

1
2 An act relating to motor vehicle dealers;
3 amending s. 320.60, F.S.; revising definitions;
4 defining "service"; amending s. 320.64, F.S.;
5 prohibiting certain acts by licensee or
6 applicant; providing for penalties, liability,
7 and remedies for violation; amending s.
8 320.642, F.S.; revising provisions for evidence
9 to be considered by the Department of Highway
10 Safety and Motor Vehicles in making certain
11 determinations of representation by preexisting
12 dealers; providing criteria and procedures for
13 protest of proposed addition or relocation of
14 service-only dealership; requiring license to
15 permit service only in certain circumstances;
16 amending s. 320.643, F.S.; revising criteria
17 and procedures for transfer, sale, or disposal
18 of franchise agreements and acceptance or
19 rejection by the licensee of such transfer,
20 sale, or disposal; prohibiting certain acts by
21 a licensee; amending s. 320.644, F.S.; defining
22 "executive management"; revising criteria and
23 procedures for change of executive management
24 of motor vehicle dealership and acceptance or
25 rejection by the licensee of such change;
26 prohibiting certain acts by licensee; amending
27 s. 320.645, F.S.; revising restriction upon
28 ownership of dealership by licensee; amending
29 s. 501.976, F.S.; revising specifications under
30 the Florida Deceptive and Unfair Trade
31 Practices Act for representation by dealer of

1 vehicle as a demonstrator; deleting the
2 requirement that a demonstrator must have been
3 driven by a prospective customer; providing an
4 effective date.

5

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

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8 Section 1. Subsections (3), (10), and (13) of section
9 320.60, Florida Statutes, are amended, and subsection (16) is
10 added to that section, to read:

11 320.60 Definitions for ss. 320.61-320.70.--Whenever
12 used in ss. 320.61-320.70, unless the context otherwise
13 requires, the following words and terms have the following
14 meanings:

15 (3) "Demonstrator" means any new motor vehicle which
16 is carried on the records of the dealer as a demonstrator and
17 is used by, being inspected or driven by the dealer or his or
18 her employees, or prospective customers for the purpose of
19 demonstrating vehicle characteristics in the sale or display
20 of motor vehicles sold by the dealer.

21 (10) "Motor vehicle" means any new automobile,
22 motorcycle, or truck, including all trucks, regardless of
23 weight, including "heavy truck" as defined in s. 320.01(10)
24 and "truck" as defined in s. 320.01(9),the equitable or legal
25 title to which has never been transferred by a manufacturer,
26 distributor, importer, or dealer to an ultimate purchaser;
27 however, when legal title is not transferred but possession of
28 a motor vehicle is transferred pursuant to a conditional sales
29 contract or lease and the conditions are not satisfied and the
30 vehicle is returned to the motor vehicle dealer, the motor
31 vehicle may be resold by the motor vehicle dealer as a new

1 motor vehicle, provided the selling motor vehicle dealer gives
2 the following written notice to the purchaser: "THIS VEHICLE
3 WAS DELIVERED TO A PREVIOUS PURCHASER." The purchaser shall
4 sign an acknowledgment, a copy of which is kept in the selling
5 dealer's file.

6 (13) "Used motor vehicle" means any motor vehicle the
7 title to or possession of which has been transferred, at least
8 once, by a from the person who first acquired it from the
9 manufacturer, distributor, importer, or dealer to an ultimate
10 purchaser and which is commonly known as "secondhand" within
11 the ordinary meaning thereof.

12 (16) "Service" means any maintenance or repair of any
13 motor vehicle or used motor vehicle that is sold or provided
14 to an owner, operator, or user pursuant to a motor vehicle
15 warranty, or any extension thereof, issued by the licensee.

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

18 320.64 Denial, suspension, or revocation of license;
19 grounds.--A license of a licensee under s. 320.61 may be
20 denied, suspended, or revoked within the entire state or at
21 any specific location or locations within the state at which
22 the applicant or licensee engages or proposes to engage in
23 business, upon proof that the section was violated with
24 sufficient frequency to establish a pattern of wrongdoing, and
25 a licensee or applicant shall be liable for claims and
26 remedies provided in ss. 320.695 and 320.697 for any violation
27 of any of the following provisions. A licensee is prohibited
28 from committing the following acts:

29 (33) The applicant or licensee has attempted to sell
30 or lease, or has sold or leased, used motor vehicles at retail
31 of a line-make that is the subject of any franchise agreement

1 with a motor vehicle dealer in this state, other than trucks
2 with a net weight of more than 8,000 pounds.

