

Bill No. CS for SB 2488

Barcode 624898

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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The Committee on Commerce (Saunders) 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 ss. 320.3201-320.3211 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:

320.3202 Definitions.--As used in ss.

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1 320.3201-320.3211, the term:

2 (1) "Area of sales responsibility" means the
3 geographical area agreed to by the dealer and the manufacturer
4 in the manufacturer/dealer agreement within which the dealer
5 has the exclusive right to display or sell the manufacturer's
6 new recreational vehicles 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 other 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 that 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 that 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 in 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 of the same line-make within another
 19 dealer's designated area of sales responsibility, the dealer
 20 must obtain in advance of the off-premise sale a written
 21 agreement signed by the dealer, the manufacturer of the
 22 recreational vehicles to be sold at the off-premise sale, and
 23 the dealer in whose designated area of sales responsibility
 24 the off-premise sale will occur which:

25 1. Designates the line-make of the recreational
 26 vehicles to be sold;

27 2. Sets forth the time period for the off-premise
 28 sale; and

29 3. Affirmatively authorizes the sale of the same
 30 line-make of the recreational vehicles.

31 (b) The off-premise sale is not located within any

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1 dealer's designated area of sales responsibility and is in
2 conjunction with a public vehicle show.

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

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

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

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

18 Section 4. Section 320.3205, Florida Statutes, is
19 created to read:

20 320.3205 Termination, cancellation, and nonrenewal of
21 a manufacturer/dealer agreement.--

22 (1) A manufacturer or distributor, directly or through
23 any officer, agent, or employee, may not terminate, cancel, or
24 fail to renew a manufacturer/dealer agreement without good
25 cause, and, upon renewal, may not require additional inventory
26 stocking requirements or increased retail sales targets in
27 excess of the market growth in the dealer's area of sales
28 responsibility.

29 (a) The manufacturer or distributor has the burden of
30 showing good cause for terminating, canceling, or failing to
31 renew a manufacturer/dealer agreement with a dealer. For

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1 purposes of determining whether there is good cause for the
2 proposed action, any of the following factors may be
3 considered:

4 1. The extent of the affected dealer's penetration in
5 the relevant market area.

6 2. The nature and extent of the dealer's investment in
7 its business.

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

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

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

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

15 7. The dealer's performance under the terms of its
16 manufacturer/dealer agreement.

17 (b) Except as otherwise provided in this section, a
18 manufacturer or distributor shall provide a dealer with at
19 least 120 days' prior written notice of termination,
20 cancellation, or nonrenewal of the manufacturer/dealer
21 agreement.

22 1. The notice must state all reasons for the proposed
23 termination, cancellation, or nonrenewal and must further
24 state that if, within 30 days following receipt of the notice,
25 the dealer provides to the manufacturer or distributor a
26 written notice of intent to cure all claimed deficiencies, the
27 dealer will then have 120 days following receipt of the notice
28 to rectify the deficiencies. If the deficiencies are rectified
29 within 120 days, the manufacturer's or distributor's notice is
30 voided. If the dealer fails to provide the notice of intent to
31 cure the deficiencies in the prescribed time period, the

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1 termination, cancellation, or nonrenewal takes effect 30 days
2 after the dealer's receipt of the notice unless the dealer has
3 new and untitled inventory on hand that may be disposed of
4 pursuant to subsection (3).

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

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

10 b. The abandonment or closing of the business
11 operations of the dealer for 10 consecutive business days
12 unless the closing is due to an act of God, strike, labor
13 difficulty, or other cause over which the dealer has no
14 control;

15 c. A significant misrepresentation by the dealer
16 materially affecting the business relationship; or

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

19 3. The notice provisions of this paragraph do not
20 apply if the reason for termination, cancellation, or
21 nonrenewal is insolvency, the occurrence of an assignment for
22 the benefit of creditors, or bankruptcy.

