

Bill No. SB 2488

Barcode 070982

CHAMBER ACTION

Senate

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

320.3201 Legislative intent.--

(1) It is the intent of the Legislature to protect the public health, safety, and welfare of the residents of the state by regulating the relationship between recreational vehicle dealers and manufacturers, maintaining competition, and providing consumer protection and fair trade.

(2) It is the intent of the Legislature that the provisions of this act be applied to manufacturer/dealer agreements entered into on or after October 1, 2007.

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

321.3202 Definitions.--As used in ss.

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1 320.3201-320.3211, the term:p>(1) "Area of sales  
 2 responsibility" means the geographical area agreed to by the  
 3 dealer and the manufacturer in the manufacturer/dealer  
 4 agreement within which the dealer has the exclusive right to  
 5 display or sell the manufacturer's new recreational vehicles  
 6 of a particular line-make.

7 (2) "Dealer" means any person, firm, corporation, or  
 8 business entity licensed or required to be licensed under s.  
 9 320.771.

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

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

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

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

20 (a) Are identified by a common series trade name or  
 21 trademark;

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

25 (c) Have lengths and interior floor plans that  
 26 distinguish the recreational vehicles from recreational  
 27 vehicles with substantially the same decor, equipment,  
 28 features, price, and weight; and

29 (d) Belong to a single, distinct classification of  
 30 recreational vehicle product type having a substantial degree  
 31 of commonality in the construction of the chassis, frame, and

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1 body.

2       (7) "Manufacturer" means any person, firm,  
3 corporation, or business entity who engages in the  
4 manufacturing of recreational vehicles.

5       (8) "Manufacturer/dealer agreement" means a written  
6 agreement or contract entered into between a manufacturer and  
7 a dealer which fixes the rights and responsibilities of the  
8 parties and pursuant to which the dealer sells new  
9 recreational vehicles.

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

12       (10) "Recreational vehicle" means the category of  
13 motor vehicle described s. 320.01(1)(b).

14       (11) "Transient customer" means a customer who is  
15 temporarily traveling through a dealer's area of sales  
16 responsibility.

17       (12) "Warrantor" means any person, firm, corporation,  
18 or business entity that gives a warranty in connection with a  
19 new recreational vehicle or parts, accessories, or components  
20 thereof. The term does not include service contracts,  
21 mechanical or other insurance, or extended warranties sold for  
22 separate consideration by a dealer or other person not  
23 controlled by a manufacturer.

24       Section 3. Section 320.3203, Florida Statutes, is  
25 created to read:

26       320.3203 Requirement for a written manufacturer-dealer  
27 agreement; area of sales responsibility.--

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

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

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

9       (4) A motor vehicle dealer may not sell a new  
 10 recreational vehicle in this state without having first  
 11 entered into a manufacturer/dealer agreement with a  
 12 manufacturer or distributor and may not sell outside of the  
 13 area of sales responsibility designated in the agreement.

14       (5) Notwithstanding subsection (4), a dealer may sell  
 15 outside of its designated area of sales responsibility if the  
 16 dealer obtains a supplemental license pursuant to s.  
 17 320.771(7) and meets any one of the following conditions:

18       (a) For sales within another dealer's designated area  
 19 of sales responsibility, the dealer must obtain in advance of  
 20 the off-premise sale a written agreement signed by the dealer,  
 21 the manufacturer of the recreational vehicles to be sold at  
 22 the off-premise sale, and the dealer in whose designated area  
 23 of sales responsibility the off-premise sale will occur which:

- 24           1. Designates the recreational vehicles to be sold;
- 25           2. Sets forth the time period for the off-premise  
 26 sale; and
- 27           3. Affirmatively authorizes the sale of the  
 28 recreational vehicles.