3 (34) The applicant or licensee, after the effective
4 date of this subsection, has included in any franchise
5 agreement with a motor vehicle dealer a mandatory obligation
6 or requirement of the motor vehicle dealer to purchase, sell,
7 or lease, or offer for purchase, sale, or lease, any quantity
8 of used motor vehicles.

9 (35) The applicant or licensee has refused to assign
10 allocation earned by a motor vehicle dealer, or has refused to
11 sell motor vehicles to a motor vehicle dealer, because the
12 motor vehicle dealer has failed or refused to purchase, sell,
13 lease, or certify a certain quantity of used motor vehicles
14 prescribed by the licensee.

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16 A motor vehicle dealer who can demonstrate that a violation
17 of, or failure to comply with, any of the preceding provisions
18 by an applicant or licensee will or can adversely and
19 pecuniarily affect the complaining dealer, shall be entitled
20 to pursue all of the remedies, procedures, and rights of
21 recovery available under ss. 320.695 and 320.697.

22 Section 3. Paragraph (b) of subsection (2) and
23 subsection (3) of section 320.642, Florida Statutes, are
24 amended, and subsection (6) is added to that section, to read:

25 320.642 Dealer licenses in areas previously served;
26 procedure.--

27 (2)

28 (b) In determining whether the existing franchised
29 motor vehicle dealer or dealers are providing adequate
30 representation in the community or territory for the

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1 line-make, the department may consider evidence which may
2 include, but is not limited to:

3 1. The impact of the establishment of the proposed or
4 relocated dealer on the consumers, public interest, existing
5 dealers, and the licensee; provided, however, that financial
6 impact may only be considered with respect to the protesting
7 dealer or dealers.

8 2. The size and permanency of investment reasonably
9 made and reasonable obligations incurred by the existing
10 dealer or dealers to perform their obligations under the
11 dealer agreement.

12 3. The reasonably expected market penetration of the
13 line-make motor vehicle for the community or territory
14 involved, after consideration of all factors which may affect
15 said penetration, including, but not limited to, demographic
16 factors such as age, income, education, size class preference,
17 product popularity, retail lease transactions, or other
18 factors affecting sales to consumers of the community or
19 territory.

20 4. Any actions by the licensees in denying its
21 existing dealer or dealers of the same line-make the
22 opportunity for reasonable growth, market expansion, or
23 relocation, including the availability of line-make vehicles
24 in keeping with the reasonable expectations of the licensee in
25 providing an adequate number of dealers in the community or
26 territory.

27 5. Any attempts by the licensee to coerce the existing
28 dealer or dealers into consenting to additional or relocated
29 franchises of the same line-make in the community or
30 territory.

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1 6. Distance, travel time, traffic patterns, and
2 accessibility between the existing dealer or dealers of the
3 same line-make and the location of the proposed additional or
4 relocated dealer.

5 7. Whether benefits to consumers will likely occur
6 from the establishment or relocation of the dealership which
7 ~~the protesting dealer or dealers prove~~ cannot be obtained by
8 other geographic or demographic changes or expected changes in
9 the community or territory.

10 8. Whether the protesting dealer or dealers are in
11 substantial compliance with their dealer agreement.

12 9. Whether there is adequate interbrand and intrabrand
13 competition with respect to said line-make in the community or
14 territory and adequately convenient consumer care for the
15 motor vehicles of the line-make, including the adequacy of
16 sales and service facilities.

17 10. Whether the establishment or relocation of the
18 proposed dealership appears to be warranted and justified
19 based on economic and marketing conditions pertinent to
20 dealers competing in the community or territory, including
21 anticipated future changes.

22 11. The volume of registrations and service business
23 transacted by the existing dealer or dealers of the same
24 line-make in the relevant community or territory of the
25 proposed dealership.