23 (2) A dealer may terminate, cancel, or not renew its
24 manufacturer/dealer agreement with a manufacturer or
25 distributor with or without cause at any time by giving 30
26 days' written notice to the manufacturer. If the termination,
27 cancellation, or nonrenewal is for cause, the dealer has the
28 burden of showing good cause. Any of the following items shall
29 be deemed good cause for the proposed action by a dealer:

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

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

6 (c) A significant misrepresentation by the
 7 manufacturer materially affecting the business relationship.

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

11 (e) A declaration by the manufacturer of bankruptcy,
 12 insolvency, or the occurrence of an assignment for the benefit
 13 of creditors or bankruptcy.

14 (3) If the manufacturer/dealer agreement is
 15 terminated, canceled, or not renewed by the manufacturer or
 16 distributor without cause or by the dealer for cause, the
 17 manufacturer shall, at the election of the dealer and within
 18 45 days after termination, cancellation, or nonrenewal,
 19 repurchase:

20 (a) All recreational vehicles that are classified as
 21 "new" for titling purposes under s. 319.001(8), that were
 22 acquired from the manufacturer or distributor, that have not
 23 been used, except for demonstration purposes, and that have
 24 not been altered or damaged, at 100 percent of the net invoice
 25 cost, including transportation, less applicable rebates and
 26 discounts to the dealer. If any of the vehicles repurchased is
 27 damaged, the amount due to the dealer shall be reduced by the
 28 cost to repair the damaged vehicle. Damage prior to delivery
 29 to the dealer will not disqualify repurchase under this
 30 subsection;

31 (b) All undamaged accessories and proprietary parts

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1 sold to the dealer for resale within the 12 months prior to
 2 termination, cancellation, or nonrenewal, if accompanied by
 3 the original invoice, at 105 percent of the original net price
 4 paid to the manufacturer or distributor to compensate the
 5 dealer for handling, packing, and shipping the parts; and
 6 (c) Any properly functioning diagnostic equipment,
 7 special tools, current signage, and other equipment and
 8 machinery at 100 percent of the dealer's net cost plus
 9 freight, destination, delivery, and distribution charges and
 10 sales taxes, if any, if it was purchased by the dealer within
 11 5 years before termination, cancellation, or nonrenewal and
 12 upon the manufacturer's or distributor's request and can no
 13 longer be used in the normal course of the dealer's ongoing
 14 business.

15
 16 The manufacturer or distributor shall pay the dealer within 30
 17 days after receipt of the returned items.

18 (4) When taking on an additional line-make of
 19 recreational vehicle, a dealer shall notify in writing any
 20 manufacturer with whom the dealer has a manufacturer/dealer
 21 agreement of the same line-make at least 30 days prior to
 22 entering into a manufacturer/dealer agreement with the
 23 manufacturer of the additional line-make.

24 Section 5. Section 320.3206, Florida Statutes, is
 25 created to read:

26 320.3206 Transfer of ownership; family succession.--

27 (1) If a dealer desires to make a change in ownership
 28 by the sale of the business assets, stock transfer, or
 29 otherwise, the dealer shall give the manufacturer or
 30 distributor written notice at least 10 business days before
 31 the closing, including all supporting documentation as may be

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1 reasonably required by the manufacturer or distributor to
 2 determine if an objection to the sale may be made. In the
 3 absence of a breach by the selling dealer of its dealer
 4 agreement or this chapter, the manufacturer or distributor
 5 shall not object to the proposed change in ownership unless
 6 the prospective transferee:

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

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

11 (c) Lacks any license required by law;

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

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

18 (2) If the manufacturer or distributor objects to a
 19 proposed change of ownership, the manufacturer or distributor
 20 shall give written notice of its reasons to the dealer within
 21 7 business days after receipt of the dealer's notification and
 22 complete documentation. The manufacturer or distributor has
 23 the burden of proof with regard to its objection. If the
 24 manufacturer or distributor does not give timely notice of its
 25 objection, the change or sale shall be deemed approved.

