

1                   A bill to be entitled  
2           An act relating to recreational vehicle manufacturers,  
3           distributors, dealers, and importers; creating s.  
4           320.3201, F.S.; providing legislative intent; creating s.  
5           320.3202, F.S.; providing definitions; creating s.  
6           320.3203, F.S.; providing requirements for a  
7           manufacturer/dealer agreement; requiring designation of  
8           the area of sales responsibility; providing conditions for  
9           sales outside the dealer's area of sales responsibility;  
10          creating s. 320.3205, F.S.; providing requirements and  
11          procedures for termination, cancellation, or nonrenewal of  
12          a manufacturer/dealer agreement by a manufacturer or a  
13          dealer; providing for the repurchase by the manufacturer  
14          of vehicles, accessories, parts and equipment, tools,  
15          signage, and machinery; requiring notification of a  
16          manufacturer when a dealer takes on an additional line-  
17          make; creating s. 320.3206, F.S.; providing for change in  
18          ownership by a dealer; requiring notice to the  
19          manufacturer; providing requirements for objection by the  
20          manufacturer; providing for a dealer to name a family  
21          member as a successor in case of retirement,  
22          incapacitation, or death of the dealer; providing  
23          requirements for objection to the successor by the  
24          manufacturer; creating s. 320.3207, F.S.; providing  
25          requirements for warrantors, manufacturers, and dealers  
26          with respect to warranty obligations; providing  
27          requirements for compensation of the dealer; authorizing  
28          warranty audits by the warrantor; requiring cause for

29 denial of compensation; providing for disposition of  
 30 warranty claims; prohibiting certain acts by the warrantor  
 31 and the dealer; requiring notice of certain pending suits;  
 32 creating s. 320.3208, F.S.; providing for inspection and  
 33 rejection of a recreational vehicle upon delivery to a  
 34 dealer; creating s. 320.3209, F.S.; prohibiting a  
 35 manufacturer or distributor from coercing a dealer to  
 36 perform certain acts; creating s. 320.3210, F.S.;  
 37 providing for resolution when a dealer, manufacturer,  
 38 distributor, or warrantor is injured by another party's  
 39 violation; authorizing civil action; providing for  
 40 mediation; providing for remedies; creating s. 320.3211,  
 41 F.S.; providing administrative and criminal penalties for  
 42 violations; providing for an administrative hearing to  
 43 contest a penalty imposed by the department; amending s.  
 44 320.8225, F.S.; providing licensure requirements for  
 45 distributors and importers; providing for severability;  
 46 providing an effective date.

47  
 48 Be It Enacted by the Legislature of the State of Florida:

49  
 50 Section 1. Section 320.3201, Florida Statutes, is created  
 51 to read:

52 320.3201 Legislative intent.--

53 (1) It is the intent of the Legislature to protect the  
 54 public health, safety, and welfare of the residents of the state  
 55 by regulating the relationship between recreational vehicle  
 56 dealers and manufacturers, maintaining competition, and

57 providing consumer protection and fair trade.

58 (2) It is the intent of the Legislature that the  
59 provisions of ss. 320.3201-320.3211 be applied to  
60 manufacturer/dealer agreements entered into on or after October  
61 1, 2007.

62 Section 2. Section 320.3202, Florida Statutes, is created  
63 to read:

64 320.3202 Definitions.--As used in ss. 320.3201-320.3211,  
65 the term:

66 (1) "Area of sales responsibility" means the geographical  
67 area agreed to by the dealer and the manufacturer in the  
68 manufacturer/dealer agreement within which the dealer has the  
69 exclusive right to display or sell the manufacturer's new  
70 recreational vehicles of a particular line-make.

71 (2) "Dealer" means any person, firm, corporation, or  
72 business entity licensed or required to be licensed under s.  
73 320.771.

74 (3) "Distributor" means any person, firm, corporation, or  
75 business entity that purchases new recreational vehicles for  
76 resale to dealers.

77 (4) "Factory campaign" means an effort on the part of a  
78 warrantor to contact recreational vehicle owners or dealers in  
79 order to address a part or equipment issue.

80 (5) "Family member" means a spouse, child, grandchild,  
81 parent, sibling, niece, or nephew, or the spouse thereof.

82 (6) "Line-make" means a specific series of recreational  
83 vehicle products that:

84 (a) Are identified by a common series trade name or

CS/CS/HB 1457

2007

85 trademark;

86 (b) Are targeted to a particular market segment, as  
87 determined by their decor, features, equipment, size, weight,  
88 and price range;

89 (c) Have lengths and interior floor plans that distinguish  
90 the recreational vehicles from other recreational vehicles with  
91 substantially the same decor, equipment, features, price, and  
92 weight; and

93 (d) Belong to a single, distinct classification of  
94 recreational vehicle product type having a substantial degree of  
95 commonality in the construction of the chassis, frame, and body.

