

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 927 Recreational Vehicle Dealer

**SPONSOR(S):** Edwards

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 766

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	12 Y, 0 N	Thompson	Miller
2) Business & Professional Regulation Subcommittee			
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

Current law authorizes a licensed recreational vehicle dealer to obtain a temporary supplemental license that authorizes off-premises recreational vehicle sales (offsite/supplemental license). Each offsite/supplemental license must be issued at no charge to the dealer and last for a period not to exceed 10 consecutive calendar days.

Current law regulating sales agreements between recreational vehicle manufacturers or distributors and recreational vehicle dealers, allows a recreational vehicle dealer to sell outside of its designated area of sales responsibility if the dealer obtains an offsite/supplemental license and satisfies certain conditions. The conditions relate to whether or not the off-premise sale is in conjunction with a public vehicle show.

The bill provides requirements for a licensed dealer who conducts an off-premise sale that is not in conjunction with a public vehicle show.

Specifically, the bill requires a licensed dealer who conducts an off-premises sale not in conjunction with a public vehicle show, as defined in s. 320.3203(5)(c), to:

- Notify the applicable local Department of Highway Safety and Motor Vehicles (DHSMV) office of the specific dates and location for which such license is requested;
- Provide staff to work at the temporary location for the duration of the off-premises sale;
- Meet all local government permit requirements;
- Have the permission of the property owner to operate at that location;
- Conspicuously display a sign at the licensed location which clearly identifies the dealer's name and business address as listed on the dealer's original license; and
- Prominently include the dealer's name and business address, as listed on the dealer's original license, in all advertisements associated with such sale.

Requiring dealers to notify DHSMV of all off-premises sales not in conjunction with a public vehicle show may have an insignificant negative fiscal impact to the state. Subjecting dealers to additional requirements for such sales may have a negative fiscal impact to the dealers. These fiscal impacts are indeterminate because the extent to which dealers will conduct such sales is unknown.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Recreational Vehicle Dealers

Recreational vehicle dealers are licensed and regulated by DHSMV under s. 320.771, F.S. Any person that buys, sells, offers for sale, displays for sale, or deals in one or more recreational vehicles<sup>1</sup> in any 12-month period is presumed to be a recreational vehicle dealer and must have an appropriate recreational vehicle dealer license.

In addition, a recreational vehicle dealer may obtain a supplemental license. There are two types of supplemental licenses. They are the following:

- The first type authorizes a licensed recreational vehicle dealer to operate one or more additional places of business for each such business. Each supplemental license must run concurrently with the original license and must be issued by application to the licensee on a form furnished by DHSMSV and payment of a \$50 fee.<sup>2</sup>
- The second type authorizes off-premises sales (offsite/supplemental license). Each offsite/supplemental license must be issued at no charge to the dealer and last for a period not to exceed 10 consecutive calendar days.<sup>3</sup>

##### Manufacturer/Dealer Agreements

Section 320.3203, F.S., governs the sales agreements between recreational vehicle manufacturers or distributors and recreational vehicle dealers. The law requires recreational vehicle manufacturers or distributors to have a written manufacturer/dealer agreement prior to selling recreational vehicles in Florida. A major component of the manufacturer/dealer agreement is the area of sales responsibility.<sup>4</sup> A motor vehicle dealer may not sell a new recreational vehicle in this state outside of the area of sales responsibility designated in the manufacturer/dealer agreement.<sup>5</sup>

However, a dealer may sell outside of the designated area of sales responsibility if the dealer obtains an offsite/supplemental license pursuant to s. 320.771(7), F.S., and satisfies one of several conditions:

- For sales of the same line-make within another dealer's designated area of sales responsibility, the dealer must obtain in advance of the off-premise sale a written agreement signed by the dealer, the manufacturer of the recreational vehicles to be sold at the off-premise sale, and the dealer in whose designated area of sales responsibility the off-premise sale will occur.
  - A written agreement for the same line-make within another dealer's designated area of sales responsibility must:
    - designate the line-make of the recreational vehicles to be sold;

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<sup>1</sup> s. 320.01(1)(b), F.S., provides that a recreational vehicle-type unit is primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Recreational vehicle-type units, when traveling on the public roadways of this state, must comply with the length and width provisions of s. 316.515, as that section may hereafter be amended. The basic entities of a recreational vehicle-type unit are the, "travel trailer," "camping trailer," "truck camper," "motor home," "private motor coach," "van conversion," "park trailer," and "fifth-wheel trailer." However, s. 320.771(1)(c), F.S., provides that a "recreational vehicle" does not include any camping trailer, as defined in s. 320.01(1)(b)2.

