

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Industries & Professional
2 Activities Subcommittee

3 Representative Yeager offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 **Section 1. Subsection (42) of section 320.64, Florida**
8 **Statutes, is amended, and subsection (43) is added to that**
9 **section, to read:**

10 320.64 Denial, suspension, or revocation of license;
11 grounds.—A license of a licensee under s. 320.61 may be denied,
12 suspended, or revoked within the entire state or at any specific
13 location or locations within the state at which the applicant or
14 licensee engages or proposes to engage in business, upon proof
15 that the section was violated with sufficient frequency to
16 establish a pattern of wrongdoing, and a licensee or applicant

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17 shall be liable for claims and remedies provided in ss. 320.695
18 and 320.697 for any violation of any of the following
19 provisions. A licensee is prohibited from committing the
20 following acts:

21 (42) (a) The applicant or licensee, or common entity
22 thereof, has established, implemented, or enforced criteria for
23 measuring the sales or service performance of any of its
24 franchised motor vehicle dealers in this state which have a
25 material or adverse effect on any motor vehicle dealer and
26 which:

- 27 1. Are unfair, unreasonable, arbitrary, or inequitable; or
- 28 2. Do not include all relevant and material local and
29 regional criteria, data, and facts. Relevant and material
30 criteria, data, or facts include, but are not limited to, those
31 of motor vehicle dealerships of comparable size in comparable
32 markets. If such performance measurement criteria are based, in
33 whole or in part, on a survey, such survey must be based on a
34 statistically significant and valid random sample.

35 (b) The An applicant or, licensee, or common entity, or an
36 affiliate thereof, has implemented or enforced criteria for
37 measuring the sales or service performance of any of its
38 franchised motor vehicle dealers in this state without, before
39 implementation or enforcement, providing a written description
40 to each franchised ~~which enforces against any motor vehicle~~
41 ~~dealer any such performance measurement criteria shall, upon the~~

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42 ~~request of the motor vehicle dealer, describe in writing to the~~
43 ~~motor vehicle dealer in this state providing,~~ in detail, how the
44 performance measurement criteria were designed, calculated,
45 established, and uniformly applied.

46 (43) The applicant or licensee, or common entity thereof,
47 has engaged in an action, or implemented a policy, standard,
48 rule, practice, or program as retaliation against a franchised
49 motor vehicle dealer because the dealer invoked any right
50 pursuant to ss. 320.60-320.70; has asserted that the applicant
51 or licensee, or common entity thereof, has acted in a manner
52 that violates any provision of ss. 320.60-320.70; or has
53 testified, assisted, or participated in any manner in an
54 investigation, a proceeding, or a hearing that may directly
55 affect the applicant or licensee, or common entity thereof.

56
57 A motor vehicle dealer who can demonstrate that a violation of,
58 or failure to comply with, any of the preceding provisions by an
59 applicant or licensee will or may adversely and pecuniarily
60 affect the complaining dealer, shall be entitled to pursue all
61 of the remedies, procedures, and rights of recovery available
62 under ss. 320.695 and 320.697.

63
64 **Section 2. Subsection (3) of section 320.641, Florida**
65 **Statutes, is amended to read:**

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66 320.641 Discontinuations, cancellations, nonrenewals,
67 modifications, and replacement of franchise agreements.—

68 (3) Any motor vehicle dealer who receives a notice of
69 intent to discontinue, cancel, not renew, modify, or replace
70 may, within the 90-day notice period, file a petition or
71 complaint for a determination of whether such action is an
72 unfair or prohibited discontinuation, cancellation, nonrenewal,
73 modification, or replacement. Agreements and certificates of
74 appointment shall continue in effect until final determination
75 of the issues raised in such petition or complaint by the motor
76 vehicle dealer.

77 (a) A discontinuation, cancellation, or nonrenewal of a
78 franchise agreement is unfair unless all of the following apply:

79 1. if It is ~~not~~ clearly permitted by the franchise
80 agreement;

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

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

83 4. It ~~or~~ is based on the motor vehicle dealer's an-alleged
84 breach of the franchise agreement which is ~~not~~ in fact a
85 material and substantial breach, but not if it applies to all
86 same line-make franchised motor vehicle dealers and is otherwise
87 permitted by ss. 320.60-320.70; and

88 5. or, if The grounds relied upon for discontinuation
89 ~~termination~~, cancellation, or nonrenewal have ~~not~~ been applied
90 in a uniform and consistent manner by the licensee.

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91 **(b)** If the notice of discontinuation, cancellation, or
92 nonrenewal relates to an alleged failure of the new motor
93 vehicle dealer's sales or service performance obligations under
94 the franchise agreement, the new motor vehicle dealer must first
95 be provided with at least 180 days to correct the alleged
96 failure before a licensee may send the notice of
97 discontinuation, cancellation, or nonrenewal.

98 **(c)** A modification or replacement is unfair unless:

99 **1.** ~~if~~ It is ~~not~~ clearly permitted by the franchise
100 agreement.†

101 **2.** It is ~~not~~ undertaken in good faith.†

102 **3.** It ~~or~~ is ~~not~~ undertaken for good cause.

103 **(d)** The applicant or licensee shall have the burden of
104 proof that any such discontinuation, cancellation, nonrenewal,
105 modification, or replacement action is fair and not prohibited.

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

108 -----
109 **T I T L E A M E N D M E N T**

110 Remove everything before the enacting clause and insert:

111 A bill to be entitled

112 An act relating to motor vehicle manufacturers and
113 franchised motor vehicle dealers; amending s. 320.64,
114 F.S.; prohibiting an applicant or a licensee, or a
115 common entity thereof, from implementing a performance

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116 | objective without adequate notice; requiring that the
117 | applicant or licensee, or common entity thereof,
118 | provide motor vehicle dealers with the basis for any
119 | sales or service performance measurement; prohibiting
120 | the applicant licensee, or common entity thereof, from
121 | engaging in certain retaliatory or discriminatory
122 | conduct; amending s. 320.641, F.S.; revising
123 | conditions under which a discontinuation,
124 | cancellation, or nonrenewal of a franchise agreement
125 | is considered unfair; providing an effective date.