96 (7) "Manufacturer" means any person, firm, corporation, or  
97 business entity that engages in the manufacturing of  
98 recreational vehicles.

99 (8) "Manufacturer/dealer agreement" means a written  
100 agreement or contract entered into between a manufacturer and a  
101 dealer that fixes the rights and responsibilities of the parties  
102 and pursuant to which the dealer sells new recreational  
103 vehicles.

104 (9) "Proprietary part" means any part manufactured by or  
105 for and sold exclusively by the manufacturer.

106 (10) "Recreational vehicle" means the category of motor  
107 vehicle described in s. 320.01(1)(b).

108 (11) "Transient customer" means a customer who is  
109 temporarily traveling through a dealer's area of sales  
110 responsibility.

111 (12) "Warrantor" means any person, firm, corporation, or  
112 business entity that gives a warranty in connection with a new

CS/CS/HB 1457

2007

113 recreational vehicle or parts, accessories, or components  
114 thereof. The term does not include service contracts, mechanical  
115 or other insurance, or extended warranties sold for separate  
116 consideration by a dealer or other person not controlled by a  
117 manufacturer.

118 Section 3. Section 320.3203, Florida Statutes, is created  
119 to read:

120 320.3203 Requirement for a written manufacturer/dealer  
121 agreement; area of sales responsibility.--

122 (1) A manufacturer or distributor may not sell a  
123 recreational vehicle in this state to or through a dealer  
124 without having first entered into a manufacturer/dealer  
125 agreement with a dealer which has been signed by both parties.

126 (2) The manufacturer shall designate the area of sales  
127 responsibility exclusively assigned to a dealer in the  
128 manufacturer/dealer agreement and may not change such area or  
129 contract with another dealer for sale of the same line-make in  
130 the designated area during the duration of the agreement.

131 (3) The area of sales responsibility may not be reviewed  
132 or changed until 1 year after the execution of the  
133 manufacturer/dealer agreement.

134 (4) A motor vehicle dealer may not sell a new recreational  
135 vehicle in this state without having first entered into a  
136 manufacturer/dealer agreement with a manufacturer or distributor  
137 and may not sell outside of the area of sales responsibility  
138 designated in the agreement.

139 (5) Notwithstanding subsection (4), a dealer may sell  
140 outside of its designated area of sales responsibility if the

141 dealer obtains a supplemental license pursuant to s. 320.771(7)  
142 and meets any one of the following conditions:

143 (a) For sales of the same line-make within another  
144 dealer's designated area of sales responsibility, the dealer  
145 must obtain in advance of the off-premise sale a written  
146 agreement signed by the dealer, the manufacturer of the  
147 recreational vehicles to be sold at the off-premise sale, and  
148 the dealer in whose designated area of sales responsibility the  
149 off-premise sale will occur which:

150 1. Designates the line-make of the recreational vehicles  
151 to be sold;

152 2. Sets forth the time period for the off-premise sale;  
153 and

154 3. Affirmatively authorizes the sale of the same line-make  
155 of the recreational vehicles.

156 (b) The off-premise sale is not located within any  
157 dealer's designated area of sales responsibility and is in  
158 conjunction with a public vehicle show.

159 (c) The off-premise sale is in conjunction with a public  
160 vehicle show in which more than 35 dealers are participating and  
161 the show is predominantly funded by manufacturers. For the  
162 purposes of this subsection, the term "public vehicle show"  
163 means an event sponsored by an organization approved under s.  
164 501(c)(6) of the Internal Revenue Code which has the purpose of  
165 promoting the welfare of the recreational vehicle industry and  
166 is located at a site that:

167 1. Will be used to display and sell recreational vehicles;

168 2. Is not used for off-premise sales for more than 10 days

CS/CS/HB 1457

2007

169 in a calendar year; and

170 3. Is not the location set forth on any dealer's license  
171 as its place of business.

172 Section 4. Section 320.3205, Florida Statutes, is created  
173 to read:

174 320.3205 Termination, cancellation, and nonrenewal of a  
175 manufacturer/dealer agreement.--

176 (1) A manufacturer or distributor, directly or through any  
177 officer, agent, or employee, may not terminate, cancel, or fail  
178 to renew a manufacturer/dealer agreement without good cause,  
179 and, upon renewal, may not require additional inventory stocking  
180 requirements or increased retail sales targets in excess of the  
181 market growth in the dealer's area of sales responsibility.

182 (a) The manufacturer or distributor has the burden of  
183 showing good cause for terminating, canceling, or failing to  
184 renew a manufacturer/dealer agreement with a dealer. For  
185 purposes of determining whether there is good cause for the  
186 proposed action, any of the following factors may be considered:

187 1. The extent of the affected dealer's penetration in the  
188 relevant market area.

189 2. The nature and extent of the dealer's investment in its  
190 business.

191 3. The adequacy of the dealer's service facilities,  
192 equipment, parts, supplies, and personnel.

