

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 licensee, or common
5 entity thereof, from implementing certain criteria for
6 measuring the sales or service performance of a
7 franchised motor vehicle dealer; prohibiting an
8 applicant or licensee, or common entity thereof, from
9 implementing such criteria without first providing
10 certain written information to the franchised motor
11 vehicle dealer; requiring such information to be
12 provided upon written request of the motor vehicle
13 dealer; prohibiting an applicant or licensee, or
14 common entity thereof, from engaging in certain
15 conduct not in good faith; amending s. 320.641, F.S.;
16 revising conditions under which a discontinuation,
17 cancellation, or nonrenewal of a franchise agreement
18 is considered unfair; amending s. 320.67, F.S.;
19 deleting provisions relating to certain complaints
20 made by certain motor vehicle dealer associations;
21 amending s. 320.695, F.S.; authorizing a motor vehicle
22 dealer association to maintain an action for
23 injunctive relief in the name of the Department of
24 Highway Safety and Motor Vehicles; specifying that
25 certain violations are sufficient for the issuance of

26 | an injunction without establishing irreparable harm;
 27 | amending s. 320.699, F.S.; authorizing a motor vehicle
 28 | dealer association to seek a declaration and
 29 | adjudication of its members' rights with respect to
 30 | certain violations by an applicant or licensee, or
 31 | common entity thereof; authorizing a motor vehicle
 32 | dealer with certain standing to file a written
 33 | objection or notice of protest; providing an effective
 34 | date.

35 |

36 | Be It Enacted by the Legislature of the State of Florida:

37 |

38 | **Section 1. Subsection (42) of section 320.64, Florida**
 39 | **Statutes, is amended, and subsection (43) is added to that**
 40 | **section, to read:**

41 | 320.64 Denial, suspension, or revocation of license;
 42 | grounds.—A license of a licensee under s. 320.61 may be denied,
 43 | suspended, or revoked within the entire state or at any specific
 44 | location or locations within the state at which the applicant or
 45 | licensee engages or proposes to engage in business, upon proof
 46 | that the section was violated with sufficient frequency to
 47 | establish a pattern of wrongdoing, and a licensee or applicant
 48 | shall be liable for claims and remedies provided in ss. 320.695
 49 | and 320.697 for any violation of any of the following
 50 | provisions. A licensee is prohibited from committing the

51 following acts:

52 (42) (a) The applicant or licensee, or common entity
 53 thereof, has established, implemented, or enforced criteria for
 54 measuring the sales or service performance of any of its
 55 franchised motor vehicle dealers in this state which have a
 56 material or adverse effect on any motor vehicle dealer and
 57 which:

58 1. Are unfair, unreasonable, arbitrary, or inequitable; ~~or~~

59 2. Do not include all relevant and material local and
 60 regional criteria, data, and facts. Relevant and material
 61 criteria, data, or facts include, but are not limited to, those
 62 of motor vehicle dealerships of comparable size in comparable
 63 markets. If such performance measurement criteria are based, in
 64 whole or in part, on a survey, such survey must be based on a
 65 statistically significant and valid random sample; or

66 3. Are not noticed and explained in writing to the motor
 67 vehicle dealer before the beginning of the period for which the
 68 dealer's sales or service performance is measured.

69 (b) The ~~An~~ applicant or, licensee, or common entity, ~~or an~~
 70 ~~affiliate~~ thereof, has implemented or enforced criteria for
 71 measuring the sales or service performance of any of its
 72 franchised motor vehicle dealers in this state without, before
 73 implementation or enforcement, providing a written description
 74 to each such franchised ~~which enforces against any motor vehicle~~
 75 ~~dealer any such performance measurement criteria shall, upon the~~

76 ~~request of the motor vehicle dealer, describe in writing to the~~
77 ~~motor vehicle dealer in this state of, in detail,~~ how the
78 performance measurement criteria were designed, calculated,
79 established, and uniformly applied. Upon written request of a
80 motor vehicle dealer, an applicant or licensee, or common entity
81 thereof, shall provide the motor vehicle dealer all data on
82 which the applicant or licensee, or common entity thereof,
83 relied in designing, calculating, establishing, and uniformly
84 applying any sales or service performance measurement criteria.

