

Bill No. SB 2496

Barcode 703180

CHAMBER ACTION

Senate

House

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The Committee on Transportation (Bennett) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Section 501.975, Florida Statutes, is amended to read:

501.975 Definitions.--As used in this part ~~s. 501.976,~~ the term ~~following terms shall have the following meanings:~~

(1) "Customer" includes a customer's designated agent.

(2) "Dealer" means a motor vehicle dealer as defined in s. 320.27, but does not include a motor vehicle auction as defined in s. 320.27(1)(c)4.

(3) "Replacement item" means a tire, bumper, bumper fascia, glass, in-dashboard equipment, seat or upholstery cover or trim, exterior illumination unit, grill, sunroof, external mirror and external body cladding. The replacement of up to three of these items does not constitute repair of damage if each item is replaced because of a product defect or

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1 ~~damage damaged~~ due to vandalism, lot damage, or an act of God  
 2 while the new motor vehicle is under the control of the dealer  
 3 and the items are replaced with original manufacturer  
 4 equipment, ~~unless an item is replaced due to a crash,~~  
 5 ~~collision, or accident.~~

6 (4) "Threshold amount" means 3 percent of the  
 7 manufacturer's suggested retail price of a motor vehicle or  
 8 \$650, whichever is less.

9 (5) "Vehicle" means any automobile, truck, bus,  
 10 recreational vehicle, or motorcycle required to be licensed  
 11 under chapter 320 for operation over the roads of Florida, but  
 12 does not include trailers, mobile homes, travel trailers, or  
 13 trailer coaches without independent motive power.

14 Section 2. Section 501.9755, Florida Statutes, is  
 15 created to read:

16 501.9755 Unlawful acts and practices.--

17 (1) Unfair methods of competition, unconscionable acts  
 18 or practices, and unfair or deceptive acts or practices in the  
 19 conduct of any trade or commerce by a dealer are unlawful.

20 (2) It is the intent of the Legislature that, in  
 21 construing subsection (1), due consideration and great weight  
 22 be given to the interpretations of the Federal Trade  
 23 Commission and the federal courts relating to s. 5(a)(1) of  
 24 the Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1).

25 Section 3. Section 501.976, Florida Statutes, is  
 26 amended to read:

27 501.976 Actionable, unfair, or deceptive acts or  
 28 practices.--In addition to acts and practices actionable under  
 29 s. 501.9755, it is an unfair or deceptive act or practice,  
 30 actionable under the Florida Deceptive and Unfair Trade  
 31 Practices Act, for a dealer to:

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1           (1) Represent directly or indirectly that a motor  
2 vehicle is a factory executive vehicle or executive vehicle  
3 unless the ~~such~~ vehicle was purchased directly from the  
4 manufacturer or a subsidiary of the manufacturer and the  
5 vehicle was used exclusively by the manufacturer, its  
6 subsidiary, or a dealer for the commercial or personal use of  
7 the manufacturer's, subsidiary's, or dealer's employees.

8           (2) Represent directly or indirectly that a vehicle is  
9 a demonstrator unless the vehicle complies with the definition  
10 of a demonstrator in s. 320.60(3).

11           (3) Represent the previous usage or status of a  
12 vehicle to be something that it was not, or make usage or  
13 status representations unless the dealer has correct  
14 information regarding the history of the vehicle to support  
15 the representations.

16           (4) Represent the quality of care, regularity of  
17 servicing, or general condition of a vehicle unless known by  
18 the dealer to be true and supportable by material fact.

19           (5) Represent orally or in writing that a particular  
20 vehicle has not sustained structural or substantial skin  
21 damage unless the statement is made in good faith and the  
22 vehicle has been inspected by the dealer or his or her agent  
23 to determine whether the vehicle has incurred such damage.

24           (6) Sell a vehicle without fully and conspicuously  
25 disclosing in writing at or before the consummation of sale  
26 any warranty or guarantee terms, obligations, or conditions  
27 that the dealer or manufacturer has given to the buyer. If the  
28 warranty obligations are to be shared by the dealer and the  
29 buyer, the method of determining the percentage of repair  
30 costs to be assumed by each party must be disclosed. If the  
31 dealer intends to disclaim or limit any expressed or implied

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1 warranty, the disclaimer must be in writing in a conspicuous  
2 manner and in lay terms in accordance with chapter 672 and the  
3 Magnuson-Moss Warranty--Federal Trade Commission Improvement  
4 Act.