193 4. The effect of the proposed action on the community.

194 5. The extent and quality of the dealer's service under  
195 recreational vehicle warranties.

196 6. The failure to follow agreed-upon procedures or

CS/CS/HB 1457

2007

197 standards related to the overall operation of the dealership.

198 7. The dealer's performance under the terms of its  
199 manufacturer/dealer agreement.

200 (b) Except as otherwise provided in this section, a  
201 manufacturer or distributor shall provide a dealer with at least  
202 120 days' prior written notice of termination, cancellation, or  
203 nonrenewal of the manufacturer/dealer agreement.

204 1. The notice must state all reasons for the proposed  
205 termination, cancellation, or nonrenewal and must further state  
206 that if, within 30 days following receipt of the notice, the  
207 dealer provides to the manufacturer or distributor a written  
208 notice of intent to cure all claimed deficiencies, the dealer  
209 will then have 120 days following receipt of the notice to  
210 rectify the deficiencies. If the deficiencies are rectified  
211 within 120 days, the manufacturer's or distributor's notice is  
212 voided. If the dealer fails to provide the notice of intent to  
213 cure the deficiencies in the prescribed time period, the  
214 termination, cancellation, or nonrenewal takes effect 30 days  
215 after the dealer's receipt of the notice unless the dealer has  
216 new and untitled inventory on hand that may be disposed of  
217 pursuant to subsection (3).

218 2. The notice period may be reduced to 30 days if the  
219 grounds for termination, cancellation, or nonrenewal are due to:

220 a. A dealer or one of its owners being convicted of, or  
221 entering a plea of nolo contendere to, a felony;

222 b. The abandonment or closing of the business operations  
223 of the dealer for 10 consecutive business days unless the  
224 closing is due to an act of God, strike, labor difficulty, or



CS/CS/HB 1457

2007

225 other cause over which the dealer has no control;

226 c. A significant misrepresentation by the dealer  
227 materially affecting the business relationship; or

228 d. A suspension or revocation of the dealer's license, or  
229 refusal to renew the dealer's license, by the department.

230 3. The notice provisions of this paragraph do not apply if  
231 the reason for termination, cancellation, or nonrenewal is  
232 insolvency, the occurrence of an assignment for the benefit of  
233 creditors, or bankruptcy.

234 (2) A dealer may terminate, cancel, or not renew its  
235 manufacturer/dealer agreement with a manufacturer or distributor  
236 with or without cause at any time by giving 30 days' written  
237 notice to the manufacturer. If the termination, cancellation, or  
238 nonrenewal is for cause, the dealer has the burden of showing  
239 good cause. Any of the following items shall be deemed good  
240 cause for the proposed action by a dealer:

241 (a) A manufacturer being convicted of, or entering a plea  
242 of nolo contendere to, a felony.

243 (b) The business operations of the manufacturer have been  
244 abandoned or closed for 10 consecutive business days, unless the  
245 closing is due to an act of God, strike, labor difficulty, or  
246 other cause over which the manufacturer has no control.

247 (c) A significant misrepresentation by the manufacturer  
248 materially affecting the business relationship.

249 (d) A material violation of ss. 320.3201-320.3211 which is  
250 not cured within 30 days after written notice by the dealer.

251 (e) A declaration by the manufacturer of bankruptcy,  
252 insolvency, or the occurrence of an assignment for the benefit

253 of creditors or bankruptcy.

254 (3) If the manufacturer/dealer agreement is terminated,  
255 canceled, or not renewed by the manufacturer or distributor  
256 without cause or by the dealer for cause, the manufacturer  
257 shall, at the election of the dealer and within 45 days after  
258 termination, cancellation, or nonrenewal, repurchase:

259 (a) All recreational vehicles that are classified as "new"  
260 for titling purposes under s. 319.001(8), that were acquired  
261 from the manufacturer or distributor, that have not been used,  
262 except for demonstration purposes, and that have not been  
263 altered or damaged, at 100 percent of the net invoice cost,  
264 including transportation, less applicable rebates and discounts  
265 to the dealer. If any of the vehicles repurchased is damaged,  
266 the amount due to the dealer shall be reduced by the cost to  
267 repair the damaged vehicle. Damage prior to delivery to the  
268 dealer will not disqualify repurchase under this subsection;

269 (b) All undamaged accessories and proprietary parts sold  
270 to the dealer for resale within the 12 months prior to  
271 termination, cancellation, or nonrenewal, if accompanied by the  
272 original invoice, at 105 percent of the original net price paid  
273 to the manufacturer or distributor to compensate the dealer for  
274 handling, packing, and shipping the parts; and

275 (c) Any properly functioning diagnostic equipment, special  
276 tools, current signage, and other equipment and machinery at 100  
277 percent of the dealer's net cost plus freight, destination,  
278 delivery, and distribution charges and sales taxes, if any, if  
279 it was purchased by the dealer within 5 years before  
280 termination, cancellation, or nonrenewal and upon the

CS/CS/HB 1457

2007

281 manufacturer's or distributor's request and can no longer be  
282 used in the normal course of the dealer's ongoing business.

