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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/04/2023	.	
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The Committee on Commerce and Tourism (Avila) recommended the following:

1           **Senate Amendment to Amendment (224252) (with title**  
2 **amendment)**

3  
4           Delete lines 19 - 194

5 and insert:

6 distributor, or a licensee, or an affiliate thereof; or

7           (b) Who has more than 30 percent of its equity interest  
8 directly or indirectly controlled or owned, beneficially or of  
9 record, through any form of ownership structure, by one or more  
10 persons who also directly or indirectly control or own,



335364

11 beneficially or of record, more than 30 40 percent of the voting  
12 equity interests of a manufacturer, an importer, a distributor,  
13 or a licensee, or an affiliate thereof;~~or~~

14 ~~(b) Who shares directors or officers or partners with a~~  
15 ~~manufacturer.~~

16 (c) Notwithstanding the foregoing, an entity that would  
17 otherwise be considered a common entity of a distributor under  
18 paragraph (a) or paragraph (b) because of its relation to a  
19 distributor is not considered a common entity of that  
20 distributor if:

21 1. The distributor that the entity is related to was a  
22 licensed distributor on March 1, 2023;

23 2. The entity is not a common entity of a manufacturer or  
24 importer; and

25 3. The distributor that the entity is related to is not,  
26 and has never been, a common entity of a manufacturer or  
27 importer.

28 (8) "Independent person" means a person who is not an  
29 agent, parent, subsidiary, common entity, officer, director, or  
30 an employed representative of a licensee, manufacturer,  
31 importer, or distributor.

32 (14) "Motor vehicle dealer association" means a not-for-  
33 profit entity organized under the laws of this state and  
34 qualified as tax-exempt under s. 501(c)(6) of the Internal  
35 Revenue Code which acts as a trade association that primarily  
36 represents the interests of franchised motor vehicle dealers and  
37 has a membership of at least 500 franchised motor vehicle  
38 dealers as defined in s. 320.27(1)(c)1.

39 (16)-(15) "Sell," "selling," "sold," "exchange," "retail



335364

40 sales," and "leases" includes:

41 (a) Accepting a deposit or receiving a payment for the  
42 retail purchase, lease, or other use of a motor vehicle, but  
43 does not include facilitating a motor vehicle dealer's  
44 acceptance of a deposit or receipt of a payment from a consumer,  
45 and does not include receiving payment under a retail  
46 installment sale contract;

47 (b) Accepting a reservation from a retail consumer for a  
48 specific motor vehicle identified by a vehicle identification  
49 number or other product identifier;

50 (c) Setting the retail price for the purchase, lease, or  
51 other use of a motor vehicle, but does not include setting a  
52 Manufacturer's Suggested Retail Price;

53 (d) Offering or negotiating with a retail consumer terms  
54 for the purchase, lease, or other use of a motor vehicle;

55 (e) Offering or negotiating with a retail consumer a value  
56 for a motor vehicle being traded in as part of the purchase,  
57 lease, or other use of a motor vehicle, but does not include a  
58 website or other means of electronic communication that  
59 identifies to a consumer a conditional trade-in value and that  
60 contains language informing the consumer that the trade-in value  
61 is not binding on any motor vehicle dealer;

62 (f) Any transaction where the title of a motor vehicle or a  
63 used motor vehicle is transferred to a retail consumer; ~~or, and~~  
64 also

65 (g) Any retail lease transaction where a retail consumer  
66 customer leases a vehicle for a period of at least 12 months,  
67 but does not include administering lease agreements, taking  
68 assignments of leases, performing required actions pursuant to



335364

69 such leases, or receiving payments under a lease agreement that  
70 was originated by a motor vehicle dealer. ~~Establishing a price~~  
71 ~~for sale pursuant to s. 320.64(24) does not constitute a sale or~~  
72 ~~lease.~~

73 Section 2. Section 320.605, Florida Statutes, is amended to  
74 read:

75 320.605 Legislative intent.—It is the intent of the  
76 Legislature to protect the public health, safety, and welfare of  
77 the citizens of the state by regulating the licensing of motor  
78 vehicle dealers and manufacturers, maintaining competition,  
79 providing consumer protection and fair trade and providing  
80 minorities with opportunities for full participation as motor  
81 vehicle dealers. Sections 320.61-320.70 are intended to apply  
82 solely to the licensing of manufacturers, factory branches,  
83 distributors, and importers and do not apply to non-motor-  
84 vehicle-related businesses.

85 Section 3. Subsections (18), (23), and (24) of section  
86 320.64, Florida Statutes, are amended to read:

87 320.64 Denial, suspension, or revocation of license;  
88 grounds.—A license of a licensee under s. 320.61 may be denied,  
89 suspended, or revoked within the entire state or at any specific  
90 location or locations within the state at which the applicant or  
91 licensee engages or proposes to engage in business, upon proof  
92 that the section was violated with sufficient frequency to  
93 establish a pattern of wrongdoing, and a licensee or applicant  
94 shall be liable for claims and remedies provided in ss. 320.695  
95 and 320.697 for any violation of any of the following  
96 provisions. A licensee is prohibited from committing the  
97 following acts:



335364

98           (18) The applicant or licensee has established a system of  
99 motor vehicle allocation or distribution or has implemented a  
100 system of allocation or distribution of motor vehicles to one or  
101 more of its franchised motor vehicle dealers which:

102           (a) Reduces or alters allocations or supplies of new motor  
103 vehicles to the dealer to achieve, directly or indirectly, a  
104 purpose that is prohibited by ss. 320.60-320.70;

105           (b) Conditionally or unconditionally reserves a specific  
106 motor vehicle identified by vehicle identification number or  
107 other unique identifier for a specifically named person, except  
108 for purposes of replacing a consumer's vehicle pursuant to  
109 chapter 681;

110           (c) Requires or incentivizes motor vehicle dealers to sell  
111 or lease, or to negotiate the sale or lease of, a specific motor  
112 vehicle identified by vehicle identification number or other  
113 unique identifier to a specifically named person;

114           (d) Requires or incentivizes motor vehicle dealers to sell  
115 or lease a motor vehicle at a specified price or profit margin  
116 or restricts the price at which a motor vehicle dealer may sell  
117 or lease a motor vehicle; or

118           (e) Is, ~~or which~~ otherwise is unfair, inequitable,  
119 unreasonably discriminatory, or not supportable by reason and  
120 good cause after considering the equities of the affected motor  
121 vehicles dealer or dealers. As used in this paragraph, the term  
122 "unfair" includes, but is not limited to, refusing or failing to  
123 offer to any dealer an equitable supply of new vehicles under  
124 its franchise, by model, mix, or color, as the licensee offers  
125 or allocates to its other same line-make dealers in this state  
126 or using the number of motor vehicles preordered or reserved by



335364

127 consumers as a factor in determining the allocation of motor  
128 vehicles to motor vehicle dealers.

129  
130 An applicant or licensee shall maintain for 3 years records that  
131 describe its methods or formula of allocation and distribution  
132 of its motor vehicles and records of its actual allocation and  
133 distribution of motor vehicles to its motor vehicle dealers in  
134 this state. ~~As used in this subsection, "unfair" includes,~~  
135 ~~without limitation, the refusal or failure to offer to any~~  
136 ~~dealer an equitable supply of new vehicles under its franchise,~~  
137 ~~by model, mix, or colors as the licensee offers or allocates to~~  
138 ~~its other same line-make dealers in the state.~~

139 (23) The applicant or licensee has engaged in any of the  
140 activities of a motor vehicle dealer as defined in s.  
141 320.60(13)(a) or any activities described in s. 320.60(16) or  
142 has competed or is competing with respect to any activity  
143 covered by the franchise agreement with a motor vehicle dealer  
144 of the same line-make located in this state with whom the  
145 applicant or licensee has entered into a franchise agreement,  
146 except as permitted in s. 320.645 or in subsection (24) with  
147 respect to the remote electronic transmission of a permanent or  
148 temporary feature or improvement of a motor vehicle.

149 (24) The applicant or licensee, or common entity thereof,  
150 has sold or leased a motor vehicle to any retail consumer in  
151 this state, or has sold or activated for a fee to any retail  
152 consumer in the state any permanent or temporary motor vehicle  
153 feature or improvement that functions through hardware or  
154 components installed on the motor vehicle, except through a  
155 motor vehicle dealer properly licensed pursuant to s. 320.27 and



156 holding a franchise agreement for the line-make that includes  
157 the motor vehicle. Notwithstanding this subsection, an applicant  
158 or a licensee, or common entity thereof, may sell or activate  
159 for a fee a permanent or temporary motor vehicle feature or  
160 improvement to a retail consumer in this state only if the  
161 feature or improvement is provided directly to the motor vehicle  
162 through remote electronic transmission, provided that if such  
163 motor vehicle was sold or leased as new by a motor vehicle  
164 dealer in this state within the 3-year period preceding such  
165 remote electronic transmission, the applicant or licensee must  
166 pay such motor vehicle dealer a minimum of 8 percent of the  
167 payment received by the applicant, licensee, or common entity  
168 from the sale of the feature or improvement. As used in this  
169 subsection, the term "feature or improvement" includes the  
170 activation or use of motor vehicle components or hardware, but  
171 does not include services that require the transmission of data  
172 or information to or from the motor vehicle while the service is  
173 being used. Payments required under this subsection shall be  
174 made within 30 days after the date of sale of the feature or  
175 improvement. This subsection ~~section~~ does not apply to sales by  
176 the

177  
178 ===== T I T L E A M E N D M E N T =====

179 And the title is amended as follows:

180 Delete lines 428 - 444

181 and insert:

182 applicability; requiring certain payments to be made  
183 within a certain timeframe; amending s. 320.642, F.S.;  
184 conforming cross-references; amending s. 320.645,



335364

185 F.S.; revising provisions prohibiting a manufacturer,  
186 a distributor, or an importer from owning, operating,  
187 or controlling a motor vehicle dealership in this  
188 state; specifying when certain licenses may be and are  
189 prohibited from being issued; revising exceptions to  
190 certain prohibitions on licensees; providing  
191 applicability; making technical changes; deleting the  
192 definition of the term "independent person";  
193 conforming cross-references; amending s. 320.67, F.S.;  
194 requiring the Department of Highway Safety and Motor  
195 Vehicles to conduct an inquiry relating to certain  
196 written complaints; providing purposes of the  
197 department's use of a subpoena; authorizing the  
198 department to allow a written response to the  
199 complaint; requiring the department to commence the  
200 inquiry within a certain