26 (3)(a) It is unlawful for a manufacturer or
 27 distributor to fail to provide a dealer an opportunity to
 28 designate, in writing, a family member as a successor to the
 29 dealership in the event of the death, incapacity, or
 30 retirement of the dealer. It is unlawful to prevent or refuse
 31 to honor the succession to a dealership by a family member of

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1 the deceased, incapacitated, or retired dealer unless the
 2 manufacturer or distributor has provided to the dealer written
 3 notice of its objections within 30 days after receipt of the
 4 dealer's modification of the dealer's succession plan. In the
 5 absence of a breach of the dealer agreement, the manufacturer
 6 may object to the succession for the following reasons only:

7 1. Conviction of the successor of a felony or any
 8 crime of fraud, deceit, or moral turpitude;

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

11 3. Prior termination by the manufacturer of the
 12 successor for breach of a dealer agreement;

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

15 or

16 5. The lack of any license for the successor required
 17 by law.

18 (b) The manufacturer or distributor has the burden of
 19 proof regarding its objection. However, a family member may
 20 not succeed to a dealership if the succession involves,
 21 without the manufacturer's or distributor's consent, a
 22 relocation of the business or an alteration of the terms and
 23 conditions of the manufacturer/dealer agreement.

24 Section 6. Section 320.3207, Florida Statutes, is
 25 created to read:

26 320.3207 Warranty obligations.--

27 (1) Each warrantor shall:

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

31 (b) Compensate the dealer for warranty service

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1 required of the dealer by the warrantor; and

2 (c) Provide the dealer the schedule of compensation to
3 be paid and the time allowances for the performance of any
4 work and service.

5
6 The schedule of compensation must include reasonable
7 compensation for diagnostic work as well as warranty labor.

8 (2) Time allowances for the diagnosis and performance
9 of warranty labor must be reasonable for the work to be
10 performed. The compensation of a dealer for warranty labor may
11 not be less than the lowest retail labor rates actually
12 charged by the dealer for like nonwarranty labor as long as
13 such rates are reasonable.

14 (3) The warrantor shall reimburse the dealer for
15 warranty parts at actual wholesale cost plus a minimum
16 30-percent handling charge and the cost, if any, of freight to
17 return warranty parts to the warrantor.

18 (4) Warranty audits of dealer records may be conducted
19 by the warrantor on a reasonable basis, and dealer claims for
20 warranty compensation may not be denied except for cause, such
21 as performance of nonwarranty repairs, material noncompliance
22 with the warrantor's published policies and procedures, lack
23 of material documentation, fraud, or misrepresentation.

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

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

29 (7) The warrantor shall disapprove warranty claims in
30 writing within 45 days after the date of submission by the
31 dealer in the manner and form prescribed by the warrantor.

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1 Claims not specifically disapproved in writing within 45 days
2 shall be construed to be approved and must be paid within 60
3 days.

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

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

8 (b) Fail to include, in written notices of factory
9 campaigns to recreational vehicle owners and dealers, the
10 expected date by which necessary parts and equipment,
11 including tires and chassis or chassis parts, will be
12 available to dealers to perform the campaign work. The
13 warrantor may ship parts to the dealer to effect the campaign
14 work, and, if such parts are in excess of the dealer's
15 requirements, the dealer may return unused parts to the
16 warrantor for credit after completion of the campaign;

17 (c) Fail to compensate any of its dealers for
18 authorized repairs effected by the dealer of merchandise
19 damaged in manufacture or transit to the dealer, if the
20 carrier is designated by the warrantor, factory branch,
21 distributor, or distributor branch;

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

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

30 (f) Require the dealer to make warranties to customers
31 in any manner related to the manufacture of the recreational

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1 vehicle.

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

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

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

10 (c) Misrepresent the terms of any warranty.

11 (10) Notwithstanding the terms of any
12 manufacturer/dealer agreement, it is a violation of ss.
13 320.3201-320.3211 for:

14 (a) A warrantor to fail to indemnify and hold harmless
15 its dealer against any losses or damages to the extent such
16 losses or damages are caused by the negligence or willful
17 misconduct of the warrantor. The dealer may not be denied
18 indemnification for failing to discover, disclose, or remedy a
19 defect in the design or manufacturing of the recreational
20 vehicle. The dealer shall provide to the warrantor a copy of
21 any suit in which allegations are made that come within this
22 subsection within 10 days after receiving such suit.