283  
284 The manufacturer or distributor shall pay the dealer within 30  
285 days after receipt of the returned items.

286 (4) When taking on an additional line-make of recreational  
287 vehicle, a dealer shall notify in writing any manufacturer with  
288 whom the dealer has a manufacturer/dealer agreement of the same  
289 line-make at least 30 days prior to entering into a  
290 manufacturer/dealer agreement with the manufacturer of the  
291 additional line-make.

292 Section 5. Section 320.3206, Florida Statutes, is created  
293 to read:

294 320.3206 Transfer of ownership; family succession.--

295 (1) If a dealer desires to make a change in ownership by  
296 the sale of the business assets, stock transfer, or otherwise,  
297 the dealer shall give the manufacturer or distributor written  
298 notice at least 10 business days before the closing, including  
299 all supporting documentation as may be reasonably required by  
300 the manufacturer or distributor to determine if an objection to  
301 the sale may be made. In the absence of a breach by the selling  
302 dealer of its dealer agreement or this chapter, the manufacturer  
303 or distributor shall not object to the proposed change in  
304 ownership unless the prospective transferee:

305 (a) Has previously been terminated by the manufacturer for  
306 breach of its dealer agreement;

307 (b) Has been convicted of a felony or any crime of fraud,  
308 deceit, or moral turpitude;

309 (c) Lacks any license required by law;

310 (d) Does not have an active line of credit sufficient to  
311 purchase a manufacturer's product; or

312 (e) Has undergone in the last 10 years bankruptcy,  
313 insolvency, a general assignment for the benefit of creditors,  
314 or the appointment of a receiver, trustee, or conservator to  
315 take possession of the transferee's business or property.

316 (2) If the manufacturer or distributor objects to a  
317 proposed change of ownership, the manufacturer or distributor  
318 shall give written notice of its reasons to the dealer within 7  
319 business days after receipt of the dealer's notification and  
320 complete documentation. The manufacturer or distributor has the  
321 burden of proof with regard to its objection. If the  
322 manufacturer or distributor does not give timely notice of its  
323 objection, the change or sale shall be deemed approved.

324 (3) (a) It is unlawful for a manufacturer or distributor to  
325 fail to provide a dealer an opportunity to designate, in  
326 writing, a family member as a successor to the dealership in the  
327 event of the death, incapacity, or retirement of the dealer. It  
328 is unlawful to prevent or refuse to honor the succession to a  
329 dealership by a family member of the deceased, incapacitated, or  
330 retired dealer unless the manufacturer or distributor has  
331 provided to the dealer written notice of its objections within  
332 30 days after receipt of the dealer's modification of the  
333 dealer's succession plan. In the absence of a breach of the  
334 dealer agreement, the manufacturer may object to the succession  
335 for the following reasons only:

336 1. Conviction of the successor of a felony or any crime of

CS/CS/HB 1457

2007

337 fraud, deceit, or moral turpitude;

338 2. Bankruptcy or insolvency of the successor during the  
339 past 10 years;

340 3. Prior termination by the manufacturer of the successor  
341 for breach of a dealer agreement;

342 4. The lack of an active line of credit for the successor  
343 sufficient to purchase the manufacturer's product; or

344 5. The lack of any license for the successor required by  
345 law.

346 (b) The manufacturer or distributor has the burden of  
347 proof regarding its objection. However, a family member may not  
348 succeed to a dealership if the succession involves, without the  
349 manufacturer's or distributor's consent, a relocation of the  
350 business or an alteration of the terms and conditions of the  
351 manufacturer/dealer agreement.

352 Section 6. Section 320.3207, Florida Statutes, is created  
353 to read:

354 320.3207 Warranty obligations.--

355 (1) Each warrantor shall:

356 (a) Specify in writing to each of its dealer obligations,  
357 if any, for preparation, delivery, and warranty service on its  
358 products;

359 (b) Compensate the dealer for warranty service required of  
360 the dealer by the warrantor; and

361 (c) Provide the dealer the schedule of compensation to be  
362 paid and the time allowances for the performance of any work and  
363 service.

364

365 The schedule of compensation must include reasonable  
366 compensation for diagnostic work as well as warranty labor.

367 (2) Time allowances for the diagnosis and performance of  
368 warranty labor must be reasonable for the work to be performed.  
369 The compensation of a dealer for warranty labor may not be less  
370 than the lowest retail labor rates actually charged by the  
371 dealer for like nonwarranty labor as long as such rates are  
372 reasonable.

373 (3) The warrantor shall reimburse the dealer for warranty  
374 parts at actual wholesale cost plus a minimum 30-percent  
375 handling charge and the cost, if any, of freight to return  
376 warranty parts to the warrantor.