5 (7) Provide an express or implied warranty and fail to  
6 honor such warranty unless properly disclaimed pursuant to  
7 subsection (6).

8 (8) Misrepresent warranty coverage, application  
9 period, or any warranty transfer cost or conditions to a  
10 customer.

11 (9) Obtain signatures from a customer on contracts  
12 that are not fully completed as to all material terms at the  
13 time the customer signs or which do not reflect accurately the  
14 negotiations and agreement between the customer and the  
15 dealer. However, this subsection does not apply if, at the  
16 time of the transaction, the customer acknowledges in writing,  
17 separate from any other text, having read substantially the  
18 following notice:

19 STATUTORY CONSUMER NOTICE: A vehicle  
20 purchase or lease is a substantial transaction.  
21 Do not execute any sale or lease document if it  
22 is not fully completed or does not accurately  
23 reflect your agreement with the motor vehicle  
24 dealer. If you suffer any damages as a result  
25 of improper actions of the motor vehicle  
26 dealer, relief may be available to you under  
27 the laws of this state, including part VI of  
28 chapter 501, Florida Statutes.

29 (10) Require or accept a deposit from a prospective  
30 customer prior to entering into a binding contract for the  
31 purchase and sale of a vehicle unless the customer is given a

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1 written receipt that states how long the dealer will hold the  
 2 vehicle from other sale and the amount of the deposit, and  
 3 clearly and conspicuously states whether and upon what  
 4 conditions the deposit is refundable or nonrefundable.

5 (11) Add to the cash price of a vehicle as defined in  
 6 s. 520.02(2) any fee or charge other than those provided in  
 7 that section and in rule 3D-50.001, Florida Administrative  
 8 Code. All fees or charges permitted to be added to the cash  
 9 price by rule 3D-50.001, Florida Administrative Code, must be  
 10 fully disclosed to customers in all binding contracts  
 11 concerning the vehicle's selling price.

12 (12) Alter or change the odometer mileage of a vehicle  
 13 except in compliance with 49 U.S.C. s. 32704.

14 (13) Sell a vehicle without disclosing to the customer  
 15 the actual year and model of the vehicle.

16 (14) File a lien against a new vehicle purchased with  
 17 a check unless the dealer fully discloses to the purchaser  
 18 that a lien will be filed if purchase is made by check and  
 19 fully discloses to the buyer the procedures and cost to the  
 20 buyer for gaining title to the vehicle after the lien is  
 21 filed.

22 (15) Increase the price of the vehicle after having  
 23 accepted an order of purchase or a contract from a buyer,  
 24 notwithstanding subsequent receipt of an official price change  
 25 notification. The price of a vehicle may be increased after a  
 26 dealer accepts an order of purchase or a contract from a buyer  
 27 if:

28 (a) A trade-in vehicle is reappraised because it  
 29 subsequently is damaged, or parts or accessories are removed;

30 (b) The price increase is caused by the addition of  
 31 new equipment, as required by state or federal law;

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1 (c) The price increase is caused by the revaluation of  
2 the United States dollar by the Federal Government, in the  
3 case of a foreign-made vehicle;

4 (d) The price increase is caused by state or federal  
5 tax rate changes; or

6 (e) Price protection is not provided by the  
7 manufacturer, importer, or distributor.

8 (16) Advertise the price of a vehicle unless the  
9 vehicle is identified by year, make, model, and a commonly  
10 accepted trade, brand, or style name. The advertised price  
11 must include all fees or charges that the customer must pay,  
12 including freight or destination charge, dealer preparation  
13 charge, and charges for undercoating or rustproofing. State  
14 and local taxes, tags, registration fees, and title fees,  
15 unless otherwise required by local law or standard, need not  
16 be disclosed in the advertisement. When two or more dealers  
17 advertise jointly, with or without participation of the  
18 franchisor, the advertised price need not include fees and  
19 charges that are variable among the individual dealers  
20 cooperating in the advertisement, but the nature of all  
21 charges that are not included in the advertised price must be  
22 disclosed in the advertisement.