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

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1       (c) The off-premise sale is in conjunction with a  
2 public vehicle show in which more than 35 dealers are  
3 participating and the show is predominantly funded by  
4 manufacturers. For the purposes of this subsection, the term  
5 "public vehicle show" means an event sponsored by an  
6 organization approved under s. 501(c)(6) of the Internal  
7 Revenue Code which has the purpose of promoting the welfare of  
8 the recreational vehicle industry and is located at a site  
9 that:

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

12           2. Is not used for off-premise sales for more than 10  
13 days in a calendar year; and

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

16           Section 4. Section 320.3204, Florida Statutes, is  
17 created to read:

18           320.3204 Sales of recreational vehicles by  
19 manufacturer or distributor.--Sales of recreational vehicles  
20 by a manufacturer or distributor shall be in accordance with  
21 published prices, charges, and terms of sale in effect at any  
22 given time. The manufacturer shall offer to sell products on  
23 the same basis, with respect to all rebates, discounts, and  
24 programs, to all competing dealers similarly situated.

25           Section 5. Section 320.3205, Florida Statutes, is  
26 created to read:

27           320.3205 Termination, cancellation, and nonrenewal of  
28 a manufacturer/dealer agreement.--

29           (1) A manufacturer or distributor, directly or through  
30 any officer, agent, or employee, may not terminate, cancel, or  
31 fail to renew a manufacturer/dealer agreement without good

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1 cause, and, upon renewal, may not require additional inventory  
 2 stocking requirements or increased retail sales targets in  
 3 excess of the market growth in the dealer's area of sales  
 4 responsibility.

5 (a) The manufacturer or distributor has the burden of  
 6 showing good cause for terminating, canceling, or failing to  
 7 renew a manufacturer/dealer agreement with a dealer. For  
 8 purposes of determining whether there is good cause for the  
 9 proposed action, any of the following factors may be  
 10 considered:

11 1. The extent of the affected dealer's penetration in  
 12 the relevant market area.

13 2. The nature and extent of the dealer's investment in  
 14 its business.

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

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

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

20 6. The failure to follow agreed-upon procedures or  
 21 standards related to the overall operation of the dealership.

22 7. The dealer's performance under the terms of its  
 23 manufacturer/dealer agreement.

24 (b) Except as otherwise provided in this section, a  
 25 manufacturer or distributor shall provide a dealer with at  
 26 least 120 days' prior written notice of termination,  
 27 cancellation, or nonrenewal of the manufacturer/dealer  
 28 agreement.

29 1. The notice must state all reasons for the proposed  
 30 termination, cancellation, or nonrenewal and must further  
 31 state that if, within 30 days following receipt of the notice,

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1 the dealer provides to the manufacturer or distributor a  
2 written notice of intent to cure all claimed deficiencies, the  
3 dealer will then have 120 days following receipt of the notice  
4 to rectify the deficiencies. If the deficiencies are rectified  
5 within 120 days, the manufacturer's or distributor's notice is  
6 voided. If the dealer fails to provide the notice of intent to  
7 cure the deficiencies in the prescribed time period, the  
8 termination, cancellation, or nonrenewal takes effect 30 days  
9 after the dealer's receipt of the notice unless the dealer has  
10 new and untitled inventory on hand that may be disposed of  
11 pursuant to subsection (3).

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

15 a. Conviction of or plea of nolo contendere to a  
16 felony of a dealer or one of its owners;

17 b. The abandonment or closing of the business  
18 operations of the dealer for 10 consecutive business days  
19 unless the closing is due to an act of God, strike, labor  
20 difficulty, or other cause over which the dealer has no  
21 control;

22 c. A material misrepresentation by the dealer; or

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

25 3. The notice provisions of this paragraph do not  
26 apply if the reason for termination, cancellation, or  
27 nonrenewal is insolvency, the occurrence of an assignment for  
28 the benefit of creditors, or bankruptcy.

29 (2) A dealer may terminate cancel, or not renew its  
30 manufacturer/dealer agreement with a manufacturer or  
31 distributor with or without cause at any time by giving 30

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1 days' written notice to the manufacturer. If for cause, the  
2 dealer has the burden of showing good cause. Any of the  
3 following items shall be deemed good cause for the proposed  
4 action by a dealer:

5 (a) Conviction of or plea of nolo contendere to a  
6 felony of a manufacturer or one of its subsidiary companies.

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

12 (c) A significant misrepresentation by the  
13 manufacturer.

