

By the Committee on Transportation; and Senator Haridopolos

596-2194-07

1 | A bill to be entitled
2 | An act relating to recreational vehicle
3 | manufacturers, distributors and dealers;
4 | creating s. 320.3201, F.S.; providing
5 | legislative intent; creating s. 320.3202, F.S.;
6 | providing definitions; creating s. 320.3203,
7 | F.S.; providing requirements for a
8 | manufacturer/dealer agreement; requiring
9 | designation of the area of sales
10 | responsibility; providing conditions for sales
11 | outside the dealer's area of sales
12 | responsibility; creating s. 320.3204, F.S.;
13 | providing requirements for sales by
14 | manufacturers and distributors; creating s.
15 | 320.3205, F.S.; providing requirements and
16 | procedures for termination, cancellation, or
17 | nonrenewal of a manufacturer/dealer agreement
18 | by a manufacturer or a dealer; providing for
19 | the repurchase by the manufacturer of vehicles,
20 | accessories, and parts and equipment, tools,
21 | signage, and machinery; creating s. 320.3206,
22 | F.S.; providing for change in ownership by a
23 | dealer; requiring notice to the manufacturer;
24 | providing requirements for rejection by the
25 | manufacturer; providing for a dealer to name a
26 | family member as a successor in case of
27 | retirement, incapacitation, or death of the
28 | dealer; providing requirements for rejection of
29 | the successor by the manufacturer; creating s.
30 | 320.3207, F.S.; providing requirements for
31 | warrantors, manufacturers, and dealers with

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

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Section 320.3201, Florida Statutes, is
31 created to read:

1 320.3201 Legislative intent.--

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

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

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

12 321.3202 Definitions.--As used in ss.

13 320.3201-320.3211, the term:

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

19 (2) "Dealer" means any person, firm, corporation, or
20 business entity licensed or required to be licensed under s.
21 320.771.

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

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

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

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

1 (a) Are identified by a common series trade name or
2 trademark;

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

6 (c) Have lengths and interior floor plans that
7 distinguish the recreational vehicles from recreational
8 vehicles with substantially the same decor, equipment,
9 features, price, and weight; and

10 (d) Belong to a single, distinct classification of
11 recreational vehicle product type having a substantial degree
12 of commonality in the construction of the chassis, frame, and
13 body.

14 (7) "Manufacturer" means any person, firm,
15 corporation, or business entity who engages in the
16 manufacturing of recreational vehicles.

17 (8) "Manufacturer/dealer agreement" means a written
18 agreement or contract entered into between a manufacturer and
19 a dealer which fixes the rights and responsibilities of the
20 parties and pursuant to which the dealer sells new
21 recreational vehicles.

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

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

26 (11) "Transient customer" means a customer who is
27 temporarily traveling through a dealer's area of sales
28 responsibility.

29 (12) "Warrantor" means any person, firm, corporation,
30 or business entity that gives a warranty in connection with a
31 new recreational vehicle or parts, accessories, or components

1 thereof. The term does not include service contracts,
2 mechanical or other insurance, or extended warranties sold for
3 separate consideration by a dealer or other person not
4 controlled by a manufacturer.

5 Section 3. Section 320.3203, Florida Statutes, is
6 created to read:

7 320.3203 Requirement for a written manufacturer/dealer
8 agreement; area of sales responsibility.--

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

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

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

21 (4) A motor vehicle dealer may not sell a new
22 recreational vehicle in this state without having first
23 entered into a manufacturer/dealer agreement with a
24 manufacturer or distributor and may not sell outside of the
25 area of sales responsibility designated in the agreement.