377 (4) Warranty audits of dealer records may be conducted by  
378 the warrantor on a reasonable basis, and dealer claims for  
379 warranty compensation may not be denied except for cause, such  
380 as performance of nonwarranty repairs, material noncompliance  
381 with the warrantor's published policies and procedures, lack of  
382 material documentation, fraud, or misrepresentation.

383 (5) The dealer shall submit warranty claims within 45 days  
384 after completing work.

385 (6) The dealer shall notify the warrantor verbally or in  
386 writing if the dealer is unable to perform material or  
387 repetitive warranty repairs as soon as is reasonably possible.

388 (7) The warrantor shall disapprove warranty claims in  
389 writing within 45 days after the date of submission by the  
390 dealer in the manner and form prescribed by the warrantor.  
391 Claims not specifically disapproved in writing within 45 days  
392 shall be construed to be approved and must be paid within 60

393 days.

394 (8) It is a violation of ss. 320.3201-320.3211 for any  
395 warrantor to:

396 (a) Fail to perform any of its warranty obligations with  
397 respect to its warranted products;

398 (b) Fail to include, in written notices of factory  
399 campaigns to recreational vehicle owners and dealers, the  
400 expected date by which necessary parts and equipment, including  
401 tires and chassis or chassis parts, will be available to dealers  
402 to perform the campaign work. The warrantor may ship parts to  
403 the dealer to effect the campaign work, and, if such parts are  
404 in excess of the dealer's requirements, the dealer may return  
405 unused parts to the warrantor for credit after completion of the  
406 campaign;

407 (c) Fail to compensate any of its dealers for authorized  
408 repairs effected by the dealer of merchandise damaged in  
409 manufacture or transit to the dealer, if the carrier is  
410 designated by the warrantor, factory branch, distributor, or  
411 distributor branch;

412 (d) Fail to compensate any of its dealers for authorized  
413 warranty service in accordance with the schedule of compensation  
414 provided to the dealer pursuant to this section if performed in  
415 a timely and competent manner;

416 (e) Intentionally misrepresent in any way to purchasers of  
417 recreational vehicles that warranties with respect to the  
418 manufacture, performance, or design of the vehicle are made by  
419 the dealer as warrantor or cowarrantor; or

420 (f) Require the dealer to make warranties to customers in

421 any manner related to the manufacture of the recreational  
 422 vehicle.

423 (9) It is a violation of ss. 320.3201-320.3211 for any  
 424 dealer to:

425 (a) Fail to perform predelivery inspection functions, as  
 426 specified by the warrantor, in a competent and timely manner;

427 (b) Fail to perform warranty service work authorized by  
 428 the warrantor in a reasonably competent and timely manner on any  
 429 transient customer's vehicle of the same line-make; or

430 (c) Misrepresent the terms of any warranty.

431 (10) Notwithstanding the terms of any manufacturer/dealer  
 432 agreement, it is a violation of ss. 320.3201-320.3211 for:

433 (a) A warrantor to fail to indemnify and hold harmless its  
 434 dealer against any losses or damages to the extent such losses  
 435 or damages are caused by the negligence or willful misconduct of  
 436 the warrantor. The dealer may not be denied indemnification for  
 437 failing to discover, disclose, or remedy a defect in the design  
 438 or manufacturing of the recreational vehicle. The dealer shall  
 439 provide to the warrantor a copy of any suit in which allegations  
 440 are made that come within this subsection within 10 days after  
 441 receiving such suit.

442 (b) A dealer to fail to indemnify and hold harmless its  
 443 warrantor against any losses or damages to the extent such  
 444 losses or damages are caused by the negligence or willful  
 445 misconduct of the dealer. The warrantor shall provide to the  
 446 dealer a copy of any suit in which allegations are made that  
 447 come within this subsection within 10 days after receiving such  
 448 suit.



449 Section 7. Section 320.3208, Florida Statutes, is created  
450 to read:

451 320.3208 Inspection and rejection by the dealer.--

452 (1) Whenever a new recreational vehicle is damaged prior  
453 to transit to the dealer or is damaged in transit to the dealer  
454 when the carrier or means of transportation has been selected by  
455 the manufacturer or distributor, the dealer shall notify the  
456 manufacturer or distributor of the damage within the timeframe  
457 specified in the manufacturer/dealer agreement and:

458 (a) Request from the manufacturer or distributor  
459 authorization to replace the components, parts, and accessories  
460 damaged or otherwise correct the damage; or

461 (b) Reject the vehicle within the timeframe set forth in  
462 subsection (3).

463  
464 If the manufacturer or distributor refuses or fails to authorize  
465 repair of such damage within 10 days after receipt of  
466 notification or if the dealer rejects the recreational vehicle  
467 because of damage, ownership of the new recreational vehicle  
468 reverts to the manufacturer or distributor.