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

17 (e) A declaration by the manufacturer of bankruptcy,  
18 insolvency, or the occurrence of an assignment for the benefit  
19 of creditors or bankruptcy.

20 (3) If the manufacturer/dealer agreement is  
21 terminated, canceled, or not renewed by the manufacturer or  
22 distributor without cause or by the dealer for cause, the  
23 manufacturer shall, at the election of the dealer and within  
24 30 days after termination, cancellation, or nonrenewal,  
25 repurchase:

26 (a) All recreational vehicles, that are classified as  
27 "new" for titling purposes under s. 319.001(8), that were  
28 acquired from the manufacturer or distributor, and that have  
29 not been used, except for demonstration purposes, or altered,  
30 or damaged at 100 percent of the net invoice cost, including  
31 transportation, less applicable rebates and discounts to the



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1 dealer. If any of the vehicles repurchased are damaged, the  
 2 amount due to the dealer shall be reduced by the cost to  
 3 repair the vehicle. Damage prior to delivery to the dealer  
 4 will not disqualify repurchase under this subsection;

5 (b) All undamaged accessories and proprietary parts  
 6 sold to the dealer for resale within the 12 months prior to  
 7 termination, cancellation, or nonrenewal, if accompanied by  
 8 the original invoice, at 105 percent of the original net price  
 9 paid to the manufacturer or distributor to compensate the  
 10 dealer for handling, packing, and shipping the parts; and

11 (c) Any properly functioning diagnostic equipment,  
 12 special tools, current signage, and other equipment and  
 13 machinery at 100 percent of the dealer's net cost plus  
 14 freight, destination, delivery, and distribution charges and  
 15 sales taxes, if any, if it was purchased by the dealer within  
 16 5 years before termination, cancellation, or nonrenewal and  
 17 upon the manufacturer's or distributor's request and can no  
 18 longer be used in the normal course of the dealer's ongoing  
 19 business. The manufacturer or distributor shall pay the dealer  
 20 within 30 days after receipt of the returned items.

21 Section 6. Section 320.3206, Florida Statutes, is  
 22 created to read:

23 320.3206 Transfer of ownership; family succession.--

24 (1) If a dealer desires to make a change in ownership  
 25 by the sale of the business assets, stock transfer, or  
 26 otherwise, the dealer shall give the manufacturer or  
 27 distributor 30 days' written notice before the closing,  
 28 including all supporting documentation as may be reasonably  
 29 required by the manufacturer or distributor. The manufacturer  
 30 or distributor may not refuse consent to the proposed change  
 31 or sale and may not disapprove or withhold approval of the

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1 change or sale unless the manufacturer or distributor can show  
2 that its decision is based on the manufacturer's reasonable  
3 criteria, which may include the prospective transferee's  
4 business experience, moral character, financial  
5 qualifications, and any criminal record.

6 (2) If the manufacturer or distributor rejects a  
7 proposed change or sale, the manufacturer or distributor shall  
8 give written notice of its reasons to the dealer within 30  
9 days after receipt of the dealer's notification and complete  
10 documentation. The manufacturer or distributor has the burden  
11 of showing that its rejection of the transfer or sale is  
12 reasonable. If the manufacturer or distributor does not give  
13 notice of rejection, the change or sale shall be deemed  
14 approved.

15 (3) It is unlawful for a manufacturer or distributor  
16 to fail to provide a dealer an opportunity to designate, in  
17 writing, a family member as a successor to the dealership in  
18 the event of the death, incapacity, or retirement of the  
19 dealer. It is unlawful to prevent or refuse to honor the  
20 succession to a dealership by a family member of the deceased,  
21 incapacitated, or retired dealer unless the manufacturer or  
22 distributor has provided to the dealer written notice of its  
23 objections within 30 days after receipt of the dealer's  
24 modification of the dealer's succession plan. Grounds for  
25 objection include lack of creditworthiness, conviction of a  
26 felony, lack of required licenses or business experience, or  
27 other condition that makes the succession unreasonable under  
28 the circumstances. The manufacturer or distributor has the  
29 burden of showing the unreasonableness of the succession.  
30 However, a family member may not succeed to a dealership if  
31 the succession involves, without the manufacturer's or

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1 distributor's consent, a relocation of the business or an  
2 alteration of the terms and conditions of the  
3 manufacturer/dealer agreement.

