

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Regulatory Affairs
 2 Committee
 3 Representative Albritton offered the following:

Amendment (with title amendment)

Between lines 91 and 92, insert:

Section 3. Paragraphs (c) and (d) of subsection (1) of section 320.27, Florida Statutes, are amended to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(c) "Motor vehicle dealer" means any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to

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18 an agreement as defined in s. 320.60(1). Any person who buys,
19 sells, or deals in three or more motor vehicles in any 12-month
20 period or who offers or displays for sale three or more motor
21 vehicles in any 12-month period shall be prima facie presumed to
22 be engaged in such business. The terms "selling" and "sale"
23 include lease-purchase transactions. A motor vehicle dealer may,
24 at retail or wholesale, sell a recreational vehicle as described
25 in s. 320.01(1)(b)1.-6. and 8., acquired in exchange for the
26 sale of a motor vehicle, provided such acquisition is incidental
27 to the principal business of being a motor vehicle dealer.
28 However, a motor vehicle dealer may not buy a recreational
29 vehicle for the purpose of resale unless licensed as a
30 recreational vehicle dealer pursuant to s. 320.771. A motor
31 vehicle dealer may apply for a certificate of title to a motor
32 vehicle required to be registered under s. 320.08(2)(b), (c),
33 and (d), using a manufacturer's statement of origin as permitted
34 by s. 319.23(1), only if such dealer is authorized by a
35 franchised agreement as defined in s. 320.60(1), to buy, sell,
36 or deal in such vehicle and is authorized by such agreement to
37 perform delivery and preparation obligations and warranty defect
38 adjustments on the motor vehicle; provided this limitation shall
39 not apply to recreational vehicles, van conversions, or any
40 other motor vehicle manufactured on a truck chassis. The
41 transfer of a motor vehicle by a dealer not meeting these
42 qualifications shall be titled as a used vehicle. The
43 classifications of motor vehicle dealers are defined as follows:

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44 1. "Franchised motor vehicle dealer" means any person who
45 engages in the business of repairing, servicing, buying,
46 selling, or dealing in motor vehicles pursuant to an agreement
47 as defined in s. 320.60(1).

48 2. "Independent motor vehicle dealer" means any person
49 other than a franchised or wholesale motor vehicle dealer who
50 engages in the business of buying, selling, or dealing in motor
51 vehicles, and who may service and repair motor vehicles.

52 3. "Wholesale motor vehicle dealer" means any person who
53 engages exclusively in the business of buying, selling, or
54 dealing in motor vehicles at wholesale or with motor vehicle
55 auctions. Such person shall be licensed to do business in this
56 state, shall not sell or auction a vehicle to any person who is
57 not a licensed dealer, and shall not have the privilege of the
58 use of dealer license plates. Any person who buys, sells, or
59 deals in motor vehicles at wholesale or with motor vehicle
60 auctions on behalf of a licensed motor vehicle dealer and as a
61 bona fide employee of such licensed motor vehicle dealer is not
62 required to be licensed as a wholesale motor vehicle dealer. In
63 such cases it shall be prima facie presumed that a bona fide
64 employer-employee relationship exists. A wholesale motor vehicle
65 dealer shall be exempt from the display provisions of this
66 section but shall maintain an office wherein records are kept in
67 order that those records may be inspected.

68 4. "Motor vehicle auction" means any person offering motor
69 vehicles or recreational vehicles for sale to the highest bidder

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70 where buyers are licensed motor vehicle dealers. Such person
71 shall not sell a vehicle to anyone other than a licensed motor
72 vehicle dealer.

73 5. "Salvage motor vehicle dealer" means any person who
74 engages in the business of acquiring salvaged or wrecked motor
75 vehicles for the purpose of reselling them and their parts.

76

77 The term "motor vehicle dealer" does not include persons not
78 engaged in the purchase or sale of motor vehicles as a business
79 who are disposing of vehicles acquired for their own use or for
80 use in their business or acquired by foreclosure or by operation
81 of law, provided such vehicles are acquired and sold in good
82 faith and not for the purpose of avoiding the provisions of this
83 law; persons engaged in the business of manufacturing, selling,
84 or offering or displaying for sale at wholesale or retail no
85 more than 25 trailers in a 12-month period; public officers
86 while performing their official duties; receivers; trustees,
87 administrators, executors, guardians, or other persons appointed
88 by, or acting under the judgment or order of, any court; banks,
89 finance companies, or other loan agencies that acquire motor
90 vehicles as an incident to their regular business; ~~motor vehicle~~
91 ~~brokers;~~ and motor vehicle rental and leasing companies that
92 sell motor vehicles to motor vehicle dealers licensed under this
93 section. Vehicles owned under circumstances described in this
94 paragraph may be disposed of at retail, wholesale, or auction,
95 unless otherwise restricted. A manufacturer of fire trucks,

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96 ambulances, or school buses may sell such vehicles directly to
97 governmental agencies or to persons who contract to perform or
98 provide firefighting, ambulance, or school transportation
99 services exclusively to governmental agencies without processing
100 such sales through dealers if such fire trucks, ambulances,
101 school buses, or similar vehicles are not presently available
102 through motor vehicle dealers licensed by the department.

103 ~~(d) "Motor vehicle broker" means any person engaged in the~~
104 ~~business of offering to procure or procuring motor vehicles for~~
105 ~~the general public, or who holds himself or herself out through~~
106 ~~solicitation, advertisement, or otherwise as one who offers to~~
107 ~~procure or procures motor vehicles for the general public, and~~
108 ~~who does not store, display, or take ownership of any vehicles~~
109 ~~for the purpose of selling such vehicles.~~

110 -----
111
112 **T I T L E A M E N D M E N T**

113 Remove line 15 and insert:

114 constitute a criminal offense; amending s. 320.27,
115 F.S.; deleting the definition of the term "motor
116 vehicle broker"; conforming a reference; providing an
117 effective