23 (b) A dealer to fail to indemnify and hold harmless
24 its warrantor against any losses or damages to the extent such
25 losses or damages are caused by the negligence or willful
26 misconduct of the dealer. The warrantor shall provide to the
27 dealer a copy of any suit in which allegations are made that
28 come within this subsection within 10 days after receiving
29 such suit.

30 Section 7. Section 320.3208, Florida Statutes, is
31 created to read:

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1 320.3208 Inspection and rejection by the dealer.--

2 (1) Whenever a new recreational vehicle is damaged
3 prior to transit to the dealer or is damaged in transit to the
4 dealer when the carrier or means of transportation has been
5 selected by the manufacturer or distributor, the dealer shall
6 notify the manufacturer or distributor of the damage within
7 the timeframe specified in the manufacturer/dealer agreement
8 and:

9 (a) Request from the manufacturer or distributor
10 authorization to replace the components, parts, and
11 accessories damaged or otherwise correct the damage; or

12 (b) Reject the vehicle within the timeframe set forth
13 in subsection (3).

14
15 If the manufacturer or distributor refuses or fails to
16 authorize repair of such damage within 10 days after receipt
17 of notification or if the dealer rejects the recreational
18 vehicle because of damage, ownership of the new recreational
19 vehicle reverts to the manufacturer or distributor.

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

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

28 (4) Any recreational vehicle that has, at the time of
29 delivery to the dealer, an unreasonable amount of miles on its
30 odometer, as determined by the dealer, may be subject to
31 rejection by the dealer and reversion of the vehicle to the

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1 manufacturer or distributor. In no instance shall a dealer
 2 deem an amount less than the distance between the dealer and
 3 the manufacturer's factory or a distributor's point of
 4 distribution, plus 100 miles, as unreasonable.

5 Section 8. Section 320.3209, Florida Statutes, is
 6 created to read:

7 320.3209 Coercion of dealer prohibited.--

8 (1) A manufacturer or distributor may not coerce or
 9 attempt to coerce a dealer to:

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

11 (b) Enter into an agreement with the manufacturer or
 12 distributor;

13 (c) Take any action that is unfair or unreasonable to
 14 the dealer; or

15 (d) Enter into an agreement that requires the dealer
 16 to submit its disputes to binding arbitration or otherwise
 17 waive rights or responsibilities provided under ss.

18 320.3201-320.3211.

19 (2) As used in this section, the term "coerce"
 20 includes, but is not limited to, threatening to terminate,
 21 cancel, or not renew a manufacturer/dealer agreement without
 22 good cause or threatening to withhold product lines or delay
 23 product delivery as an inducement to amending the
 24 manufacturer/dealer agreement.

25 Section 9. Section 320.3210, Florida Statutes, is
 26 created to read:

27 320.3210 Civil dispute resolution; mediation;
 28 relief.--

29 (1) A dealer, manufacturer, distributor, or warrantor
 30 injured by another party's violation of ss. 320.3201-320.3211
 31 may bring a civil action in circuit court to recover actual

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1 damages. The court shall award attorney's fees and costs to
 2 the prevailing party in such action. Venue for any civil
 3 action authorized by this section must exclusively be in the
 4 county in which the dealership is located. In an action
 5 involving more than one dealer, venue may be in any county in
 6 which a dealer who is party to the action is located.

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

10 (a) The demand for mediation shall be served upon the
 11 offending party via certified mail at the address stated
 12 within the agreement between the parties. If a civil action is
 13 initiated between two dealers, the demand must be mailed to
 14 the address on the dealer's license filed with the department.

15 (b) The demand for mediation must contain a brief
 16 statement of the dispute and the relief sought by the party
 17 filing the demand.

