

By the Committee on Transportation; and Senator Leek

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1 A bill to be entitled

2 An act relating to motor vehicle manufacturers and
3 franchised motor vehicle dealers; amending s. 320.64,
4 F.S.; prohibiting an applicant or a licensee, or a
5 common entity thereof, from establishing,
6 implementing, or enforcing certain criteria for
7 measuring the sales or service performance of its
8 franchised motor vehicle dealers unless certain
9 conditions are met; prohibiting an applicant or a
10 licensee, or a common entity thereof, from engaging in
11 an action that is taken as retaliation against a motor
12 vehicle dealer under certain circumstances; amending
13 s. 320.641, F.S.; revising the circumstances in which
14 a discontinuation, cancellation, nonrenewal,
15 modification, or replacement of a franchise agreement
16 is deemed unfair; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsection (42) of section 320.64, Florida
21 Statutes, is amended, and subsection (43) is added to that
22 section, to read:

23 320.64 Denial, suspension, or revocation of license;
24 grounds.—A license of a licensee under s. 320.61 may be denied,
25 suspended, or revoked within the entire state or at any specific
26 location or locations within the state at which the applicant or
27 licensee engages or proposes to engage in business, upon proof
28 that the section was violated with sufficient frequency to
29 establish a pattern of wrongdoing, and a licensee or applicant

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30 shall be liable for claims and remedies provided in ss. 320.695
31 and 320.697 for any violation of any of the following
32 provisions. A licensee is prohibited from committing the
33 following acts:

34 (42) (a) The applicant or licensee, or a common entity
35 thereof, has established, implemented, or enforced criteria for
36 measuring the sales or service performance of any of its
37 franchised motor vehicle dealers in this state which have a
38 material or adverse effect on any motor vehicle dealer and
39 which:

- 40 1. Are unfair, unreasonable, arbitrary, or inequitable; or
- 41 2. Do not include all relevant and material local and
42 regional criteria, data, and facts. Relevant and material
43 criteria, data, or facts include, but are not limited to, those
44 of motor vehicle dealerships of comparable size in comparable
45 markets. If such performance measurement criteria are based, in
46 whole or in part, on a survey, such survey must be based on a
47 statistically significant and valid random sample.

48 (b) The An applicant or, licensee, or a common entity
49 thereof, has implemented or enforced criteria for measuring the
50 sales or service performance of any of its franchised motor
51 vehicle dealers in this state without first making available and
52 readily accessible, before such implementation or enforcement, a
53 written description to each such franchised, or an affiliate
54 thereof, which enforces against any motor vehicle dealer any
55 such performance measurement criteria shall, upon the request of
56 the motor vehicle dealer, describe in writing to the motor
57 vehicle dealer in this state which describes, in detail, how the
58 performance measurement criteria were designed, calculated,

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59 established, and uniformly applied.

60 (43) The applicant or licensee, or a common entity thereof,
61 has engaged in an action, or implemented a policy, standard,
62 rule, practice, or program, taken as retaliation against a motor
63 vehicle dealer because the dealer invoked a statutory right
64 created by ss. 320.60-320.70, asserted that the applicant,
65 licensee, or common entity has acted in a manner that violates a
66 provision of ss. 320.60-320.70, or has testified, assisted, or
67 participated in any manner in an investigation, a proceeding, or
68 a hearing that may directly affect the applicant, licensee, or
69 common entity.

70
71 A motor vehicle dealer who can demonstrate that a violation of,
72 or failure to comply with, any of the preceding provisions by an
73 applicant or licensee will or may adversely and pecuniarily
74 affect the complaining dealer, shall be entitled to pursue all
75 of the remedies, procedures, and rights of recovery available
76 under ss. 320.695 and 320.697.

77 Section 2. Subsection (3) of section 320.641, Florida
78 Statutes, is amended to read:

79 320.641 Discontinuations, cancellations, nonrenewals,
80 modifications, and replacement of franchise agreements.—

81 (3) Any motor vehicle dealer who receives a notice of
82 intent to discontinue, cancel, not renew, modify, or replace
83 may, within the 90-day notice period, file a petition or
84 complaint for a determination of whether such action is an
85 unfair or prohibited discontinuation, cancellation, nonrenewal,
86 modification, or replacement. Agreements and certificates of
87 appointment must ~~shall~~ continue in effect until final

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88 determination of the issues raised in such petition or complaint
89 by the motor vehicle dealer. A discontinuation, cancellation, or
90 nonrenewal of a franchise agreement is unfair if it is not
91 clearly permitted by the franchise agreement; is not undertaken
92 in good faith; is not undertaken for good cause; or is not based
93 on a material and substantial ~~an alleged~~ breach of the franchise
94 agreement by the motor vehicle dealer ~~which is not in fact a~~
95 ~~material and substantial breach~~; or, if the grounds relied upon
96 for termination, cancellation, or nonrenewal have not been
97 applied in a uniform and consistent manner by the licensee. If
98 the notice of discontinuation, cancellation, or nonrenewal
99 relates to an alleged failure of the new motor vehicle dealer's
100 sales or service performance obligations under the franchise
101 agreement, the new motor vehicle dealer must first be provided
102 with at least 180 days to correct the alleged failure before a
103 licensee may send the notice of discontinuation, cancellation,
104 or nonrenewal. A modification or replacement is unfair if it is
105 not clearly permitted by the franchise agreement; is not
106 undertaken in good faith; or is not undertaken for good cause.
107 The applicant or licensee has ~~shall have~~ the burden of proof
108 that such discontinuation, cancellation, nonrenewal,
109 modification, or replacement ~~action~~ is fair and not prohibited.

110 Section 3. This act shall take effect July 1, 2025.