4 Section 7. Section 320.3207, Florida Statutes, is  
5 created to read:

6 320.3207 Warranty obligations.--

7 (1) Each warrantor shall:

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

11 (b) Compensate the dealer for warranty service  
12 required of the dealer by the warrantor; and

13 (c) Provide the dealer the schedule of compensation to  
14 be paid and the time allowances for the performance of any  
15 work and service.

16  
17 The schedule of compensation must include reasonable  
18 compensation for diagnostic work as well as warranty labor.

19 (2) Time allowances for the diagnosis and performance  
20 of warranty labor must be reasonable for the work to be  
21 performed. The warrantor shall authorize the dealer to  
22 undertake warranty repairs without prior approval if the  
23 repairs require less than 3 hours of labor. The compensation  
24 of a dealer for warranty labor may not be less than the lowest  
25 retail labor rates actually charged by the dealer for like  
26 nonwarranty labor as long as such rates are reasonable.

27 (3) The warrantor shall reimburse the dealer for  
28 warranty parts at actual wholesale cost plus a minimum  
29 30-percent handling charge and the cost, if any, of freight to  
30 return warranty parts to the warrantor.

31 (4) Warranty audits of dealer records may be conducted

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1 by the warrantor on a reasonable basis, and dealer claims for  
2 warranty compensation may not be denied except for cause, such  
3 as performance of nonwarranty repairs, material noncompliance  
4 with warrantor's published policies and procedures, lack of  
5 material documentation, fraud, or misrepresentation.

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

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

11 (7) The warrantor shall disapprove warranty claims in  
12 writing within 45 days after the date of submission by the  
13 dealer in the manner and form prescribed by the warrantor.  
14 Claims not specifically disapproved in writing within 45 days  
15 shall be construed to be approved and must be paid within 60  
16 days.

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

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

21 (b) Fail to include, in written notices of factory  
22 campaigns to recreational vehicle owners and dealers, the  
23 expected date by which necessary parts and equipment,  
24 including tires and chassis or chassis parts, will be  
25 available to dealers to perform the campaign work. The  
26 warrantor may ship parts to the dealer to effect the campaign  
27 work, and, if such parts are in excess of the dealer's  
28 requirements, the dealer may return unused parts to the  
29 warrantor for credit after completion of the campaign;

30 (c) Fail to compensate any of its dealers for  
31 authorized repairs effected by the dealer of merchandise

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1 damaged in manufacture or transit to the dealer, if the  
2 carrier is designated by the warrantor, factory branch,  
3 distributor, or distributor branch;

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

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

12 (f) Require the dealer to make warranties to customers  
13 in any manner related to the manufacture of the recreational  
14 vehicle.

15 (9) It is a violation of ss. 320.3201-320.3211 for any  
16 dealer:

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

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

23 (c) Misrepresent the terms of any warranty.

24 (10) Notwithstanding the terms of any  
25 manufacturer/dealer agreement, it is a violation of ss.  
26 320.3201-320.3211 for:

27 (a) A warrantor to fail to indemnify and hold harmless  
28 its dealer against any losses or damages to the extent such  
29 losses or damages are caused by the negligence or willful  
30 misconduct of the warrantor. The dealer may not be denied  
31 indemnification for failing to discover, disclose, or remedy a

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1 defect in the design or manufacturing of the recreational  
2 vehicle. The dealer shall provide to the warrantor a copy of  
3 any suit in which allegations are made which come within this  
4 subsection within 10 days after receiving such suit.

5 (b) A dealer to fail to indemnify and hold harmless  
6 its warrantor against any losses or damages to the extent such  
7 losses or damages are caused by the negligence or willful  
8 misconduct of the dealer. The warrantor shall provide to the  
9 dealer a copy of any suit in which allegations are made that  
10 come within this subsection within 10 days after receiving  
11 such suit.