23 (17) Charge a customer for any predelivery service  
24 required by the manufacturer, distributor, or importer for  
25 which the dealer is reimbursed by the manufacturer,  
26 distributor, or importer.

27 (18) Charge a customer for any predelivery service  
28 without having printed on all documents that include a line  
29 item for predelivery service the following disclosure: "This  
30 charge represents costs and profit to the dealer for items  
31 such as inspecting, cleaning, and adjusting vehicles, and

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1 preparing documents related to the sale."

2 (19) Fail to disclose damage to a new motor vehicle,  
3 as defined in s. 319.001(8), of which the dealer had actual  
4 knowledge, if the dealer's actual cost of repairs exceeds the  
5 threshold amount, excluding replacement items.

6  
7 ~~In any civil litigation resulting from a violation of this~~  
8 ~~section, when evaluating the reasonableness of an award of~~  
9 ~~attorney's fees to a private person, the trial court shall~~  
10 ~~consider the amount of actual damages in relation to the time~~  
11 ~~spent.~~

12 Section 4. Section 501.9765, Florida Statutes, is  
13 created to read:

14 501.9765 Violations involving a senior citizen or  
15 handicapped person; civil penalties; presumption.--

16 (1) As used in this section, the term:

17 (a) "Senior citizen" means a person who is 60 years of  
18 age or older.

19 (b) "Handicapped person" means any person who has a  
20 mental or educational impairment that substantially limits one  
21 or more major life activities.

22 (c) "Mental or educational impairment" means:

23 1. Any mental or psychological disorder or specific  
24 learning disability.

25 2. Any educational deficiency that substantially  
26 affects a person's ability to read and comprehend the terms of  
27 any contractual agreement entered into.

28 (d) "Major life activities" means functions associated  
29 with the normal activities of independent daily living such as  
30 caring for oneself, performing manual tasks, walking, seeing,  
31 hearing, speaking, breathing, learning, and working.

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1           (2) Any person who willfully uses, or has willfully  
 2 used, a method, act, or practice in violation of this part,  
 3 which method, act, or practice victimizes or attempts to  
 4 victimize a senior citizen or handicapped person, and commits  
 5 such violation when he or she knew or should have known that  
 6 his or her conduct was unfair or deceptive, is liable for a  
 7 civil penalty of not more than \$15,000 for each such  
 8 violation.

9           (3) Any order of restitution or reimbursement based on  
 10 a violation of this part committed against a senior citizen or  
 11 handicapped person has priority over the imposition of civil  
 12 penalties for violations of this section.

13           (4) Civil penalties collected under this section shall  
 14 be deposited into the Legal Affairs Revolving Trust Fund of  
 15 the Department of Legal Affairs and allocated to the  
 16 Department of Legal Affairs solely for the purpose of  
 17 preparing and distributing consumer-education materials,  
 18 programs, and seminars to benefit senior citizens and  
 19 handicapped persons or to enhance efforts to enforce this  
 20 section.

21           Section 5. Section 501.977, Florida Statutes, is  
 22 created to read:

23           501.977 Other individual remedies.--

24           (1) Without regard to any other remedy or relief to  
 25 which a person is entitled, anyone aggrieved by a violation of  
 26 this part by a dealer may bring an action against the dealer  
 27 in order to obtain a declaratory judgment that an act or  
 28 practice violates this part and to enjoin a dealer who has  
 29 violated, is violating, or is otherwise likely to violate,  
 30 this part.

31           (2) In any action brought by a person who has suffered



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1 a loss as a result of a violation of this part, the person may  
 2 recover actual damages, plus attorney's fees and court costs  
 3 as provided in s. 501.979. However, damages, fees, or costs  
 4 are not recoverable under this section against a dealer who  
 5 has, in good faith, engaged in the dissemination of claims of  
 6 a manufacturer, distributor, importer, or wholesaler without  
 7 actual knowledge that doing so violates this part.

8 (3) In any action brought under this section, if,  
 9 after the filing of a motion by the dealer, the court finds  
 10 that the action is frivolous, without legal or factual merit,  
 11 or brought for the purpose of harassment, the court may, after  
 12 hearing evidence as to the necessity therefor, require the  
 13 party instituting the action to post a bond in the amount that  
 14 the court finds reasonable to indemnify the defendant for any  
 15 costs incurred, or to be incurred, including reasonable  
 16 attorney's fees in defending the claim. This subsection does  
 17 not apply to any action initiated by the enforcing authority.