85 (43) The applicant or licensee, or common entity thereof,
86 has engaged in any action, or implemented any policy, standard,
87 rule, practice, or program, that is not in good faith. Conduct
88 not in good faith includes:

89 (a) Conduct that is in whole or in part dishonest,
90 deceptive, malicious, economically coercive, intimidating,
91 threatening, or motivated by a desire to harm, punish, or
92 adversely affect a motor vehicle dealer; or

93 (b) Conduct engaged in as retaliation against a motor
94 vehicle dealer in whole or in part because the dealer:

95 1. Invoked any statutory right created by ss. 320.60-
96 320.70;

97 2. Asserted that the applicant or licensee, or common
98 entity thereof, has acted in a manner that violates any
99 provision of ss. 320.60-320.70; or

100 3. Testified, assisted, or participated in any manner in

101 an investigation, proceeding, or hearing that may directly or
 102 indirectly affect the applicant or licensee, or common entity
 103 thereof.

104
 105 A motor vehicle dealer who can demonstrate that a violation of,
 106 or failure to comply with, any of the preceding provisions by an
 107 applicant or licensee will or may adversely and pecuniarily
 108 affect the complaining dealer, shall be entitled to pursue all
 109 of the remedies, procedures, and rights of recovery available
 110 under ss. 320.695 and 320.697.

111 **Section 2. Subsection (3) of section 320.641, Florida**
 112 **Statutes, is amended to read:**

113 320.641 Discontinuations, cancellations, nonrenewals,
 114 modifications, and replacement of franchise agreements.—

115 (3) Any motor vehicle dealer who receives a notice of
 116 intent to discontinue, cancel, not renew, modify, or replace
 117 may, within the 90-day notice period, file a petition or
 118 complaint for a determination of whether such action is an
 119 unfair or prohibited discontinuation, cancellation, nonrenewal,
 120 modification, or replacement. Agreements and certificates of
 121 appointment shall continue in effect until final determination
 122 of the issues raised in such petition or complaint by the motor
 123 vehicle dealer.

124 (a) A discontinuation, cancellation, or nonrenewal of a
 125 franchise agreement is unfair unless:

126 1. ~~if~~ It is ~~not~~ clearly permitted by the franchise
 127 agreement.~~;~~

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

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

130 4. It ~~or~~ is based on the motor vehicle dealer's an-alleged
 131 breach of the franchise agreement which is not in fact a
 132 material and substantial breach, except where the
 133 discontinuation, cancellation, or nonrenewal applies to all same
 134 line-make franchised motor vehicle dealers and is otherwise
 135 permitted by ss. 320.60-320.70.;

136 5. ~~or, if~~ The grounds relied upon for termination,
 137 cancellation, or nonrenewal have ~~not~~ been applied in a uniform
 138 and consistent manner by the licensee.

139 (b) If the notice of discontinuation, cancellation, or
 140 nonrenewal relates to an alleged failure of the new motor
 141 vehicle dealer's sales or service performance obligations under
 142 the franchise agreement, the new motor vehicle dealer must first
 143 be provided with at least 180 days to correct the alleged
 144 failure before a licensee may send the notice of
 145 discontinuation, cancellation, or nonrenewal.

146 (c) A modification or replacement is unfair unless:

147 1. ~~if~~ It is ~~not~~ clearly permitted by the franchise
 148 agreement.~~;~~

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

150 3. It ~~or~~ is ~~not~~ undertaken for good cause.

151
 152 The applicant or licensee shall have the burden of proof that
 153 such discontinuation, cancellation, nonrenewal, modification, or
 154 replacement action is fair and not prohibited.