469 (2) The dealer shall exercise due care in custody of the  
470 damaged recreational vehicle, but the dealer shall have no other  
471 obligations, financial or otherwise, with respect to that  
472 recreational vehicle.

473 (3) The timeframe for inspection and rejection by the  
474 dealer must be part of the manufacturer/dealer agreement and may  
475 not be less than 2 business days after the physical delivery of  
476 the recreational vehicle.

CS/CS/HB 1457

2007

477       (4) Any recreational vehicle that has, at the time of  
 478 delivery to the dealer, an unreasonable amount of miles on its  
 479 odometer, as determined by the dealer, may be subject to  
 480 rejection by the dealer and reversion of the vehicle to the  
 481 manufacturer or distributor. In no instance shall a dealer deem  
 482 an amount less than the distance between the dealer and the  
 483 manufacturer's factory or a distributor's point of distribution,  
 484 plus 100 miles, as unreasonable.

485       Section 8. Section 320.3209, Florida Statutes, is created  
 486 to read:

487       320.3209 Coercion of dealer prohibited.--

488       (1) A manufacturer or distributor may not coerce or  
 489 attempt to coerce a dealer to:

490       (a) Purchase a product that the dealer did not order;

491       (b) Enter into an agreement with the manufacturer or  
 492 distributor;

493       (c) Take any action that is unfair or unreasonable to the  
 494 dealer; or

495       (d) Enter into an agreement that requires the dealer to  
 496 submit its disputes to binding arbitration or otherwise waive  
 497 rights or responsibilities provided under ss. 320.3201-320.3211.

498       (2) As used in this section, the term "coerce" includes,  
 499 but is not limited to, threatening to terminate, cancel, or not  
 500 renew a manufacturer/dealer agreement without good cause or  
 501 threatening to withhold product lines or delay product delivery  
 502 as an inducement to amending the manufacturer/dealer agreement.

503       Section 9. Section 320.3210, Florida Statutes, is created  
 504 to read:

505 320.3210 Civil dispute resolution; mediation; relief.--

506 (1) A dealer, manufacturer, distributor, or warrantor  
507 injured by another party's violation of ss. 320.3201-320.3211  
508 may bring a civil action in circuit court to recover actual  
509 damages. The court shall award attorney's fees and costs to the  
510 prevailing party in such action. Venue for any civil action  
511 authorized by this section must exclusively be in the county in  
512 which the dealership is located. In an action involving more  
513 than one dealer, venue may be in any county in which a dealer  
514 who is party to the action is located.

515 (2) Before bringing suit under this section, the party  
516 bringing suit for an alleged violation shall serve a written  
517 demand for mediation upon the offending party.

518 (a) The demand for mediation shall be served upon the  
519 offending party via certified mail at the address stated within  
520 the agreement between the parties. In the event of a civil  
521 action between two dealers, the demand must be mailed to the  
522 address on the dealer's license filed with the department.

523 (b) The demand for mediation must contain a brief  
524 statement of the dispute and the relief sought by the party  
525 filing the demand.

526 (c) Within 20 days after the date a demand for mediation  
527 is served, the parties shall mutually select an independent  
528 certified mediator and meet with the mediator for the purpose of  
529 attempting to resolve the dispute. The meeting place must be in  
530 this state in a location selected by the mediator. The mediator  
531 may extend the date of the meeting for good cause shown by  
532 either party or upon stipulation of both parties.

533        (d) The service of a demand for mediation under this  
534 subsection stays the time for the filing of any complaint,  
535 petition, protest, or action under ss. 320.3201-320.3211 until  
536 representatives of both parties have met with a mutually  
537 selected mediator for the purpose of attempting to resolve the  
538 dispute. If a complaint, petition, protest, or action is filed  
539 before that meeting, the court shall enter an order suspending  
540 the proceeding or action until the meeting has occurred and may,  
541 upon written stipulation of all parties to the proceeding or  
542 action that they wish to continue to mediate under this  
543 subsection, enter an order suspending the proceeding or action  
544 for as long a period as the court considers appropriate. A  
545 suspension order issued under this paragraph may be revoked by  
546 the court.

547        (e) The parties to the mediation shall bear their own  
548 costs for attorney's fees and divide equally the cost of the  
549 mediator.

550        (3) In addition to the remedies provided in this section  
551 and notwithstanding the existence of any additional remedy at  
552 law, a dealer or manufacturer may apply to a circuit court for  
553 the grant, upon a hearing and for cause shown, of a temporary or  
554 permanent injunction, or both, restraining any person from  
555 acting as a dealer, manufacturer, distributor, or importer  
556 without being properly licensed pursuant to this chapter, from  
557 violating or continuing to violate any of the provisions of ss.  
558 320.3201-320.3211, or from failing or refusing to comply with  
559 the requirements of ss. 320.3201-320.3211. Such injunction shall  
560 be issued without bond. A single act in violation of s. 320.3203

561 is sufficient to authorize the issuance of an injunction.