18 Section 6. Section 501.978, Florida Statutes, is  
 19 created to read:

20 501.978 Effect on other remedies.--

21 (1) The remedies of this part are in addition to  
 22 remedies otherwise available for the same conduct under state  
 23 or local law.

24 (2) This part is supplemental to, and does not  
 25 preempt, local consumer-protection ordinances not inconsistent  
 26 with this part.

27 Section 7. Section 501.979, Florida Statutes, is  
 28 created to read:

29 501.979 Attorney's fees.--

30 (1) In any civil litigation resulting from an act or  
 31 practice involving a violation of this part, except as

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1 provided in subsection (5) and s. 501.980, the prevailing  
 2 party, after judgment in the trial court and exhaustion of all  
 3 appeals, if any, shall receive his or her reasonable  
 4 attorney's fees and costs from the nonprevailing party. When  
 5 evaluating the reasonableness of an award of attorney's fees  
 6 to a private person, the trial court shall consider the actual  
 7 damages in relation to the time spent.

8       (2) The attorney for the prevailing party shall submit  
 9 a sworn affidavit of his or her time spent on the case and his  
 10 or her costs incurred for all the motions, hearings, and  
 11 appeals to the trial judge who presided over the civil case.

12       (3) The trial judge may award the prevailing party the  
 13 sum of reasonable costs incurred in the action, plus  
 14 reasonable attorney's fees for the hours actually spent on the  
 15 case as sworn to in an affidavit.

16       (4) Any award of attorney's fees or costs becomes a  
 17 part of the judgment and is subject to execution as the law  
 18 allows.

19       (5) In any civil litigation initiated by the enforcing  
 20 authority, the court may award to the prevailing party  
 21 reasonable attorney's fees and costs if the court finds that  
 22 there was a complete absence of a justiciable issue of law or  
 23 fact raised by the losing party or if the court finds bad  
 24 faith on the part of the losing party.

25       (6) In any administrative proceeding or other  
 26 nonjudicial action initiated by an enforcing authority, the  
 27 attorney for the enforcing authority may certify by sworn  
 28 affidavit the number of hours and the cost thereof to the  
 29 enforcing authority for the time spent in the investigation  
 30 and litigation of the case, plus costs reasonably incurred in  
 31 the action. Payment to the enforcing authority of the sum of

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1 the costs may, by stipulation of the parties, be made a part  
2 of the final order or decree disposing of the matter. The  
3 affidavit shall be attached to and become a part of the order  
4 or decree.

5 Section 8. Section 501.980, Florida Statutes, is  
6 created to read:

7 501.980 Demand letter.--

8 (1) As a condition precedent to initiating any civil  
9 litigation arising under this part, a claimant must give the  
10 dealer written notice of the claimant's intent to initiate  
11 litigation against the dealer not less than 30 days before  
12 initiating the litigation.

13 (2) The notice, which must be completed in good faith,  
14 must:

15 (a) State that it is a demand letter under s. 501.980;

16 (b) State the name, address, and telephone number of  
17 the claimant;

18 (c) State the name and address of the dealer;

19 (d) Provide the date and a description of the  
20 transaction, event, or circumstance that is the basis of the  
21 claim;

22 (e) Describe with specificity the underlying facts and  
23 how they give rise to an alleged violation of this part;

24 (f) To the extent applicable, be accompanied by all  
25 transaction or other documents upon which the claim is based  
26 or upon which the claimant is relying to assert the claim;

27 (g) Include a statement describing and providing the  
28 amount of each item of actual damages demanded by the claimant  
29 and recoverable under this part. However, to the extent the  
30 claimant cannot in good faith quantify any item of actual  
31 damage as required, the claimant shall provide a comprehensive

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1 description of the item of damage or a formula or basis by  
2 which the dealer may calculate the damage; and

3 (h) Include a description of reasonable attorney's  
4 fees incurred, if any, for which reimbursement, not to exceed  
5 \$500, is sought.

