 60-day period, its approval of the
449 proposed change is deemed granted. A motor vehicle dealer whose
450 proposed change is rejected may, within 60 days following
451 receipt of such rejection, file with the department a complaint
452 for a determination that the proposed change of executive
453 management has been rejected in violation of this section. The
454 licensee has the burden of proof with respect to all issues
455 raised by such complaint. The department shall determine, and
456 enter an order providing, that the person proposed for the
457 change is either qualified or is not and cannot be qualified for
458 specific reasons, or the order may provide the conditions under
459 which a proposed executive manager would be qualified. If the
460 licensee fails to file a response to the motor vehicle dealer's
461 complaint within 30 days after receipt of the complaint, unless
462 the parties agree in writing to an extension, or if the
463 department after a hearing renders a decision other than one
464 disqualifying the person proposed for the change, the franchise
465 agreement between the motor vehicle dealer and the licensee
466 shall be deemed amended to incorporate such change or amended in
467 accordance with the determination or order rendered, effective
468 upon compliance by the person proposed for the change with any
469 conditions set forth in the determination or order ~~file with the~~
470 ~~department a verified complaint for a determination that the~~
471 ~~proposed change of executive management will result in executive~~
472 ~~management control by persons who are not of good moral~~
473 ~~character or who do not meet such licensee's standards. The~~
474 ~~licensee has the burden of proof with respect to all issues~~



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475 ~~raised by such verified complaint. If the licensee fails to file~~
476 ~~such verified complaint within such 60 day period or if the~~
477 ~~department, after a hearing, dismisses the complaint, the~~
478 ~~franchise agreement between the motor vehicle dealer and the~~
479 ~~licensee shall be deemed amended to incorporate such change or~~
480 ~~amended in accordance with the decision rendered. For the~~
481 ~~purpose of this section, the mere termination of employment of~~
482 ~~executive management, including the dealer/operator or such~~
483 ~~similarly designated person or persons, shall not be deemed to~~
484 ~~be a change in executive management or a transfer of the~~
485 ~~franchise. Provided, however, the designation of replacement~~
486 ~~executive management shall be subject to this section.~~

487 (2) For the purpose of this section, the mere termination
488 of employment of executive management shall not be deemed to be
489 a change in executive management or a transfer of the franchise;
490 however, the proposal of replacement executive management shall
491 be subject to ~~During the pendency of any such hearing, the~~
492 ~~franchise agreement of the motor vehicle dealer shall continue~~
493 ~~in effect in accordance with its terms. The department shall~~
494 ~~expedite any determination requested under this section.~~

495 (3) For the purpose of this section, the term "executive
496 management" means, and is limited to, the person or persons
497 designated under the franchise agreement as the dealer-operator,
498 executive manager, or similarly designated persons who are
499 responsible for the overall day-to-day operation of the
500 dealership. A motor vehicle dealer may change all other
501 dealership personnel without seeking approval from the licensee.



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

506 (5) It shall be a violation of this section for the
 507 licensee to reject or withhold approval of a proposed transfer
 508 unless the licensee can prove in any court of competent
 509 jurisdiction in defense of any claim brought pursuant to s.
 510 320.697 that, in fact, the rejection or withholding of approval
 511 of the proposed transfer was reasonable. The determination of
 512 whether such rejection or withholding was reasonable shall be
 513 based on an objective standard. Alleging the permitted statutory
 514 grounds by the licensee in the written rejection of the proposed
 515 transfer shall not protect the licensee from liability for
 516 violating this section.

517 Section 6. Subsection (4) of section 320.645, Florida
 518 Statutes, is amended to read:

519 320.645 Restriction upon ownership of dealership by
 520 licensee.--

521 (4) Nothing in this chapter ~~section~~ shall prohibit a
 522 distributor licensee ~~distributor~~ as defined in s. 320.60(5) or
 523 common entity that is not a manufacturer, a division of a
 524 manufacturer, an entity that is controlled by a manufacturer, or
 525 a common entity of a manufacturer, and that is not owned, in
 526 whole or in part, directly or indirectly, by a manufacturer, as
 527 defined in s. 320.60(9), ~~and that has owned and operated a motor~~
 528 ~~vehicle dealership in this state on or before July 1, 1996,~~
 529 ~~other than a motor vehicle dealership permitted by paragraph~~



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530 ~~(1)(b)~~, from receiving a license or licensee as defined in s.
531 320.27 and while owning and operating a motor vehicle dealership
532 or dealerships that sell or service ~~sells or services~~ motor
533 vehicles other than any line-make of motor vehicles distributed
534 by the distributor licensee ~~distributor~~.

535 Section 7. Subsection (2) of section 501.976, Florida
536 Statutes, is amended to read:

537 501.976 Actionable, unfair, or deceptive acts or
538 practices.--It is an unfair or deceptive act or practice,
539 actionable under the Florida Deceptive and Unfair Trade
540 Practices Act, for a dealer to:

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

545
546 In any civil litigation resulting from a violation of this
547 section, when evaluating the reasonableness of an award of
548 attorney's fees to a private person, the trial court shall
549 consider the amount of actual damages in relation to the time
550 spent.

551 Section 8. This act shall take effect upon becoming a law.
552