26 (5) Notwithstanding subsection (4), a dealer may sell
27 outside of its designated area of sales responsibility if the
28 dealer obtains a supplemental license pursuant to s.
29 320.771(7) and meets any one of the following conditions:

30 (a) For sales within another dealer's designated area
31 of sales responsibility, the dealer must obtain in advance of

1 the off-premise sale a written agreement signed by the dealer,
2 the manufacturer of the recreational vehicles to be sold at
3 the off-premise sale, and the dealer in whose designated area
4 of sales responsibility the off-premise sale will occur which:

5 1. Designates the recreational vehicles to be sold;

6 2. Sets forth the time period for the off-premise
7 sale; and

8 3. Affirmatively authorizes the sale of the
9 recreational vehicles.

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

13 (c) The off-premise sale is in conjunction with a
14 public vehicle show in which more than 35 dealers are
15 participating and the show is predominantly funded by
16 manufacturers. For the purposes of this subsection, the term
17 "public vehicle show" means an event sponsored by an
18 organization approved under s. 501(c)(6) of the Internal
19 Revenue Code which has the purpose of promoting the welfare of
20 the recreational vehicle industry and is located at a site
21 that:

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

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

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

28 Section 4. Section 320.3204, Florida Statutes, is
29 created to read:

30 320.3204 Sales of recreational vehicles by
31 manufacturer or distributor.--Sales of recreational vehicles

1 by a manufacturer or distributor shall be in accordance with
2 published prices, charges, and terms of sale in effect at any
3 given time. The manufacturer shall offer to sell products on
4 the same basis, with respect to all rebates, discounts, and
5 programs, to all competing dealers similarly situated.

6 Section 5. Section 320.3205, Florida Statutes, is
7 created to read:

8 320.3205 Termination, cancellation, and nonrenewal of
9 a manufacturer/dealer agreement.--

10 (1) A manufacturer or distributor, directly or through
11 any officer, agent, or employee, may not terminate, cancel, or
12 fail to renew a manufacturer/dealer agreement without good
13 cause, and, upon renewal, may not require additional inventory
14 stocking requirements or increased retail sales targets in
15 excess of the market growth in the dealer's area of sales
16 responsibility.

17 (a) The manufacturer or distributor has the burden of
18 showing good cause for terminating, canceling, or failing to
19 renew a manufacturer/dealer agreement with a dealer. For
20 purposes of determining whether there is good cause for the
21 proposed action, any of the following factors may be
22 considered:

23 1. The extent of the affected dealer's penetration in
24 the relevant market area.

25 2. The nature and extent of the dealer's investment in
26 its business.

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

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

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

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

3 7. The dealer's performance under the terms of its
4 manufacturer/dealer agreement.

5 (b) Except as otherwise provided in this section, a
6 manufacturer or distributor shall provide a dealer with at
7 least 120 days' prior written notice of termination,
8 cancellation, or nonrenewal of the manufacturer/dealer
9 agreement.

10 1. The notice must state all reasons for the proposed
11 termination, cancellation, or nonrenewal and must further
12 state that if, within 30 days following receipt of the notice,
13 the dealer provides to the manufacturer or distributor a
14 written notice of intent to cure all claimed deficiencies, the
15 dealer will then have 120 days following receipt of the notice
16 to rectify the deficiencies. If the deficiencies are rectified
17 within 120 days, the manufacturer's or distributor's notice is
18 voided. If the dealer fails to provide the notice of intent to
19 cure the deficiencies in the prescribed time period, the
20 termination, cancellation, or nonrenewal takes effect 30 days
21 after the dealer's receipt of the notice unless the dealer has
22 new and untitled inventory on hand that may be disposed of
23 pursuant to subsection (3).