6 (3)(a) The notice of the claim must be delivered to  
7 the dealer by certified mail, return receipt requested. The  
8 postal costs shall be reimbursed to the claimant by the dealer  
9 if the dealer pays the claim and if the claimant requests  
10 reimbursement of the postal costs in the notice of claim.

11 (b) If the dealer is a corporate entity, the notice of  
12 claim must be sent to the registered agent of the dealer as  
13 recorded with the Department of State and, in the absence of a  
14 registered agent, any person listed in s. 48.081(1).

15 (4) Notwithstanding any provision of this part to the  
16 contrary, a claimant may not initiate litigation against a  
17 dealer for a claim arising under this part related to, or in  
18 connection with, the transaction or event described in the  
19 notice of claim if the dealer pays the claimant within 30 days  
20 after receiving the notice of claim:

21 (a) The amount requested in the demand letter as  
22 specified in paragraph (2)(g);

23 (b) A surcharge of 10 percent of the amount requested  
24 in the demand letter, not to exceed \$500; and

25 (c) The attorney's fees of the claimant as specified  
26 in paragraph (2)(h), not to exceed \$500.

27 (5)(a) Subsection (4) does not apply if the notice of  
28 claim specifies nonquantified items of damage. However, the  
29 dealer may notify the claimant in writing within 30 days after  
30 receiving the notice of claim that the dealer proposes to pay  
31 the claim with modifications. The dealer must inform the

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1 claimant that he or she has placed a value on the  
2 nonquantified items of damage and intends to pay that amount  
3 in addition to the payments described in paragraphs (4)(a) and  
4 (b).

5 (b) The claimant must accept or reject, in writing,  
6 the offer of the dealer within 10 business days after  
7 receiving the offer.

8 (c) Upon receipt of the notice of acceptance, the  
9 dealer must pay the claimant the amount set forth in the  
10 proposal within 10 business days after receiving the notice of  
11 acceptance.

12 (d) A claimant may not initiate litigation against the  
13 dealer for a claim under this part that is related to, or in  
14 connection with, the transaction or event described in the  
15 notice of claim unless:

16 1. The dealer ignores, rejects, or fails to timely  
17 respond to the claimant's demand, or fails to pay within 10  
18 business days the amount accepted by claimant; or

19 2. The claimant does not accept the proposal of the  
20 dealer.

21 (6) If the notice of claim includes damages that arise  
22 from the claimant's not having access to a motor vehicle due  
23 to the alleged conduct of the dealer, the time set forth in  
24 subsections (4) and (5) for the dealer to respond are reduced  
25 from 30 days to 10 business days.

26 (7) For the purpose of this section, payment by a  
27 dealer is deemed paid on the date a draft or other valid  
28 instrument that is equivalent to payment is placed in the  
29 United States mail, or other nationally recognized carrier, in  
30 a properly addressed, postpaid envelope, or, if not so posted,  
31 on the date of delivery.

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1       (8) The claimant is not entitled to a surcharge in any  
 2 proceeding initiated against a dealer under this part if the  
 3 dealer rejects or ignores the notice of claim or the claimant  
 4 rejects or ignores the dealer's proposal described in  
 5 subsection (5).

6       (9) Notwithstanding any provision of this part to the  
 7 contrary, a dealer is not required to pay the attorney's fees  
 8 of the claimant in any civil action brought under this part  
 9 if:

10       (a) The dealer, within 30 days after receiving the  
 11 claimant's notice of claim, notifies the claimant in writing,  
 12 and a court or arbitrator agrees, that the amount claimed is  
 13 not supported by the facts of the transaction or event  
 14 described in the notice of claim or by generally accepted  
 15 accounting principles, or includes items not properly  
 16 recoverable under this part, but nevertheless offers to pay to  
 17 the claimant the actual damages that are supported by the  
 18 facts of the transaction or event described in the notice of  
 19 claim and properly recoverable under this part, and the  
 20 surcharge and attorney's fees, if any, described in subsection  
 21 (4);

22       (b) The claimant's basis for rejecting or ignoring the  
 23 dealer's proposal described in subsection (5) is not supported  
 24 by the facts described in the notice of claim, generally  
 25 accepted accounting principles, or the law; or

26       (c) The claimant fails to substantially comply with  
 27 this section.