26 (3) An existing franchised motor vehicle dealer or
27 dealers shall have standing to protest a proposed additional
28 or relocated motor vehicle dealer where the existing motor
29 vehicle dealer or dealers have a franchise agreement for the
30 same line-make vehicle to be sold or serviced by the proposed
31 additional or relocated motor vehicle dealer and are

1 physically located so as to meet or satisfy any of the
2 following requirements or conditions:

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

8 1. The proposed additional or relocated motor vehicle
9 dealer is to be located in the area designated or described as
10 the area of responsibility, or such similarly designated area,
11 including the entire area designated as a multiple-point area,
12 in the franchise agreement or in any related document or
13 commitment with the existing motor vehicle dealer or dealers
14 of the same line-make as such agreement existed upon October
15 1, 1988;

16 2. The existing motor vehicle dealer or dealers of the
17 same line-make have a licensed franchise location within a
18 radius of 20 miles of the location of the proposed additional
19 or relocated motor vehicle dealer; or

20 3. Any existing motor vehicle dealer or dealers of the
21 same line-make can establish that during any 12-month period
22 of the 36-month period preceding the filing of the licensee's
23 application for the proposed dealership, such dealer or its
24 predecessor made 25 percent of its retail sales of new motor
25 vehicles to persons whose registered household addresses were
26 located within a radius of 20 miles of the location of the
27 proposed additional or relocated motor vehicle dealer;
28 provided such existing dealer is located in the same county or
29 any county contiguous to the county where the additional or
30 relocated dealer is proposed to be located.

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

6 1. Any existing motor vehicle dealer or dealers of the
7 same line-make have a licensed franchise location within a
8 radius of 12.5 miles of the location of the proposed
9 additional or relocated motor vehicle dealer; or

10 2. Any existing motor vehicle dealer or dealers of the
11 same line-make can establish that during any 12-month period
12 of the 36-month period preceding the filing of the licensee's
13 application for the proposed dealership, such dealer or its
14 predecessor made 25 percent of its retail sales of new motor
15 vehicles to persons whose registered household addresses were
16 located within a radius of 12.5 miles of the location of the
17 proposed additional or relocated motor vehicle dealer;
18 provided such existing dealer is located in the same county or
19 any county contiguous to the county where the additional or
20 relocated dealer is proposed to be located.

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

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

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

3 1. The applicant for the service-only dealership
4 location is an existing motor vehicle dealer of the same
5 line-make as the proposed additional or relocated service-only
6 dealership;

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

10 3. The proposed location of the additional or
11 relocated service-only dealership is at least 7 miles from all
12 existing motor vehicle dealerships of the same line-make,
13 other than motor vehicle dealerships owned by the applicant.

14 (c) In determining whether existing franchised motor
15 vehicle dealers are providing adequate representations in the
16 community or territory for the line-make in question in a
17 protest of the proposed addition or relocation of a
18 service-only dealership, the department may consider the
19 elements set forth in paragraph (2)(b), provided:

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

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

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

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

27 (d) If an application for a service-only dealership is
28 granted, the department shall issue a license which permits
29 only service, as defined in s. 320.60(16), and does not permit
30 the selling or leasing of new motor vehicles, as defined in s.
31 320.60(15). If a service-only dealership subsequently seeks

1 to sell new motor vehicles at its location, the notice and
2 protest provisions of this section shall apply.

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

5 320.643 Transfer, assignment, or sale of franchise
6 agreements.--

7 (1)(a) Notwithstanding the terms of any franchise
8 agreement, a licensee shall not, by contract or otherwise,
9 fail or refuse to give effect to, prevent, prohibit, or
10 penalize or attempt to refuse to give effect to, prohibit, or
11 penalize any motor vehicle dealer from selling, assigning,
12 transferring, alienating, or otherwise disposing of its
13 franchise agreement to any other person or persons, including
14 a corporation established or existing for the purpose of
15 owning or holding a franchise agreement, unless the licensee
16 proves at a hearing pursuant to a complaint filed by a motor
17 vehicle dealer under this section that such sale, transfer,
18 alienation, or other disposition is to a person who is not, or
19 whose controlling executive management is not, of good moral
20 character or does not meet the written, reasonable, and
21 uniformly applied standards or qualifications of the licensee
22 relating to financial qualifications of the transferee and
23 business experience of the transferee or the transferee's
24 executive management. A motor vehicle dealer who desires to
25 sell, assign, transfer, alienate, or otherwise dispose of a
26 franchise shall notify, or cause the proposed transferee to
27 notify, the licensee, in writing, setting forth the
28 prospective transferee's name, address, financial
29 qualifications, and business experience during the previous 5
30 years. A licensee who receives such notice may, within 60 days
31 following such receipt, notify the motor vehicle dealer, in

