

By Senator Leek

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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.; defining the term  
4           "reservation"; revising the definition of the term  
5           "sell"; amending s. 320.64, F.S.; prohibiting an  
6           applicant or a licensee, or a common entity thereof,  
7           from establishing, implementing, or enforcing certain  
8           criteria for measuring the sales or service  
9           performance of its franchised motor vehicle dealers  
10          unless certain conditions are met; prohibiting an  
11          applicant or a licensee, or a common entity thereof,  
12          from engaging in an action that is taken as  
13          retaliation against a motor vehicle dealer under  
14          certain circumstances; conforming a cross-reference;  
15          amending s. 320.641, F.S.; revising the circumstances  
16          in which a discontinuation, cancellation, nonrenewal,  
17          modification, or replacement of a franchise agreement  
18          is deemed unfair; amending s. 320.67, F.S.; deleting a  
19          provision requiring the Department of Highway Safety  
20          and Motor Vehicles to conduct inquiries of licensees  
21          relating to certain complaints made by certain motor  
22          vehicle dealer associations; reenacting s. 320.642(6),  
23          F.S., relating to dealer licenses in areas previously  
24          served, to incorporate the amendment made to s.  
25          320.60, F.S., in references thereto; providing an  
26          effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Present subsections (16), (17), and (18) of  
31 section 320.60, Florida Statutes, are redesignated as  
32 subsections (17), (18), and (19), respectively, a new subsection  
33 (16) is added to that section, and present subsection (16) of  
34 that section is amended, to read:

35 320.60 Definitions for ss. 320.61-320.70.—Whenever used in  
36 ss. 320.61-320.70, unless the context otherwise requires, the  
37 following words and terms have the following meanings:

38 (16) "Reservation" means a process that is used to hold  
39 open the opportunity for a specified consumer to place an order  
40 for the purchase or lease of a new motor vehicle.

41 ~~(17)(16)~~ "Sell," "selling," "sold," "exchange," "retail  
42 sales," and "leases" include:

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

48 (b) Accepting a reservation from a retail consumer for a  
49 specific motor vehicle identified by a vehicle identification  
50 number or other product identifier, except that this paragraph  
51 does not apply to a manufacturer or distributor if the  
52 reservation is assigned to a franchised dealer that is  
53 authorized to sell the vehicle being reserved;

54 (c) Setting the retail price for the purchase, lease, or  
55 other use of a motor vehicle, but does not include setting a  
56 manufacturer's suggested retail price;

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

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

66 (f) Any transaction where the title of a motor vehicle or a  
67 used motor vehicle is transferred to a retail consumer; or

68 (g) Any retail lease transaction where a retail consumer  
69 leases a vehicle for a period of at least 12 months, but does  
70 not include administering lease agreements, taking assignments  
71 of leases, performing required actions pursuant to such leases,  
72 or receiving payments under a lease agreement ~~that was~~  
73 ~~originated by a motor vehicle dealer.~~

74  
75 This subsection does not apply to the replacement of a  
76 consumer's vehicle pursuant to chapter 681.

77 Section 2. Subsections (23) and (42) of section 320.64,  
78 Florida Statutes, are amended, and subsection (43) is added to  
79 that section, to read:

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

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88 and 320.697 for any violation of any of the following  
89 provisions. A licensee is prohibited from committing the  
90 following acts:

91 (23) The applicant or licensee has engaged in any of the  
92 activities of a motor vehicle dealer as defined in s.  
93 320.60(13)(a) or any of the activities described in s.  
94 320.60(17) ~~s. 320.60(16)~~ or has competed or is competing with  
95 respect to any activity covered by the franchise agreement with  
96 a motor vehicle dealer of the same line-make located in this  
97 state with whom the applicant or licensee has entered into a  
98 franchise agreement, except as permitted in s. 320.645 or in  
99 subsection (24) with respect to the remote electronic  
100 transmission of a permanent or temporary feature or improvement  
101 of a motor vehicle.

