

By Senator Diaz

36-01535B-20

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1 A bill to be entitled
2 An act relating to motor vehicle manufacturers and
3 dealers; amending s. 320.60, F.S.; redefining the term
4 "line-make vehicle"; amending s. 320.605, F.S.;
5 replacing legislative intent with legislative
6 findings; amending s. 320.64, F.S.; revising a
7 prohibition against certain applicants and licensees
8 competing with franchised motor vehicle dealers in
9 this state; defining the term "sale"; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (14) of section 320.60, Florida
15 Statutes, is amended to read:

16 320.60 Definitions for ss. 320.61-320.70.—Whenever used in
17 ss. 320.61-320.70, unless the context otherwise requires, the
18 following words and terms have the following meanings:

19 (14) "Line-make vehicle" includes all models and types of
20 motor vehicles, regardless of the kind of engine, power plant,
21 or drive train they have; their design; or their intended use or
22 classification, which are offered for retail sale, lease,
23 license, subscription, or any other method of distribution under
24 a common name, trademark, service mark, or brand name of the
25 manufacturer of such vehicle. A line-make model or type that has
26 been the subject of a franchise with a motor vehicle dealer in
27 this state may not be sold or otherwise distributed or marketed
28 in any way by an applicant or licensee other than through its
29 franchised motor vehicle dealer, and, thereafter, may not be

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30 rebadged or otherwise marketed as a new line-make unless the
31 manufacturer, importer, or distributor of such new line-make
32 offers a franchise of that new line-make to every motor vehicle
33 dealer that was franchised to sell that model or type before
34 rebadging vehicles" are those motor vehicles which are offered
35 for sale, lease, or distribution under a common name, trademark,
36 service mark, or brand name of the manufacturer of same.

37 However, motor vehicles sold or leased under multiple brand
38 names or marks shall constitute a single line-make when they are
39 included in a single franchise agreement and every motor vehicle
40 dealer in this state authorized to sell or lease any such
41 vehicles has been offered the right to sell or lease all of the
42 multiple brand names or marks covered by the single franchise
43 agreement. However ~~Except~~, such multiple brand names or marks
44 are shall be considered individual franchises for purposes of s.
45 320.64(36).

46 Section 2. Section 320.605, Florida Statutes, is amended to
47 read:

48 320.605 Legislative findings intent.~~The Legislature finds~~
49 and declares that the distribution, marketing, sale, leasing,
50 rental, or otherwise providing title, use, or possession to
51 consumers and other entities of motor vehicles, replacement
52 parts, accessories, and the servicing and repair thereof in this
53 state vitally affects the general economy of the state and the
54 public safety and welfare of its residents. The Legislature
55 further finds that the motor vehicle franchise system in this
56 state operates within a defined and highly regulated statutory
57 scheme; assures consumers of a well-organized distribution
58 system that supports the availability of new motor vehicles;

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59 provides tens of thousands of jobs for the residents of this
60 state; provides a network of quality warranty, repair, and
61 recall facilities; and provides a cost-effective method for the
62 state to police the system through licensing and regulation of
63 the interactions between private sector franchisors and
64 franchisees, and that such regulation is necessary to promote
65 fair and harmonious relations between motor vehicle
66 manufacturers, importers, distributors, and their dealers; to
67 protect fair competition; to protect consumers; and to provide
68 minorities with opportunities for participation as motor vehicle
69 dealers ~~It is the intent of the Legislature to protect the~~
70 ~~public health, safety, and welfare of the citizens of the state~~
71 ~~by regulating the licensing of motor vehicle dealers and~~
72 ~~manufacturers, maintaining competition, providing consumer~~
73 ~~protection and fair trade and providing minorities with~~
74 ~~opportunities for full participation as motor vehicle dealers.~~

75 Section 3. Subsection (23) of section 320.64, Florida
76 Statutes, is amended to read:

77 320.64 Denial, suspension, or revocation of license;
78 grounds.—A license of a licensee under s. 320.61 may be denied,
79 suspended, or revoked within the entire state or at any specific
80 location or locations within the state at which the applicant or
81 licensee engages or proposes to engage in business, upon proof
82 that the section was violated with sufficient frequency to
83 establish a pattern of wrongdoing, and a licensee or applicant
84 shall be liable for claims and remedies provided in ss. 320.695
85 and 320.697 for any violation of any of the following
86 provisions. A licensee is prohibited from committing the
87 following acts:

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88 (23) The applicant or licensee has competed, is competing,
89 or has announced its intention to compete with one of its
90 franchised motor vehicle dealers in the sale or service of
91 vehicles; in the sale of replacement parts, accessories, or
92 after-market products; in collision repair; or in any other
93 motor vehicle dealer activity related to the line-make for which
94 the motor vehicle dealer in this state is a party to a franchise
95 agreement with the applicant or licensee. As used in this
96 subsection, the term "sale" includes the sale, leasing, rental,
97 licensing, subscription, or any other transfer to a retail
98 consumer, a wholesaler, or a broker of title, possession, or use
99 of a motor vehicle, replacement parts, or accessories that are
100 the subject of, or covered in the franchise agreement with, the
101 motor vehicle dealer ~~The applicant or licensee has competed or~~
102 ~~is competing with respect to any activity covered by the~~
103 ~~franchise agreement with a motor vehicle dealer of the same~~
104 ~~line-make located in this state with whom the applicant or~~
105 ~~licensee has entered into a franchise agreement, except as~~
106 ~~permitted in s. 320.645.~~

107
108 A motor vehicle dealer who can demonstrate that a violation of,
109 or failure to comply with, any of the preceding provisions by an
110 applicant or licensee will or may adversely and pecuniarily
111 affect the complaining dealer, shall be entitled to pursue all
112 of the remedies, procedures, and rights of recovery available
113 under ss. 320.695 and 320.697.

114 Section 4. This act shall take effect July 1, 2020.