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

26 (d) The service of a demand for mediation under this
 27 subsection stays the time for the filing of any complaint,
 28 petition, protest, or action under ss. 320.3201-320.3211 until
 29 representatives of both parties have met with a mutually
 30 selected mediator for the purpose of attempting to resolve the
 31 dispute. If a complaint, petition, protest, or action is filed

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1 before that meeting, the court shall enter an order suspending
 2 the proceeding or action until the meeting has occurred and
 3 may, upon written stipulation of all parties to the proceeding
 4 or action that they wish to continue to mediate under this
 5 subsection, enter an order suspending the proceeding or action
 6 for as long a period as the court considers appropriate. A
 7 suspension order issued under this paragraph may be revoked by
 8 the court.

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

12 (3) In addition to the remedies provided in this
 13 section and notwithstanding the existence of any additional
 14 remedy at law, a dealer or manufacturer may apply to a circuit
 15 court for the grant, upon a hearing and for cause shown, of a
 16 temporary or permanent injunction, or both, restraining any
 17 person from acting as a dealer, manufacturer, distributor, or
 18 importer without being properly licensed pursuant to this
 19 chapter, from violating or continuing to violate any of the
 20 provisions of ss. 320.3201-320.3211, or from failing or
 21 refusing to comply with the requirements of ss.
 22 320.3201-320.3211. Such injunction shall be issued without
 23 bond. A single act in violation of s. 320.3203 is sufficient
 24 to authorize the issuance of an injunction.

25 Section 10. Section 320.3211, Florida Statutes, is
 26 created to read:

27 320.3211 Penalties.--

28 (1) The department may suspend or revoke any license
 29 issued under s. 320.771 upon a finding that the dealer,
 30 manufacturer, distributor, or importer violated any provision
 31 of ss. 320.3201-320.3211. The department may impose, levy, and

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1 collect by legal process fines, in an amount not to exceed
 2 \$1,000 for each violation, against any person if it finds that
 3 such person has violated any provision of ss.
 4 320.3201-320.3211. Such person is entitled to an
 5 administrative hearing pursuant to chapter 120 to contest the
 6 action or fine levied, or about to be levied, against the
 7 person.

8 (2) In addition to the civil and administrative
 9 remedies, a person who violates any provision of ss.
 10 320.3201-320.3211 commits a misdemeanor of the second degree,
 11 punishable as provided in s. 775.082 or s. 775.083.

12 Section 11. Section 320.8225, Florida Statutes, is
 13 amended to read:

14 320.8225 Mobile home and recreational vehicle
 15 manufacturer, distributor, and importer license ~~manufacturer's~~
 16 ~~license~~.--

17 (1) LICENSE REQUIRED.--Any person who engages in the
 18 business of a mobile home manufacturer or a recreational
 19 vehicle manufacturer, distributor, or importer in this state,
 20 or who manufactures mobile homes or recreational vehicles out
 21 of state which are ultimately offered for sale in this state,
 22 shall obtain annually a license for each factory location in
 23 this state and for each factory location out of state which
 24 manufactures mobile homes or recreational vehicles for sale in
 25 this state, prior to distributing or importing mobile homes or
 26 recreational vehicles for sale in this state.

27 (2) APPLICATION.--The application for a license must
 28 ~~shall~~ be in the form prescribed by the department and ~~shall~~
 29 contain sufficient information to disclose the identity,
 30 location, and responsibility of the applicant. The application
 31 must ~~shall~~ also include a copy of the warranty and a complete

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1 statement of any service agreement or policy to be utilized by
2 the applicant, any information relating to the applicant's
3 solvency and financial standing, and any other pertinent
4 matter commensurate with safeguarding the public. The
5 department may prescribe an abbreviated application for
6 renewal of a license if the licensee has ~~had~~ previously filed
7 an initial application pursuant to this section. The
8 application for renewal must ~~shall~~ include any information
9 necessary to make ~~bring~~ current the information required in
10 the initial application.

11 (3) FEES.--Upon submitting an ~~making~~ initial
12 application, the applicant shall pay to the department a fee
13 of \$300. Upon submitting a ~~making~~ renewal application, the
14 applicant shall pay to the department a fee of \$100. Any
15 applicant for renewal who fails ~~has failed~~ to submit his or
16 her renewal application by October 1 shall pay a renewal
17 application fee equal to the original application fee. No fee
18 is refundable. All fees must ~~shall~~ be deposited into the
19 General Revenue Fund.