<sup>2</sup> s. 320.771(7), F.S., provides that the ownership of each supplemental licensed business must be identical to the principal business for which the original license is issued. Only one licensed dealer may operate at the same place of business.

<sup>3</sup> s. 320.771(7), F.S.

<sup>4</sup> s. 320.3203(2), F.S., provides that the manufacturer is required to designate an area of sales responsibility exclusively assigned to a dealer in the manufacturer/dealer agreement. The manufacturer is prohibited from changing the area or contracting with another dealer for sale of the same line-make in the designated area during the duration of the agreement.

<sup>5</sup> s. 320.3203(4), F.S.

- set forth the time period for the off-premise sale; and
  - affirmatively authorize the sale of the same line-make of the recreational vehicles.<sup>6</sup>
- The off-premise sale must not be located within any dealer's designated area of sales responsibility and is in conjunction with a "public vehicle show;"<sup>7</sup> or
  - The off-premise sale must be in conjunction with a public vehicle show in which more than 35 dealers are participating and the show is predominantly funded by manufacturers.<sup>8</sup>

The term public vehicle show means an event sponsored by an organization approved under s. 501(c)(6) of the Internal Revenue Code which has the purpose of promoting the welfare of the recreational vehicle industry and is located at a site that:

- will be used to display and sell recreational vehicles;
- is not used for off-premise sales for more than 10 days in a calendar year; and
- is not the location on a dealer's license as its place of business.<sup>9</sup>

### Proposed Changes

The bill provides requirements for a licensed dealer who conducts an off-premises sale that is not in conjunction with a public vehicle show.

Specifically, the bill requires a licensed dealer who conducts an off-premises sale that is not in conjunction with a public vehicle show, as defined in s. 320.3203(5)(c), to:

- Notify the applicable local department office of the specific dates and location for which such license is requested;
- Provide staff to work at the temporary location for the duration of the off-premises sale;
- Meet all local government permit requirements;
- Have the permission of the property owner to operate at that location;
- Conspicuously display a sign at the licensed location which clearly identifies the dealer's name and business address as listed on the dealer's original license; and
- Prominently include the dealer's name and business address, as listed on the dealer's original license, in all advertisements associated with such sale.

#### B. SECTION DIRECTORY:

Section 1: amends s. 320.771, F.S., relating to license required of recreational vehicle dealers.

Section 2: provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

<sup>6</sup> s. 320.3203(5)(a), F.S.

<sup>7</sup> s. 320.3203(5)(b), F.S.

<sup>8</sup> s. 320.3203(5)(c), F.S.

<sup>9</sup> Id.

None.

2. Expenditures:

The fiscal impact to the state is insignificant. Licensed recreational vehicle dealers who conduct off-premises sales not in conjunction with a public vehicle show will be required to provide notification to DHSMV of the specific dates and location for which the license is requested. According to DHSMV, it may have to establish a notification method and recording system. This bill will have a minimal workload impact on DHSMV which would be absorbed within existing resources.<sup>10</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that licensed recreational vehicle dealers will conduct off-premises sales not in conjunction with a public vehicle show, additional requirements for such sales may have a negative fiscal impact to dealers. It is unknown how many dealers will conduct such off-premises sales, and, thus be subject to the new requirements. Consequently, the fiscal impact to the private sector is indeterminate.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Licensed recreational vehicle dealers who conduct off-premises sales not in conjunction with a public vehicle show will be required to provide notification to DHSMV of the specific dates and location for

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<sup>10</sup> See the DHSMV 2014 Agency Legislative Bill Analysis for HB 927. This document is on file with the Transportation and Highway Safety Subcommittee.

which the license is requested. However, the bill does not specify how this notification will be provided or received.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**