



HB 0053B

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A bill to be entitled  
 An act relating to motor vehicle dealer licenses; amending  
 s. 320.642, F.S.; revising conditions under which an  
 application to establish an additional motor vehicle  
 dealership or permit the relocation of an existing motor  
 vehicle dealer to a location within a community or  
 territory where the same line-make vehicle is presently  
 represented by a franchised motor vehicle dealer or  
 dealers shall be denied; providing for construction of the  
 act in pari materia with laws enacted during the 2003  
 Regular Session or the 2003 Special Session A of the  
 Legislature; providing an effective date.

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

Section 1. Subsection (2) of section 320.642, Florida  
 Statutes, is amended to read:

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

(2)(a) An application for a motor vehicle dealer license  
 in any community or territory shall be denied when:

1. A timely protest is filed by a presently existing  
 franchised motor vehicle dealer with standing to protest as  
 defined in subsection (3); and

2. The licensee fails to show good cause. In order to show  
good cause, the licensee must establish that:

a. The existing franchised dealer or dealers who register  
 new motor vehicle retail sales or retail leases of the same  
 line-make in the community or territory of the proposed



HB 0053B

2003

30 dealership are not providing adequate representation of such  
 31 line-make motor vehicles in such community or territory; and

32 b. There will be no significant adverse impact on the  
 33 profitability or vehicle sales of the protesting dealer or  
 34 dealers.

35  
 36 The burden of proof in establishing inadequate representation  
 37 shall be on the licensee.

38 (b) In determining whether the licensee has met its burden  
 39 of proof in establishing inadequate representation ~~existing~~  
 40 ~~franchised motor vehicle dealer or dealers are providing~~  
 41 ~~adequate representation in the community or territory for the~~  
 42 ~~line-make~~, the department shall ~~may~~ consider evidence, including  
 43 ~~which may include~~, but ~~is~~ not limited to:

44 1. The impact of the establishment of the proposed or  
 45 relocated dealer on the consumers, public interest, existing  
 46 dealers, and the licensee; provided, however, that financial  
 47 impact may only be considered with respect to the protesting  
 48 dealer or dealers. Notwithstanding any other provision of this  
 49 section, if the licensee fails to establish that there will be  
 50 no significant adverse impact on the profitability of vehicle  
 51 sales of the protesting dealer or dealers, the application shall  
 52 be denied.

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

56 3. The reasonably expected market penetration of the line-  
 57 make motor vehicle for the community or territory involved,  
 58 after consideration of all factors which may affect said  
 59 penetration, including, but not limited to, demographic factors



HB 0053B

2003

60 such as age, income, education, size class preference, product  
61 popularity, import penetration, retail lease transactions, or  
62 other factors affecting sales to consumers of the community or  
63 territory. Market penetration shall not be measured by  
64 comparison to a community or territory that is not comparable to  
65 the community or territory of the proposed dealership with  
66 respect to the demographic factors set forth in this  
67 subparagraph, and such comparison area shall not be smaller in  
68 size, as measured by geographic area and retail registrations,  
69 than the community or territory of the proposed dealership.

70 4. Any actions by the licensees in denying its existing  
71 dealer or dealers of the same line-make the opportunity for  
72 reasonable growth, market expansion, or relocation, including  
73 the availability of line-make vehicles in keeping with the  
74 reasonable expectations of the licensee in providing an adequate  
75 number of dealers in the community or territory.

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

79 6. Distance, travel time, traffic patterns, and  
80 accessibility between the existing dealer or dealers of the same  
81 line-make and the location of the proposed additional or  
82 relocated dealer.

83 7. Whether benefits to consumers will likely occur from  
84 the establishment or relocation of the dealership which the  
85 protesting dealer or dealers prove cannot be obtained by other  
86 geographic or demographic changes or expected changes in the  
87 community or territory.

88 8. Whether the protesting dealer or dealers are in  
89 substantial compliance with their dealer agreement.



HB 0053B

2003

90 9. Whether there is adequate interbrand and intrabrand  
91 competition with respect to said line-make in the community or  
92 territory and adequately convenient consumer care for the motor  
93 vehicles of the line-make, including the adequacy of sales and  
94 service facilities.

95 10. Whether the establishment or relocation of the  
96 proposed dealership appears to be warranted and justified based  
97 on economic and marketing conditions pertinent to dealers  
98 competing in the community or territory, including anticipated  
99 future changes.

100 11. The volume of registrations and service business  
101 transacted by the existing dealer or dealers of the same line-  
102 make in the relevant community or territory of the proposed  
103 dealership.

104 Section 2. If any law amended by this act was also amended  
105 by a law enacted at the 2003 Regular Session of the Legislature  
106 or the 2003 Special Session A of the Legislature, such laws  
107 shall be construed as if they had been enacted at the same  
108 session of the Legislature, and full effect shall be given to  
109 each if possible.

110 Section 3. This act shall take effect upon becoming a law.