12 Section 8. Section 320.3208, Florida Statutes, is  
13 created to read:

14 320.3208 Inspection and rejection by the dealer.--

15 (1) Whenever a new recreational vehicle is damaged  
16 prior to transit to the dealer or is damaged in transit to the  
17 dealer when the carrier or means of transportation has been  
18 selected by the manufacturer or distributor, the dealer shall  
19 notify the manufacturer or distributor of the damage within  
20 the timeframe specified in the manufacturer/dealer agreement  
21 and:

22 (a) Request from the manufacturer or distributor  
23 authorization to replace the components, parts, and  
24 accessories damaged or otherwise correct the damage; or

25 (b) Reject the vehicle within the timeframe set forth  
26 in subsection (3).

27  
28 If the manufacturer or distributor refuses or fails to  
29 authorize repair of such damage within 10 days after receipt  
30 of notification or if the dealer rejects the recreational  
31 vehicle because of damage, ownership of the new recreational

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1 vehicle reverts to the manufacturer or distributor.

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

6 (3) The timeframe for inspection and rejection by the  
7 dealer must be part of the manufacturer/dealer agreement and  
8 may not be less than 3 business days after the physical  
9 delivery of the recreational vehicle.

10 (4) Any recreational vehicle that has, at the time of  
11 delivery to the dealer, an unreasonable amount of miles on its  
12 odometer, as determined by the dealer, may be subject to  
13 rejection by the dealer and reversion of the vehicle to the  
14 manufacturer or distributor.

15 Section 9. Section 320.3209, Florida Statutes, is  
16 created to read:

17 320.3209 Coercion of dealer prohibited.--

18 (1) A manufacturer or distributor may not coerce or  
19 attempt to coerce a dealer to:

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

21 (b) Enter into an agreement with the manufacturer or  
22 distributor;

23 (c) Take any action that is unfair or unreasonable to  
24 the dealer; or

25 (d) Enter into an agreement that requires the dealer  
26 to submit its disputes to binding arbitration or otherwise  
27 waive rights or responsibilities provided under ss.  
28 320.3201-320.3211.

29 (2) As used in this section, the term "coerce"  
30 includes, but is not limited to, threatening to terminate,  
31 cancel, or not renew a manufacturer/dealer agreement without

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1 good cause or threatening to withhold product lines or delay  
2 product delivery as an inducement to amending the  
3 manufacturer/dealer agreement.

4 Section 10. Section 320.3210, Florida Statutes, is  
5 created to read:

6 320.3210 Civil dispute resolution; mediation;  
7 relief.--

8 (1) A dealer, manufacturer, distributor, or warrantor  
9 injured by another party's violation of ss. 320.3201-320.3211  
10 may bring a civil action in circuit court to recover actual  
11 damages. The court shall award attorney's fees and costs to  
12 the prevailing party in such action. Venue for any civil  
13 action authorized by this section must exclusively be in the  
14 county in which the dealership is located. In an action  
15 involving more than one dealer, venue may be in any county in  
16 which a dealer who is party to the action is located.

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

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

25 (b) The demand for mediation must contain a brief  
26 statement of the dispute and the relief sought by the party  
27 filing the demand.

28 (c) Within 20 days after the date a demand for  
29 mediation is served, the parties shall mutually select an  
30 independent certified mediator and meet with the mediator for  
31 the purpose of attempting to resolve the dispute. The meeting



1 place must be in this state in a location selected by the  
 2 mediator. The mediator may extend the date of the meeting for  
 3 good cause shown by either party or upon stipulation of both  
 4 parties.

5 (d) The service of a demand for mediation under this  
 6 subsection stays the time for the filing of any complaint,  
 7 petition, protest, or action under ss. 320.3201-320.3211 until  
 8 representatives of both parties have met with a mutually  
 9 selected mediator for the purpose of attempting to resolve the  
 10 dispute. If a complaint, petition, protest, or action is filed  
 11 before that meeting, the court shall enter an order suspending  
 12 the proceeding or action until the meeting has occurred and  
 13 may, upon written stipulation of all parties to the proceeding  
 14 or action that they wish to continue to mediate under this  
 15 subsection, enter an order suspending the proceeding or action  
 16 for as long a period as the court considers appropriate. A  
 17 suspension order issued under this paragraph may be revoked by  
 18 the court.