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

27 a. Conviction of or plea of nolo contendere to a
28 felony of a dealer or one of its owners;

29 b. The abandonment or closing of the business
30 operations of the dealer for 10 consecutive business days
31 unless the closing is due to an act of God, strike, labor

1 difficulty, or other cause over which the dealer has no
2 control;
3 c. A material misrepresentation by the dealer; or
4 d. A suspension or revocation of the dealer's license,
5 or refusal to renew the dealer's license, by the department.
6 3. The notice provisions of this paragraph do not
7 apply if the reason for termination, cancellation, or
8 nonrenewal is insolvency, the occurrence of an assignment for
9 the benefit of creditors, or bankruptcy.
10 (2) A dealer may terminate, cancel, or not renew its
11 manufacturer/dealer agreement with a manufacturer or
12 distributor with or without cause at any time by giving 30
13 days' written notice to the manufacturer. If for cause, the
14 dealer has the burden of showing good cause. Any of the
15 following items shall be deemed good cause for the proposed
16 action by a dealer:
17 (a) Conviction of or plea of nolo contendere to a
18 felony of a manufacturer or one of its subsidiary companies.
19 (b) The business operations of the manufacturer have
20 been abandoned or closed for 10 consecutive business days,
21 unless the closing is due to an act of God, strike, labor
22 difficulty, or other cause over which the manufacturer has no
23 control.
24 (c) A significant misrepresentation by the
25 manufacturer.
26 (d) A material violation of ss. 320.3201-320.3211
27 which is not cured within 30 days after written notice by the
28 dealer.
29 (e) A declaration by the manufacturer of bankruptcy,
30 insolvency, or the occurrence of an assignment for the benefit
31 of creditors or bankruptcy.

1 (3) If the manufacturer/dealer agreement is
2 terminated, canceled, or not renewed by the manufacturer or
3 distributor without cause or by the dealer for cause, the
4 manufacturer shall, at the election of the dealer and within
5 30 days after termination, cancellation, or nonrenewal,
6 repurchase:

7 (a) All recreational vehicles, that are classified as
8 "new" for titling purposes under s. 319.001(8), that were
9 acquired from the manufacturer or distributor, and that have
10 not been used, except for demonstration purposes, or altered,
11 or damaged at 100 percent of the net invoice cost, including
12 transportation, less applicable rebates and discounts to the
13 dealer. If any of the vehicles repurchased are damaged, the
14 amount due to the dealer shall be reduced by the cost to
15 repair the vehicle. Damage prior to delivery to the dealer
16 will not disqualify repurchase under this subsection;

17 (b) All undamaged accessories and proprietary parts
18 sold to the dealer for resale within the 12 months prior to
19 termination, cancellation, or nonrenewal, if accompanied by
20 the original invoice, at 105 percent of the original net price
21 paid to the manufacturer or distributor to compensate the
22 dealer for handling, packing, and shipping the parts; and

23 (c) Any properly functioning diagnostic equipment,
24 special tools, current signage, and other equipment and
25 machinery at 100 percent of the dealer's net cost plus
26 freight, destination, delivery, and distribution charges and
27 sales taxes, if any, if it was purchased by the dealer within
28 5 years before termination, cancellation, or nonrenewal and
29 upon the manufacturer's or distributor's request and can no
30 longer be used in the normal course of the dealer's ongoing
31

1 business. The manufacturer or distributor shall pay the dealer
2 within 30 days after receipt of the returned items.

3 Section 6. Section 320.3206, Florida Statutes, is
4 created to read:

5 320.3206 Transfer of ownership; family succession.--

6 (1) If a dealer desires to make a change in ownership
7 by the sale of the business assets, stock transfer, or
8 otherwise, the dealer shall give the manufacturer or
9 distributor 30 days' written notice before the closing,
10 including all supporting documentation as may be reasonably
11 required by the manufacturer or distributor. The manufacturer
12 or distributor may not refuse consent to the proposed change
13 or sale and may not disapprove or withhold approval of the
14 change or sale unless the manufacturer or distributor can show
15 that its decision is based on the manufacturer's reasonable
16 criteria, which may include the prospective transferee's
17 business experience, moral character, financial
18 qualifications, and any criminal record.

19 (2) If the manufacturer or distributor rejects a
20 proposed change or sale, the manufacturer or distributor shall
21 give written notice of its reasons to the dealer within 30
22 days after receipt of the dealer's notification and complete
23 documentation. The manufacturer or distributor has the burden
24 of showing that its rejection of the transfer or sale is
25 reasonable. If the manufacturer or distributor does not give
26 notice of rejection, the change or sale shall be deemed
27 approved.

