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CHAMBER ACTION

Senate

House

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4/23/2008 4:41 PM

1 Senator Diaz de la Portilla moved the following **amendment:**

2
3 **Senate Amendment (with directory and title amendments)**

4 Between line(s) 464 and 465

5 insert:

6 Section 4. Section 501.975, Florida Statutes, is amended to
7 read:

8 501.975 Definitions.--As used in s. 501.976, the following
9 terms shall have the following meanings:

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

11 (2) "Dealer" means a motor vehicle dealer as defined in s.
12 320.27, but does not include a motor vehicle auction as defined
13 in s. 320.27(1)(c)4.

14 (3) "Replacement item" means a tire, bumper, bumper fascia,
15 glass, in-dashboard equipment, seat or upholstery cover or trim,
16 exterior illumination unit, grill, sunroof, external mirror and
17 external body cladding. The replacement of up to three of these



595054

18 items does not constitute repair of damage if each item is
19 replaced because of a product defect or damaged due to vandalism
20 while the new motor vehicle is under the control of the dealer
21 and the items are replaced with original manufacturer equipment,
22 unless an item is replaced due to a crash, collision, or
23 accident.

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

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

32 (6) "Advertised price" means the price as expressed in any
33 statements that are transmitted orally, through written material,
34 through electronic means, or any illustration that is
35 disseminated to the public or affixed to a motor vehicle, and
36 which is used in selling a motor vehicle or otherwise used to
37 induce a person to enter into any obligation related to the motor
38 vehicle.

39 Section 5. Section 501.976, Florida Statutes, is amended to
40 read:

41 501.976 Actionable, unfair, or deceptive acts or
42 practices.--It is an unfair or deceptive act or practice,
43 actionable under the Florida Deceptive and Unfair Trade Practices
44 Act, for a dealer to:

45 (1) Represent directly or indirectly that a motor vehicle
46 is a factory executive vehicle or executive vehicle unless such
47 vehicle was purchased directly from the manufacturer or a



595054

48 subsidiary of the manufacturer and the vehicle was used
49 exclusively by the manufacturer, its subsidiary, or a dealer for
50 the commercial or personal use of the manufacturer's,
51 subsidiary's, or dealer's employees.

52 (2) Represent directly or indirectly that a vehicle is a
53 demonstrator unless the vehicle complies with the definition of a
54 demonstrator in s. 320.60(3).

55 (3) Represent the previous usage or status of a vehicle to
56 be something that it was not, or make usage or status
57 representations unless the dealer has correct information
58 regarding the history of the vehicle to support the
59 representations.

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

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

68 (6) Sell a vehicle without fully and conspicuously
69 disclosing in writing at or before the consummation of sale any
70 warranty or guarantee terms, obligations, or conditions that the
71 dealer or manufacturer has given to the buyer. If the warranty
72 obligations are to be shared by the dealer and the buyer, the
73 method of determining the percentage of repair costs to be
74 assumed by each party must be disclosed. If the dealer intends to
75 disclaim or limit any expressed or implied warranty, the
76 disclaimer must be in writing in a conspicuous manner and in lay



595054

77 terms in accordance with chapter 672 and the Magnuson-Moss
78 Warranty--Federal Trade Commission Improvement Act.

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

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

84 (9) Obtain signatures from a customer on contracts that are
85 not fully completed at the time the customer signs or which do
86 not reflect accurately the negotiations and agreement between the
87 customer and the dealer.

88 (10) Require or accept a deposit from a prospective
89 customer prior to entering into a binding contract for the
90 purchase and sale of a vehicle unless the customer is given a
91 written receipt that states how long the dealer will hold the
92 vehicle from other sale and the amount of the deposit, and
93 clearly and conspicuously states whether and upon what conditions
94 the deposit is refundable or nonrefundable.