1 writing, that the proposed transferee is not a person
2 qualified to be a transferee under this section and setting
3 forth the material reasons for such rejection. Failure of the
4 licensee to notify the motor vehicle dealer within the 60-day
5 period of such rejection shall be deemed an approval of the
6 transfer. No such transfer, assign, or sale shall be valid
7 unless the transferee agrees in writing to comply with all
8 requirements of the franchise then in effect ~~A motor vehicle~~
9 ~~dealer shall not transfer, assign, or sell a franchise~~
10 ~~agreement to another person unless the dealer first notifies~~
11 ~~the licensee of the dealer's decision to make such transfer,~~
12 ~~by written notice setting forth the prospective transferee's~~
13 ~~name, address, financial qualification, and business~~
14 ~~experience during the previous 5 years. The licensee shall, in~~
15 ~~writing, within 60 days after receipt of such notice, inform~~
16 ~~the dealer either of the licensee's approval of the transfer,~~
17 ~~assignment, or sale or of the unacceptability of the proposed~~
18 ~~transferee, setting forth the material reasons for the~~
19 ~~rejection. If the licensee does not so inform the dealer~~
20 ~~within the 60-day period, its approval of the proposed~~
21 ~~transfer is deemed granted. No such transfer, assignment, or~~
22 ~~sale will be valid unless the transferee agrees in writing to~~
23 ~~comply with all requirements of the franchise then in effect.~~
24 ~~For the purposes of this section, the refusal by the licensee~~
25 ~~to accept a proposed transferee who is of good moral character~~
26 ~~and who otherwise meets the written, reasonable, and uniformly~~
27 ~~applied standards or qualifications, if any, of the licensee~~
28 ~~relating to financial qualifications of the transferee and the~~
29 ~~business experience of the transferee or the transferee's~~
30 ~~executive management is presumed to be unreasonable.~~
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1 **(b)** A motor vehicle dealer whose proposed sale is
2 rejected may, within 60 days following such receipt of such
3 rejection, file with the department a complaint for a
4 determination that the proposed transferee has been rejected
5 in violation of this section. The licensee has the burden of
6 proof with respect to all issues raised by such complaint. The
7 department shall determine, and enter an order providing, that
8 the proposed transferee is either qualified or is not and
9 cannot be qualified for specified reasons, or the order may
10 provide the conditions under which a proposed transferee would
11 be qualified. If the licensee fails to file such a response to
12 the motor vehicle dealer's complaint within 30 days after
13 receipt of the complaint, unless the parties agree in writing
14 to an extension, or if the department, after a hearing,
15 renders a decision other than one disqualifying the proposed
16 transferee, the franchise agreement between the motor vehicle
17 dealer and the licensee shall be deemed amended to incorporate
18 such transfer or amended in accordance with the determination
19 and order rendered, effective upon compliance by the proposed
20 transferee with any conditions set forth in the determination
21 or order.

22 (2)~~(a)~~ Notwithstanding the terms of any franchise
23 agreement, a licensee shall not, by contract or otherwise,
24 fail or refuse to give effect to, prevent, prohibit, or
25 penalize, or attempt to refuse to give effect to, prevent,
26 prohibit, or penalize, any motor vehicle dealer or any
27 proprietor, partner, stockholder, owner, or other person who
28 holds or otherwise owns an interest therein from selling,
29 assigning, transferring, alienating, or otherwise disposing
30 of, in whole or in part, the equity interest of any of them in
31 such motor vehicle dealer to any other person or persons,

1 including a corporation established or existing for the
2 purpose of owning or holding the stock or ownership interests
3 of other entities, unless the licensee proves at a hearing
4 pursuant to a complaint filed by a motor vehicle dealer under
5 this section that such sale, transfer, alienation, or other
6 disposition is to a person who is not, or whose controlling
7 executive management is not, of good moral character. A motor
8 vehicle dealer, or any proprietor, partner, stockholder,
9 owner, or other person who holds or otherwise owns an interest
10 in the motor vehicle dealer, who desires to sell, assign,
11 transfer, alienate, or otherwise dispose of any interest in
12 such motor vehicle dealer shall notify, or cause the proposed
13 transferee to so notify, the licensee, in writing, of the
14 identity and address of the proposed transferee. A licensee
15 who receives such notice may, within 60 days following such
16 receipt, notify the motor vehicle dealer in writing that the
17 proposed transferee is not a person qualified to be a
18 transferee under this section and setting forth the material
19 reasons for such rejection. Failure of the licensee to notify
20 the motor vehicle dealer within the 60-day period of such
21 rejection shall be deemed an approval of the transfer. Any
22 person whose proposed sale of stock is rejected may file
23 within 60 days of receipt of such rejection a complaint with
24 the department alleging that the rejection was in violation of
25 the law or the franchise agreement. The licensee has the
26 burden of proof with respect to all issues raised by such
27 complaint. The department shall determine, and enter an order
28 providing, that the proposed transferee either is qualified or
29 is not and cannot be qualified for specified reasons; or the
30 order may provide the conditions under which a proposed
31 transferee would be qualified. If the licensee fails to file a