102 (42)(a) The applicant or licensee, or a common entity  
103 thereof, has established, implemented, or enforced criteria for  
104 measuring the sales or service performance of any of its  
105 franchised motor vehicle dealers in this state which have a  
106 material or adverse effect on any motor vehicle dealer and  
107 which:

- 108 1. Are unfair, unreasonable, arbitrary, or inequitable; or
- 109 2. Do not include all relevant and material local and  
110 regional criteria, data, and facts. Relevant and material  
111 criteria, data, or facts include, but are not limited to, those  
112 of motor vehicle dealerships of comparable size in comparable  
113 markets. If such performance measurement criteria are based, in  
114 whole or in part, on a survey, such survey must be based on a  
115 statistically significant and valid random sample.

116 (b) The ~~An~~ applicant or, licensee, or a common entity

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117 thereof, has implemented or enforced criteria for measuring the  
118 sales or service performance of any of its franchised motor  
119 vehicle dealers in this state without providing, before such  
120 implementation or enforcement, a written description to each  
121 such franchised, or an affiliate thereof, which enforces against  
122 any motor vehicle dealer any such performance measurement  
123 criteria shall, upon the request of the motor vehicle dealer,  
124 describe in writing to the motor vehicle dealer in this state  
125 which states, in detail, how the performance measurement  
126 criteria were designed, calculated, established, and uniformly  
127 applied.

128 (43) The applicant or licensee, or a common entity thereof,  
129 has engaged in an action, or implemented a policy, standard,  
130 rule, practice, or program, taken as retaliation against a motor  
131 vehicle dealer because the dealer invoked a statutory right  
132 created by ss. 320.60-320.70, asserted that the applicant,  
133 licensee, or common entity has acted in a manner that violates a  
134 provision of ss. 320.60-320.70, or has testified, assisted, or  
135 participated in any manner in an investigation, a proceeding, or  
136 a hearing that may directly affect the applicant, licensee, or  
137 common entity.

138  
139 A motor vehicle dealer who can demonstrate that a violation of,  
140 or failure to comply with, any of the preceding provisions by an  
141 applicant or licensee will or may adversely and pecuniarily  
142 affect the complaining dealer, shall be entitled to pursue all  
143 of the remedies, procedures, and rights of recovery available  
144 under ss. 320.695 and 320.697.

145 Section 3. Subsection (3) of section 320.641, Florida

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146 Statutes, is amended to read:

147 320.641 Discontinuations, cancellations, nonrenewals,  
148 modifications, and replacement of franchise agreements.—

149 (3) Any motor vehicle dealer who receives a notice of  
150 intent to discontinue, cancel, not renew, modify, or replace  
151 may, within the 90-day notice period, file a petition or  
152 complaint for a determination of whether such action is an  
153 unfair or prohibited discontinuation, cancellation, nonrenewal,  
154 modification, or replacement. Agreements and certificates of  
155 appointment must ~~shall~~ continue in effect until final  
156 determination of the issues raised in such petition or complaint  
157 by the motor vehicle dealer.

158 (a) A discontinuation, cancellation, or nonrenewal of a  
159 franchise agreement is unfair if all of the following apply:

160 1. ~~if~~ It is not clearly permitted by the franchise  
161 agreement. ~~;~~

162 2. It is not undertaken in good faith. ~~;~~

163 3. It is not undertaken for good cause. ~~;~~

164 4. It ~~or~~ is based on a claim that the dealer substantially  
165 and materially breached an alleged breach of the franchise  
166 agreement except where the discontinuation, cancellation, or  
167 nonrenewal applies to all same line-make franchised motor  
168 vehicle dealers and is otherwise permitted by ss. 320.60-320.70.

169 ~~which is not in fact a material and substantial breach; or, if~~

170 5. The grounds relied upon for discontinuation ~~termination~~,  
171 cancellation, or nonrenewal have not been applied in a uniform  
172 and consistent manner by the licensee.