28       (10) This section shall apply to class action claims,  
 29 subject to the following conditions:

30       (a) In addition to describing the claimant's  
 31 individual claim as required by subsection (2), the class

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1 action notice of claim to the dealer must also include:

2 1. The definition of the class of claimants for whom  
3 relief is sought;

4 2. A description of the alleged violations of this  
5 part that have allegedly damaged the class; and

6 3. A statement describing and providing the amount of  
7 each item of actual damages demanded by the claimant on behalf  
8 of the class under this part or, if the claimant cannot in  
9 good faith quantify an item of actual damages, a comprehensive  
10 description of the item of damages and a formula or basis by  
11 which the dealer may calculate the damages.

12 (b) The surcharge set forth in subsection (4) shall  
13 not apply.

14 (c) All time periods described in other subsections of  
15 this section shall be 45 days in length for class actions  
16 unless further extended by a written agreement of the parties.

17 (d) If the dealer agrees to pay the damages demanded  
18 in the class action notice of claim, the dealer must notify  
19 the claimant of the decision in writing within 90 days after  
20 receiving the class action notice of claim. Within 90 days  
21 after receiving the dealer's notice of agreement, the  
22 claimant, on behalf of the class, must file a civil action to  
23 enforce the agreement, the purpose of which is to conduct  
24 proceedings to determine the fairness of the agreement to the  
25 class, to administer the agreed resolution of the class  
26 action, to provide for notification and opt-out procedures  
27 applicable in a class action, to ensure compliance with the  
28 rules of civil procedure, and to award reasonable attorney's  
29 fees to the claimant's counsel for actual time spent in  
30 connection with the proceeding. If the claimant fails to  
31 timely file the civil action within 90 days or if the court

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1 determines that the agreement is not fair to the class, the  
2 class action notice and the dealer's response are void.

3 (e) A dealer is not obligated to pay attorney's fees  
4 for the claimant in a class action proceeding if the dealer,  
5 within 45 days after receiving the class action notification,  
6 informs the claimant in writing, and a court or arbitrator in  
7 a subsequent action agrees, that:

8 1. The claimant is seeking to recover damages for the  
9 class which are not properly recoverable under this part or is  
10 seeking to recover damages that are not supported by the facts  
11 of the transaction or event described in the class action  
12 notice of claim or by generally accepted accounting  
13 principles, but still offers to pay the class all damages  
14 properly recoverable and listed in the notice of claim; or

15 2. The claim or class is not a valid class claim or  
16 the class is not properly certified as a class, but the dealer  
17 still offers to pay all actual damages properly recoverable by  
18 the claimant under this part as an individual which are  
19 supported by the facts of the transaction or event described  
20 in the class action notice of claim, in addition to the  
21 payments described in paragraphs (4)(b) and (c).

22 (11) Payment of the actual damages or an offer to pay  
23 actual damages as set forth in this section:

24 (a) Does not constitute an admission of any wrongdoing  
25 by the dealer;

26 (b) Is protected by s. 90.408;

27 (c) Serves to release the dealer from any suit,  
28 action, or other action that could be brought under this part  
29 arising out of or in connection with the transaction, event,  
30 or occurrence described in the notice of claim;

31 (d) Serves as a defense in any action brought by the



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1 same claimant to the extent of the damages, inclusive of any  
2 surcharge, paid by the dealer; and

3 (e) Serves as a defense in any subsequent action  
4 brought by any member of the class who did not opt out in  
5 connection with the same set of operative facts as described  
6 in the class action notice of claim if the action was settled  
7 on a classwide basis.

8 (12) The applicable statute of limitations period for  
9 an action under this part is tolled for 30 days for individual  
10 claims and 45 days for class action claims, or such other  
11 period of time as agreed to by the parties in writing, by the  
12 mailing of the notice required by this section.

13 (13) This section does not apply to actions brought by  
14 the enforcing authority. Notwithstanding the foregoing, the  
15 Department of Legal Affairs shall prepare a sample demand  
16 letter to incorporate the information required by subsection  
17 (2) for individual notice of claims and shall make it  
18 available to the public.

19 (14) If a claimant initiates civil litigation under  
20 this part without first complying with the requirements of  
21 this section, the court, upon a motion of a dealer, shall  
22 abate the litigation, without prejudice, until the claimant  
23 has complied with the provisions of this part.