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

1 dealer. It is unlawful to prevent or refuse to honor the
2 succession to a dealership by a family member of the deceased,
3 incapacitated, or retired dealer unless the manufacturer or
4 distributor has provided to the dealer written notice of its
5 objections within 30 days after receipt of the dealer's
6 modification of the dealer's succession plan. Grounds for
7 objection include lack of creditworthiness, conviction of a
8 felony, lack of required licenses or business experience, or
9 other condition that makes the succession unreasonable under
10 the circumstances. The manufacturer or distributor has the
11 burden of showing the unreasonableness of the succession.
12 However, a family member may not succeed to a dealership if
13 the succession involves, without the manufacturer's or
14 distributor's consent, a relocation of the business or an
15 alteration of the terms and conditions of the
16 manufacturer/dealer agreement.

17 Section 7. Section 320.3207, Florida Statutes, is
18 created to read:

19 320.3207 Warranty obligations.--

20 (1) Each warrantor shall:

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

24 (b) Compensate the dealer for warranty service
25 required of the dealer by the warrantor; and

26 (c) Provide the dealer the schedule of compensation to
27 be paid and the time allowances for the performance of any
28 work and service.

29

30 The schedule of compensation must include reasonable
31 compensation for diagnostic work as well as warranty labor.

1 (2) Time allowances for the diagnosis and performance
2 of warranty labor must be reasonable for the work to be
3 performed. The warrantor shall authorize the dealer to
4 undertake warranty repairs without prior approval if the
5 repairs require less than 3 hours of labor. The compensation
6 of a dealer for warranty labor may not be less than the lowest
7 retail labor rates actually charged by the dealer for like
8 nonwarranty labor as long as such rates are reasonable.

9 (3) The warrantor shall reimburse the dealer for
10 warranty parts at actual wholesale cost plus a minimum
11 30-percent handling charge and the cost, if any, of freight to
12 return warranty parts to the warrantor.

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

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

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

24 (7) The warrantor shall disapprove warranty claims in
25 writing within 45 days after the date of submission by the
26 dealer in the manner and form prescribed by the warrantor.
27 Claims not specifically disapproved in writing within 45 days
28 shall be construed to be approved and must be paid within 60
29 days.

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

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

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

12 (c) Fail to compensate any of its dealers for
13 authorized repairs effected by the dealer of merchandise
14 damaged in manufacture or transit to the dealer, if the
15 carrier is designated by the warrantor, factory branch,
16 distributor, or distributor branch;

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

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

25 (f) Require the dealer to make warranties to customers
26 in any manner related to the manufacture of the recreational
27 vehicle.

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

30
31

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

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

7 (c) Misrepresent the terms of any warranty.

8 (10) Notwithstanding the terms of any
9 manufacturer/dealer agreement, it is a violation of ss.

10 320.3201-320.3211 for:

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

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

27 Section 8. Section 320.3208, Florida Statutes, is
28 created to read:

29 320.3208 Inspection and rejection by the dealer.--

30 (1) Whenever a new recreational vehicle is damaged
31 prior to transit to the dealer or is damaged in transit to the

1 dealer when the carrier or means of transportation has been
2 selected by the manufacturer or distributor, the dealer shall
3 notify the manufacturer or distributor of the damage within
4 the timeframe specified in the manufacturer/dealer agreement
5 and:

6 (a) Request from the manufacturer or distributor
7 authorization to replace the components, parts, and
8 accessories damaged or otherwise correct the damage; or

9 (b) Reject the vehicle within the timeframe set forth
10 in subsection (3).

11
12 If the manufacturer or distributor refuses or fails to
13 authorize repair of such damage within 10 days after receipt
14 of notification or if the dealer rejects the recreational
15 vehicle because of damage, ownership of the new recreational
16 vehicle reverts to the manufacturer or distributor.