1 response to the motor vehicle dealer's complaint within 30
2 days of receipt of the complaint, unless the parties agree in
3 writing to an extension, or if the department, after a
4 hearing, renders a decision on the complaint other than one
5 disqualifying the proposed transferee, the transfer shall be
6 deemed approved in accordance with the determination and order
7 rendered, effective upon compliance by the proposed transferee
8 with any conditions set forth in the determination or order.

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

13 ~~(4)(3)~~ Notwithstanding the terms of any franchise
14 agreement, the acceptance by the licensee of the proposed
15 transferee shall not be unreasonably withheld. For the
16 purposes of this section, the refusal by the licensee to
17 accept a proposed transferee who satisfies the criteria set
18 forth in subsection (1) or subsection (2) is presumed to be
19 unreasonable.

20 (5) It shall be a violation of this section for the
21 licensee to reject or withhold approval of a proposed transfer
22 unless the licensee can prove in any court of competent
23 jurisdiction in defense of any claim brought pursuant to s.
24 320.697 that, in fact, the rejection or withholding of
25 approval of the proposed transfer was reasonable. The
26 determination of whether such rejection or withholding was
27 reasonable shall be based on an objective standard. Alleging
28 the permitted statutory grounds by the licensee in the written
29 rejection of the proposed transfer shall not protect the
30 licensee from liability for violating this section.

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1 Section 5. Section 320.644, Florida Statutes, is
2 amended to read:

3 320.644 Change of executive management control;
4 objection by licensee; procedure.--

5 (1) Notwithstanding the terms of any franchise
6 agreement, a licensee shall not, by contract or otherwise,
7 fail or refuse to give effect to, prevent, prohibit, or
8 penalize, or attempt to refuse to give effect to, prevent,
9 prohibit, or penalize any motor vehicle dealer from changing
10 its executive management control unless the licensee proves at
11 a hearing pursuant to a complaint filed by a motor vehicle
12 dealer under this section that such change is to a person who
13 is not of good moral character or who does ~~No licensee shall~~
14 ~~prohibit or prevent, or attempt to prohibit or prevent, any~~
15 ~~motor vehicle dealer from changing the executive management~~
16 ~~control of the motor vehicle dealer unless the proposed change~~
17 ~~of executive management control of the motor vehicle dealer is~~
18 ~~to a person or persons not of good moral character or who do~~
19 ~~not meet the written, reasonable, and uniformly applied~~
20 ~~standards of the licensee relating to the business experience~~
21 ~~of executive management required by the licensee of its motor~~
22 ~~vehicle dealers. A motor vehicle dealer who desires to change~~
23 ~~its executive management control shall notify the licensee by~~
24 ~~written notice, setting forth the name, address, and business~~
25 ~~experience of the proposed executive management. A licensee~~
26 ~~who receives such notice shall, in writing~~ may, within 60 days
27 following such receipt, inform the motor vehicle dealer either
28 of the approval of the proposed change in executive management
29 or the unacceptability of the proposed change. If the licensee
30 does not so inform the motor vehicle dealer within the 60-day
31 period, its approval of the proposed change is deemed granted.

1 A motor vehicle dealer whose proposed change is rejected may,
2 within 60 days following receipt of such rejection, file with
3 the department a complaint for a determination that the
4 proposed change of executive management has been rejected in
5 violation of this section. The licensee has the burden of
6 proof with respect to all issues raised by such complaint. The
7 department shall determine, and enter an order providing, that
8 the person proposed for the change is either qualified or is
9 not and cannot be qualified for specific reasons, or the order
10 may provide the conditions under which a proposed executive
11 manager would be qualified. If the licensee fails to file a
12 response to the motor vehicle dealer's complaint within 30
13 days after receipt of the complaint, unless the parties agree
14 in writing to an extension, or if the department after a
15 hearing renders a decision other than one disqualifying the
16 person proposed for the change, the franchise agreement
17 between the motor vehicle dealer and the licensee shall be
18 deemed amended to incorporate such change or amended in
19 accordance with the determination or order rendered, effective
20 upon compliance by the person proposed for the change with any
21 conditions set forth in the determination or order ~~file with~~
22 ~~the department a verified complaint for a determination that~~
23 ~~the proposed change of executive management will result in~~
24 ~~executive management control by persons who are not of good~~
25 ~~moral character or who do not meet such licensee's standards.~~
26 ~~The licensee has the burden of proof with respect to all~~
27 ~~issues raised by such verified complaint. If the licensee~~
28 ~~fails to file such verified complaint within such 60-day~~
29 ~~period or if the department, after a hearing, dismisses the~~
30 ~~complaint, the franchise agreement between the motor vehicle~~
31 ~~dealer and the licensee shall be deemed amended to incorporate~~