173 (b) If the notice of discontinuation, cancellation, or  
174 nonrenewal relates to an alleged failure of the new motor

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175 vehicle dealer's sales or service performance obligations under  
176 the franchise agreement, the new motor vehicle dealer must first  
177 be provided with at least 180 days to correct the alleged  
178 failure before a licensee may send the notice of  
179 discontinuation, cancellation, or nonrenewal.

180 (c) A modification or replacement is unfair if all of the  
181 following apply:

182 1. ~~if~~ It is not clearly permitted by the franchise  
183 agreement.~~.~~

184 2. It is not undertaken in good faith.~~.~~~~or~~

185 3. It is not undertaken for good cause.

186 (d) The applicant or licensee has ~~shall have~~ the burden of  
187 proof that such discontinuation, cancellation, nonrenewal,  
188 modification, or replacement ~~action~~ is ~~fair and~~ not prohibited.

189 Section 4. Subsection (1) of section 320.67, Florida  
190 Statutes, is amended to read:

191 320.67 Violations by dealers; complaint; conduct of  
192 inquiry; inspection of records; penalties.-

193 (1) The department shall conduct an inquiry of a licensee  
194 relating to any written complaint alleging a violation of any  
195 provision of ss. 320.61-320.70 against such licensee made by a  
196 motor vehicle dealer with a current franchise agreement issued  
197 by the licensee, ~~or a motor vehicle dealer association with at~~  
198 ~~least one member with a current franchise agreement issued by~~  
199 ~~the licensee.~~

200 Section 5. For the purpose of incorporating the amendment  
201 made by this act to section 320.60, Florida Statutes, in a  
202 reference thereto, subsection (6) of section 320.642, Florida  
203 Statutes, is reenacted to read:

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204 320.642 Dealer licenses in areas previously served;  
205 procedure.—

206 (6) When a proposed addition or relocation concerns a  
207 dealership that performs or is to perform only service, as  
208 defined in s. 320.60, and will not or does not sell or lease, as  
209 defined in s. 320.60, new motor vehicles, the proposal shall be  
210 subject to notice and protest pursuant to the provisions of this  
211 section.

212 (a) Standing to protest the addition or relocation of a  
213 service-only dealership shall be limited to those instances in  
214 which the applicable mileage requirement established in  
215 subparagraphs (3) (a)2. and (3) (b)1. is met.

216 (b) The addition or relocation of a service-only dealership  
217 shall not be subject to protest if:

218 1. The applicant for the service-only dealership location  
219 is an existing motor vehicle dealer of the same line-make as the  
220 proposed additional or relocated service-only dealership;

221 2. There is no existing dealer of the same line-make closer  
222 than the applicant to the proposed location of the additional or  
223 relocated service-only dealership; and

224 3. The proposed location of the additional or relocated  
225 service-only dealership is at least 7 miles from all existing  
226 motor vehicle dealerships of the same line-make, other than  
227 motor vehicle dealerships owned by the applicant.

228 (c) In determining whether existing franchised motor  
229 vehicle dealers are providing adequate representations in the  
230 community or territory for the line-make in question in a  
231 protest of the proposed addition or relocation of a service-only  
232 dealership, the department may consider the elements set forth



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233 in paragraph (2) (b), provided:

234 1. With respect to subparagraph (2) (b)1., only the impact  
235 as it relates to service may be considered;

236 2. Subparagraph (2) (b)3. shall not be considered;

237 3. With respect to subparagraph (2) (b)9., only service  
238 facilities shall be considered; and

239 4. With respect to subparagraph (2) (b)11., only the volume  
240 of service business transacted shall be considered.

241 (d) If an application for a service-only dealership is  
242 granted, the department must issue a license which permits only  
243 service, as defined in s. 320.60, and does not permit the  
244 selling or leasing, as defined in s. 320.60, of new motor  
245 vehicles. If a service-only dealership subsequently seeks to  
246 sell new motor vehicles at its location, the notice and protest  
247 provisions of this section shall apply.

248 Section 6. This act shall take effect July 1, 2025.