20 (4) NONRESIDENT.--Any person applying for a license
21 who is not a resident of this state must designate ~~shall have~~
22 ~~designated~~ an agent for service of process pursuant to s.
23 48.181.

24 (5) REQUIREMENT OF ASSURANCE.--

25 (a) Annually, prior to the receipt of a license to
26 manufacture mobile homes, the applicant or licensee shall
27 submit a surety bond, cash bond, or letter of credit from a
28 financial institution, or a proper continuation certificate,
29 sufficient to assure satisfaction of claims against the
30 licensee for failure to comply with appropriate code
31 standards, failure to provide warranty service, or violation

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1 of any provisions of this section. The amount of the surety
 2 bond, cash bond, or letter of credit must ~~shall~~ be \$50,000.
 3 Only one surety bond, cash bond, or letter of credit shall be
 4 required for each manufacturer, regardless of the number of
 5 factory locations. The surety bond, cash bond, or letter of
 6 credit must ~~shall~~ be to the department, in favor of any retail
 7 customer who suffers a ~~shall suffer~~ loss arising out of
 8 noncompliance with code standards or failure to honor or
 9 provide warranty service. The department may ~~shall have the~~
 10 ~~right to~~ disapprove any bond or letter of credit that does not
 11 provide assurance as provided in this section.

12 (b) Annually, prior to the receipt of a license to
 13 manufacture, distribute, or import recreational vehicles, the
 14 applicant or licensee shall submit a surety bond, or a proper
 15 continuation certificate, sufficient to assure satisfaction of
 16 claims against the licensee for failure to comply with
 17 appropriate code standards, failure to provide warranty
 18 service, or violation of any provisions of this section. The
 19 amount of the surety bond must ~~shall~~ be \$10,000 per year. The
 20 surety bond must ~~shall~~ be to the department, in favor of any
 21 retail customer who suffers ~~shall suffer~~ loss arising out of
 22 noncompliance with code standards or failure to honor or
 23 provide warranty service. The department may ~~shall have the~~
 24 ~~right to~~ disapprove any bond that ~~which~~ does not provide
 25 assurance as provided in this section.

26 (c) The department shall adopt rules pursuant to
 27 chapter 120 relating to ~~consistent with this section in~~
 28 providing assurance of satisfaction of claims under this
 29 section.

30 (d) The department shall, upon denial, suspension, or
 31 revocation of any license, notify the surety company of the

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1 licensee, in writing, that the license has been denied,
2 suspended, or revoked and shall state the reason for such
3 denial, suspension, or revocation.

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

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

11 (6) LICENSE YEAR.--A license issued to a mobile home
12 manufacturer or a recreational vehicle manufacturer,
13 distributor, or importer entitles the licensee to conduct ~~the~~
14 ~~business of a mobile home or recreational vehicle manufacturer~~
15 for a period of 1 year from October 1 preceding the date of
16 issuance.

17 (7) DENIAL OF LICENSE.--The department may deny a
18 mobile home manufacturer or a recreational vehicle
19 manufacturer, distributor, or importer ~~manufacturer's~~ license
20 on the ground that:

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

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

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

27 (d) The applicant or one or more of his or her
28 principals or agents has violated any law, rule, or regulation
29 relating to the manufacture or sale of mobile homes or
30 recreational vehicles.

31 (e) The department has proof of the unfitness of the

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1 applicant.

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

5 (g) The applicant or licensee has violated any
6 provision of the ~~provisions of the~~ National Mobile Home
7 Construction and Safety Standards Act of 1974 or any related
8 rule or regulation adopted by ~~of~~ the Department of Housing and
9 Urban Development ~~promulgated thereunder~~.

10

11 Upon denial of a license, the department shall notify the
12 applicant within 10 days, stating in writing its grounds for
13 denial. The applicant is entitled to an administrative ~~a~~
14 ~~public~~ hearing and may request that such hearing be held
15 within 45 days of denial of the license. All proceedings must
16 ~~shall~~ be pursuant to chapter 120.