1 ~~such change or amended in accordance with the decision~~
2 ~~rendered. For the purpose of this section, the mere~~
3 ~~termination of employment of executive management, including~~
4 ~~the dealer/operator or such similarly designated person or~~
5 ~~persons, shall not be deemed to be a change in executive~~
6 ~~management or a transfer of the franchise. Provided, however,~~
7 ~~the designation of replacement executive management shall be~~
8 ~~subject to this section.~~

9 (2) For the purpose of this section, the mere
10 termination of employment of executive management shall not be
11 deemed to be a change in executive management or a transfer of
12 the franchise; however, the proposal of replacement executive
13 management shall be subject to ~~During the pendency of any such~~
14 ~~hearing, the franchise agreement of the motor vehicle dealer~~
15 ~~shall continue in effect in accordance with its terms. The~~
16 ~~department shall expedite any determination requested under~~
17 ~~this section.~~

18 (3) For the purpose of this section, the term
19 "executive management" means, and is limited to, the person or
20 persons designated under the franchise agreement as the
21 dealer-operator, executive manager, or similarly designated
22 persons who are responsible for the overall day-to-day
23 operation of the dealership. A motor vehicle dealer may change
24 all other dealership personnel without seeking approval from
25 the licensee.

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

30 (5) It shall be a violation of this section for the
31 licensee to reject or withhold approval of a proposed transfer

1 unless the licensee can prove in any court of competent
2 jurisdiction in defense of any claim brought pursuant to s.
3 320.697 that, in fact, the rejection or withholding of
4 approval of the proposed transfer was reasonable. The
5 determination of whether such rejection or withholding was
6 reasonable shall be based on an objective standard. Alleging
7 the permitted statutory grounds by the licensee in the written
8 rejection of the proposed transfer shall not protect the
9 licensee from liability for violating this section.

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

12 320.645 Restriction upon ownership of dealership by
13 licensee.--

14 (4) Nothing in this chapter ~~section~~ shall prohibit a
15 distributor licensee-distributor as defined in s. 320.60(5) or
16 common entity that is not a manufacturer, a division of a
17 manufacturer, an entity that is controlled by a manufacturer,
18 or a common entity of a manufacturer, and that is not owned,
19 in whole or in part, directly or indirectly, by a
20 manufacturer, as defined in s. 320.60(9), ~~and that has owned~~
21 ~~and operated a motor vehicle dealership in this state on or~~
22 ~~before July 1, 1996, other than a motor vehicle dealership~~
23 ~~permitted by paragraph (1)(b),~~ from receiving a license or
24 licenses as defined in s. 320.27 and ~~while~~ owning and
25 operating a motor vehicle dealership or dealerships that sell
26 or service ~~sells or services~~ motor vehicles other than any
27 line-make of motor vehicles distributed by the distributor
28 ~~licensee-distributor~~.

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

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1 501.976 Actionable, unfair, or deceptive acts or
2 practices.--It is an unfair or deceptive act or practice,
3 actionable under the Florida Deceptive and Unfair Trade
4 Practices Act, for a dealer to:

5 (2) Represent directly or indirectly that a vehicle is
6 a demonstrator unless the vehicle ~~was driven by prospective~~
7 ~~customers of a dealership selling the vehicle and such vehicle~~
8 complies with the definition of a demonstrator in s.
9 320.60(3).

10
11 In any civil litigation resulting from a violation of this
12 section, when evaluating the reasonableness of an award of
13 attorney's fees to a private person, the trial court shall
14 consider the amount of actual damages in relation to the time
15 spent.

16 Section 8. This act shall take effect upon becoming a
17 law.

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