95 (11) Add to the cash price of a vehicle as defined in s.
96 520.02(2) any fee or charge other than those provided in that
97 section and in rule 3D-50.001, Florida Administrative Code. All
98 fees or charges permitted to be added to the cash price by rule
99 3D-50.001, Florida Administrative Code, must be fully disclosed
100 to customers in all binding contracts concerning the vehicle's
101 selling price.

102 (12) Alter or change the odometer mileage of a vehicle.

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

105 (14) File a lien against a new vehicle purchased with a
106 check unless the dealer fully discloses to the purchaser that a



595054

107 | lien will be filed if purchase is made by check and fully
108 | discloses to the buyer the procedures and cost to the buyer for
109 | gaining title to the vehicle after the lien is filed.

110 | (15) Increase the price of the vehicle after having
111 | accepted an order of purchase or a contract from a buyer,
112 | notwithstanding subsequent receipt of an official price change
113 | notification. The price of a vehicle may be increased after a
114 | dealer accepts an order of purchase or a contract from a buyer
115 | if:

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

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

120 | (c) The price increase is caused by the revaluation of the
121 | United States dollar by the Federal Government, in the case of a
122 | foreign-made vehicle;

123 | (d) The price increase is caused by state or federal tax
124 | rate changes; or

125 | (e) Price protection is not provided by the manufacturer,
126 | importer, or distributor.

127 | (16) Advertise the price of a vehicle unless the vehicle is
128 | identified by year, make, model, and a commonly accepted trade,
129 | brand, or style name.

130 | (a) The advertised price must include all costs, fees, or
131 | charges that the customer must pay, excluding ~~including freight~~
132 | ~~or destination charge, dealer preparation charge, and charges for~~
133 | ~~undercoating or rustproofing.~~ state and local taxes, tag fees
134 | ~~tags,~~ registration fees, and title fees, ~~unless otherwise~~
135 | ~~required by local law or standard, need not be disclosed in the~~
136 | ~~advertisement.~~



595054

137 (b) When two or more dealers advertise jointly, with or
138 without participation of the franchisor, the advertised price
139 must include the highest price of the vehicles being offered,
140 consistent with paragraph (a), or specify the price for each
141 vehicle, respectively ~~need not include fees and charges that are~~
142 ~~variable among the individual dealers cooperating in the~~
143 ~~advertisement, but the nature of all charges that are not~~
144 ~~included in the advertised price must be disclosed in the~~
145 ~~advertisement.~~

146 (17) Charge a customer for any predelivery service required
147 by the manufacturer, distributor, or importer for which the
148 dealer is reimbursed by the manufacturer, distributor, or
149 importer.

150 (18) Charge a customer for any predelivery service without
151 having printed on all documents that include a line item for
152 predelivery service the following disclosure: "This charge
153 represents costs and profit to the dealer for items such as
154 inspecting, cleaning, and adjusting vehicles, and preparing
155 documents related to the sale."

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

160 (20) Fail to attach a conspicuous label to the window of a
161 motor vehicle specifying any charge for predelivery services if
162 the motor vehicle under consideration by a prospective purchaser
163 is available for physical inspection by the purchaser. The label
164 must include the following disclosure: "This charge represents
165 costs and profit to the dealer for items such as inspecting,
166 cleaning, and adjusting vehicles, and preparing documents related



595054

167 to the sale." This requirement does not apply to the sale of
168 motorcycles.

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170 In any civil litigation resulting from a violation of this
171 section, when evaluating the reasonableness of an award of
172 attorney's fees to a private person, the trial court shall
173 consider the amount of actual damages in relation to the time
174 spent.

175
176 ===== T I T L E A M E N D M E N T =====

177 And the title is amended as follows:

178 On line 42, after the semicolon,
179 insert:

180 amending s. 501.975, F.S.; defining the term "advertised
181 price" for purposes of motor vehicle sales; amending s.
182 501.976, F.S.; requiring that the advertised price include
183 all costs, fees, or charges that the customer must pay,
184 with certain exclusions; requiring a conspicuous label
185 containing a disclosure regarding the predelivery service
186 fee; providing an exception;