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

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

25 (4) Any recreational vehicle that has, at the time of
26 delivery to the dealer, an unreasonable amount of miles on its
27 odometer, as determined by the dealer, may be subject to
28 rejection by the dealer and reversion of the vehicle to the
29 manufacturer or distributor.

30 Section 9. Section 320.3209, Florida Statutes, is
31 created to read:

1 320.3209 Coercion of dealer prohibited.--
2 (1) A manufacturer or distributor may not coerce or
3 attempt to coerce a dealer to:
4 (a) Purchase a product that the dealer did not order;
5 (b) Enter into an agreement with the manufacturer or
6 distributor;
7 (c) Take any action that is unfair or unreasonable to
8 the dealer; or
9 (d) Enter into an agreement that requires the dealer
10 to submit its disputes to binding arbitration or otherwise
11 waive rights or responsibilities provided under ss.
12 320.3201-320.3211.

13 (2) As used in this section, the term "coerce"
14 includes, but is not limited to, threatening to terminate,
15 cancel, or not renew a manufacturer/dealer agreement without
16 good cause or threatening to withhold product lines or delay
17 product delivery as an inducement to amending the
18 manufacturer/dealer agreement.

19 Section 10. Section 320.3210, Florida Statutes, is
20 created to read:

21 320.3210 Civil dispute resolution; mediation;
22 relief.--

23 (1) A dealer, manufacturer, distributor, or warrantor
24 injured by another party's violation of ss. 320.3201-320.3211
25 may bring a civil action in circuit court to recover actual
26 damages. The court shall award attorney's fees and costs to
27 the prevailing party in such action. Venue for any civil
28 action authorized by this section must exclusively be in the
29 county in which the dealership is located. In an action
30 involving more than one dealer, venue may be in any county in
31 which a dealer who is party to the action is located.

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

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

9 (b) The demand for mediation must contain a brief
10 statement of the dispute and the relief sought by the party
11 filing the demand.

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

20 (d) The service of a demand for mediation under this
21 subsection stays the time for the filing of any complaint,
22 petition, protest, or action under ss. 320.3201-320.3211 until
23 representatives of both parties have met with a mutually
24 selected mediator for the purpose of attempting to resolve the
25 dispute. If a complaint, petition, protest, or action is filed
26 before that meeting, the court shall enter an order suspending
27 the proceeding or action until the meeting has occurred and
28 may, upon written stipulation of all parties to the proceeding
29 or action that they wish to continue to mediate under this
30 subsection, enter an order suspending the proceeding or action
31 for as long a period as the court considers appropriate. A

1 suspension order issued under this paragraph may be revoked by
2 the court.

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

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

20 Section 11. Section 320.3211, Florida Statutes, is
21 created to read:

22 320.3211 Penalties.--

23 (1) The department may suspend or revoke any license
24 issued under s. 320.771 upon a finding that the dealer,
25 manufacturer, or distributor violated any provision of ss.
26 320.3201-320.3211. The department may impose, levy, and
27 collect by legal process fines, in an amount not to exceed
28 \$1,000 for each violation, against any person if it finds that
29 such person has violated any provision of ss.
30 320.3201-320.3211. Such person is entitled to an
31 administrative hearing pursuant to chapter 120 to contest the

1 action or fine levied, or about to be levied, against the
2 person.

3 (2) In addition to the civil and administrative
4 remedies, a person who violates any provision of ss.
5 320.3201-320.3211 commits a misdemeanor of the second degree,
6 punishable as provided in s. 775.082 or s. 775.083.