155 **Section 3. Subsection (1) of section 320.67, Florida**
 156 **Statutes, is amended to read:**

157 320.67 Violations by dealers; complaint; conduct of
 158 inquiry; inspection of records; penalties.—

159 (1) The department shall conduct an inquiry of a licensee
 160 relating to any written complaint alleging a violation of any
 161 provision of ss. 320.61-320.70 against such licensee made by a
 162 motor vehicle dealer with a current franchise agreement issued
 163 by the licensee, ~~or a motor vehicle dealer association with at~~
 164 ~~least one member with a current franchise agreement issued by~~
 165 ~~the licensee.~~

166 **Section 4. Section 320.695, Florida Statutes, is amended**
 167 **to read:**

168 320.695 Injunction.—In addition to the remedies provided
 169 in this chapter, and notwithstanding the existence of any
 170 adequate remedy at law, the department, or any motor vehicle
 171 dealer or any motor vehicle dealer association in the name of
 172 the department and state and for the use and benefit of the
 173 motor vehicle dealer or motor vehicle dealer association, may ~~is~~
 174 ~~authorized to~~ make application to any court of competent
 175 jurisdiction ~~circuit court of the state~~ for the grant, upon a

176 hearing and for cause shown, of a temporary or permanent
 177 injunction, or both, restraining any person from acting as a
 178 licensee under the terms of ss. 320.60-320.70 without being
 179 properly licensed hereunder, or from violating or continuing to
 180 violate any of the provisions of ss. 320.60-320.70, or from
 181 failing or refusing to comply with the requirements of this law
 182 or any rule or regulation adopted hereunder. Such injunction
 183 shall be issued without bond. A single act in violation of ~~the~~
 184 ~~provisions of~~ ss. 320.60-320.70 is ~~shall be~~ sufficient to
 185 authorize the issuance of an injunction without the necessity of
 186 establishing irreparable harm. However, this statutory remedy is
 187 not ~~shall not be~~ applicable to any motor vehicle dealer after
 188 final determination by the department under s. 320.641(3).

189 **Section 5. Section 320.699, Florida Statutes, is amended**
 190 **to read:**

191 320.699 Administrative hearings and adjudications;
 192 procedure.—

193 (1) A motor vehicle dealer, a ~~or~~ person with entitlements
 194 to or in a motor vehicle dealer, or a motor vehicle dealer
 195 association on behalf of a member thereof who is directly and
 196 adversely affected by the action or conduct of an applicant or
 197 licensee which is alleged to be in violation of any provision of
 198 ss. 320.60-320.70, ~~may~~ seek a declaration and adjudication of
 199 its rights or the rights of such member with respect to the
 200 alleged action or conduct of the applicant or licensee by:

201 ~~(a)~~ filing with the department a request for a proceeding
 202 and an administrative hearing which conforms substantially with
 203 the requirements of ss. 120.569 and 120.57.~~;~~ ~~or~~

204 (2)~~(b)~~ A motor vehicle dealer with standing pursuant to s.
 205 320.642(3) may file ~~Filing~~ with the department a written
 206 objection or notice of protest pursuant to s. 320.642.

207 (3)~~(2)~~ If a written objection or notice of protest is
 208 filed with the department under subsection (2) ~~paragraph (1)(b)~~,
 209 a hearing shall be held not sooner than 180 days or ~~not~~ later
 210 than 240 days after ~~from~~ the date of filing of the first
 211 objection or notice of protest, unless the time is extended by
 212 the administrative law judge for good cause shown. This
 213 subsection shall govern the schedule of hearings in lieu of any
 214 other provision of law with respect to administrative hearings
 215 conducted by the Department of Highway Safety and Motor Vehicles
 216 or the Division of Administrative Hearings, including
 217 performance standards of state agencies, which may be included
 218 in current and future appropriations acts.

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