562 Section 10. Section 320.3211, Florida Statutes, is created  
563 to read:

564 320.3211 Penalties.--

565 (1) The department may suspend or revoke any license  
566 issued under s. 320.771 upon a finding that the dealer,  
567 manufacturer, distributor, or importer violated any provision of  
568 ss. 320.3201-320.3211. The department may impose, levy, and  
569 collect by legal process fines, in an amount not to exceed  
570 \$1,000 for each violation, against any person if it finds that  
571 such person has violated any provision of ss. 320.3201-320.3211.  
572 Such person is entitled to an administrative hearing pursuant to  
573 chapter 120 to contest the action or fine levied, or about to be  
574 levied, against the person.

575 (2) In addition to the civil and administrative remedies,  
576 a person who violates any provision of ss. 320.3201-320.3211  
577 commits a misdemeanor of the second degree, punishable as  
578 provided in s. 775.082 or s. 775.083.

579 Section 11. Section 320.8225, Florida Statutes, is amended  
580 to read:

581 320.8225 Mobile home and recreational vehicle  
582 manufacturer, distributor, and importer license ~~manufacturer's~~  
583 ~~license.--~~

584 (1) LICENSE REQUIRED.--Any person who engages in the  
585 business of a mobile home manufacturer or a recreational vehicle  
586 manufacturer, distributor, or importer in this state, or who  
587 manufactures mobile homes or recreational vehicles out of state  
588 which are ultimately offered for sale in this state, shall

CS/CS/HB 1457

2007

589 obtain annually a license for each factory location in this  
590 state and for each factory location out of state which  
591 manufactures mobile homes or recreational vehicles for sale in  
592 this state, prior to distributing or importing mobile homes or  
593 recreational vehicles for sale in this state.

594 (2) APPLICATION.--The application for a license must ~~shall~~  
595 be in the form prescribed by the department and ~~shall~~ contain  
596 sufficient information to disclose the identity, location, and  
597 responsibility of the applicant. The application must ~~shall~~ also  
598 include a copy of the warranty and a complete statement of any  
599 service agreement or policy to be utilized by the applicant, any  
600 information relating to the applicant's solvency and financial  
601 standing, and any other pertinent matter commensurate with  
602 safeguarding the public. The department may prescribe an  
603 abbreviated application for renewal of a license if the licensee  
604 has had previously filed an initial application pursuant to this  
605 section. The application for renewal must ~~shall~~ include any  
606 information necessary to make ~~bring~~ current the information  
607 required in the initial application.

608 (3) FEES.--Upon submitting an ~~making~~ initial application,  
609 the applicant shall pay to the department a fee of \$300. Upon  
610 submitting a ~~making~~ renewal application, the applicant shall pay  
611 to the department a fee of \$100. Any applicant for renewal who  
612 fails ~~has failed~~ to submit his or her renewal application by  
613 October 1 shall pay a renewal application fee equal to the  
614 original application fee. No fee is refundable. All fees must  
615 ~~shall~~ be deposited into the General Revenue Fund.

616 (4) NONRESIDENT.--Any person applying for a license who is

CS/CS/HB 1457

2007

617 not a resident of this state must designate ~~shall have~~  
 618 ~~designated~~ an agent for service of process pursuant to s.  
 619 48.181.

620 (5) REQUIREMENT OF ASSURANCE.--

621 (a) Annually, prior to the receipt of a license to  
 622 manufacture mobile homes, the applicant or licensee shall submit  
 623 a surety bond, cash bond, or letter of credit from a financial  
 624 institution, or a proper continuation certificate, sufficient to  
 625 assure satisfaction of claims against the licensee for failure  
 626 to comply with appropriate code standards, failure to provide  
 627 warranty service, or violation of any provisions of this  
 628 section. The amount of the surety bond, cash bond, or letter of  
 629 credit must ~~shall~~ be \$50,000. Only one surety bond, cash bond,  
 630 or letter of credit shall be required for each manufacturer,  
 631 regardless of the number of factory locations. The surety bond,  
 632 cash bond, or letter of credit must ~~shall~~ be to the department,  
 633 in favor of any retail customer who suffers a ~~shall suffer~~ loss  
 634 arising out of noncompliance with code standards or failure to  
 635 honor or provide warranty service. The department may ~~shall have~~  
 636 ~~the right to~~ disapprove any bond or letter of credit that does  
 637 not provide assurance as provided in this section.