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

22 (3) In addition to the remedies provided in this  
 23 section and notwithstanding the existence of any additional  
 24 remedy at law, a dealer or manufacturer may apply to a circuit  
 25 court for the grant, upon a hearing and for cause shown, of a  
 26 temporary or permanent injunction, or both, restraining any  
 27 person from acting as a dealer, manufacturer, distributor, or  
 28 importer without being properly licensed pursuant to this  
 29 chapter, from violating or continuing to violate any of the  
 30 provisions of ss. 320.3201-320.3211, or from failing or  
 31 refusing to comply with the requirements of ss.

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1 320.3201-320.3211. Such injunction shall be issued without  
 2 bond. A single act in violation of the provisions of ss.  
 3 320.3201-320.3211 is sufficient to authorize the issuance of  
 4 an injunction.

5 Section 11. Section 320.3211, Florida Statutes, is  
 6 created to read:

7 320.3211 Penalties.--

8 (1) The department may suspend or revoke any license  
 9 issued under s. 320.771 upon a finding that the dealer,  
 10 manufacturer, or distributor violated any provision of ss.  
 11 320.3201-320.3211. The department may impose, levy, and  
 12 collect by legal process fines, in an amount not to exceed  
 13 \$1,000 for each violation, against any person if it finds that  
 14 such person has violated any provision of ss.

15 320.3201-320.3211. Such person is entitled to an  
 16 administrative hearing pursuant to chapter 120 to contest the  
 17 action or fine levied, or about to be levied, against the  
 18 person.

19 (2) In addition to the civil and administrative  
 20 remedies, a person who violates any provision of ss.  
 21 320.3201-320.3211 commits a misdemeanor of the second degree,  
 22 punishable as provided in s. 775.082 or s. 775.083.

23 Section 12. Section 320.8225, Florida Statutes, is  
 24 amended to read:

25 320.8225 Mobile home and recreational vehicle  
 26 manufacturer, distributor, and importer license ~~manufacturer's~~  
 27 license.--

28 (1) LICENSE REQUIRED.--Any person who engages in the  
 29 business of a mobile home manufacturer or a recreational  
 30 vehicle manufacturer, distributor, or importer in this state,  
 31 or who manufactures mobile homes or recreational vehicles out

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1 of state which are ultimately offered for sale in this state,  
 2 shall obtain annually a license for each factory location in  
 3 this state and for each factory location out of state which  
 4 manufactures mobile homes or recreational vehicles for sale in  
 5 this state, prior to distributing or importing mobile homes or  
 6 recreational vehicles for sale in this state.

7 (2) APPLICATION.--The application for a license must  
 8 ~~shall~~ be in the form prescribed by the department and ~~shall~~  
 9 contain sufficient information to disclose the identity,  
 10 location, and responsibility of the applicant. The application  
 11 must ~~shall~~ also include a copy of the warranty and a complete  
 12 statement of any service agreement or policy to be utilized by  
 13 the applicant, any information relating to the applicant's  
 14 solvency and financial standing, and any other pertinent  
 15 matter commensurate with safeguarding the public. The  
 16 department may prescribe an abbreviated application for  
 17 renewal of a license if the licensee has ~~had~~ previously filed  
 18 an initial application pursuant to this section. The  
 19 application for renewal must ~~shall~~ include any information  
 20 necessary to make ~~bring~~ current the information required in  
 21 the initial application.

22 (3) FEES.--Upon submitting an ~~making~~ initial  
 23 application, the applicant shall pay to the department a fee  
 24 of \$300. Upon submitting a ~~making~~ renewal application, the  
 25 applicant shall pay to the department a fee of \$100. Any  
 26 applicant for renewal who has fails ~~failed~~ to submit his or  
 27 her renewal application by October 1 shall pay a renewal  
 28 application fee equal to the original application fee. No fee  
 29 is refundable. All fees must ~~shall~~ be deposited into the  
 30 General Revenue Fund.

31 (4) NONRESIDENT.--Any person applying for a license

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1 who is not a resident of this state must designate ~~shall have~~  
2 ~~designated~~ an agent for service of process pursuant to s.  
3 48.181.