24 Section 9. Subsection (8) is added to section 501.212,  
25 Florida Statutes, to read:

26 501.212 Application.--This part does not apply to:

27 (8) A claim brought by a person other than the  
28 enforcing authority against a dealer as defined in s.  
29 501.975(2).

30 Section 10. This act shall take effect upon becoming a  
31 law.

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3           Delete everything before the enacting clause

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5 and insert:

6                           A bill to be entitled

7           An act relating to deceptive and unfair trade  
8           practices; amending s. 501.975, F.S.; providing  
9           definitions for part VI of ch. 501, F.S.;  
10          creating s. 501.9755, F.S.; declaring that  
11          unfair methods of competition, unconscionable  
12          acts or practices, and unfair or deceptive acts  
13          or practices used by motor vehicle dealers are  
14          unlawful; providing legislative intent;  
15          amending s. 501.976, F.S.; providing an  
16          exception to the requirement that a contract be  
17          fully complete before a customer signs a motor  
18          vehicle dealer's contract; providing a required  
19          contractual notice; deleting a provision  
20          regarding award of attorney's fees; creating s.  
21          501.9765, F.S.; providing definitions;  
22          providing that a motor vehicle dealer who  
23          willfully uses a method or practice that  
24          victimizes or attempts to victimize senior  
25          citizens or handicapped persons commits an  
26          unfair or deceptive trade practice; providing a  
27          civil penalty; providing for reimbursement or  
28          restitution; creating s. 501.977, F.S.;  
29          providing additional remedies against a motor  
30          vehicle dealer; creating s. 501.978, F.S.;  
31          providing that the remedies of part VI of ch.

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1 501, F.S., are in addition to remedies  
2 otherwise available for the same conduct under  
3 state or local law and do not preempt local  
4 consumer-protection ordinances not in conflict  
5 with part VI of ch. 501, F.S.; creating s.  
6 501.979, F.S.; providing for attorney's fees  
7 for a prevailing party; providing procedures  
8 for receiving attorney's fees; authorizing the  
9 Department of Legal Affairs or the office of  
10 the state attorney to receive attorney's fees  
11 under certain circumstances; creating s.  
12 501.980, F.S.; requiring that, as a condition  
13 precedent to initiating civil litigation  
14 arising under part VI of ch. 501, F.S., a  
15 claimant give the motor vehicle dealer written  
16 notice of the claimant's intent to initiate  
17 litigation against the motor vehicle dealer not  
18 less than 30 days before initiating the  
19 litigation; providing for the content of the  
20 notice of claim and the method by which the  
21 notice of claim is given to the motor vehicle  
22 dealer; providing that if the claim is paid by  
23 the motor vehicle dealer within 30 days after  
24 receiving the notice of claim, together with a  
25 surcharge of 10 percent of the alleged actual  
26 damages, the claimant may not initiate  
27 litigation against the motor vehicle dealer,  
28 and the motor vehicle dealer is obligated to  
29 pay only \$500 for the attorney's fees of the  
30 claimant; providing that the surcharge not  
31 exceed \$500; providing procedures for damage

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1 claims that are nonquantifiable; providing  
2 expedited procedures when the claimant is  
3 without access to a motor vehicle; providing  
4 that a claimant is not entitled to a surcharge  
5 under certain circumstances; providing that a  
6 motor vehicle dealer is not obligated to pay  
7 the claimant's attorney's fees under certain  
8 circumstances; providing that the  
9 presuit-notification procedures apply to class  
10 actions; providing that any applicable statute  
11 of limitations is tolled for 30 days for  
12 individual claims and 90 days for class action  
13 claims; providing that the act does not affect  
14 the statutory responsibilities of the Attorney  
15 General or the office of the state attorney;  
16 requiring the Department of Legal Affairs to  
17 prepare a specified sample demand letter and  
18 make it available to the public; requiring a  
19 court to abate litigation, without prejudice,  
20 until the claimant has complied with the  
21 required procedures; amending s. 501.212, F.S.;  
22 exempting motor vehicle dealers from the  
23 provisions of part II of ch. 501, F.S.;  
24 providing an exception for the enforcing  
25 authority; providing an effective date.

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