638 (b) Annually, prior to the receipt of a license to  
 639 manufacture, distribute, or import recreational vehicles, the  
 640 applicant or licensee shall submit a surety bond, or a proper  
 641 continuation certificate, sufficient to assure satisfaction of  
 642 claims against the licensee for failure to comply with  
 643 appropriate code standards, failure to provide warranty service,  
 644 or violation of any provisions of this section. The amount of

645 the surety bond must ~~shall~~ be \$10,000 per year. The surety bond  
 646 must ~~shall~~ be to the department, in favor of any retail customer  
 647 who suffers ~~shall suffer~~ loss arising out of noncompliance with  
 648 code standards or failure to honor or provide warranty service.  
 649 The department may ~~shall have the right to~~ disapprove any bond  
 650 that ~~which~~ does not provide assurance as provided in this  
 651 section.

652 (c) The department shall adopt rules pursuant to chapter  
 653 120 relating to ~~consistent with this section in~~ providing  
 654 assurance of satisfaction of claims under this section.

655 (d) The department shall, upon denial, suspension, or  
 656 revocation of any license, notify the surety company of the  
 657 licensee, in writing, that the license has been denied,  
 658 suspended, or revoked and shall state the reason for such  
 659 denial, suspension, or revocation.

660 (e) Any surety company that ~~which~~ pays any claim against  
 661 the bond of any licensee shall notify the department, in  
 662 writing, that it has paid such a claim and shall state the  
 663 amount of the claim.

664 (f) Any surety company that ~~which~~ cancels the bond of any  
 665 licensee shall notify the department, in writing, of such  
 666 cancellation, giving reason for the cancellation.

667 (6) LICENSE YEAR.--A license issued to a mobile home  
 668 manufacturer or a recreational vehicle manufacturer,  
 669 distributor, or importer entitles the licensee to conduct ~~the~~  
 670 ~~business of a mobile home or recreational vehicle manufacturer~~  
 671 for a period of 1 year from October 1 preceding the date of  
 672 issuance.



673 (7) DENIAL OF LICENSE.--The department may deny a mobile  
 674 home manufacturer or a recreational vehicle manufacturer,  
 675 distributor, or importer ~~manufacturer's~~ license on the ground  
 676 that:

677 (a) The applicant has made a material misstatement in his  
 678 or her application for a license.

679 (b) The applicant has failed to comply with any applicable  
 680 provision of this chapter.

681 (c) The applicant has failed to provide warranty service.

682 (d) The applicant or one or more of his or her principals  
 683 or agents has violated any law, rule, or regulation relating to  
 684 the manufacture or sale of mobile homes or recreational  
 685 vehicles.

686 (e) The department has proof of the unfitness of the  
 687 applicant.

688 (f) The applicant or licensee has engaged in previous  
 689 conduct in any state which would have been a ground for  
 690 revocation or suspension of a license in this state.

691 (g) The applicant or licensee has violated any provision  
 692 of the ~~provisions of the~~ National Mobile Home Construction and  
 693 Safety Standards Act of 1974 or any related rule or regulation  
 694 adopted by ~~of~~ the Department of Housing and Urban Development  
 695 ~~promulgated thereunder~~.

696  
 697 Upon denial of a license, the department shall notify the  
 698 applicant within 10 days, stating in writing its grounds for  
 699 denial. The applicant is entitled to an administrative ~~a public~~  
 700 hearing and may request that such hearing be held within 45 days

701 of denial of the license. All proceedings must ~~shall~~ be pursuant  
 702 to chapter 120.

703 (8) REVOCATION OR SUSPENSION OF LICENSE.--The department  
 704 shall suspend or, in the case of a subsequent offense, shall  
 705 revoke any license upon a finding that the licensee violated any  
 706 provision of this chapter or any other law of this state  
 707 regarding the manufacture, warranty, or sale of mobile homes or  
 708 recreational vehicles. The department may reinstate the license  
 709 if it ~~When any license has been revoked or suspended by the~~  
 710 ~~department, it may be reinstated if the department~~ finds that  
 711 the former licensee has complied with all applicable  
 712 requirements of this chapter and an application for a license is  
 713 refiled pursuant to this section.

714 (9) CIVIL PENALTIES; PROCEDURE.--~~In addition to the~~  
 715 ~~exercise of other powers provided in this section,~~ The  
 716 department is authorized to assess, impose, levy, and collect by  
 717 legal process a civil penalty, in an amount not to exceed \$1,000  
 718 for each violation, against any licensee if it finds that a  
 719 licensee has violated any provision of this section or has  
 720 violated any other law of this state having to do with dealing  
 721 in motor vehicles. A ~~Any~~ licensee is ~~shall be~~ entitled to a  
 722 hearing pursuant to chapter 120 ~~should the licensee wish to~~  
 723 contest the fine levied, or about to be levied, upon him or her.

724 Section 12. If any provision of this act or the  
 725 application thereof to any person or circumstance is held  
 726 invalid, the invalidity does not affect other provisions or  
 727 applications of the act which can be given effect without the  
 728 invalid provision or application and, to this end, the

CS/CS/HB 1457

2007

729 | provisions of this act are severable.

730 |       Section 13. This act shall take effect October 1, 2007.