4 (5) REQUIREMENT OF ASSURANCE.--

5 (a) Annually, prior to the receipt of a license to  
6 manufacture mobile homes, the applicant or licensee shall  
7 submit a surety bond, cash bond, or letter of credit from a  
8 financial institution, or a proper continuation certificate,  
9 sufficient to assure satisfaction of claims against the  
10 licensee for failure to comply with appropriate code  
11 standards, failure to provide warranty service, or violation  
12 of any provisions of this section. The amount of the surety  
13 bond, cash bond, or letter of credit must ~~shall~~ be \$50,000.  
14 Only one surety bond, cash bond, or letter of credit shall be  
15 required for each manufacturer, regardless of the number of  
16 factory locations. The surety bond, cash bond, or letter of  
17 credit must ~~shall~~ be to the department, in favor of any retail  
18 customer who suffers a ~~shall suffer~~ loss arising out of  
19 noncompliance with code standards or failure to honor or  
20 provide warranty service. The department may ~~shall have the~~  
21 ~~right to~~ disapprove any bond or letter of credit that does not  
22 provide assurance as provided in this section.

23 (b) Annually, prior to the receipt of a license to  
24 manufacture, distribute, or import recreational vehicles, the  
25 applicant or licensee shall submit a surety bond, or a proper  
26 continuation certificate, sufficient to assure satisfaction of  
27 claims against the licensee for failure to comply with  
28 appropriate code standards, failure to provide warranty  
29 service, or violation of any provisions of this section. The  
30 amount of the surety bond must ~~shall~~ be \$10,000 per year. The  
31 surety bond must ~~shall~~ be to the department, in favor of any

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1 retail customer who suffers ~~shall suffer~~ loss arising out of  
 2 noncompliance with code standards or failure to honor or  
 3 provide warranty service. The department may ~~shall have the~~  
 4 ~~right to~~ disapprove any bond that ~~which~~ does not provide  
 5 assurance as provided in this section.

6 (c) The department shall adopt rules pursuant to  
 7 chapter 120 relating to ~~consistent with this section in~~  
 8 providing assurance of satisfaction of claims under this  
 9 section.

10 (d) The department shall, upon denial, suspension, or  
 11 revocation of any license, notify the surety company of the  
 12 licensee, in writing, that the license has been denied,  
 13 suspended, or revoked and shall state the reason for such  
 14 denial, suspension, or revocation.

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

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

22 (6) LICENSE YEAR.--A license issued to a mobile home  
 23 manufacturer or a recreational vehicle manufacturer,  
 24 distributor, or importer entitles the licensee to conduct ~~the~~  
 25 ~~business of a mobile home or recreational vehicle manufacturer~~  
 26 for a period of 1 year from October 1 preceding the date of  
 27 issuance.

28 (7) DENIAL OF LICENSE.--The department may deny a  
 29 mobile home manufacturer or a recreational vehicle  
 30 manufacturer, distributor, or importer ~~manufacturer's~~ license  
 31 on the ground that:

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

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

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

7 (d) The applicant or one or more of his or her  
8 principals or agents has violated any law, rule, or regulation  
9 relating to the manufacture or sale of mobile homes or  
10 recreational vehicles.

11 (e) The department has proof of the unfitness of the  
12 applicant.

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

16 (g) The applicant or licensee has violated any  
17 provision of the ~~provisions of the~~ National Mobile Home  
18 Construction and Safety Standards Act of 1974 or any related  
19 rule or regulation adopted by ~~of~~ the Department of Housing and  
20 Urban Development ~~promulgated thereunder~~.

21  
22 Upon denial of a license, the department shall notify the  
23 applicant within 10 days, stating in writing its grounds for  
24 denial. The applicant is entitled to an administrative ~~a~~  
25 ~~public~~ hearing and may request that such hearing be held  
26 within 45 days of denial of the license. All proceedings must  
27 ~~shall~~ be pursuant to chapter 120.