7 Section 12. Section 320.8225, Florida Statutes, is
8 amended to read:

9 320.8225 Mobile home and recreational vehicle
10 manufacturer, distributor, and importer license ~~manufacturer's~~
11 ~~license.--~~

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

22 (2) APPLICATION.--The application for a license must
23 ~~shall~~ be in the form prescribed by the department and ~~shall~~
24 contain sufficient information to disclose the identity,
25 location, and responsibility of the applicant. The application
26 must ~~shall~~ also include a copy of the warranty and a complete
27 statement of any service agreement or policy to be utilized by
28 the applicant, any information relating to the applicant's
29 solvency and financial standing, and any other pertinent
30 matter commensurate with safeguarding the public. The
31 department may prescribe an abbreviated application for

1 renewal of a license if the licensee ~~has had~~ previously filed
2 an initial application pursuant to this section. The
3 application for renewal ~~must shall~~ include any information
4 necessary to ~~make bring~~ current the information required in
5 the initial application.

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

15 (4) NONRESIDENT.--Any person applying for a license
16 who is not a resident of this state ~~must designate shall have~~
17 ~~designated~~ an agent for service of process pursuant to s.
18 48.181.

19 (5) REQUIREMENT OF ASSURANCE.--

20 (a) Annually, prior to the receipt of a license to
21 manufacture mobile homes, the applicant or licensee shall
22 submit a surety bond, cash bond, or letter of credit from a
23 financial institution, or a proper continuation certificate,
24 sufficient to assure satisfaction of claims against the
25 licensee for failure to comply with appropriate code
26 standards, failure to provide warranty service, or violation
27 of any provisions of this section. The amount of the surety
28 bond, cash bond, or letter of credit ~~must shall~~ be \$50,000.
29 Only one surety bond, cash bond, or letter of credit shall be
30 required for each manufacturer, regardless of the number of
31 factory locations. The surety bond, cash bond, or letter of

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

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

21 | (c) The department shall adopt rules pursuant to
22 | chapter 120 relating to ~~consistent with this section in~~
23 | providing assurance of satisfaction of claims under this
24 | section.

25 | (d) The department shall, upon denial, suspension, or
26 | revocation of any license, notify the surety company of the
27 | licensee, in writing, that the license has been denied,
28 | suspended, or revoked and shall state the reason for such
29 | denial, suspension, or revocation.

30 | (e) Any surety company that which pays any claim
31 | against the bond of any licensee shall notify the department,

1 in writing, that it has paid such a claim and shall state the
2 amount of the claim.

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

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

12 (7) DENIAL OF LICENSE.--The department may deny a
13 mobile home manufacturer or a recreational vehicle
14 manufacturer, distributor, or importer ~~manufacturer's~~ license
15 on the ground that:

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

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

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

22 (d) The applicant or one or more of his or her
23 principals or agents has violated any law, rule, or regulation
24 relating to the manufacture or sale of mobile homes or
25 recreational vehicles.

26 (e) The department has proof of the unfitness of the
27 applicant.

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

31

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

6
7 Upon denial of a license, the department shall notify the
8 applicant within 10 days, stating in writing its grounds for
9 denial. The applicant is entitled to an administrative a
10 ~~public~~ hearing and may request that such hearing be held
11 within 45 days of denial of the license. All proceedings must
12 ~~shall~~ be pursuant to chapter 120.

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

24 (9) CIVIL PENALTIES; PROCEDURE.--~~In addition to the~~
25 ~~exercise of other powers provided in this section,~~ The
26 department is authorized to assess, impose, levy, and collect
27 by legal process a civil penalty, in an amount not to exceed
28 \$1,000 for each violation, against any licensee if it finds
29 that a licensee has violated any provision of this section or
30 has violated any other law of this state having to do with
31 dealing in motor vehicles. A Any licensee is ~~shall be~~ entitled

1 to a hearing pursuant to chapter 120 ~~should the licensee wish~~
2 to contest the fine levied, or about to be levied, upon him or
3 her.

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

10 Section 14. This act shall take effect October 1,
11 2007.

12
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 Senate Bill 2488

16 The CS makes numerous changes throughout the bill to include
17 distributors and importers within the provisions relating to
18 manufacturers. Distributors and importers are required to be
19 licensed by the Department of Highway Safety and Motor
20 Vehicles. The CS also changes the effective date to October 1,
21 2007.