17 (8) REVOCATION OR SUSPENSION OF LICENSE.--The
18 department shall suspend or, in the case of a subsequent
19 offense, shall revoke any license upon a finding that the
20 licensee violated any provision of this chapter or any other
21 law of this state regarding the manufacture, warranty, or sale
22 of mobile homes or recreational vehicles. The department may
23 reinstate the license if it ~~When any license has been revoked~~
24 ~~or suspended by the department, it may be reinstated if the~~
25 ~~department~~ finds that the former licensee has complied with
26 all applicable requirements of this chapter and an application
27 for a license is refiled pursuant to this section.

28 (9) CIVIL PENALTIES; PROCEDURE.--~~In addition to the~~
29 ~~exercise of other powers provided in this section,~~ The
30 department is authorized to assess, impose, levy, and collect
31 by legal process a civil penalty, in an amount not to exceed

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1 \$1,000 for each violation, against any licensee if it finds
 2 that a licensee has violated any provision of this section or
 3 has violated any other law of this state having to do with
 4 dealing in motor vehicles. ~~A Any licensee is shall be~~ entitled
 5 to a hearing pursuant to chapter 120 ~~should the licensee wish~~
 6 to contest the fine levied, or about to be levied, upon him or
 7 her.

8 Section 12. If any provision of this act or the
 9 application thereof to any person or circumstance is held
 10 invalid, the invalidity does not affect other provisions or
 11 applications of the act which can be given effect without the
 12 invalid provision or application and, to this end, the
 13 provisions of this act are severable.

14 Section 13. This act shall take effect October 1,
 15 2007.

16
 17
 18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21
 22 and insert:

23 A bill to be entitled
 24 An act relating to recreational vehicle
 25 manufacturers, distributors, dealers, and
 26 importers; creating s. 320.3201, F.S.;
 27 providing legislative intent; creating s.
 28 320.3202, F.S.; providing definitions; creating
 29 s. 320.3203, F.S.; providing requirements for a
 30 manufacturer/dealer agreement; requiring
 31 designation of the area of sales

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1 responsibility; providing conditions for sales
2 outside the dealer's area of sales
3 responsibility; creating s. 320.3205, F.S.;
4 providing requirements and procedures for
5 termination, cancellation, or nonrenewal of a
6 manufacturer/dealer agreement by a manufacturer
7 or a dealer; providing for the repurchase by
8 the manufacturer of vehicles, accessories,
9 parts and equipment, tools, signage, and
10 machinery; requiring notification of a
11 manufacturer when a dealer takes on an
12 additional line-make; creating s. 320.3206,
13 F.S.; providing for change in ownership by a
14 dealer; requiring notice to the manufacturer;
15 providing requirements for objection by the
16 manufacturer; providing for a dealer to name a
17 family member as a successor in case of
18 retirement, incapacitation, or death of the
19 dealer; providing requirements for objection to
20 the successor by the manufacturer; creating s.
21 320.3207, F.S.; providing requirements for
22 warrantors, manufacturers, and dealers with
23 respect to warranty obligations; providing
24 requirements for compensation of the dealer;
25 authorizing warranty audits by the warrantor;
26 requiring cause for denial of compensation;
27 providing for disposition of warranty claims;
28 prohibiting certain acts by the warrantor and
29 the dealer; requiring notice of certain pending
30 suits; creating s. 320.3208, F.S.; providing
31 for inspection and rejection of a recreational

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1 vehicle upon delivery to a dealer; creating s.
2 320.3209, F.S.; prohibiting a manufacturer or
3 distributor from coercing a dealer to perform
4 certain acts; creating s. 320.3210, F.S.;
5 providing for resolution when a dealer,
6 manufacturer, distributor, or warrantor is
7 injured by another party's violation;
8 authorizing civil action; providing for
9 mediation; providing for remedies; creating s.
10 320.3211, F.S.; providing administrative and
11 criminal penalties for violations; providing
12 for an administrative hearing to contest a
13 penalty imposed by the department; amending s.
14 320.8225, F.S.; providing licensure
15 requirements for distributors and importers;
16 providing for severability; providing an
17 effective date.

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