28 (8) REVOCATION OR SUSPENSION OF LICENSE.--The  
29 department shall suspend or, in the case of a subsequent  
30 offense, shall revoke any license upon a finding that the  
31 licensee violated any provision of this chapter or any other

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1 law of this state regarding the manufacture, warranty, or sale  
 2 of mobile homes or recreational vehicles. The department may  
 3 reinstate the license if it ~~When any license has been revoked~~  
 4 ~~or suspended by the department, it may be reinstated if the~~  
 5 ~~department~~ finds that the former licensee has complied with  
 6 all applicable requirements of this chapter and an application  
 7 for a license is refiled pursuant to this section.

8 (9) CIVIL PENALTIES; PROCEDURE.--~~In addition to the~~  
 9 ~~exercise of other powers provided in this section,~~ The  
 10 department is authorized to assess, impose, levy, and collect  
 11 by legal process a civil penalty, in an amount not to exceed  
 12 \$1,000 for each violation, against any licensee if it finds  
 13 that a licensee has violated any provision of this section or  
 14 has violated any other law of this state having to do with  
 15 dealing in motor vehicles. A ~~Any~~ licensee is ~~shall be~~ entitled  
 16 to a hearing pursuant to chapter 120 ~~should the licensee wish~~  
 17 to contest the fine levied, or about to be levied, upon him or  
 18 her.

19 Section 13. If any provision of this act or the  
 20 application thereof to any person or circumstance is held  
 21 invalid, the invalidity does not affect other provisions or  
 22 applications of the act which can be given effect without the  
 23 invalid provision or application and, to this end, the  
 24 provisions of this act are severable.

25 Section 14. This act shall take effect October 1,  
 26 2007.

27  
 28

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

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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1 and insert:

2                                   A bill to be entitled

3           An act relating to recreational vehicle

4           manufacturers, distributors and dealers;

5           creating s. 320.3201, F.S.; providing

6           legislative intent; creating s. 320.3202, F.S.;

7           providing definitions; creating s. 320.3203,

8           F.S.; providing requirements for a

9           manufacturer/dealer agreement; requiring

10          designation of the area of sales

11          responsibility; providing conditions for sales

12          outside the dealer's area of sales

13          responsibility; creating s. 320.3204, F.S.;

14          providing requirements for sales by

15          manufacturers and distributors; creating s.

16          320.3205, F.S.; providing requirements and

17          procedures for termination, cancellation, or

18          nonrenewal of a manufacturer/dealer agreement

19          by a manufacturer or a dealer; providing for

20          the repurchase by the manufacturer of vehicles,

21          accessories, and parts and equipment, tools,

22          signage, and machinery; creating s. 320.3206,

23          F.S.; providing for change in ownership by a

24          dealer; requiring notice to the manufacturer;

25          providing requirements for rejection by the

26          manufacturer; providing for a dealer to name a

27          family member as a successor in case of

28          retirement, incapacitation, or death of the

29          dealer; providing requirements for rejection of

30          the successor by the manufacturer; creating s.

31          320.3207, F.S.; providing requirements for



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1 warrantors, manufacturers, and dealers with  
2 respect to warranty obligations; providing  
3 requirements for compensation of the dealer;  
4 authorizing warranty audits by the warrantor;  
5 requiring cause for denial of compensation;  
6 providing for disposition of warranty claims;  
7 prohibiting certain acts by the warrantor and  
8 the dealer; requiring notice of certain pending  
9 suits; creating s. 320.3208, F.S.; providing  
10 for inspection and rejection of a recreational  
11 vehicle upon delivery to a dealer; creating s.  
12 320.3209, F.S.; prohibiting a manufacturer or  
13 distributor from coercing a dealer to perform  
14 certain acts; creating s. 320.3210, F.S.;  
15 providing for resolution when a dealer,  
16 manufacturer, distributor, or warrantor is  
17 injured by another party's violation;  
18 authorizing civil action; providing for  
19 mediation; providing for remedies; creating s.  
20 320.3211, F.S.; providing administrative and  
21 criminal penalties for violations; providing  
22 for an administrative hearing to contest a  
23 penalty imposed by the department; amending  
24 s.320.8225, F.S.; providing licensure  
25 requirements for distributors and importers;  
26 providing for severability; providing an  
27 effective date.

28  
29  
30  
31